



LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

STANDING COMMITTEE ON PLANNING AND URBAN RENEWAL

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Submission Cover Sheet

Draft Variation to the Territory Plan No 363 – Curtin group centre and adjacent residential areas

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ACT Legislative Assembly Standing Committee on Planning and Urban Renewal

Inquiry into Draft Variation to the Territory Plan 363 – Curtin Group Centre and adjacent residential areas

Submission by Curtin Residents Association

The Curtin Residents Association has the objectives of enhancing the residential, suburban, social and environmental qualities of Curtin, consistent with the distinctive character of Curtin; and fostering participation in ACT planning for land management, transport, services, town planning and community spaces, consistent with Curtin's open community residential settings, urban village central precinct and the ACT Garden City objectives. The Association has over 175 members.

To further these objectives the Association wishes to bring three major issues to the attention of the Inquiry where the planning process has failed to translate from the long drawn and wide consultation and drafting of the Master Plan to the Draft Variations:

1. Statement of *Desired Character* in the Draft Variation
2. Control of *overshadowing* for development in the Curtin Group centre in the Draft Variation
3. Set-backs on Strangways St.

These are specific examples from the Curtin experience that highlight problems in the overall planning process in the ACT.

1. Failures in the community consultation process, resulting in Plans and Codes that omit aspects that are generally consistent with development, although not necessarily with the desires of a small number of particular developers.
2. Failure to assess solar access at times of the year and periods of the day when the social impact would be greatest.
3. Failure to translate excellent planning for the public domain at the Master Plan level into the codes of the Territory Plan.
4. Loss of transparency in the process of consultation, plan drafting, and development assessment and conditional acceptance.

The current development in Curtin Place provides a glaring example of the loss of transparency in the Development Application and review process. Following exposure of the DA proposal and public submissions, the development was conditionally approved. But no public exposure of the agreed plans that will meet these conditions has been made; the condition to ensure the number of public toilets to be provided has been dropped back and forth between directorates (EPSDD and TCCS), and the challenges to management of parking, traffic and waste in the Group Centre triggered by the development are neither part of the planning approval process in practice, nor visible to the public. They should be so, to ensure transparency in the development and its compliance with approval conditions.

1. Statement of Desired Character

The “desired character” statement in the DRAFT VARIATION Recommended Curtin Precinct Code has direct significance to the operations of planning and assessment of development applications. The desired character is referred to in Rules and Criteria C9(b) and C9(d)

The Precinct Code does not contain sufficiently strong description in its key elements of the character that is strongly expressed in the Master Plan, to ensure that it implements the aims of the Master Plan. These elements were strongly expressed in community consultation and subsequent government reports.

The Response to submission on the Draft Variation exposure claims that the desired character has been discussed (true) and that it is taken from the master plan (partly true); but what has been taken from the Master Plan into the Precinct Code is only part of what the plan identifies as the character of the Centre. What is missing is [the](#) motivating and guiding urban village character and human scale.

In the Master Plan:

- a. “the centre’s **village character**” [Master Plan p.7]
- b. “Curtin group centre is an active and inclusive meeting place for the local community... a successful urban village ... a human-scale village character ... sunlit central courtyard.” [p.7]
- c. “retain the **village character** in the centre” [p.40]
- d. “The central courtyard will continue to achieve high levels of sunlight in the winter months and be a desirable place for social interaction and community activity.” [p.50]
- e. “The design of new development, particularly in the retail core area and close to the central courtyard, will respect the **human-scale village character** of the centre. The **sunlit central courtyard** is an important social meeting space for the community and will continue to function as a space for community activities and markets.” [p.52]

These were also the findings from the community consultation.
For example (Engagement Report pages 28 and 29):

The location of the centre with its landscape setting and connections to open spaces and green corridors was highly valued for its ‘village feel’ and sense of community. The central courtyard is a much-loved place providing a sheltered, green and sunny space for a variety of social activities away from traffic, particularly for young children.

Many comments reiterated that planning for Curtin should put people first and consider the needs of all age groups.

There were very mixed views about new development and building heights in the study area. A majority of respondents preferred commercial mixed-use and low-rise development to maintain solar access, in particular near the courtyard of the shops.

In general, there was a feeling to keep development to a 'human scale' with a majority of participants supporting one or two storeys. A smaller group supported three to four storey development. Key concerns included overshadowing, lack of solar access and wind tunnel effects. Additionally, any flow on impacts to traffic congestion, parking and pedestrian and cyclist safety would need to be managed.

There was hardly any support for development higher than four storeys.

It was proposed that heights could be increased on the south-east side of the shops.

The key messages here are consistent:

- people/community-centred planning and development
- 'human scale' / 'village feel'
- the very high value of the sun-lit central courtyard
- support for higher buildings (greater than 2 storeys) away from the immediate vicinity of the core area centred around the internal courtyards.

Despite this, the statement of Desired Character in the Precinct Code is:

Desired character

- A busy community hub that offers a broad range of services and facilities to diverse usergroups in the area
- Provide sustainable and high-quality housing options to attract residents to the area
- Be an attractive place to do business for local retailers and other businesses
- Provide opportunities for evening activities, as well as informal recreation, community and leisure uses
- Pedestrians and cyclists will be able to access the centre safely and efficiently and be connected to nearby facilities such as schools, aged care accommodation and the future City to Woden light rail on Yarra Glen.

This section is a paraphrase of the Master Plan section describing desired character on page 49–50. We strongly support these elements, as far as they go. But they omit the real overlying character of the Centre that pervades the Master Plan: its urban village nature, and the importance of sunlight.

The sunlight/overshadowing aspect does appear in the Draft Code but only in some specific Rules and criteria, not as a general Character. The "urban village" has been omitted entirely: it must be included in the overall character.

The "urban village" aspect was discussed and is stated in the Vision statement of the Master Plan as the context for its description of Character, but this has been omitted from the Precinct Code:

Vision

The vision for the Curtin group centre has been developed with feedback from stakeholders and the community. It captures what is valued about the centre and sets out what the centre could be in the future.

Curtin Group Centre is an active and inclusive meeting place for the local community. As a **successful urban village**, the centre will be easily accessible and will provide a convenient variety of businesses and services. [*Master plan p.49*]

The Draft Variation Precinct Code has focused on *activities*, and omitted the other significant terms that appear prominently in the Master Plan to characterise the Centre as a *place*. From these aspects emerge support for those activities. The desired character should include the properties that emerge from the combination and adjacency of suitable buildings in their locations in the place. (The core area of Curtin Group Centre, around its three courtyards, is a prime exemplar of existing place-making.) These required properties include the terms “urban village,” “human scale” and “sunlit central courtyard”.

Under the heading Desired Character the Precinct Code introduction under the heading *RC1 – Curtin Group Centre* should **add three clauses** as follows:

- Be an active and inclusive meeting place
- A human scale urban village
- It is to provide a sunlight central courtyard

Why add these clauses? They arise from community consultation. They must be included to express what the community has been heard to express clearly and publicly.

These aspects of the Curtin Group Centre – the “urban human-scale village” and “sunlit central courtyard” – are clearly stated in the Master Plan. They have come up time and time again in each report of the Government’s consultation with the community about what the community values. These aspects are a significant contribution to Curtin as a living, working, social place. They should be included in the Desired Character section of the new Curtin Precinct Code.

This change is important, because the “desired character” of the Centre as a place in Precinct Codes of the Territory Plan is very significant. In the Curtin Precinct Code the main controls on buildings around the central courtyard (area (b)) of between 2 and 5 storeys are in Rule 9/Criterion 9, which requires a development to comply with “the design of buildings reflects the existing local character and desired character of the group centre” [Criterion 9(b)]; Criterion C9(d) requires that a “development is supported by a visual assessment that provides” “analysis... to demonstrate how [it] positively contributes to the desired character” [C9(d)(i)] and “to minimise potential impact on the surrounding landscape character and public spaces, including the central courtyard” [C9(d)(iii)].

One notable characteristic that has been captured in the rules is seen in Rule 27. This local character is the deep awnings that are extensions of the rooflines of current buildings around the courtyard and on their other frontages. Other characteristics of local character expressed in existing buildings are not stated: the centre’s design “feel” around the courtyard, notably its single storey buildings with simple rectangular footprint and pitched roofs, and the layout of central courtyard and laneways.

The omission from the recommended Precinct Code of key elements of the desired character that emerged from the Government's community engagement process, even some of those that are consistent with encouraging development, represents a failure in the community consultation process.

2. **Solar access for the central courtyard**

Solar access to the central courtyard, ensuring it is light-filled, is critical to its role as a community space and to the attraction of Curtin as a place for shopping, cafes, meeting and gathering. Rules R8 and R10 and Criteria C9 and C11 of the recommended Precinct Code are relevant to controlling solar access for the central courtyard of the Group Centre.

Inclusion of a 5 metre high 'solar fence' for preserving solar access for the central courtyard of the Group Centre in R10 is very welcome and strongly supported. It provides an operational rule that can be readily tested by current software tools.

A maximum building height of one storey, with a total of height not more than 5 metres, for buildings to the east, north and north-west of the central courtyard (area 'a' in Figure 2 of the recommended version of the Curtin Precinct Code – see Appendix 2) in R8 is also very welcome and strongly supported. A building height of not more than 5 metres is essential for preserving both solar access for the central courtyard and the low-scale, urban village character of the Group Centre that is highly valued by the community.

Note that the community continues to object to the Precinct Code allowing buildings with heights that are the lesser of 5 storeys and 18 metres to the south and south-west of the central courtyard (area 'b' in Figure 2 of the recommended version of the Curtin Precinct Code – see Appendix 2). Buildings of this height in these locations would contribute to overshadowing of the central courtyard in a period of high use (the latter half of the afternoon in spring, summer and autumn) and be in stark conflict with the low-scale, urban village character of the Group Centre that is highly valued by the community and incorporated into the vision for the Group Centre set out on page 49 of the Master Plan.

However, the recommended draft variation is not satisfactory because assessing solar access (overshadowing) of the central courtyard only at "winter solstice between 9:00am and 2:30pm" does not reflect actual use of the courtyard by the community.

The intent of the controls for solar access for the central courtyard is to enable and promote social activities and community use of this vital public space. Assessing solar access only at winter solstice between 9:00am and 2:30pm does not enable this goal to be achieved. Consequently, assessment of overshadowing should be changed to reflect the actual pattern of use of this vital public space.

- The text for R10 should be changed with "winter solstice between 9:00am and 2:30pm." replaced by "spring equinox (22 September) between 9:00am and 3:30pm."

- The text for C11 should be changed with “winter solstice between 9:00am and 2:30pm.” replaced by “spring equinox (22 September) between 9:00am and 3:30pm.”

The rationale for these changes is set out in the following sections of this submission.

The Standing Committee should note that assessment of solar access in the Territory Plan is typically only for a limited period of the day at winter solstice. This is often not satisfactory because this extremely limited assessment does not take account of the most important times of year or times of day for solar access in a particular location.

Use of winter solstice is almost invariably justified by saying that it is the “worst case”. This is often not true: as the sun moves across the sky on an arc further towards the south as the season changes from winter to summer, places that are not overshadowed through a particular period of the day at the winter solstice will be overshadowed at other times of in other seasons and worst case overshadowing from the point of view of peoples’ use of a place may well occur at time other than winter solstice. Computer modelling of overshadowing at any time of day and year can now be done very readily and there is no excuse for not assessing solar access when overshadowing would have the most adverse social impact.

Value and role of the central courtyard

Solar access to the central courtyard, ensuring it is light-filled, is critical to its role as a community space and to the attraction of Curtin as a place for shopping, cafes, meeting and gathering.

The sunlit central courtyard is an important social meeting space for the community
Curtin Group Centre Master Plan page 52

The view was formed that the community courtyard functions as a primary gathering place in the group centre, serves to bring people together, and provides community identity to the Curtin community.

ACTPLA Notice of decision DA 201630437 15 February 2017 page 3

During the community consultations for the Curtin Group Centre Master Plan, respondents rated the central courtyard as the second most successful feature of the Curtin Group Centre (53% of respondents).

Curtin Group Centre Community Engagement Report – Stage 1 Page 17

The central courtyard is the heart of the Curtin shopping precinct of the Group Centre. People of all ages meet and use the central courtyard during daylight hours throughout the year. It’s location, within walking distance of 3 schools, 3 day-care facilities, 2 aged-care facilities and the Tresillian Queen Elizabeth II Family Centre, contributes to the heavy use of the courtyard throughout the day, but particularly after 3pm.

The central courtyard is ‘owned’ by the community and widely enjoyed for its convivial atmosphere and in constant use for casual meetings, readings, music making, social

gatherings and community events. It is a major pedestrian thoroughfare and a safe, protected highly-valued space where children play and people “hang out” with their coffees and newspapers. These activities in the courtyard occur year-round and its sunlit disposition, especially in autumn, winter and spring, is critical to its value to the community and to making the shopping precinct an attractive destination.

Assessing solar access (overshadowing)

To maintain the value and role of the central courtyard solar access (overshadowing) must be assessed against the pattern of community use of the courtyard – that is, throughout the year and throughout the day.

However, in the recommended version of the Curtin Precinct Code overshadowing is assessed only at the winter solstice between 9:00am and 2:30pm.

R10 Buildings do not overshadow the central courtyard . . . at the winter solstice between 9:00am and 2:30pm.

C11 Development demonstrates that reasonable sunlight for adjacent public spaces is maintained on the winter solstice between 9:00am and 2:30pm.

Two points arise.

1. In particular: this rule is insufficient for the particular social environment of the Curtin Group Centre, and is shown to be insufficient for the Centre’s particular physical built environment (this argument is expanded below). It does not reflect the actual pattern of use of this vital community asset and would degrade its critical role as a community space and the attraction of Curtin for shopping, cafes and as a meeting and gathering place.
2. In general: this simplified, ad hoc measure of overshadowing is widely used in ACT planning but should now be declared obsolete. The widely applied measure related to a short period on a single day of the winter solstice is no longer necessary as a simplified general measure. Computer models of building precincts for shadowing and sunlight such as those that are already in use by EPSDD can be used cheaply and effectively to show the shadowing effects of existing and planned buildings for any hour of any day.

Date for assessing overshadowing

Using only the winter solstice to assess overshadowing in Curtin Group Centre is not effective for achieving the zone purpose of an active community space, because overshadowing is not assessed at times when it has its worst social effect. Community use of the central courtyard – its role as a safe, protected meeting and gathering place – is highest in autumn and spring when it is neither as cold as mid-winter nor as hot as in high summer when the sunlight is too intense.

The Sun moves across the sky on both a daily and a seasonal pattern. As the sun moves across the sky on higher and lower paths and on an arc further towards the south as the season changes from winter to summer, places in the courtyard that are not overshadowed

through a particular period of the day at the winter solstice will be overshadowed at other times of day in these seasons of high community activity.

Consequently, the spring equinox is a better date than mid-winter for assessing the effect of overshadowing. Controlling to the spring equinox would also provide sufficient control of overshadowing in winter.

Time of day

Limiting the assessment of overshadowing to the morning (after 9am) and early afternoon (up until 2:30pm) ignores the critical role the courtyard plays as a safe and attractive place for children and teen-agers to meet after school and socialise, often while parents and carers are shopping. This contributes to making the period after 3pm one of the busiest times of the day for use of the courtyard. Consequently, a period after 3pm is a critical time for ensuring there is good solar access in the central courtyard.

Response to consultation, DV363

A majority of submissions on the Draft Variation to the Territory Plan 363 – Curtin group centre and adjacent residential areas advocated additional solar access protection for the central courtyard to prevent overshadowing. These were rejected in the response to public consultation (Report on Consultation, Draft Variation to the Territory Plan 363 – Curtin group centre and adjacent residential areas, page 3).

The response to consultation does not reflect that the intent of controls for solar access for the central courtyard is to enable and promote social activities and community use of this vital public space. Assessing solar access only at winter solstice between 9:00am and 2:30pm does not enable this goal to be achieved.

The response about the date for assessing overshadowing is:

The reason that solar access is tested at the winter solstice is because it is considered to be the 'worse case' scenario and when sunlight is most desirable through the coolest part of the year.

Winter solstice may be the day of longest shadows because the Sun is at its lowest northerly elevation; however, it is not 'worse case' from the perspective of social impact. As discussed above, community use of the central courtyard – its role as a safe, protected meeting and gathering place – is highest in autumn and spring when it is not too cold and the sunlight is not too intense. It is worth noting that the cool part of the year (months for which the mean temperature at 3pm is 15°C or less) is May to September in Canberra.

The Response about time of day for assessing overshadowing stated:

The specified times between 9:00am and 2:30pm enable an appropriate balance to be achieved to allow for redevelopment to occur, while maintaining a high level of solar access to the central courtyard throughout the year.

Truncating the time for assessing overshadowing ignores the critical role the courtyard plays as a safe and attractive place for children and teen-agers to meet after school and socialise,

often while parents and carers are shopping. This contributes to making the period after 3pm one of the busiest times of the day for use of the courtyard. Consequently, limiting assessment of solar access to times prior to 2:30pm will result in overshadowing not being assessed at times when it has its worst social effect.

Shadow analysis for buildings consistent with the recommended version of the Curtin Precinct Code – one storey to the east, north and north-west of the central courtyard and five storeys to the south-west – is at Appendix 1. This shows that the period between 3pm and 4pm at the equinox is critical for increased overshadowing: very little of the courtyard is in shadow at 3pm, while approximately three-quarters of the courtyard is overshadowed at 4pm.

It is also worth noting that overshadowing at 4pm at the equinox is worse than at 3pm at the winter solstice.

Consequently setting the times for assessing overshadowing as between 9:00am and 3:30pm will allow redevelopment to occur and enable overshadowing to be assessed when it has an adverse social effect.

Use of shadowing models in ACT planning

The value provided by computer-based shadow models was in evidence during the panel meetings and subsequent public consultation by EPSDD in the Curtin Community Panel in 2017, and following. It was also shown to be an important tool for information and decision-making in recent Development Applications elsewhere in Canberra. One nearby example is the initial proposal for the WOVA development at the corner of Launceston St and Melrose Drive at the edge of Phillip, which was shown would cause significant loss of the morning sunlight to the Bellerive buildings on the Lyons side of Melrose Drive. Consideration of the shadow models for alternative building sizes and arrangements at a range of times and dates led to a modified proposal with improved performance and no detriment to the development.

The ACT planning system and the Curtin Precinct Code in particular will be greatly improved when sunlight and shadowing requirements are expressed in terms that can utilize the effective use of computer modelling of planning at the scale of buildings, neighbourhoods and precincts.

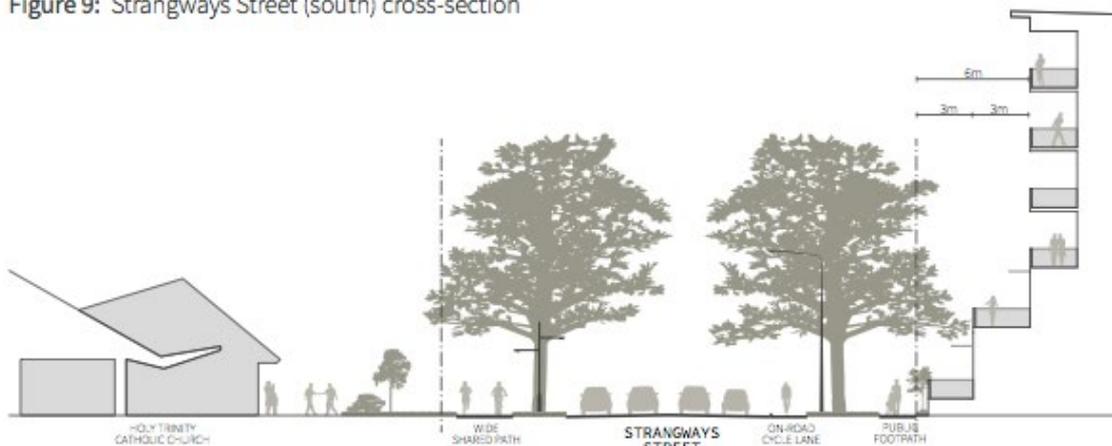
Computer modelling of overshadowing at any time of day and year can now be done very readily. The use of such models by public authorities and private developers must be encouraged, to enhance the transparency and effectiveness of public consultations about master planning, development planning, and in considering specific development applications. Such modelling will enable assessment of the true social impact of overshadowing. It will also be important to protect sunlight access for the solar panels now installed in a large number of buildings in the ACT.

3. Set-backs on Strangways St

The Draft Variation has subverted the Master Plan's good planning for the public domain. New street trees and improved pedestrian amenity on Strangways Street are part of the upgrades to the public domain recommended in the Curtin Group Centre Master Plan – see Map 25, page 78.

The cross-section of Strangways Street in Figure 9 on page 66 of the Curtin Group Centre Master Plan shows that a 3 metre setback for buildings is essential to enable planting of large canopy shade trees (those with a canopy diameter of 8 to 12 metres or more) with the existing road verge of approximately 6 metres.

Figure 9: Strangways Street (south) cross-section



Strangways Street cross-section (page 66, Curtin Group Centre Master Plan). This cross-section is in the area where the setback for commercial buildings should be 3 metres rather than the 0 metres in the recommended draft variation.

The Curtin Residents Association and ACT strategic policies support this. A setback that allows planting of large canopy shade trees would provide a consistent streetscape; help ameliorate the heat island effect in the Group Centre, which will be of increasing concern with climate change, and be consistent with *Canberra's Living Infrastructure Plan: Cooling the City*, which is a component of the ACT's climate change strategy.

Consequently, all buildings in the area 'C1' in Figure 3 of the recommended version of the Curtin Precinct Code should have a 3 metre setback, irrespective of whether the use is residential or commercial. The Draft Variation allows a zero set-back along Strangways Street (Figure 3 in DV363) where commercial uses are proposed. This is inconsistent with the tree-lined pedestrian way model of Strangways St spelled out in the Master Plan. A reasonable set-back (even three metres) is not inconsistent with commercial use, and would provide for deep rooted trees etc. This is desirable both in terms of the general expressions of the Curtin Group Centre Master Plan and for current policies to promote the enhancement of the urban tree canopy.

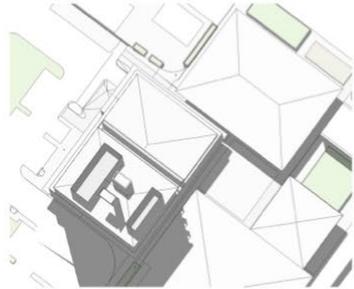
The required changes to the Draft Variation are:

- R14(a) should be changed by deleting section (ii).
- Figure 3 should be changed by removing the dotted line that indicates "0m setback permitted for commercial uses from block boundary at ground level".

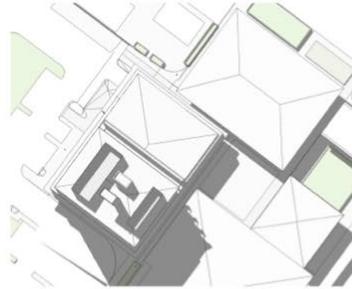
Appendix 1

Overshadowing of the central courtyard

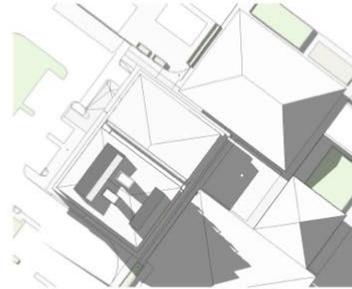
Winter solstice



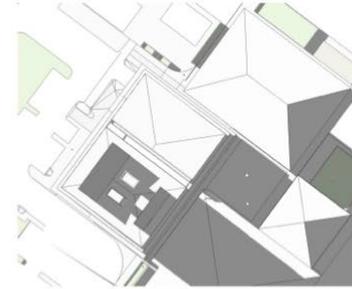
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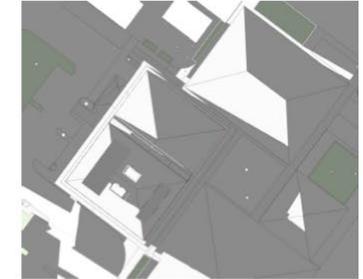
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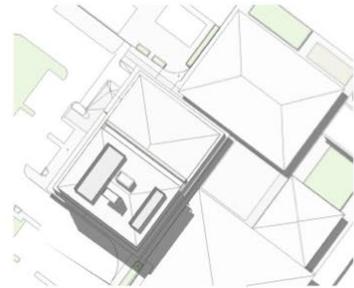


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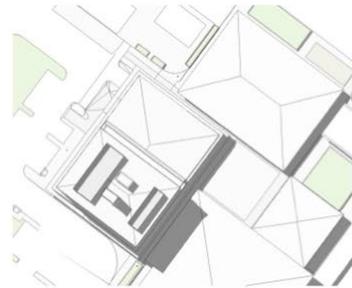


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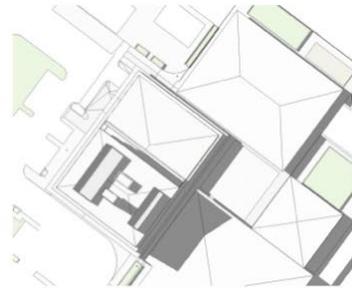
Equinox



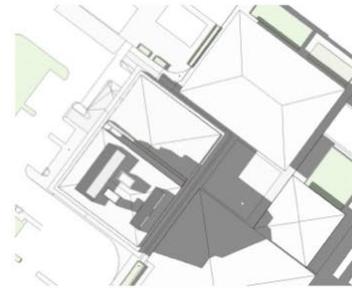
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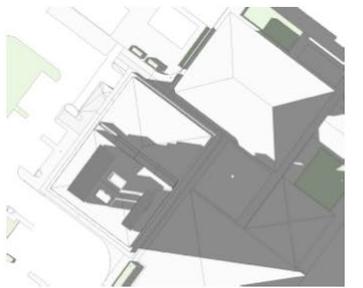
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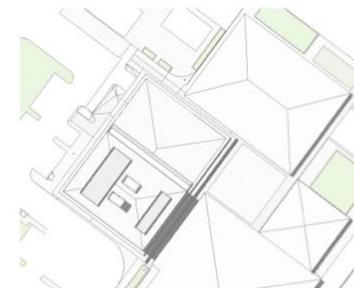


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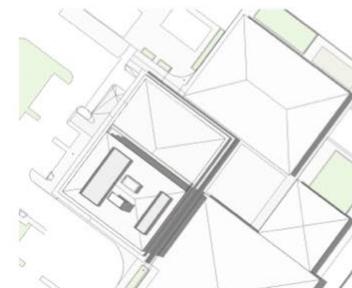


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Summer solstice



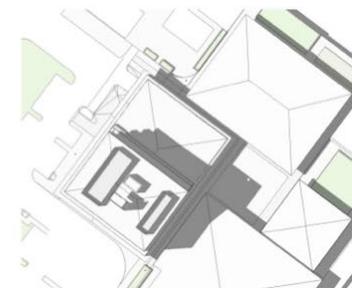
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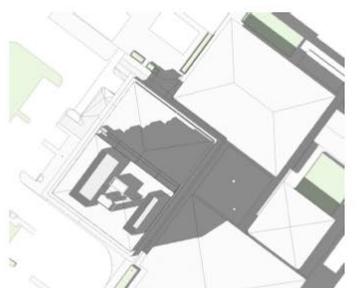
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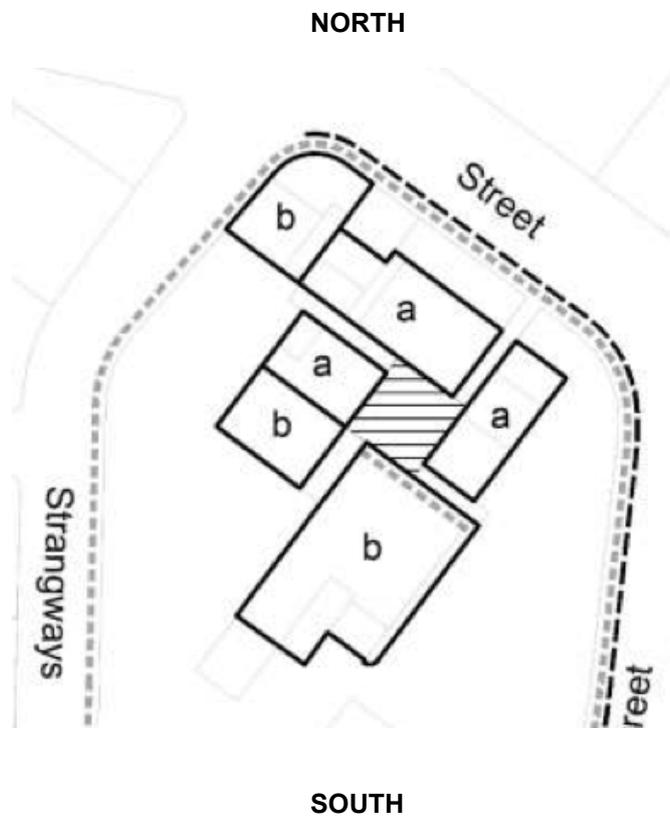
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Appendix 2

Building heights



Extract from Figure 2 Building heights and setbacks
page 6 Curtin Precinct Code Recommended Version

In area 'a' the maximum height of building is one storey with a total height not more than 5 metres above datum ground level.

In area 'b' the maximum height of building is the lesser of 5 storeys and 18 metres above datum ground level.