



## **AGENDA**

### **EXTRAORDINARY MEETING**

**31 JULY 2012**

**LEICHHARDT MUNICIPAL COUNCIL**  
**EXTRAORDINARY MEETING OF COUNCIL**

NOTICE IS HEREBY GIVEN THAN AN **EXTRAORDINARY MEETING** OF THE LEICHHARDT MUNICIPAL COUNCIL WILL BE HELD IN THE BALMAIN TOWN HALL, 370 DARLING STREET, BALMAIN, ON **TUESDAY, 31 JULY 2012 AT 7:00PM.**

Peter Head  
GENERAL MANAGER

**24 JULY 2012**

**BUSINESS :**

**\*\*        ACKNOWLEDGEMENT OF EORA PEOPLE**

*I acknowledge the Gadigal and Wangal people of the Eora nation on whose country we are meeting today, and their elders past and present.*

**\*\*        APOLOGIES AND/OR CONDOLENCES**

**\*\*        DECLARATION OF PECUNIARY INTEREST &  
NON PECUNIARY INTEREST**

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<b>ITEM 1        118 – 124 TERRY STREET, ROZELLE PLANNING PROPOSAL DEVELOPMENT CONTROL PLAN VOLUNTARY PLANNING AGREEMENT COMMUNITY CONSULTATION OUTCOMES</b>	<b>3</b>

## LEICHHARDT MUNICIPAL COUNCIL

**REPORT**

<b>DIVISION:</b>	ENVIRONMENTAL AND COMMUNITY MANAGEMENT
<b>SUBJECT:</b>	118 – 124 TERRY STREET, ROZELLE PLANNING PROPOSAL DEVELOPMENT CONTROL PLAN VOLUNTARY PLANNING AGREEMENT COMMUNITY CONSULTATION OUTCOMES
<b>AUTHOR:</b>	ROGER RANKIN – TEAM LEADER STRATEGIC PLANNING STEVE ROSELAND – SENIOR STRATEGIC PLANNER VASILIKI ANDREWS – STRATEGIC PLANNER, LEP SPECIALIST
<b>DATE:</b>	23 JULY 2012

**DIRECTOR'S SUMMARY - ORGANISATIONAL IMPLICATIONS**

<b>Financial Implications:</b>	Developer contributions in accordance with voluntary planning agreement.
<b>Policy Implications:</b>	Draft Leichhardt LEP 2012
<b>Strategic Plan Objective:</b>	Community Well Being Accessibility Place Where We Live & Work A Sustainable Environment Business in the Community Sustainable Services and Assets
<b>Staffing Implications:</b>	N/A
<b>Notifications:</b>	Subject to endorsement of Council
<b>Other Implications:</b>	N/A

## EXECUTIVE SUMMARY

The aim of this report is to update and inform Council of the community consultation conducted in relation to the Planning Proposal, Development Control Plan and Voluntary Planning Agreement for 118-124 Terry Street, Rozelle.

In 2009 Council decided to prepare detailed guidelines for the Precinct enclosed by Terry Street, Victoria Road and Wellington Street, Rozelle. Council commissioned Allen Jack & Cottier to prepare the guidelines and undertook extensive community consultation before adopting final Guidelines in October 2009. In April 2011 Council endorsed a Planning Proposal for a residential re-zoning of the site and submission to the Gateway planning process.

At the Building and Development Council Meeting held on 10th April 2012 Council endorsed the Planning Proposal, Development Control Plan and the Voluntary Planning Agreement for public exhibition and consultation with relevant authorities and stakeholders for fifty-six (56) days ending 13 June 2012.

This recent phase of community consultation exercise involved:

- Notices being forward to 4,977 properties with a resident population of 6,400 sent letters (see **Appendix A**)
- newspaper notice with 89,277 circulation / 96,000 readership
- 500 flyers circulated in area
- 402 visitors to Planning Proposal/ Development Control Plan / Voluntary Planning Agreement section of Council website
- 50 attendees at public, precinct , High Street Task Force and drop-in meetings

This process generated 32 submissions, including 2 from State agencies. These include:

- 2 (6%) submissions supporting proposal
- 16 (50%) submissions supporting proposal in principle, with some specific concerns
- 12 (38%) submissions raising objections
- NSW Environment & Heritage sent a “no comment” submission (3%)
- Roads and Maritime Services confirmed acceptable subject to meeting standard DA conditions (3%)

Most of the comments can be specifically related to the. Planning Proposal, Development Control Plan and Voluntary Planning Agreement Some also referred to pre-Development Application drawings on the Council website, although these were not on formal exhibition. There are relatively few comments about the Planning Proposal, 2 about the Voluntary Planning Agreement and most refer to the Development Control Plan.

## 1. Purpose of Report

The purpose of this report is to update and inform Council of the community consultation conducted in relation to the Planning Proposal, Development Control Plan and Voluntary Planning Agreement for 118-124 Terry Street, Rozelle. The report outlines issues raised by submissions and recommends responses to these.

## 2. Recommendation

That:

- 1) The report on the extent and nature of the outcomes of the community consultation be received and noted.
- 2) The Planning Proposal as exhibited be endorsed by Council and forwarded to the Minister of Planning for assessment.
- 3) The Development Control Plan be adopted subject to the following minor changes:
  - a) Clause D2.7.1 Building Height Objective b) to be amended by adding *“beyond that shown in Figure 7: Shadow Diagrams 21<sup>st</sup> June”*
  - b) Clause D2.7.1 Building Height Control iii to be amended to read *“The number of storeys permissible is not to exceed 6 storeys in the centre of the site and three storeys around the perimeter of the site, in accordance with Figure 6: Heights and must not result in additional overshadowing of adjacent properties, Crystal Street properties and Wellington Street properties beyond that shown in Figure 7: Shadow Diagrams 21<sup>st</sup> June”*
  - c) Clause D2.7.2 Setbacks and articulation Objectives to be supplemented with Objective c) *“To minimise impacts on the solar access of the rear of properties in Wellington Street ; and”*
  - d) Clause D2.7.2 Setbacks and articulation to be amended to add Control v *“The fourth floor of Building B is to be reduced in size at the north-east corner and setback an additional 3.15m from the Wellington Street properties rear boundary increasing the Figure 8 : Setback at this location to 9.15m and reducing the upper two floors of Building B setback at the same location from 21.7m to 16m in accordance with Figure 12 Supplement to Figure 8 Setbacks”*. (see **Appendix B**)
  - e) Clause D2.10.3 Control I to be supplemented with *“ It must be also be connected to the Council drainage system in Terry Street and include any upgrade to that system that is necessary to ensure no adverse impact that might be caused by that connection.”* The title of this control should also be amended to replace *“Piped water”* with *“Stormwater”*
- 4) Council enter into the Planning Agreement and authorise the General Manager to execute the agreement.

- 5) All the individuals and organisations who made submissions be advised of the outcome.

### 3. **Background**

#### 3.1 **History**

Over the last ten years the site has had a number of owners all of whom have entered into discussions with Council about development opportunities and most appropriate land use/s (see **Appendix C**).

In 2006/07 Council rejected Multiplex's Masterplan for a residential/retail/commercial development. The Land & Environment Court subsequently granted consent for this proposal, including bulky goods warehousing.

In 2009 Council decided to prepare detailed guidelines for the Precinct enclosed by Terry Street, Victoria Road and Wellington Street, Rozelle. Council commissioned Allen Jack & Cottier to prepare a draft Masterplan and undertook extensive community consultation before adopting final Guidelines in October 2009.

In April 2011 Council endorsed a Planning Proposal for a residential re-zoning of the site and submission to the Gateway planning process.

#### 3.2 **Planning Proposal / Gateway Process**

In July 2009, the Department of Planning introduced the Gateway process as a new procedure for amending Local Environmental Plans (see **Appendix D**). It has the following steps:

*Planning Proposal* – the relevant planning authority (Council) is responsible for the preparation of a Planning Proposal, which explains the effect of and justification of the plan. If initiated by the Minister (rather than the local council which is mostly the case) the Minister can appoint the Director-General or a Joint Regional Planning Panel to be the relevant planning authority.

*Gateway* – The Minister (or delegate) determines whether the Planning Proposal is to proceed. The gateway acts as a checkpoint to ensure that the proposal is justified before further studies are done and resources are allocated to the preparation of a plan. A community consultation process is also determined at this time. Consultations occur with relevant public authorities and, if necessary, the proposal can be varied. The Director General of the NSW Department of Planning and Infrastructure approved the Planning Proposal on 16<sup>th</sup> September 2011

*Community Consultation* – the proposal is publicly exhibited. A person making a submission may also request a public hearing be held.

*Assessment* – The relevant planning authority considers public submissions and reports it's recommendation on whether it supports, wishes to vary or reject the proposal to the Department of Planning and Infrastructure for final assessment. If the Minister decides to approve the proposal Parliamentary

Counsel then prepares a draft local environmental plan for gazettal. The Terry Street Planning Proposal is at this stage.

*Decision* – With the Minister's (or delegate's) approval the plan becomes law and is published on the New South Wales legislation website.

### 3.3 Development Control Plan Process

The purpose of the Development Control Plan is to set out the desired future character, principles, building form and residential amenity and development controls for this site. Council will assess future development applications against these controls.

The site specific draft Development Control Plan is based on the Allen Jack+Cottier (AJC) Guidelines, adopted by Council in October 2009.

At the April 2012 Building & Development (B&D) Committee (see **Appendix E**) Council endorsed the report that recommended placing the Development Control Plan on public exhibition subject to the following amendment to recommendation 2.2 dot point 3:

- Does not exceed 6 storeys in the centre of the site and three storeys around the perimeter of the site, in accordance with the shadow diagrams and other documents considered by Council at its meeting in April 2012.

### 3.4 Voluntary Planning Agreement Process

Planning Agreements allow developers and Councils to agree to a package of community benefits of higher value than could be collected through conventional developer contributions.

The draft Voluntary Planning Agreement with the developer, Anka Constructions Pty Ltd, was accepted by Council at the Ordinary Meeting on 28 June 2011. Council subsequently approved it for public exhibition at the Building and Development Council Meeting on 10 April 2012.

The Voluntary Planning Agreement has already been executed by the developer. If Council resolves to endorse the Planning Proposal, the Voluntary Planning Agreement will be executed by Council ensuring the agreement is in place prior to the amendment to the Local Environmental Plan taking effect if approved by the Minister for Planning.

The Voluntary Planning Agreement provides for monetary contributions to be used for public purposes, estimated at approximately \$4,430,000 based on the planning proposal. This contribution consists of an amount to be used for Affordable Housing of approximately \$850,000, with the remaining amount of approximately \$3,580,000 to be used for other public purposes in the Council area including those purposes described in Council's s.94 Developer Contributions plans. The Voluntary Planning Agreement contains a provision that should the gross floor area of the development exceed a floor space ratio of 1.5:1, an additional monetary contribution of \$3,000 per square metre is payable for public purposes, providing support for the primary floor space ratio

controls by acting as a financial disincentive for floor space above 1.5:1. The Voluntary Planning Agreement also provides for the construction and dedication of a new public road.

#### 4. **Report**

##### 4.1 **Public Exhibition**

The April 2012 B & D Council meeting endorsed a Community Consultation Strategy for implementation during the exhibition. This was drafted in accordance with Council's Community Engagement Framework. The Planning Proposal, Development Control Plan and the Voluntary Planning Agreement were exhibited for fifty-six (56) days ending 13 June 2012.

##### 4.1.1 **Submission Overview**

The Council's Guidelines for the future of the Terry Street Precinct and this Planning Proposal has been subject to extensive community engagement over several years. The recent statutory consultation exercise between 18<sup>th</sup> April and 18<sup>th</sup> June 2012 included:

- Notices were sent to 4,977 properties with a resident population of 6,400 sent letters (see **Appendix A** map)
- newspaper notice with 89,277 circulation / 96,000 readership
- 500 flyers circulated in area
- 402 visitors to Planning Proposal/ Development Control Plan / Voluntary Planning Agreement section of Council website
- 50 attendees at public, precinct , High Street Task Force and drop-in meetings

This process generated 32 submissions, including 2 from State agencies. These include:

- 2 submissions (6%) supporting proposal
- 16 submissions (50%) supporting proposal in principle, with some specific concerns
- 12 submissions(38%) raising objections – 12 people
- NSW Environment & Heritage (3%)sent a "no comment" submission
- Roads and Maritime Services (3%) confirmed acceptable subject to meeting standard DA conditions

Most of the comments can be specifically related to the Planning Proposal, Development Control Plan and Voluntary Planning Agreement. Some also referred to pre-Development Application drawings on the Council website, although these were not on formal exhibition. There are relatively few concerns about the Planning Proposal, 2 on the Voluntary Planning Agreement and most are on the Development Control Plan.

Of the 32 submissions, 17% came from residents/property owners and 9% came from local residents as follows:

- 17 residents/property owners (54%)
- 9 residents (28%)
- 2 public authorities (6%)
- Business Chamber of Commerce (3%)
- Atelier Strata Committee (3%)
- ANKA (3%)
- Balmain / White Bay Precinct (3%)

A map showing the geographical spread of submissions is provided in **Appendix F**.

In broad terms the 12 objections represent 0.013% of the newspaper readership, 0.19% of the residents of the letter drop area; 3.0% of the website visitors, and 24% of event attendees. One of the objectors is Balmain Chamber of Commerce.

The 18 supporters represent slightly higher percentages and one of them is from Balmain / White Bay Precinct. Overall the 30 non-government agency submissions represent only 0.47% of the letter box area resident population and 99.53% of that population did not make a submission. All the submissions and comments are detailed in **Appendix G**.

#### 4.1.2 Planning Proposal

Planning Proposals are about establishing the principle of a change of land use and with associated matters such FSR. In this Planning Proposal the principles involved are re-zoning from industry to residential, with some commercial and light industrial uses allowed and an amendment of the industrial FSR of 1: 1 to residential 1.5: 1.

The extensive community consultation process generated relatively little interest from the local community – 30 written responses in all and of these 56% or 18 submissions support the principle of the Planning Proposal and 38% or 12 submissions object to the principle.

Some of the supporting submissions do have associated concerns of substance. These either relate to Development Control Plan matters such as localised bulk, scale and height of the proposed buildings or to issues that involve how the Council will manage urban development in the area such as traffic and the re-zoning of the remainder of the Terry Street precinct.

#### 4.1.3 Development Control Plan

There are 3 broad groups of submissions as far as the Development Control Plan is concerned:-

- Objectors (3) to the Planning Proposal with detailed concerns
- Objectors (9) who make no specific reference to Development Control Plan matters
- Supporters (16) of the principle of the Planning Proposal, but who make comments that relate to the Development Control Plan. Some of

these are of substance and they tend to relate to particular parts of the site.

#### **4.1.4 Voluntary Planning Agreement**

There are 2 comments on the Voluntary Planning Agreement and these are covered at the end of Section 4.3.2 of this report.

#### **4.2 Consultation with Public Authorities**

The Gateway Determination required formal consultation with the following public authorities:

- Catchment Management Authority – Sydney Metro
- Office of Environment and Heritage
- Housing NSW
- Department of Transport NSW
- Roads and Maritime Services
- State Transit Authority
- Sydney Water
- City of Sydney Council
- Marrickville Council
- Ashfield Council
- Canada Bay Council

Only Roads and Maritime Services and Office of Environment and Heritage responded. The latter had no comments. Council officers met Roads and Maritime Services to follow up the April 2012 Council report roads and traffic issues referred to in section 3.5 above.

#### **4.2.1 Council Report Follow-up Points**

##### **Traffic**

The April 2012 Building and Development Council report instructed that Roads and Maritime Services be specifically consulted on the following aspects of the Planning Proposal:

- new road “shared’ zone
- current and projected vehicle movements along Victoria Road
- access and egress to and from site
- maintenance of the current level of service in respect of the Victoria Road and Terry Street intersection, in the context of vehicle queue lengths
- integration of the proposed development with the existing road network.

Roads and Maritime Services provided a consultation submission that set out conditions for the above points that should be met at the development application stage and did not raise any objections to the Planning Proposal, Development Control Plan and Voluntary Planning Agreement. It also

confirmed that “The traffic generation of the proposed development will not have a significant traffic impact on Victoria Road.” (see **Appendix H**)

### **Stormwater management and Water Sensitive Urban Design**

Council officers also worked with the proponent and their engineers on stormwater modelling; the interface between drainage from the proposed development and the Council's public drainage system; and strengthening the project's environmental sustainability performance. Council engaged Equatica as independent environmental engineers to peer review updated water sensitive urban design modelling from Anka.

Equatica recommended additional improvements, which have been incorporated in the water sensitive urban designs for the development. This aspect of the scheme now exceeds Council requirements.

ANKA have guaranteed that the drainage system for the development will produce less flow into the Council system than the existing flow from the site. The Development Control Plan requires the drainage system to be designed to Council's satisfaction and this report includes a minor recommended amendment to the Development Control Plan Stormwater control to ensure that there is no adverse impact from the development on Council's drainage system in Terry Street.

### **Environmental performance**

The environmental performance of the Gateway Planning Proposal had already reached the Green Building Council's (GBC) 4 Green Star rating. Council officers and the proponent have worked together during the exhibition period to agree targeted point increases under the following GBC Green Star Multi Unit Residential Buildings Technical Manual headings:

- Management
- Indoor air quality
- Energy
- Transport
- Water
- Emissions
- Innovation

These include enhancements to the fine tuning of building services, ventilation, air conditioning to reduce greenhouse gases, visitor bicycle parking, rainwater re-use, efficient appliances and sanitary fixtures and smart energy meters. The targeted points will enable the development to reach a 5 Green Star rating.

#### 4.2.2 Themes / Issues and Responses

The table below shows the spread of issues raised in submissions and the number of times they are commented upon.

#	Types of Issues Raised	Number of times raised
1	Traffic	17
2	Parking	11
3	Cumulative impact	7
4	Overshadowing	8
5	Solar Access	4
6	Privacy	7
7	Building heights	12
8	Impact on local businesses	6
9	Economic & Social impact	4
10	Loss of employment land	1
11	Lack of supermarket	1
12	Development Control Plan Policies	3
13	Build & Design Quality	1
14	Pedestrian Safety	1
15	Pedestrian Linkage	4
16	New Road	3
17	View Loss	2
18	Lack of green space	1
19	Loss of trees	2
20	Density & size of development	5
21	FSR	1
22	Loss of village atmosphere	2
23	Infrastructure	1
24	Construction	3
25	Contamination	2
26	Zoning	1
27	Rezoning Precinct	4
28	Voluntary Planning Agreement	2

Each of these issues or issue groups are described in the following headed paragraphs. Many of them have been extracted from general catch-all comments such as cumulative impact and over-lap with other comments on topics like traffic, economic impact and loss of village atmosphere. Officer Comments on these issue groups are provided below according to their place in the table above and relate to sets of related groups or individual issues.

#### **Traffic**

Issues associated with traffic were the most frequently mentioned topic in submissions with the comments ranging from the cumulative impact of proposed developments in the area, possible congestion, pollution, noise,

traffic flow to the prospect of the proposed new road linking Terry and Wellington Streets.

*Officer Comments*

The concerns over traffic and cumulative impact derive from other development proposals under consideration in the eastern part of the Leichhardt local government area and Glebe. These are:

- 118 -124 Terry Street
- Nutrimerics
- Rozelle Village
- Cruise Passenger Terminal
- Callan Park
- Harold Park
- Longer term – remainder of Terry Street Precinct

Council appointed independent consultants, Arup, to assess the cumulative traffic impact issues arising from the community consultation submissions and other traffic generators. These included longer term re-zoning of the remainder of the Terry Street Precinct already endorsed by Council in Guidelines based on the 2009 AJC Masterplanning / community engagement process

Arup:

- Carried out new peak hour traffic counts for Wellington, Terry and Darling Streets and Victoria Road to provide current baseline information
- Re-visited the original Council Guideline traffic budgets for the Terry Street Precinct including the Anka site and the Rozelle Village site
- Assessed the traffic generation from the projects listed above and examined the figures for reliability to focus on how the Anka proposal, Rozelle Village Part 3A application and the longer term re-zoning of the rest of the Terry Street Precinct match the Council approved traffic budgets.
- Identified projected traffic flows on Terry and Wellington Streets and how the developments in the area could impact on the local network
- Reviewed traffic generation from previous and existing uses on the sites listed above

Arup's conclusions (see **Appendix I**) are:

- The current Rozelle Village proposal's pm peak hour traffic generation is 562 and the Council approved budget for that development is 479.
- The Council Guideline traffic budget for the full Terry Street Precinct is 456.
- Arup predict that the Planning Proposal for 118 -124 Terry Street Planning Proposal will generate a total of 107 vehicles per peak hour

and the rest of the Precinct 349 vehicles per peak hour, which matches the Council Guideline traffic budget.

- The Nutrimetics proposal will generate less traffic than when the site was fully operational and slightly more than it does at present - it will have minimal impact on Terry and Wellington Street traffic.
- Callan Park, Cruise Passenger Terminal and Harold Park will have no impact on Terry and Wellington Streets.

Predicted traffic generation from the Anka Planning Proposal, the future rezoning of the rest of the Terry Street Precinct and Nutrimetics are consistent with the Council endorsed traffic budget for the area and comply with Council planning policies.

Predicted traffic generation from Rozelle Village's Part 3A proposal exceeds the Council endorsed traffic budget for that site and the approved traffic budget for the ANKA site is not available for Rozelle Village traffic.

The Multiplex development consent for the ANKA site would have generated 250 vehicles per peak hour. Arup estimate that the ANKA development will generate 107 vehicles per hour. Approval of the ANKA Planning Proposal will mean less traffic impact than could be generated by alternative developments on the site.

### **Parking**

These submissions covered lay-over parking of State Transit buses on Terry Street between 7am and 9am, the risk of over-flow parking from the proposed development on adjoining streets, insufficient on-site parking, possible loss of parking on Wellington Street, parking for the Crystal Street live/work units, existing lack of parking in area.

#### *Officer Comments*

The State Transit bus layover parking is unaffected by the Planning Proposal. There will be no removal of on street parking in Wellington Street associated with the ANKA development. The proposal fully complies with the Development Control Plan and includes 20 new on-street parking spaces. The Development Control Plan parking controls are designed to achieve a balance between encouraging use of public transport and provision of on-street parking. The parking for the Crystal street live / work units will be in the Building C internal car park accessed from Terry Street.

### **Cumulative impact**

These are generic references to the possible risk of adverse impacts arising from a series of possible developments occurring in the area. They primarily refer to traffic and pressure on the environment.

#### *Officer Comments*

The issues associated with possible cumulative traffic impacts are addressed in detail above. The Planning Proposal meets the Council approved traffic budget for the site and will generate less traffic than other possible forms of development that could occur on the site such as the Multiplex bulky goods

commercial development. The removal of the derelict factory; decontamination of the site; creation of medium rise, inner city housing, generation of new jobs; and the new shops and cafes establishing a mini focal centre for the neighbourhood should enhance the area rather than creating negative cumulative impacts.

### **Overshadowing and solar access**

The overshadowing and solar access comments concern 3 locations next to the site:

- Wellington Street – additional winter overshadowing between 1pm and 3pm and solar access to habitable rooms and private open space.
- The western corner at Terry Street – overshadowing and solar access to live/work property to south-west
- Crystal Street – overshadowing of the public domain part of the street

All three of these locations and the relevant submissions were subjected to:

- Review against the Council endorsed Planning Proposal and Development Control Plan
- Review against the Council endorsed AJC Gateway Guidelines. This assessment was undertaken with AJC.
- Review by Council's Development Assessment team with consideration of the proposed Development Control Plan, the AJC Gateway Guidelines and the existing Development Control Plan 2000.
- Negotiations with the proponent to seek design improvements

#### *Officer Comments*

In all 3 cases the proposed Development Control Plan is in accordance with the building envelope adopted by Council in April 2011 to manage overshadowing to the south. This has been confirmed by AJC:

- Wellington Street – the backyards of these properties are overshadowed by the neighbouring building at 5 Wellington Street. Consequently the ANKA site building envelope approved by Council in April 2011 and again endorsed by Council for exhibition in April 2012 was based on reducing potential overshadowing of and maintaining solar access for Wellington Street properties east of the proposed Building B. Although in accordance with Council's Guideline ANKA has proposed an alternative design for Building B that will reduce the size of the fourth floor at the north-eastern corner of Building B and increase the setback for the fourth floor by 3.15m to 9.15m. This is partly compensated for by reducing the setback for the fifth and sixth floors from 21.7m to 16m. The overshadowing from the unamended design comes from the fourth floor. The fifth and sixth floors do not increase shadowing and neither does the reduced setback for these two storeys.

- Terry Street western corner – the proposed new building in this part of the site would have a limited impact on the live/work building at 126 Terry Street, but it would not breach either the proposed Development Control Plan or the existing Development Control Plan overshadowing provisions for protection of north-facing windows and private open space. 126 has a large terrace of the living area which faces south and is largely self –shadowed in winter. The side window to the dwelling element that faces the Planning Proposal site is not entitled to solar access protection under current Development Control Plan controls.
- Crystal Street – the proposed Development Control Plan ensures that there is no increase in the overshadowing of the properties on the opposite side of the street to the Planning Proposal site. Some comments raise the issue of shadows on the surface of the street. Development Control Plan overshadowing controls are not intended to protect solar access to streets, but there is no net increase in overshadowing of the street surface.

### **Privacy**

The comments on privacy relate to the same locations as the overshadowing comments above.

#### *Officer Comments*

Council officers and AJC are satisfied that the proposed development will comply with the Visual Privacy controls of the site specific Development Control Plan as follows:

- No living rooms or balconies will have a primary orientation to Wellington or Terry Streets
- Any habitable rooms with windows towards Wellington and Terry Streets will have either “highlight” windows or fixed louvres to provide screening
- The development will have to comply with all existing privacy provisions of Development Control Plan 2000
- All 3 locations have setbacks which direct the outlook from upper storeys over nearby properties
- Planting in the setbacks will reinforce the privacy of adjacent properties.

### **Building heights**

Again these comments relate to the same 3 locations referred to above under overshadowing and privacy. The essence of this issue is the bulk, scale and number of proposed storeys at these locations. The Wellington Street building height concerns also loss of amenity.

#### *Officer Comments*

Part of this group of issues relate to the difference in levels between street level and ground level on the west side of the site, which is a low plateau.

This was considered in the preparation of the Gateway Planning Proposal and in the site specific Development Control Plan. The Council Guideline, the proposed Development Control Plan and LEP 2000 determined the height of buildings from ground level and not street level.

Council has always been sensitive to the impact of the height of buildings on surrounding properties and consequently decided that the Development Control Plan would restrict the maximum number of storeys on the site to 6 and 3 on the street frontages.

Wellington Street – The proponent has also agreed to alter the design of the building closest to Wellington Street by varying the setbacks to both reduce and modulate bulk and its potential impact on amenity.

Terry Street – There is a possible design alternative for the building adjacent to 126 Terry Street that would impact on height, bulk and scale in different ways. (see **Appendix J**). The proposed Development Control Plan will ensure that the objectives of the Council's Guideline are achieved irrespective of the final solution followed through the DA process.

Height, bulk and scale are a concern in respect of the western Terry Street building frontage. The Development Control Plan Active Frontages policies will ensure that these impacts are controlled and the proponent has also agreed to various measures such as articulation, choice of materials, landscaping, creation of low walls at seat level and terracing to enhance the appearance and impact of this building.

Crystal Street – One submission on bulk and scale in respect of Crystal Street relates to how the parallel orientation of the proposed Building C to the street compares to the off-set or oblique orientation of the equivalent building in the original AJC Masterplan. It claims Building C will create a more "imposing and blunt" facade, reduce the human scale of the street scape and remove an opportunity for deep rooted tree planting.

AJC reviewed this issue against the urban design principles applied in the original Masterplan. They consider that the proponent's proposal improves the how the design relates to Crystal Street as follows:-

- The original oblique 8 storey block had a high retaining wall facing the street did not propose stepping of the building or active street frontage at ground level. The height was subsequently reduced to 6 stories in the Council approved Guidelines.
- The new design presents a short 2 storey terrace of live / work units to the street, which then steps back to 4 and then 6 stories in the centre of the site. This will ensure the frontage is active and soften the adverse impact of Kennards.
- The live / work terrace is setback from the street and landscaped with street trees. The southern corner of the courtyard of Building C will also be able to accommodate mounding for deep rooted tree planting. This will visually help replace the trees on the western site boundary that need to be removed to decontaminate the site.

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### **Impact on local businesses**

Several submissions were specifically concerned that new shops might reduce patronage of existing shops in Rozelle. Others were more specific for example wishing to prohibit liquor shops or wanting a small supermarket. These points are also picked up under economic impact and supermarket headings below. (see below for Comment).

### **Economic and social impact**

A number of submissions raise wider issues about potential impacts on local businesses, a preference for more commercial / light industrial floor space on the site, the risk of new residents complaining about existing businesses in the area and loss of employment land. Others include a request for clarification of the number of local hospitals, a note that Rozelle Public School did not participate in the proponent's Social Impact survey and use of pre-2011 Census figures, providing more 3 bedroom units, prohibiting a liquor outlet in the proposed development and ensuring the retail mix meets the needs of the local residents (see below for Comments).

### **Loss of employment land**

One comment suggests the proposal will remove the last large employment site in Rozelle / Lilyfield / Balmain. (see below for Comments)

### **Lack of supermarket**

One of the supporters would like to see a small to medium sized supermarket in the development.

#### *Officer Comments*

The four issues above are inter-related and these Officer Comments are collective, while addressing the social comments individually.

Hill PDA are developing the Council's Employment and Economic Development Plan and were appointed to peer review the Economic Impact Assessment provided by the proponent in response to Council's request for these studies. One comment suggested it was inappropriate for Council to appoint Hill PDA for this review as a Council officer was working for that consultancy. Hill PDA were appointed in November 2011, the review was completed in December 2011 and the Council officer concerned did not begin work with the consultancy until the beginning of February 2012.

Council officers reviewed the Social impact assessment and noted that the development is likely to optimise benefits for the community.

The economic study peer review confirmed that the site is unlikely to be redeveloped for industry due to its location surrounded by residential properties and access difficulties for trucks. These disincentives are reinforced by the availability of more easily developed, cheaper and accessible sites on the urban fringe.

The 1300m<sup>2</sup> commercial floor space that would be permissible with consent in the proposed development can be used for shops, cafes or offices. If all this floor space did become retail it could capture 2.1% of total current retail spend in parts of Rozelle and Balmain. Hill PDA advise that this is “a very small proportion of overall expenditure and is considered reasonable within the boundaries of competitiveness, especially given the lack of local supermarket floorspace, particularly in Rozelle and Balmain. At these levels it is highly unlikely that any retail centre would suffer social detriment and significant closures.”

One submission suggests that the site should be re-zoned for mixed use, with a larger commercial and industrial component and smaller residential element. This submission also mentions the loss of employment land.

One of the key conclusions of the community engagement Council carried out was that the ANKA site should be re-zoned for residential development, while allowing for significant employment uses in the rest of the Precinct. Hill PDA estimate the commercial and live / work units in the ANKA proposal will generate 58 jobs and the rates used indicate that 511 jobs could be created in the rest of the Precinct. This is likely to be substantially more than exists in the Precinct at the moment.

The issue of new residents complaining about existing business operations is readily dealt with through the normal regulatory framework businesses must adhere to. On the more particular comments:

- Individual shop units will be no more than 300m<sup>2</sup> and this is large enough for a small convenience store / deli business, which should go some way towards

meeting the request for a small supermarket.

- A liquor store would be permissible under the proposed re-zoning, but it would have to meet licensing regulations.
- The Planning Proposal currently allows for 16 three bedroom, 82 one bedroom and 101 two bedroom units. The Local Environmental Plan would allow up to 60 three bedroom units, but higher numbers of one and two bedroom units will help housing affordability.
- ANKA have provided updated Census demographic information for their Social Impact Assessment, but these have no significant impact on the study's original findings. Rozelle Public School was re-invited to participate the social impact survey and again did not respond.
- The 3 local hospitals have been confirmed as Balmain, RPA and Hunters Hill Private.

### **Development Control Plan policies**

This issue primarily concerns how the existing and proposed site specific Development Control Plans relate to the design of the proposed apartment building next to Wellington Street. They are linked to the overshadowing and privacy points above. Two submissions on this point suggest their objection should be addressed by amendments to the new building. The third Development Control Plan submission is from the proponent and seeks a minor clarification of

the wording. Another Development Control Plan comment seeks reassurance that the Development Control Plan will be updated over time to reflect increased traffic and new developments. (see Comment below )

### **Build and design quality**

One comment suggests that a previous ANKA development at Rhodes is poorly designed and built.

#### *Officer Comments*

The two Wellington Street submissions consider that the design of Building does Development Control Plan and needs design amendments to the western end of the block.

The proponent seeks clarification of the intent of Objective b) for building heights by adding “beyond that shown in Figure 7: Shadow Diagrams 21<sup>st</sup> June” and the same in the related Control iii. The basis of this comment is that the proposed building heights on the site are the result of community consultation and negotiations with Council and proposed building heights adjacent to Wellington Street were modified. These modified heights were then shown in Figure 7 of the Development Control Plan approved by Council for exhibition, but the proponent considers that the wording of Objective b) of Clause D2.7.1 of the Development Control Plan. This is a fair reflection of the intent of these clauses of the Development Control Plan and would have no material effect on the assessment of development applications. Two minor amendments to this Clause are recommended to clarify this position.

The proponent has devised an alternative design for this end of Building B. AJC has confirmed this would achieve reductions in size, scale, height and bulk through setback variations and modulation. They also pointed out that the Wellington Street properties themselves will be re-zoned Residential with the approved Council Guidelines proposing 4 storey building backing on to the Planning Proposal site.

The Council’s Development Control Plan is subject to regular review and a review is currently underway. This will reflect changes in the area’s urban fabric. The proposed Development Control Plan that has been on exhibition was devised to accommodate the traffic that will be generated by the Planning Proposal.

On the wider design and build quality issue the Development Control Plan has been carefully formulated on the basis of the AJC Masterplan, community engagement and the follow-on Council approved Guidelines to ensure that any prospective development of the site is of the highest standard.

### **Pedestrian safety**

One submission is concerned about traffic hazards for pedestrians, especially children, and asks if pedestrian crossings can be provided in Terry and Wellington Streets. (see Comment below)

### **Pedestrian linkage**

Two submissions raise a point about the possibility of a pedestrian path between Terry and Crystal Streets at the western 124 / 126 Terry Street boundary. Another two would like to see a pedestrian link between the proposed new road and Wellington/Merton/Darling Streets (see Comment below)

### **New road**

Some submissions support and others oppose the new road's potential for vehicles to move between Terry and Wellington Streets.

### *Officer Comments*

The three pedestrian and new road issues above are inter-related and this Officer Comment is collective. Road safety is directly related to traffic volumes on the local streets. Council traffic planning work, culminating in Arup's current advice on cumulative traffic impact outlined above take account of pedestrian safety by establishing acceptable traffic budgets for the Terry Street Precinct. In addition TRMS apply standard criteria for the introduction of pedestrian crossings when vehicular flows reach certain levels. At the moment the Arup predicted flows do not reach those levels

The link to Wellington Street can be created in the future if and when the relevant properties in Wellington Street are re-developed. The 124 / 126 Terry Street path would be difficult to achieve because of changes in level, the need to have the service dock entrance at this point and is already provided for with the new road, a north-south path from it to Crystal Street and the existing Crystal Lane link from Terry Street to Crystal Street.

The possibility of the new street becoming a through link was established through the community engagement process that shaped the Council approved Guidelines for the Precinct.

### **View loss**

Potential loss of views were raised about property at the eastern end of the site and the about a property beyond the western boundary of the site. The former is concerned with the height of the proposed Building B. Another submission wishes to ensure that existing views to the waterfront and distant horizon are not lost. (see comment below).

### **Lack of green space**

This is a concern that Balmain is losing green space through development. (see Comment below)

### **Loss of trees**

Neighbours on Terry Street are concerned that the mature trees on the site close to their boundary will be lost.

### *Officer Comments*

The three issues above are inter-related and this Officer Comment is collective. The comment about view loss from the property at the western end of Wellington Street was based on a misunderstanding that the Planning Proposal involved the re-zoning and redevelopment of the entire Precinct with a new medium density building immediately behind this property. The person concerned has subsequently confirmed that they are not concerned by the risk of view loss from the more distant current ANKA development.

The issue at the other end of Wellington Street is addressed in previous Responses above regarding overshadowing, building height, solar access, bulk and scale from Building B.

The wider view loss comment is addressed by the Development Control Plan which states that views from the public domain, across and over the site are to be protected.

On the loss of green space front this development will increase the amount of private and public open space in the area in accordance with Development Control Plan policies. It will also redevelop a derelict site that does currently not provide any accessible green space.

A small cluster of mature trees will need to be removed from the site to allow decontamination to take place, but they will be replaced with deep-rooted tree planting at several locations in the proposed development.

### **Density and size of development**

One submission picks up the possible impact of the 200+ dwellings might have on traffic (see Comment below).

### **Floor Space Ratio (FSR)**

A local Precinct submission requests that the proposal should not be allowed to exceed an FSR of 1.5:1 (see comment below).

### **Loss of village atmosphere**

This comment is in the vein of overdevelopment leading to loss of local character.

### *Officer Comments*

The three issues above are inter-related. Traffic and other environmental aspects of cumulative development such as loss of green space are covered in previous Officer Comments above, but for these specific points the officer comments are:

- The density is generated by the Council endorsed FSR of 1.5:1 that evolved through the community / AJC Masterplanning process in 2009. It is modest for the redevelopment of a inner city site, which need to be decontaminated

- Any Planning Proposal has to be assessed on its merits and supported by Council before a Voluntary Planning Agreement is agreed. If approved by the Minister and gazetted the Planning Proposal 1.5:1 Floor Space Ratio becomes part of the statutory Local Environmental Plan.
- The Voluntary Planning Agreement associated with the Planning Proposal contains a provision in support of the floor space ratio planning controls. It provides that should the gross floor area of the development exceed a floor space ratio of 1.5:1, an additional monetary contribution of \$3,000 per square metre is payable for public purposes. This would be a significant disincentive to additional floor space.
- Village atmosphere can be perceptual, but it is evocative of how the person providing this comment feels about the area. Council hopes that the removal of the derelict factory; decontamination of the site; creation of medium rise, inner city housing, generation of new jobs; and the new shops and cafes establishing a mini focal centre for the neighbourhood will help reassure this commentator that the village character of the area will be reinforced rather than lost.

### **Infrastructure**

The only specific comment under this topic is possible pressure on the existing telecommunications infrastructure in the area. (see Comment below).

### **Construction**

One submission sought re-assurance that site decontamination and construction of the proposed development will be monitored and managed to prevent risks to health and safety of the local community. (see Comment below).

### **Contamination**

Contamination is mentioned in 3 submissions although none are objections. One commends the proposed decontamination as a means to improve the local environment and the others that remediation needs to be implemented to a high standard.

### ***Officer Comments***

This group of three issues are loosely connected and the Officer Comments are:

- The ANKA development meets the criteria for the installation of an advance National Broadband Network facility and this has been applied for. The Planning Proposal will therefore place no additional demand on local telephone / broadband services.
- Construction will be subject to standard Council development consent conditions controlling how the construction process is managed. These are designed to minimise impacts on the surrounding community.

- Council will ensure decontamination is carried out to high standards through the Remediation Action Plan for the site and the supervision of its implementation by an independent accredited Environmental Planning and Assessment Act site auditor. Council officers reviewed the Remediation Action Plan before its endorsement in April 2012 for exhibition in association with the Planning Proposal. The independent auditor has already been appointed and also signed off on the Remediation Action Plan.

### **Zoning**

One submission opposed the proposed re-zoning from Industrial to Residential and would prefer a mixed use zone with more commercial and light industry land. (see Comment below).

### **Re-zoning precinct**

Several submissions request the re-zoning of the remainder of Terry Street / Wellington Street / Victoria Road precinct in line with the proposed re-zonings in the Allen Jack and Cottier Masterplan.

#### *Officer Comments*

The rationale for the re-zoning from Industry to Residential is detailed in the Response on Impact on local businesses and Economic Impact above, but in essence the re-zoning arose from the 2009 Council led community engagement / AJC Masterplanning exercise and overall the ultimate re-zoning of the entire precinct will generate an estimated 500+ jobs.

The remainder of the Precinct will be re-zoned through the Council's normal review of its Local Environmental Plan or if landowners can assemble a suitable, block of properties through Planning Proposal procedures. Such re-zonings will be in line with the approved Council Guidelines for the development of the Precinct.

### **Voluntary Planning Agreement**

There are two comments on the Voluntary Planning Agreement. One would like to see preference given to local infrastructure provision when the developer contributions from the Voluntary Planning Agreement are spent by Council. The second is concerned that the Voluntary Planning Agreement is a bribe and that the process is not available to all developers.

#### *Officer Comments*

The Planning Proposal has been assessed on its merits. Any developer can propose a Voluntary Planning Agreement and Council will consider such proposals on the basis of its potential benefits to the community. The contributions raised through the Voluntary Planning Agreement can be spent

throughout the local government area, but Council can prioritise such expenditure in the locality of the development involved.

## **5. Next Steps**

### **5.1 Gateway Process**

If Council resolves to endorse the '*Planning Proposal*' as exhibited or subject to any changes it will then be forwarded to the Minister of Planning for assessment.

Note that if the planning proposal is varied, further community consultation is not required unless directed in a revised gateway determination (*EP&A Act 1979 s. 58 (3)*). The DoP&I will advise Council whether a revised gateway determination is to be issued.

Otherwise the next step towards implementation is legal drafting of the amendments to the Leichhardt LEP 2000 undertaken by Parliamentary Counsel. Once drafted with the Minister's (or delegates) approval the plan become law and is published on the NSW legislation website.

However if Council decides that it does not want to proceed with the '*Planning Proposal*' approval must be obtained from the Minister. The Minister can request that the proposal proceed (with or without variation) in the terms the Minister considers appropriate.

### **5.2 Development Control Plan Process**

If Council resolves to approve the Development Control Plan as exhibited or subject to any changes, notice will be given in the Inner West Courier within 28 days. The Development Control Plan comes into effect on the date that public notice of its approval is given, or on a later date specified in the notice (EPA Regulations s. 21).

However if Council resolves not to proceed with the Development Control Plan notice of this and Council's reasons for the decision will be given in the Inner West Courier within 28 days (EPA Regulations s. 21)

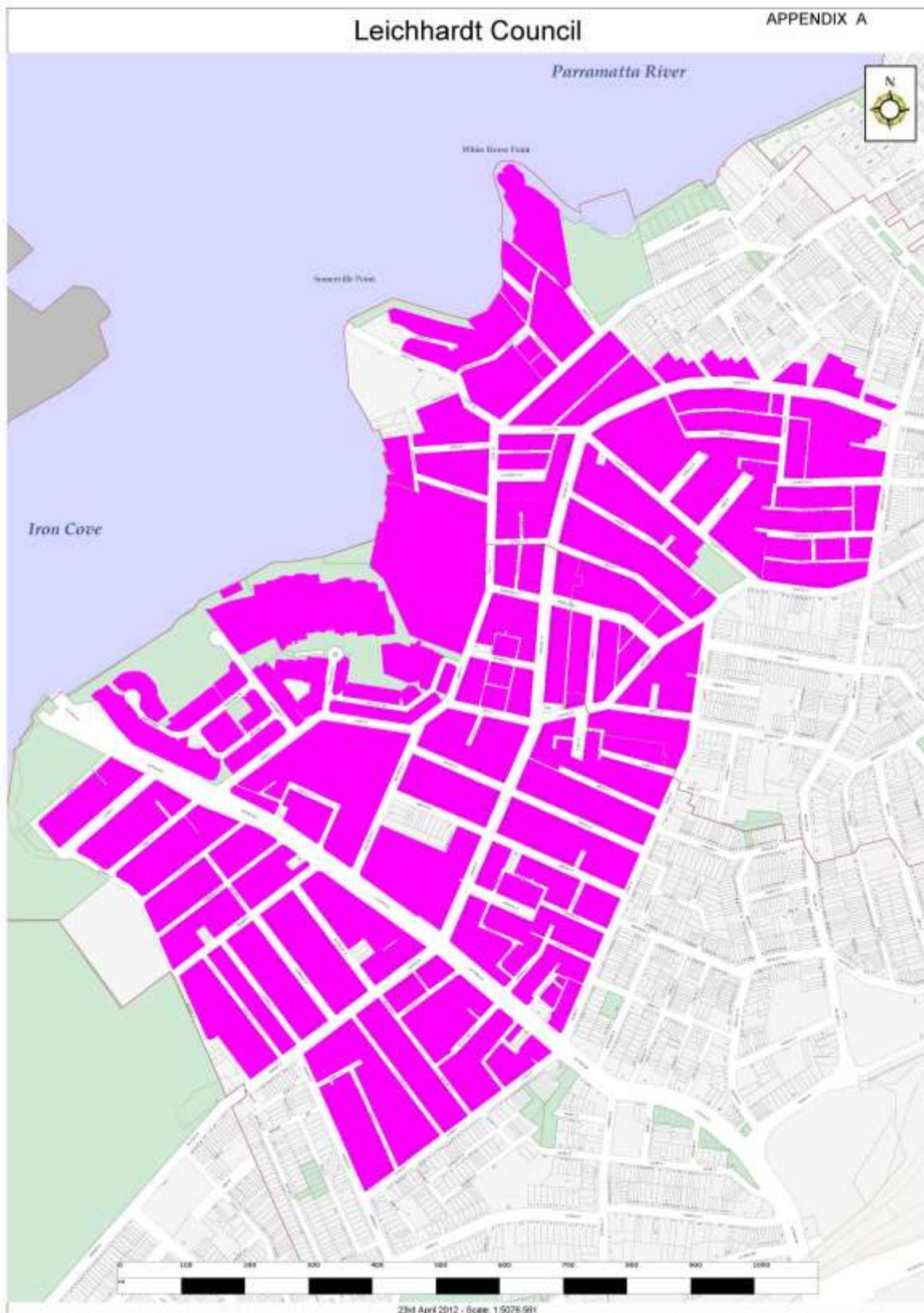
### **5.3 Voluntary Planning Agreement Process**

The Voluntary Planning Agreement has already been executed by the developer. If Council resolves to endorse the Planning Proposal, the Voluntary Planning Agreement will be executed by Council ensuring the agreement is in place prior to the amendment to the Local Environmental Plan taking effect if approved by the Minister for Planning.

**Note. Appendices K, L, M, N, O & P have been provided as background documents.**

**Appendices**

- Appendix A – Map of letterbox drop area
- Appendix B – Recommended Development Control Plan Figure 12
- Appendix C – Historical Timeline
- Appendix D – Gateway Process
- Appendix E – Building & Development Committee Report April 2012
- Appendix F – Map of submissions
- Appendix G – Table of submissions received/responses
- Appendix H – Roads and Maritime Services letter
- Appendix I – Arup Cumulative Traffic Impact Report
- Appendix J – Possible alternative design for 124 / 126 Terry Street boundary
- Appendix K – Planning Proposal
- Appendix L – Planning Justification Report
- Appendix M – Voluntary Planning Agreement and Explanatory Note
- Appendix N – Development Control Plan
- Appendix O – Council Approved Guidelines
- Appendix P – Gateway Determination



### APPENDIX B Recommended DCP Figure 12

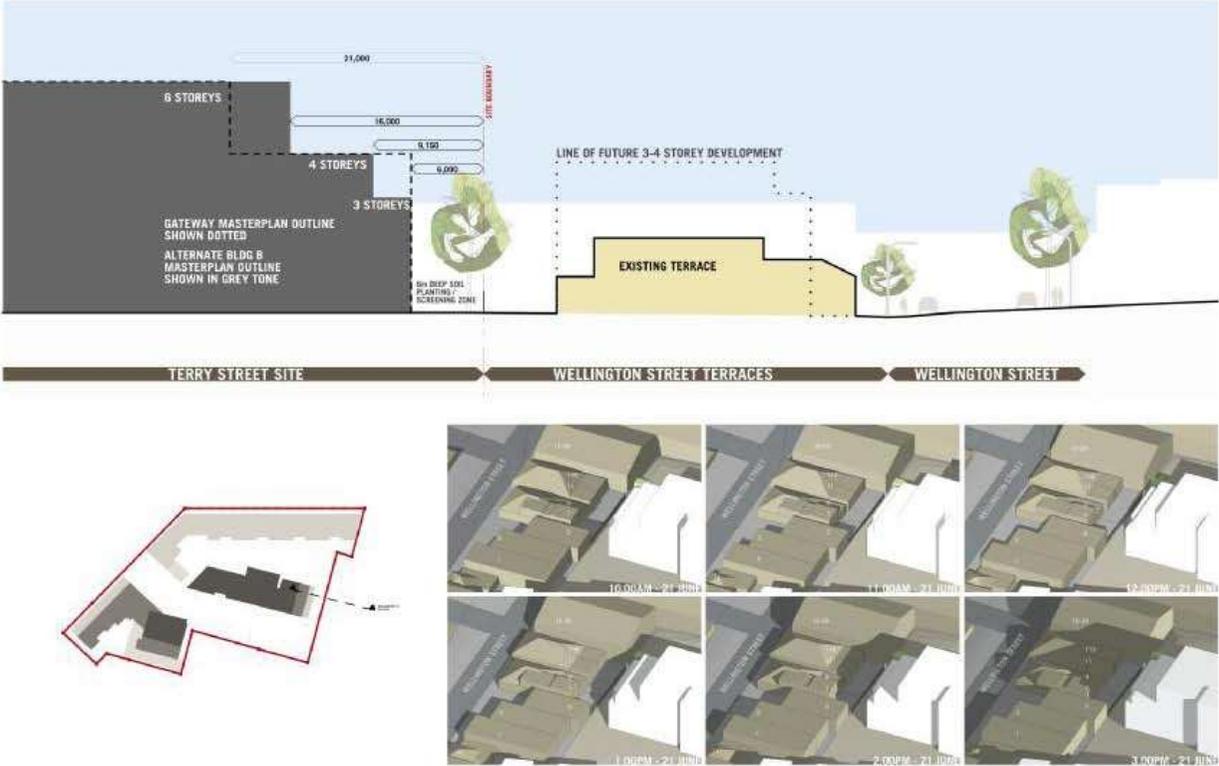


Figure 12 Building B Eastern Gable Setbacks and Modulation