



AGENDA FOR THE CANTERBURY BANKSTOWN LOCAL PLANNING PANEL MEETING

7 August 2023 - 6.00 PM

**Location: Council Chambers
Cnr Chapel Road and The Mall
Bankstown**

Welcome to the City of Canterbury Bankstown

We're committed to creating a liveable and loveable City for all our residents. Here's how we're doing it:



Great Cities

We believe in creating vibrant, dynamic, and diverse communities that offer opportunities for people to connect, pursue their passions, and contribute to the world around them.



Naturally Green

We protect and prioritise nature in and around our city to enhance environmental sustainability and improve the quality of life for our residents.



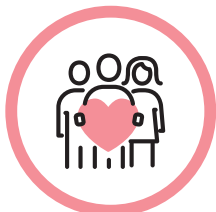
Design Excellence

We encourage buildings, spaces, and objects that are both beautiful and practical, enhancing the beauty, accessibility, and safety of our built environment.



People First

We prioritise the needs, preferences, and aspirations of our community in all aspects of urban planning and design, creating supportive and enriching places people love.



Community

We engage with our community to ensure their needs and aspirations are reflected in the outcome, creating sustainable, resilient, vibrant, diverse, and inclusive places.



Sustainability

We seek designs that reduce negative impacts on the environment while also promoting social and economic well-being.



Net-Zero

We encourage our community to design buildings and places that produce as much renewable energy as they consume, reducing greenhouse gas emissions, lowering energy bills, and increasing resilience to environmental shocks and stresses.

Join us in creating a City that's liveable, loveable, and sustainable for all!

ORDER OF BUSINESS

APOLOGIES AND DECLARATIONS

CONFIRMATION OF MINUTES OF PREVIOUS MEETING

DARANI / BANKSTOWN WARD

- 1 110 Waterloo Road and 11 Mimosa Road, Greenacre
- Change the use of 11 Mimosa Road and 110 Waterloo Road from a residential use to an educational establishment use and the consolidation of both properties (Lot 9 DP 13944 and Lot 3 DP 173039) with Lot 1 DP 829930 at 114 Waterloo Road 3

BURA / BASS HILL WARD

- 2 30-32 Wellington Road, Chester Hill
- Demolition of existing structures and construction of a four (4) storey residential flat building development comprising of 23 residential apartments, with basement and ground floor level carparking 31

Canterbury Bankstown Local Planning Panel - 07 August 2023

ITEM 1	110 Waterloo Road and 11 Mimosa Road, Greenacre Change the use of 11 Mimosa Road and 110 Waterloo Road from a residential use to an educational establishment use and the consolidation of both properties (Lot 9 DP 13944 and Lot 3 DP 173039) with Lot 1 DP 829930 at 114 Waterloo Road
FILE	DA-864/2022 – Darani / Bankstown
ZONING	R2 Low Density Residential
DATE OF LODGEMENT	14 October 2022
APPLICANT	Urbis Pty Ltd
OWNERS	Al Sadiq College Ltd and Al Sadiq College Limited
ESTIMATED VALUE	\$0
AUTHOR	Planning

REPORT

This matter is reported to the Canterbury Bankstown Local Planning Panel as the application seeks consent for a 28.5% variation to Clause 4.4(2A) of the Bankstown Local Environmental Plan 2015 in regard to Floor Space Ratio for non-residential development on land in the R2 Low Density Residential Zone.

Development Application No. DA-864/2022 proposes the change of use of 11 Mimosa Road and 110 Waterloo Road from a residential use to an educational establishment use and the consolidation of both properties (Lot 9 DP 13944 and Lot 3 DP 173039) with Lot 1 DP 829930 at 114 Waterloo Road.

The Development Application has been assessed in accordance with the matters for consideration contained in Section 4.15(1) of the *Environmental Planning and*

Canterbury Bankstown Local Planning Panel - 07 August 2023

Assessment Act 1979, which include, amongst other things, being assessed against the relevant provisions contained within the following:

- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*
- *Canterbury Bankstown Local Environmental Plan 2023 (CBLEP 2023)*
- *Bankstown Local Environmental Plan 2015 (BLEP 2015)*
- *Bankstown Development Control Plan 2015 (BDCP 2015)*

The application was first advertised for a period of twenty-one (21) days from the 14 December 2022 until 25 January 2023. It is noted that in accordance with Council's Community Participation Plan, the Christmas Period (20 December to 10 January) is excluded from the calculation of the public exhibition period. No submissions were received during this period.

The application was renotified for a period of twenty-one (21) days from 24 May 2023 until 13 June 2023. No submissions were received during this period.

POLICY IMPACT

This matter has no direct policy impacts.

FINANCIAL IMPACT

This matter has no direct financial implications.

RECOMMENDATION

It is recommended that the application be approved subject to the attached conditions.

ATTACHMENTS

- A. Assessment Report
- B. Conditions

DA-864/2022 ASSESSMENT REPORT

SITE & LOCALITY DESCRIPTION

The following four (4) sites are the subject of this development application;

- 114 Waterloo Road, Greenacre (Lot 1 DP 829930),
- 110 Waterloo Road, Greenacre (Lot 3 DP 173039),
- 11 Mimosa Road, Greenacre (Lot 9 DP 13944),
- 3 Mimosa Road, Greenacre (Lot 5, DP 13944).

The sites 114 Waterloo Road and 3 Mimosa Road are currently occupied by the existing educational establishment, Al Sadiq College (the College). These sites are irregular in shape and have a total combined area of 8711.6m². The sites are located to the west of Waterloo Road, to the north of Mimosa Road, and are zoned R2 Low Density Residential under BLEP 2015.

The site, 110 Waterloo Road, is a regular rectangular shaped allotment with an approximate frontage of 13.58m to Waterloo Road, a site area of 615m², and is currently occupied by a two storey dwelling house. The site is located on the western side of Waterloo Road and was zoned R2 Low Density Residential under the BLEP 2015. With the introduction of the CBLEP 2023 on 23 June 2023, the zoning on the site has changed to R4 High Density Residential.

The site, 11 Mimosa Road, is a regular rectangular shaped allotment with an approximate frontage of 12.33m to Mimosa Road, a site area 490m², and is currently occupied by a single storey dwelling house. The site is located on the northern side of Mimosa Road and is zoned R2 Low Density Residential.

The sites 110 Waterloo Road and 11 Mimosa Road are subject to the proposed change of use to educational establishment and consolidation with 114 Waterloo Road.

The subject site is surrounded by a locality which consists of several land uses which include;

- **North:** Immediately north of the site are low density residential uses and an early education and care facility / place of public worship. Further north of the site consists of low density residential uses, local centre business uses and the Greenacre Civic Centre Reserve.
- **East:** To the east of the site currently exists dwelling houses and business uses.
- **South:** Development south and south-east of the site consist of dwelling houses and educational establishments. Development south-west of the site consists of dwelling houses.

- **West:** Immediately west of the site are multi-dwelling housing developments and dwelling houses. Bromley Reserve is located further west of the site.



Figure 1: Aerial of subject site. Existing school site shown in blue. Proposed change of use sites shown in orange.

Source: NearMaps 2023



Figure 1: 110 Waterloo Road (left) and 11 Mimosa Road (right)

Source: Site Inspection

SITE HISTORY

The sites 114 Waterloo Road and 3 Mimosa Road are currently used for the purposes of an educational establishment, specifically, Al Sadiq College.

The development history of the site, relevant to this development application, is as follows:

1. On 11 December 2007, Council approved Development Application No. DA-842/2007 for the demolition of three existing buildings, installation of a demountable amenities block, including new driveway, new fences, carparking and associated works and use as a school for grades 5 - 8 with a student population of 145 children. At the time, 114 Waterloo Road was a vacant aged care facility and 3 Mimosa Road comprised of a single storey dwelling house with ancillary outbuildings.
2. On 8 December 2008, Council approved Section 96(1A) Modification Application No. DA-842/2007/1 in relation to a minor amendment to the development consent conditions.
3. On 4 January 2012, Council approved Section 96(1A) Modification Application No. DA-842/2007/2 for a new fence, signage and logo along the Waterloo Road frontage.
4. On 19 March 2012, Council approved Section 96(1A) Modification Application No. DA-842/2007/3 for a modification to the fence layout along Waterloo Road.

The above indicates the only approvals issued by Council are for the purpose of the College. In accordance with State Environmental Planning Policy (Infrastructure) 2007 (which was the relevant policy at the time), consent was granted for the construction of a 3 storey building with basement carparking featuring a new multipurpose hall, classrooms and administration building under Nation Building Application NB-50/2009 and Complying Development Application CD-178/2009. The final occupation certificate for the development was received by Council on 3 March 2015.

PROPOSED DEVELOPMENT

The Development Application proposes to change the use of 11 Mimosa Road and 110 Waterloo Road from a residential use to an educational establishment use and the consolidation of both properties (Lot 9 DP 13944 and Lot 3 DP 173039) with Lot 1 DP 829930 at 114 Waterloo Road.

The specifics of the development are as follows:

Site	Description
11 Mimosa Road	Change of use from a dwelling house to an educational establishment and consolidation with Lot 1 DP 829930 at 114 Waterloo Road. The building is to be used as a uniform shop for the College.
110 Waterloo Road	Change of use from a dwelling house to an educational establishment and consolidation with Lot 1 DP 829930 at 114 Waterloo Road. The building will accommodate the relocation of the existing ground floor administration space within the College. The administration purposes to be undertaken within

Site	Description
	the building include finance, accounts, HR, marketing, enrolments, sick bay and building officer.
114 Waterloo Road	The existing ground floor administration space is to be relocated to 110 Waterloo Road. The existing space will be used as additional office space for executive and admin staff.

STATUTORY CONSIDERATIONS

When determining this application, the relevant matters listed in Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* must be considered. In this regard, the following environmental planning instruments, development control plans, codes and policies are relevant:

- State Environmental Planning Policy (Resilience and Hazards) 2021
- State Environmental Planning Policy (Transport and Infrastructure) 2021
- Canterbury Bankstown Local Environmental Plan 2023
- Bankstown Local Environmental Plan 2015 (BLEP 2015)
- Bankstown Development Control Plan 2015 (BDCP 2015)
- Canterbury - Bankstown Local Infrastructure Contributions Plan 2022

SECTION 4.15 ASSESSMENT

The proposed development has been assessed pursuant to section 4.15 of the *Environmental Planning and Assessment Act, 1979*.

Environmental planning instruments [section 4.15(1)(a)(i)]

State Environmental Planning Policy (Resilience and Hazards) 2021

This State Environmental Planning Policy aims to promote the remediation of contaminated land for the purposes of reducing risk to human health or any other aspect of the environment. The SEPP states that a consent authority must not consent to the carrying out of development unless it has considered whether the land is contaminated. If the land is contaminated, it must ascertain whether it is suitable in its contaminated state for the proposed use or whether remediation of the land is required.

The proposed development does not involve any physical works that would disturb any potentially contaminated land. Furthermore, the sites, subject to the proposed change of use, have only been used for residential purposes. Given that the sites have been used for only residential purposes, the site is considered to satisfy State Environmental Planning Policy (Resilience and Hazards) 2021.

State Environmental Planning Policy (Transport and Infrastructure) 2021

Chapter 3 of the SEPP applies to the development, as it proposes a change of use for the purpose of a school. The development is consistent with the aims and standards of the SEPP, with particular regard to 'Part 3.4 Schools – specific development

controls' and 'Part 3.7 General development controls', which is demonstrated within this report through compliance with the development standards and consistency with 'Schedule 8 Design quality principles in schools'.

The table below provides a summary of the assessment of the proposed development against the applicable requirements of 'Part 3.4 Schools – specific development controls', 'Part 3.7 general development controls' and 'Schedule 8 Design quality principles in schools'.

STATE ENVIRONMENTAL PLANNING POLICY (TRANSPORT AND INFRASTRUCTURE) 2021			
CHAPTER 3 EDUCATIONAL ESTABLISHMENTS AND CHILD CARE FACILITIES			
Standard	Requirement	Comment	Compliance
Part 3.4 Schools—specific development controls			
3.36 Schools—development permitted with consent	(1) Development for the purpose of a school may be carried out by any person with development consent on land in a prescribed zone.	11 Mimosa Road and 110 Waterloo Road are located within the R2 Low Density Residential zone under the BLEP 2015. The R2 zone is interpreted as a prescribed zone under Clause 3.34 of the SEPP. Therefore, the proposed development is permissible with the consent of Council.	Yes
	(2) Development for a purpose specified in section 3.40(1) or 3.41(2)(e) may be carried out by any person with development consent on land within the boundaries of an existing or approved school.	Not Applicable. The development is not of the kind specified in Clauses 3.40(1) or 3.41(2)(e).	N/A
	(3) Development for the purpose of a school may be carried out by any person with development consent on land that is not in a prescribed zone if it is carried out on land within the boundaries of an existing or approved school.	Not Applicable. The site is within a prescribed zone.	N/A
	(4) Subsection (3) does not require development consent to carry out development on land if that development could, but for	Not Applicable. The development is not permissible without development consent.	N/A

STATE ENVIRONMENTAL PLANNING POLICY (TRANSPORT AND INFRASTRUCTURE) 2021			
CHAPTER 3 EDUCATIONAL ESTABLISHMENTS AND CHILD CARE FACILITIES			
Standard	Requirement	Comment	Compliance
	this Chapter, be carried out on that land without development consent.		
	(5) A school (including any part of its site and any of its facilities) may be used, with development consent, for the physical, social, cultural or intellectual development or welfare of the community, whether or not it is a commercial use of the establishment.	Not Applicable to this development.	N/A
	(6) Before determining a development application for development of a kind referred to in subsection (1), (3) or (5), the consent authority must take into consideration— (a) the design quality of the development when evaluated in accordance with the design quality principles set out in Schedule 8, and (b) whether the development enables the use of school facilities (including recreational facilities) to be shared with the community.	(a) The design quality of the development remains consistent with the design quality principles set out in Schedule 8. As outlined below, the proposed change of use has been assessed against the design quality principles outlined in Schedule 8 and is compliant. (b) The buildings subject to the change of use will primarily be used by staff, students and parents. The existing school buildings remain capable of being shared with the community.	Yes
	(7) Subject to subsection (8), the requirement in subsection (6)(a) applies to the exclusion of any provision in another environmental planning instrument that requires, or	Not applicable to this development. No excellence design standards of another environmental planning instrument apply.	N/A

STATE ENVIRONMENTAL PLANNING POLICY (TRANSPORT AND INFRASTRUCTURE) 2021			
CHAPTER 3 EDUCATIONAL ESTABLISHMENTS AND CHILD CARE FACILITIES			
Standard	Requirement	Comment	Compliance
	that relates to a requirement for, excellence (or like standard) in design as a prerequisite to the granting of development consent for development of that kind.		
	(8) A provision in another environmental planning instrument that requires a competitive design process to be held as a prerequisite to the granting of development consent does not apply to development to which subsection (6)(a) applies that has a capital investment value of less than \$50 million.	Not applicable.	N/A
	(9) A provision of a development control plan that specifies a requirement, standard or control in relation to development of a kind referred to in subsection (1), (2), (3) or (5) is of no effect, regardless of when the development control plan was made.	<p>The development falls under subsection (1) as it is development for the purpose of a school.</p> <p>This clause stipulates that the development controls in Council's DCP, that relate to development for the purpose of a school, cannot override the stated provisions in the SEPP.</p> <p>Therefore, some controls in Part B7 of the BDCP 2015 are omitted from this assessment.</p> <p>An assessment of the controls within Part B7 of the BDCP 2015 which are not overridden by the SEPP is provided below.</p>	Yes
	(10) Development for the purpose of a centre-based child care facility may be carried out by any person with development consent	Not proposed.	N/A

STATE ENVIRONMENTAL PLANNING POLICY (TRANSPORT AND INFRASTRUCTURE) 2021			
CHAPTER 3 EDUCATIONAL ESTABLISHMENTS AND CHILD CARE FACILITIES			
Standard	Requirement	Comment	Compliance
	on land within the boundaries of an existing or approved school.		
Part 3.7 General development controls			
3.58 Traffic-generating development	<p>(1) This section applies to development for the purpose of an educational establishment—</p> <p>(a) that will result in the educational establishment being able to accommodate 50 or more additional students, and</p> <p>(b) that involves—</p> <p>(i) an enlargement or extension of existing premises, or</p> <p>(ii) new premises, on a site that has direct vehicular or pedestrian access to any road.</p> <p>(2) Before determining a development application for development to which this section applies, the consent authority must—</p> <p>(a) give written notice of the application to Transport for NSW (TfNSW) within 7 days after the application is made, and (b) take into consideration the matters referred to in subsection (3).</p> <p>(3) The consent authority must take into consideration—</p> <p>(a) any submission that TfNSW provides in response to that notice within 21 days after the notice was given (unless, before the 21 days have passed, TfNSW advises</p>	<p>The development proposes an extension to the existing administration spaces at the College.</p> <p>The development proposes to relocate the existing ground floor administration space at the College to 110 Waterloo Road. The existing space is proposed to be used as additional office space for executive and admin staff.</p> <p>Whilst the potential capacity of the existing administration space has been considered, the development does not seek consent from Council to increase student numbers, therefore, referral to TfNSW is not required.</p>	N/A

STATE ENVIRONMENTAL PLANNING POLICY (TRANSPORT AND INFRASTRUCTURE) 2021			
CHAPTER 3 EDUCATIONAL ESTABLISHMENTS AND CHILD CARE FACILITIES			
Standard	Requirement	Comment	Compliance
	<p>that it will not be making a submission), and</p> <p>(b) the accessibility of the site concerned, including—</p> <p>(i) the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and</p> <p>(ii) the potential to minimise the need for travel by car, and</p> <p>(c) any potential traffic safety, road congestion or parking implications of the development.</p> <p>(4) The consent authority must give TfNSW a copy of the determination of the application within 7 days after the determination is made.</p>		
Schedule 8 Design quality principles in schools—Chapter 3			
<p>Principle 1—context, built form and landscape</p> <p>Schools should be designed to respond to and enhance the positive qualities of their setting, landscape and heritage, including Aboriginal cultural heritage. The design and spatial organisation of buildings and the spaces between them should be informed by site conditions such as topography, orientation and climate.</p> <p>Landscape should be integrated into the design of school developments to enhance on-site amenity, contribute to the streetscape and mitigate negative impacts on neighbouring sites.</p> <p>School buildings and their grounds on land that is identified in or under a local environmental plan as a scenic protection area should be designed to recognise and protect the special visual qualities and natural environment of the area, and located and designed to minimise the development's</p>		<p>The context, built form and landscape of the existing school remains unchanged.</p> <p>The built form of the buildings, subject to the change of use, are not proposed to be changed largely retaining the appearance of dwelling houses, therefore, remaining consistent with the surrounding low density residential environment.</p>	Yes

STATE ENVIRONMENTAL PLANNING POLICY (TRANSPORT AND INFRASTRUCTURE) 2021			
CHAPTER 3 EDUCATIONAL ESTABLISHMENTS AND CHILD CARE FACILITIES			
Standard	Requirement	Comment	Compliance
	visual impact on those qualities and that natural environment.		
	<p>Principle 2—sustainable, efficient and durable</p> <p>Good design combines positive environmental, social and economic outcomes. Schools and school buildings should be designed to minimise the consumption of energy, water and natural resources and reduce waste and encourage recycling.</p> <p>Schools should be designed to be durable, resilient and adaptable, enabling them to evolve over time to meet future requirements.</p>	<p>The proposed change of use and consolidation of the two lots with 114 Waterloo Road does not impact on the sustainability of the College.</p>	Yes
	<p>Principle 3—accessible and inclusive</p> <p>School buildings and their grounds should provide good wayfinding and be welcoming, accessible and inclusive to people with differing needs and capabilities.</p> <p>Note—</p> <p>Wayfinding refers to information systems that guide people through a physical environment and enhance their understanding and experience of the space.</p> <p>Schools should actively seek opportunities for their facilities to be shared with the community and cater for activities outside of school hours.</p>	<p>No change to accessibility and inclusiveness of the existing College.</p> <p>The buildings subject to the proposed change of use are capable of being accessible and inclusive for staff, students and parents with differing needs and capabilities.</p> <p>The development is supported by a BCA Capability Statement for each building subject to the change of use. The development has been assessed by Council's Building Surveyor who has determined the development is capable of complying with the NCC/BCA and can provide adequate accessibility, subject to conditions of consent requiring the buildings undergo BCA upgrade works.</p>	Yes

STATE ENVIRONMENTAL PLANNING POLICY (TRANSPORT AND INFRASTRUCTURE) 2021			
CHAPTER 3 EDUCATIONAL ESTABLISHMENTS AND CHILD CARE FACILITIES			
Standard	Requirement	Comment	Compliance
Principle 4—health and safety Good school development optimises health, safety and security within its boundaries and the surrounding public domain, and balances this with the need to create a welcoming and accessible environment.		The proposed change of use and lot consolidation does not impact negatively on the health and safety of students or the surrounding public.	Yes
Principle 5—amenity Schools should provide pleasant and engaging spaces that are accessible for a wide range of educational, informal and community activities, while also considering the amenity of adjacent development and the local neighbourhood. Schools located near busy roads or near rail corridors should incorporate appropriate noise mitigation measures to ensure a high level of amenity for occupants. Schools should include appropriate, efficient, stage and age appropriate indoor and outdoor learning and play spaces, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage and service areas.		The proposed change of use and lot consolidation does not impact on the amenity of the surrounding residential environment. The development is supported by an Acoustic Noise Impact Assessment which has concluded there will be no unreasonable noise impacts to surrounding residents. The development has been reviewed by Council's Environmental Health Officer who has concurred with the findings of the report.	Yes
Principle 6—whole of life, flexible and adaptive School design should consider future needs and take a whole-of-life-cycle approach underpinned by site wide strategic and spatial planning. Good design for schools should deliver high environmental performance, ease of adaptation and maximise multi-use facilities.		The proposed change of use and lot consolidation addresses future needs by allowing for the expansion of services at the College	Yes
Principle 7—aesthetics School buildings and their landscape setting should be aesthetically pleasing by achieving a built form that has good proportions and a balanced composition of elements. Schools should respond to positive elements from the site and surrounding neighbourhood and have a positive impact on the quality and character of a neighbourhood. The built form should respond to the existing or desired future context, particularly, positive elements from the site and surrounding neighbourhood, and have a positive impact		No change to external building appearances are proposed. The buildings subject to the change of use will retain the appearance of a dwelling house which remains consistent with surrounding residential development.	Yes

STATE ENVIRONMENTAL PLANNING POLICY (TRANSPORT AND INFRASTRUCTURE) 2021			
CHAPTER 3 EDUCATIONAL ESTABLISHMENTS AND CHILD CARE FACILITIES			
Standard	Requirement	Comment	Compliance
on the quality and sense of identity of the neighbourhood.			

Canterbury Bankstown Local Environmental Plan 2023

Clause 1.8A “**Savings provision relating to development applications**” of the Canterbury-Bankstown Local Environmental Plan 2023 (CBLEP 2023) states;

“If a development application has been made before the commencement of this plan in relation to land to which this plan applies and the application has not been finally determined before that commencement, the application must be determined as if this plan had not commenced.”

This particular development application was formally made on 28 November 2022, which predates the commencement of the CBLEP 2023 on 23 June 2023. Therefore, the application must be assessed based on the provisions contained in the Bankstown Local Environmental Plan 2015.

It is noted that, following the gazettal of the CBLEP 2023, the zoning of 110 Waterloo Road, Greenacre, has changed from R2 Low Density Residential to R4 High Density Residential.

Bankstown Local Environmental Plan 2015 (BLEP 2015)

The following relevant clauses of the BLEP 2015 were taken into consideration:

- Clause 1.2 – Aims of Plan
- Clause 2.1 – Land use zones
- Clause 2.2 – Zoning of land to which Plan applies
- Clause 2.3 – Zone objectives and Land Use Table
- Clause 4.4 – Floor space ratio
- Clause 4.6 – Exceptions to development standards

The following table provides a summary of the assessment of the development application against the primary zoning and numerical controls contained in the BLEP 2015.

Standard	Required	Proposed	Compliance
Clauses 2.1-2.3 – Zoning	The sites are zoned R2 Low Density Residential.	Educational establishments are a prohibited use in the R2 Zone. However, the development is permissible under Clause 3.36(1)	Yes

Standard	Required	Proposed	Compliance																		
		of SEPP (Transport and Infrastructure) 2021. The SEPP prevails over the BLEP 2015.																			
Clause 4.4 – Floor space ratio (FSR)	An FSR of 0.5:1 applies to the subject site. However, Clause 4.4(2A) stipulates that development for the purpose of non-residential development in the R2 Zone is prescribed an FSR of 0.4:1.	<p>The existing College currently exceeds the permitted 0.4:1 FSR by 36%.</p> <p>The FSR of all existing structures on the site (including the CDC approved 3 storey building) is as follows:</p> <table><tr><td>Site Area (114 Waterloo Rd & 3 Mimosa Rd)</td><td>8711.6m²</td></tr><tr><td>Gross Floor Area (GFA)</td><td>4734m²</td></tr><tr><td>FSR</td><td>4734m² / 8711.6m² x 100 = 54.3% = 0.543:1 Existing variation of 36%</td></tr></table> <p>The proposed consolidation of 110 Waterloo Rd and 11 Mimosa Rd results in a reduction to the FSR variation by 7.5%. The proposed FSR of each additional lot is as follows:</p> <table><tr><td></td><td>11 Mimosa Rd</td><td>110 Waterloo Rd</td></tr><tr><td>Site Area</td><td>490m²</td><td>615m²</td></tr><tr><td>GFA</td><td>77m²</td><td>242m²</td></tr><tr><td>FSR</td><td>77m² / 490m² x 100 = 15.7% = 0.157:1</td><td>242m² / 615m² x 100 = 39.3% = 0.393:1</td></tr></table> <p>The total combined FSR is as follows:</p>	Site Area (114 Waterloo Rd & 3 Mimosa Rd)	8711.6m ²	Gross Floor Area (GFA)	4734m ²	FSR	4734m ² / 8711.6m ² x 100 = 54.3% = 0.543:1 Existing variation of 36%		11 Mimosa Rd	110 Waterloo Rd	Site Area	490m ²	615m ²	GFA	77m ²	242m ²	FSR	77m ² / 490m ² x 100 = 15.7% = 0.157:1	242m ² / 615m ² x 100 = 39.3% = 0.393:1	No, see Clause 4.6
Site Area (114 Waterloo Rd & 3 Mimosa Rd)	8711.6m ²																				
Gross Floor Area (GFA)	4734m ²																				
FSR	4734m ² / 8711.6m ² x 100 = 54.3% = 0.543:1 Existing variation of 36%																				
	11 Mimosa Rd	110 Waterloo Rd																			
Site Area	490m ²	615m ²																			
GFA	77m ²	242m ²																			
FSR	77m ² / 490m ² x 100 = 15.7% = 0.157:1	242m ² / 615m ² x 100 = 39.3% = 0.393:1																			

Standard	Required	Proposed		Compliance
		Total Site Area	$8711.6\text{m}^2 + 490\text{m}^2 + 615\text{m}^2$ $= 9816.6\text{m}^2$	
		Total GFA	$4734\text{m}^2 + 77\text{m}^2 + 242\text{m}^2$ $= 5053\text{m}^2$	
		Total FSR	$= 5053\text{m}^2 / 9816.6\text{m}^2$ $= 51.4\%$ $= 0.514:1$ Proposed variation of 28.5% (7.5% reduction to existing exceedance)	
		The development results in a 0.03:1 reduction to the existing FSR.		

Standard	Required	Proposed	Compliance
Clause 4.6 – Exceptions to development standards	A 4.6 variation request must be provided with an application seeking to vary a development standard.	<p>A Clause 4.6 variation request has been provided by the applicant, Urbis, seeking consent to vary Clause 4.4(2A) of the BLEP 2015. The Clause 4.6 variation request is well founded and demonstrates compliance with the standard is unnecessary and unreasonable and there are sufficient environmental planning grounds to vary the standard.</p> <p>The development proposes no change to the built form which currently exists, therefore, creates no additional environmental impact to the surrounding area.</p> <p>The existing college site is sufficient in size and is capable of accommodating any future change to the additional space provided by the relocation of the existing administration space to 110 Waterloo Road.</p> <p>Furthermore, whilst the exceedance to FSR is a numerical non-compliance (as no physical changes are proposed), the development results in a 0.03:1 reduction to the existing FSR exceedance of the College.</p> <p>See below for further detail.</p>	Yes

An assessment of the Development Application revealed that the proposal complies with the matters raised in each of the above clauses of the Bankstown Local Environmental Plan 2015.

In response to the departure to Clause 4.4(2A) of BLEP 2015, the applicant lodged a Clause 4.6 request. The following section of the assessment report provides for an assessment of the Clause 4.6 request.

Clause 4.6 Variation Request

The submitted Clause 4.6 variation request is well founded and has provided sufficient justification for the variation to the 0.4:1 FSR that is applicable, hence, it is recommended that the Clause 4.6 variation request be supported.

The Clause 4.6 variation request provides the following justification to illustrate that compliance with the 0.4:1 FSR is unnecessary and unreasonable:

“Strict compliance with the FSR standard would require demolition and removal of parts of the existing development, which is unreasonable and unnecessary in the circumstances. This would impact the school’s operation and commitment to ongoing education of local students.”

Furthermore, the Clause 4.6 variation request has demonstrated that there are sufficient environmental planning grounds to justify contravening Clause 4.4 of the BLEP 2015. The environmental planning grounds relied upon are well founded and include the following:

- *“The proposal achieves where relevant the objectives of the FSR clause 4.4 and will continue to be consistent with the capacity and character of the local area whilst maintaining compatibility with the residential zone.*
- *The proposed change of use reduces the FSR by 0.03:1 (7.5%) of the adjoining site at 114 Waterloo Road which currently exceeds the 0.4:1 FSR.*
- *It would be unreasonable if the proposal was not accepted on the grounds that no increase in the bulk and scale is proposed, the conditions of the site will remain and the two sites proposing change of use are complying with their FSR.*
- *If the proposal was standalone without the existing site that is not proposed to be changed, the FSR would be a maximum of 0.285:1 which is well under the maximum FSR. The only site exceeding the FSR is the College which is subject to an approved FSR that is not proposed to be changed.*
- *The proposal will support the expansion of the existing College to provide additional office space for admin and executive staff, it will also segregate the administration space that parents most often visit the College for, increasing students protection and safety. It will also provide a uniform shop on campus for convenience.”*

The submitted Clause 4.6 variation request is considered to provide sufficient justification to support the FSR variation.

Draft environmental planning instruments [section 4.15(1)(a)(ii)]

There are no applicable draft environmental planning instruments.

Development control plans [section 4.15(1)(a)(iii)]

The following table provides a summary of the development application against the relevant controls contained in the Bankstown Development Control Plan 2015, when considering Clause 3.36(9) of SEPP (Transport and Infrastructure) 2021.

Control	Required	Proposed	Compliance
SECTION 3–LOCATION AND TRAFFIC MANAGEMENT			
3.1 Traffic management (environmental capacity)	Development for the purpose of schools must not result in a street in the vicinity of the development site to exceed the environmental capacity maximum. If the environmental capacity maximum is already exceeded, the development must maintain the existing level of absolute delay of that street	The proposed Traffic and Parking Impact report submitted with the development identifies that no additional staff and students are proposed, and no additional parking demand is generated.	Yes
3.2 Traffic management (level of service)	Development for the purpose of schools must not result in a street intersection in the vicinity of the development site to have a level of service below Level B. If the existing level of service is below Level B, the development must maintain the existing level of absolute delay of that street intersection.	No increase in staff or students and no additional parking demand is proposed. Therefore, nearby intersections are not impacted.	Yes
3.3 Traffic impact studies	For the purpose of clauses 3.1 and 3.2, development applications must submit a Traffic Impact Study based on the RTA Guide to Traffic Generating Developments	The submitted Traffic and Parking Impact report demonstrates that the development does not generate additional impacts to the existing traffic conditions.	Yes
SECTION 4–SITE LAYOUT AND BUILDING ENVELOPES			
4.17 Access	Schools must be easily accessible to people with disabilities and must comply with the Building Code of Australia and Australian Standard 1428 Parts 1 to 4–Design for Access and Mobility.	The buildings subject to the change of use are capable of complying with the NCC/BCA. A BCA Capability Statement for each building accompanied the development, which has been reviewed by Council's Building Surveyor as being satisfactory, subject to conditions of consent requiring BCA upgrade works to be undertaken.	Yes

Control	Required	Proposed	Compliance
4.18 Access	Provision must be made for access and parking of service and emergency vehicles to service all buildings within the school.	There is no change proposed to the vehicular access for the existing buildings.	Yes
4.19 Parking	The minimum number of car parking spaces required for schools is: (a) 1 car space per employee or classroom, whichever is the greater; and (b) 1 car space per 8 students in year 12.	The development does not propose to increase student or employee numbers.	
SECTION 5–ENERGY EFFICIENCY AND URBAN DESIGN			
5.2 Access to sunlight	The design of buildings should achieve a northern orientation to maximise solar access and improve the amenity of libraries and offices.	The existing orientation of the buildings subject to the change of use will allow solar access to parts of each building and will achieve good solar amenity.	Yes
SECTION 6–ACOUSTIC PRIVACY AND MANAGEMENT			
6.2 Acoustic privacy	The location and design of schools must consider the projection of noise from various activities to avoid any adverse impacts on the residential amenity of adjoining land. For the purpose of this clause, Council requires development applications to submit an Acoustic Report prepared by a suitably qualified acoustic consultant	An Acoustic Noise Impact Assessment has been submitted with the application. The proposed change of use of the buildings will not result in unreasonable noise impacts. Council's Environmental Health Officer has reviewed the application and concurs with the findings of the Acoustic report.	Yes

Planning agreements [section 4.15(1)(a)(iia)]

A planning agreement has not been entered into under section 7.4 of the *Environmental Planning and Assessment Act 1979*, nor has the applicant offered to enter into a draft planning agreement.

The regulations [section 4.15(1)(a)(iv)]

The development is consistent with the applicable provisions contained in the Environmental Planning and Assessment Regulation 2021.

The likely impacts of the development [section 4.15(1)(b)]

The development is not considered to provide for undue impacts on the natural and built environments with no recognisable social or economic impacts on the locality.

Suitability of the site [section 4.15(1)(c)]

The proposed development is permissible and is consistent with the objectives of the zone as it provides for an expansion of the services of the College which remains a compatible use with the surrounding residential area and has minimal impact on local amenity. The site is suitable for the development providing for the orderly and economic use of the land.

Submissions [section 4.15(1)(d)]

The application was first advertised for a period of twenty-one (21) days from the 14 December 2022 until 25 January 2023. It is noted that in accordance with Council's Community Participation Plan the Christmas Period (20 December to 10 January) is excluded from the calculation of the public exhibition period. No submissions were received during this period.

The application was renotified for a period of twenty-one (21) days from 24 May 2023 until 13 June 2023. No submissions were received during this period.

The public interest [section 4.15(1)(e)]

The public interest is served through the detailed assessment of this application under the *Environmental Planning and Assessment Act 1979*, *Environmental Planning and Assessment Regulation 2021*, environmental planning instruments and development control plans. Based on the above assessment, the proposal is in the public interest.

CONCLUSION

The Development Application has been assessed in accordance with the matters for consideration contained in Section 4.15(1) of the *Environmental Planning and Assessment Act 1979*, requiring an assessment against, among other things, State Environmental Planning Policy (Resilience and Hazards) 2021, State Environmental Planning Policy (Transport and Infrastructure) 2021, Bankstown Local Environmental Plan 2015 and Bankstown Development Control Plan 2015. The development is considered suitable for the site, being located within a prescribed zone under Clause 3.34 of SEPP (Transport and Infrastructure), consistent with the objectives of the zone and generally consistent with the applicable standards and controls. It is considered that the proposed variation to Clause 4.4 of the BLEP 2015 has minimal environmental impact as there is no physical change to the existing built form and the variation is a

numerical non-compliance caused by the consolidation of the sites. On that basis, the application is recommended for approval subject to conditions of consent.

RECOMMENDATION

It is recommended that the application be approved subject to the attached conditions.

SCHEDULE 1 – CONDITIONS

These consent conditions have been imposed after taking into account the matters for consideration in determining a development application pursuant to s4.15 and in accordance with s4.17 of the *Environmental Planning & Assessment Act 1979*.

1. Approved Development

- 1.1. Development must be carried out in accordance with the following approved plans (stamped by Council) except where the conditions of this consent expressly require otherwise.

Plan Number	Plan Name	Dated	Revision	Prepared By
AA110	Proposed – Ground Floor Plan	12/04/2023	C	Leaf Architecture
AB110	Proposed – Ground Floor Plan	12/04/2023	C	Leaf Architecture
AB111	Proposed – Level 1 Floor Plan	10/10/2022	B	Leaf Architecture

In the event of any inconsistency between the approved plans and the supporting documentation, the approved plans prevail. In the event of any inconsistency between the approved plans and a condition of this consent, the condition prevails.

- 1.2. The proposal shall comply with the conditions of this Development Consent.
- 1.3. A separate application shall be submitted to Council before the erection of any additional signage unless the proposed signage is "exempt development" in accordance with the relevant legislation.
- 1.4. The building must comply with the Category 1 fire safety provisions as are applicable to the building's proposed use.

Note: The obligation to comply with the Category 1 fire safety provisions may require building work to be carried out even though none is proposed or required in relation to this Determination Notice.

- 1.5. The acoustic report submitted in support of this application prepared by Pulse White Noise Acoustic Pty Ltd titled '114 Waterloo Road, Greenacre, Acoustic Noise Impact Assessment', report number 220536-114 Waterloo Rd, Greenacre - R0, dated 6 October 2022 and all the recommendations stated within the report, form part of the development consent.

2. Conditions to be Satisfied Before the Issue of a Construction Certificate.

- 2.1. The existing building at 110 Waterloo Road and 11 Mimosa Road must be brought into conformity with the Performance Requirements CP1, CP2, DP1, DP3, DP4 and FP2.1 of the Building Code of Australia (BCA), to protect persons using the building, and to facilitate their egress from the building in the event of fire, or to restrict the spread of fire from the building to other buildings nearby. Details indicating compliance with the Performance Requirements of the BCA must be provided to the certifier before the issue of a construction certificate.
- 2.2. All fees, levies, bonds and/or contributions as required by this Determination Notice must be paid to the relevant authority/entity before the issue of a construction certificate.
- 2.3. Before the issue of the relevant construction certificate, payment of the long service levy may be required, under the *Building and Construction industry Long Service Payments Act 1986*, section 34. Evidence of the payment is to be provided to the Certifier. Payment can be calculated using the Levy Portal [Calculator at https://longservice.force.com/bci/s/levy-calculator](https://longservice.force.com/bci/s/levy-calculator). Payment must be made via the [Long Service Levy Portal at https://www.longservice.nsw.gov.au](https://www.longservice.nsw.gov.au).
- 2.4. Before the issue of a construction certificate, the consent holder is to ensure that an erosion and sediment control plan is prepared in accordance with the following documents before it is provided to and approved by the certifier:
 - a. Council's development control plan,
 - b. the guidelines set out in the NSW Department of Housing manual 'Managing Urban Stormwater: Soils and Construction Certificate' (the Blue Book), and
 - c. the 'Do it Right On-Site, Soil and Water Management for the Construction Industry' (Southern Sydney Regional Organisation of Councils and the Natural Heritage Trust).

The consent holder must ensure the erosion and sediment control plan is kept onsite at all times during site works and construction.

- 2.5. Before the issue of a construction certificate, the consent holder is to ensure that a waste management plan is prepared in accordance with the EPA's Waste Classification Guidelines and the following requirements before it is provided to and approved by the certifier:
 - a. Council's Waste Management Development Control Plan
- 2.6. The construction certificate plans shall include details of any new waste bin storage area. The bin storage area shall not be visible from the street. The bin storage area shall be located within the building or screened from the street by dense landscaping.

- 2.7. Before the issue of a construction certificate, all domestic waste bins servicing the site are to be returned to Council.

3. Conditions to be satisfied before construction.

- 3.1. A construction certificate is required for building upgrade works in accordance with this Determination Notice.

This Determination Notice does not authorise building work until a principal certifier has been appointed as the principal certifier for the work by (or with the approval of) the consent holder.

The following requirements apply before the commencement of building work in accordance with this Determination Notice:

- a. the principal certifier has, no later than two (2) days before the building work commences, notified the Consent Authority and the Council (if the council is not the Consent Authority) of their appointment as the principal certifier,
 - b. the principal certifier has, no later than two (2) days before the building work commences, notified the consent holder of any inspections that are required to be carried out in respect of the building work,
 - c. the person carrying out the building work has notified the principal certifier that the person will carry out the building work as an owner-builder, if that is the case,
 - d. the consent holder, if not carrying out the work as an owner-builder, has:
 - i. appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential building work is involved, and
 - ii. notified the principal certifier of the appointment, and
 - iii. unless that person is the principal contractor, notified the principal contractor of any inspections that are required to be carried out in respect of the building work,
 - e. the consent holder has given at least a 2-day notice to the Council, and the principal certifier if not the Council, of the person's intention to commence the erection of the building.
- 3.2. Before the commencement of work, the consent holder must provide a temporary on-site toilet if access to existing toilets on site is not adequate/available. Temporary on-site toilet facilities must be installed and be adequately maintained throughout the construction period.
- 3.3. A sign must be erected in a prominent position on any site on which building work is being carried out:
- a. showing the name, address and telephone number of the principal certifier for the work, and

- b. showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- c. stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work or demolition work is being carried out and must be removed when the work has been completed.

Note: This does not apply in relation to building work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.

4. Conditions to be satisfied during construction.

- 4.1. Building work must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- 4.2. Building work may only be carried out between 7.00 am and 6.00 pm on Monday to Friday, or between 8.00 am and 1.00 pm on Saturdays, and no construction is to be carried out at any time on a Sunday or a public holiday.

5. Conditions to be satisfied before occupation.

- 5.1. Lot 9 DP 13944 (11 Mimosa Rd) and Lot 3 DP 173039 (110 Waterloo Rd) must be consolidated with Lot 1 DP 829930 (114 Waterloo Rd) prior to the issue of an occupation certificate. Consolidation of the allotments must be registered by NSW Land Registry Services before the issue of an occupation certificate.
- 5.2. The occupation or use of the building must not commence unless an occupation certificate has been issued.

6. Conditions of use.

- 6.1. The development must operate in accordance with all previous consents relevant to the use of the site for the purpose of a school, whether issued by Council or another Authority, unless superseded by the conditions of this Development Consent.
- 6.2. Should a noise issue (relating to the development at 110 Waterloo Road and 11 Mimosa Road) not previously identified arise (through complaint or otherwise), the owner/occupier must, upon request by Council, employ the services of a qualified acoustic consultant who has not previously been involved with the development to undertake a post-occupation assessment of the development and complete an acoustic report with recommendations to rectify the noise issue. A copy of this acoustic assessment report must be submitted to Council for approval and from there noise attenuation works must be implemented. Submission of the acoustic report must be within 30 days from the date requested by Council.

- 6.3. The consent holder shall ensure that all activities within the premises at 110 Waterloo Road and 11 Mimosa Road comply with the relevant sections of the Protection of the *Environment Operations Act 1997* and Regulations and the NSW Environment Protection Authority Industrial Noise Policy (2000).
- 6.4. The operation of the development must not adversely affect the amenity of the neighbourhood or interfere unreasonably with the comfort or repose of a person who is outside the premises by reason of the emission or discharge of noise, fumes, vapour, odour, steam, soot, ash, dust, wastewater, waste products, grit, oil or other harmful products.
- 6.5. All waste materials associated with the use shall be stored in containers located either within the building or behind screen walls in accordance with the approved plans.
- 6.6. All waste materials associated with the use shall be collected in accordance with the existing commercial waste and recycling contract for the College. A copy of the commercial waste and recycling contract shall be available for inspection at any time.
- 6.7. All waste generated on the site is to be stored, handled and disposed of in such a manner as to not create offensive odour, offensive noise or pollution of land and/or water as defined under the Protection of the Environment Operations Act 1997. All waste generated shall be removed and disposed of by an authorised waste removal contractor. A copy of the waste removal agreement and receipts shall be made available to Council on request.
- 6.8. The use of the premises shall not contravene the *Protection of the Environment Operations Act 1997*. The operation of the premise shall be carried out in accordance with the requirement of the NSW EPA, where relevant.
- 6.9. Instructions concerning procedures to be adopted in the event of an emergency are to be clearly displayed on the premises for both public and staff information at all times.
- 6.10. Any lighting of the premises must be installed in accordance with AS/NZS 4282-2019, 'Control of the obtrusive effects of outdoor lighting', to avoid annoyance to the occupants of adjoining premises or glare to motorists on nearby roads. Flashing, moving or intermittent lights or signs are prohibited. The intensity, colour or hours of illumination of the lights must be varied at Council's discretion if Council considers there to be adverse effects on the amenity of the area.

-END-

ITEM 2	30-32 Wellington Road, Chester Hill Demolition of existing structures and construction of a four (4) storey residential flat building development comprising of 23 residential apartments, with basement and ground floor level carparking
FILE	DA 52/2022 – Bura / Bass Hill
ZONING	R4 High Density Residential
DATE OF LODGEMENT	14 February 2022
APPLICANT	Fuse Architecture Pty Ltd
OWNERS	Ace Chester Hill Pty Ltd
ESTIMATED VALUE	\$7,233,558.00
AUTHOR	Planning

REPORT

This matter is reported to the Canterbury-Bankstown Local Planning Panel as the application seeks consent for a development to which State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development applies and is four or more storeys in height.

Development Application No. DA-52/2022 proposes the demolition of existing structures and construction of a four (4) storey residential flat building development comprising of 23 residential apartments, with basement and ground floor level carparking.

The proposal has been assessed against the matters for consideration contained in Section 4.15 of the Environmental Planning and Assessment Act 1979, which include being assessed against the relevant provisions of the following:

Canterbury Bankstown Local Planning Panel - 07 August 2023

- State Environmental Planning Policy (Resilience and Hazards) 2021;
- State Environmental Planning Policy (Transport and Infrastructure) 2021;
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004;
- State Environmental Planning Policy (Biodiversity and Conservation) 2021;
- State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development (SEPP 65);
- Bankstown Local Environmental Plan 2015 (BLEP 2015); and
- Bankstown Development Control Plan 2015 (BDCP 2015).

Canterbury Bankstown Local Environmental Plan 2023 (CBLEP 2023)

Clause 1.8A “Savings provision relating to development applications” of the Canterbury-Bankstown Local Environmental Plan 2023 (CBLEP) states:

“If a development application has been made before the commencement of this plan in relation to land to which this plan applies and the application has not been finally determined before that commencement, the application must be determined as if this plan had not commenced.”

This particular development application was formally lodged on 14 February 2022, which predates the commencement of the CBLEP 2023 on 23 June 2023. Therefore, the application must be assessed based on the provisions contained in the Bankstown Local Environmental Plan 2015.

The application was newspaper advertised and neighbour notified for a period of twenty-one (21) days, in accordance with the Canterbury Bankstown Community Participation Plan. The first advertising/notification period was undertaken from 23 February 2022 to 15 March 2022. No submissions were received during this period.

The application was then re-notified for period of fourteen (14) days, from 2 May 2023 to 15 May 2023. One (1) submission was received which raised concerns relating to:

- Side setbacks;
- Overshadowing impacts;
- Privacy Impacts; and
- Landscaping/plantings.

The concerns raised in the submission have been addressed in the report below.

The Development Application has been assessed in accordance with the provisions of Section 4.15 of the Environmental Planning and Assessment Act 1979. As outlined in the report, the proposed development fails to comply with the provisions contained within SEPP 65, the Apartment Design Guide (ADG), BLEP 2015, and BDCP 2015. The development application is considered to have an unacceptable impact on the natural and built environment and is not worthy of support.

POLICY IMPACT

This matter has no direct policy impacts.

FINANCIAL IMPACT

This matter has no direct financial implications.

RECOMMENDATION

It is recommended that the application be refused, for the reasons stated in Attachment B

ATTACHMENTS

- A. Section 4.15 Assessment Report
- B. Reasons for Refusal

DA-52/2022 ASSESSMENT REPORT

SITE & LOCALITY DESCRIPTION

The subject site is known as 30-32 Wellington Road, Chester Hill (Lots 37 & 38 in Deposited Plan 23866). The site is zoned R4 High Density Residential.

The site is regular in shape and has a total site area of 1783.2m². The site has a frontage of 30.48m to Wellington Road (southern boundary), and a rear (northern) boundary of the same length adjoining a passenger railway line. The western and eastern side boundaries both adjoin residential development and have respective lengths of 58.845m and 58.579m.

The portion of the site known as 30 Wellington Road contains a single storey fibro dwelling with a pitched tiled roof. The front garden area consists of a flat grassed area and a low metal fence. The portion of the site known as 32 Wellington Road is vacant.



Figure : Aerial of subject site in blue. Source: NearMap 2023

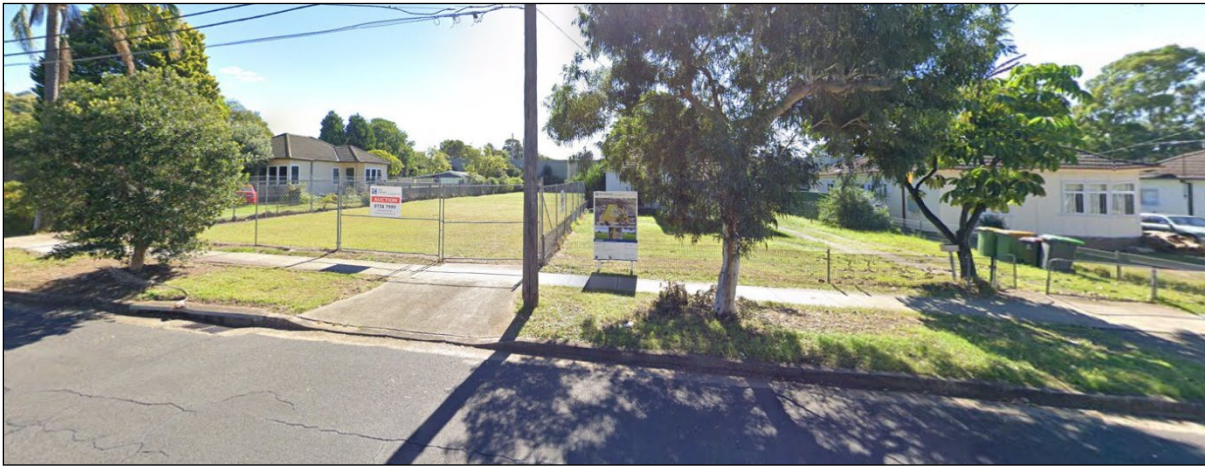


Figure 2: From site inspection

The immediate surrounding development is largely characterised by single storey fibro dwellings with a pitched and tiled roof, other newer development within the street include a 5 storey residential flat building with affordable rental housing, a two storey dual occupancy development and a two storey childcare centre. Chester Hill Railway Line is located to the north of the subject sites and runs east to west along the northern boundary.

BACKGROUND

On 14 February 2022, the subject Development Application (DA) for 30-32 Wellington Road, Chester Hill (DA-52/2022) was lodged proposing the demolition of existing structures and construction of a four (4) storey residential flat building development comprising of 23 residential apartments, with basement and ground floor level carparking.

On 8 April 2022, a Request For Information letter (RFI) was issued to the applicant outlining several matters that needed to be addressed including, but not limited to, a lack of information, the location of the proposed entryway, separation distances, unit sizes, building height, and the proposed stormwater management and matters raised by Council's Development Engineer, Community Safety Officer, and Resource Recovery Officer.

The requested information was to be submitted to Council by 6 May 2022.

On 27 May 2022, a follow up email was sent to the applicant requesting information on the applicant's intentions to respond to the RFI issued on 8 April 2022. The applicant responded the same day to advise that the amended information was close to being lodged. Further, the applicant requested that an extension of time to the 10 June 2022 to provide amendments and for a meeting to discuss the changes proposed. The extension of time was granted.

On 7 June 2022, a meeting was held between Council and the applicant where proposed amended plans were discussed. The key points of discussion related to the location of the proposed entryway; non-compliance with separation distances, and the location and extent of the proposed driveway being a contributing factor to the non-

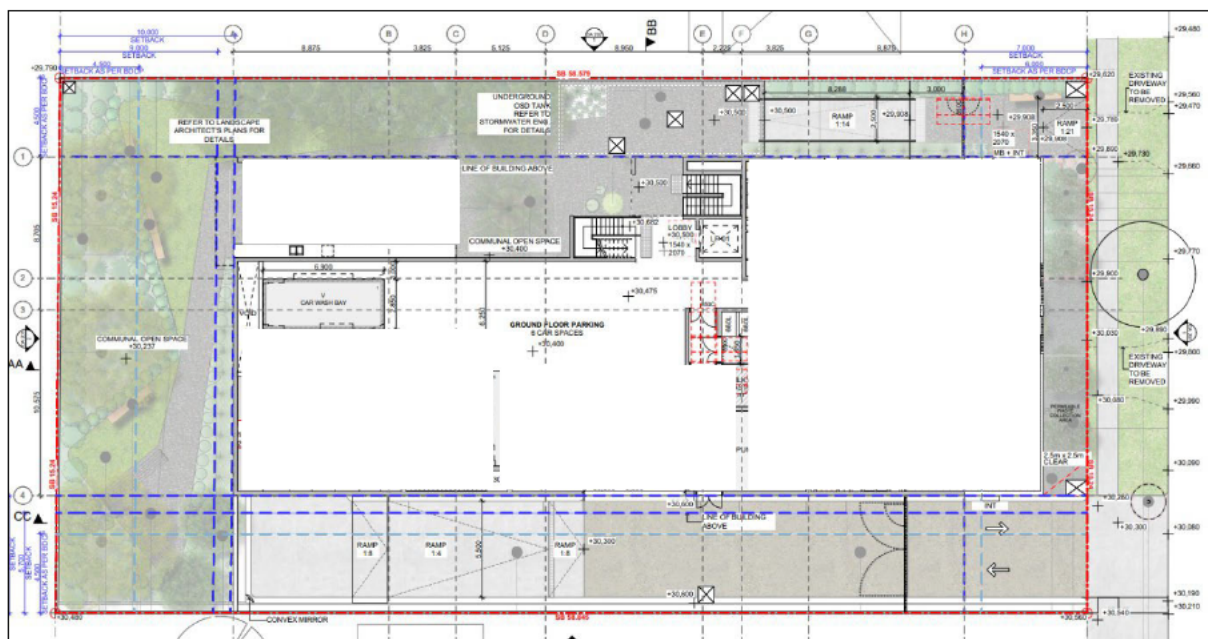
compliance. When probed as to why the driveway did not immediately ramp down into the basement, the applicant advised that it would mean that they would need to then construct two levels of basement to meet the required on-site carparking.

The discussion concluded with the applicant agreeing to forward the proposed amended plans for internal review prior to relodgement.

On 15 June 2022 the amended plans were received by Council. A response was provided to the applicant on 4 July 2022 which noted that several issues raised previously, had not been addressed including building height, separation distances, and the location of the proposed entryway. Further, the amenity of Unit G02 was negatively impacted by the location of the proposed waste collection area, and the communal open space was positioned in two separate areas of the ground floor.

The response required that the applicant formally amend the plans to address the additional matters as well as the comments within the RFI issued on 8 April 2022.

On 19 September 2022, following a request from the applicant, Council met with the applicant on-site. Discussion focused on the proposed driveway arrangement which, at that stage, was to run the length of the proposed development, as seen below.



The applicant was again advised that the proposed arrangement would not be accepted, and an alternative solution should be investigated. Council's preferred alternative was that all parking be contained within the basement.

The applicant asked if there were any alternatives that Council may consider. The only acceptable alternative solution could be that the driveway is reduced in length to ensure that excavation for the purposes of a driveway ramp does not occur at the side boundary and an internal ramp be proposed instead. The side setback could then be appropriately landscaped and the communal open space reconfigured to suit.

The applicant advised that amended plans would be provided within a fortnight.

On 20 December 2022, and on 24 January 2023, Council wrote to the applicant following up the provision of amended information discussed at the on-site meeting on 19 September 2022.

The applicant responded on 24 January 2023 that the changes were made and that they would be forwarded shortly. The amended plans were received via email on 25 January 2023. They were not formally lodged at that time.

The amended plans included the relocation of basement ramp to the east; the relocation of the entry to centre of the building; the relocation of the waste room so that it is accessible from the street façade; and flipping the central units so that living rooms are back to back between units.

Formal lodgment of the plans was requested by Council on 6 February 2023, in order for a proper assessment of the application to occur.

Following on from this, Council followed up the applicant on 15 March 2023 to which the applicant advised they were awaiting consultant reports prior to relodging. The revised application was then relodged on the NSW Planning Portal on 24 March 2023.

On 2 May 2023, the amended application was re-notified for a period of 14 days, in accordance with the Canterbury Bankstown Community Participation Plan, and an assessment of the amended application was undertaken.

On 5 May 2023, the following matters were noted as outstanding: separation distances; apartment lengths; private open space area size, the proposed stormwater management, the newly proposed communal open space area on the first floor and the external stairs leading up to it; and matters raised by Council's Traffic Engineer, Development Engineer and Resource Recovery Officer.

The applicant was advised, in the same correspondence, that should the outstanding issues be addressed, the proposal may be supportable.

The final set of amended plans, that are relied upon for this report, were lodged on 9 June 2023 to the NSW Planning Portal. Following assessment, the submission did not suitably address all the issues raised including separation distances and, stormwater management, and introduced further planning issues including landscaping and character. It was also noted that the applicant had removed the lift overrun in an effort to comply with the building height requirements, however no information was provided to demonstrate how the lift would function without an overrun. These outstanding matters are considered to require a significant redesign and due to a lack of progress with the issues raised, which remain unresolved, the application should now be concluded.

PROPOSED DEVELOPMENT

The development application proposes the demolition of existing structures and construction of a four (4) storey residential flat building development comprising of 23 residential apartments, with basement and ground floor level carparking.

The specifics of the development are as follows:

Floor	Description
Basement Level 1	25 car parking spaces, services & storage.
Ground Floor	6 car parking spaces, a car wash bay, services & storage, bin room, 2 apartments (2 x 2 bedroom units), & communal open space.
Level 01	7 apartments (6 x 2 bedroom units, 1 x 1 bedroom unit).
Level 02	7 apartments (6 x 2 bedroom units, 1 x 1 bedroom unit).
Level 03	7 apartments (6 x 2 bedroom units, 1 x 1 bedroom unit).

PERMISSIBILITY

The site is identified as within an R4 – High Density Residential zone under the Bankstown Local Environmental Plan 2015 (BLEP 2015).

The proposed development is described as a residential flat building, which is a building containing 3 or more dwellings, but does not include an attached dwelling, co-living housing or multi dwelling housing. As defined in the BLEP 2015, Residential Flat Buildings are a type of residential accommodation.

Residential Flat Buildings are permitted with consent in the R4 Zone under Part 2 of the BLEP 2015.

STATUTORY CONSIDERATIONS

When determining this application, the relevant matters listed in Section 4.15 of the Environmental Planning and Assessment Act 1979 must be considered. In this regard, the following environmental planning instruments, development control plans, codes and policies are relevant:

- State Environmental Planning Policy (Resilience and Hazards) 2021;
- State Environmental Planning Policy (Transport and Infrastructure) 2021;
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004;
- State Environmental Planning Policy 65 – Design Quality for Residential Apartment Development;
- Bankstown Local Environmental Plan 2015 (BLEP 2015);
- Bankstown Development Control Plan 2015 (BDCP 2015); and
- Canterbury-Bankstown Local Infrastructure Contributions Plan 2022.

SECTION 4.15 ASSESSMENT

The proposed development has been assessed pursuant to section 4.15 of the *Environmental Planning and Assessment Act, 1979*.

Environmental planning instruments [section 4.15(1)(a)(i)]

State Environmental Planning Policy (Resilience and Hazards) 2021

At the time of the development application's lodgment with Council, State Environmental Planning Policy 55 – Remediation of Land was relevant to the assessment of this application. However, on 1 March 2022, that SEPP was repealed by SEPP (Resilience and Hazards) 2021. No transitional savings provision was included within SEPP (Resilience and Hazards) 2021, as such the application is considered against SEPP (Resilience and Hazards) 2021.

This State Environmental Planning Policy aims to promote the remediation of contaminated land for the purposes of reducing risk to human health or any other aspect of the environment. The SEPP states that a consent authority must not consent to the carrying out of development unless it has considered whether the land is contaminated. If the land is contaminated, it must ascertain whether it is suitable in its contaminated state for the proposed use or whether remediation of the land is required.

A review of the history of the site shows that the subject sites have only been used for residential purposes. Given that the sites have been used for only residential purposes.

It is therefore considered that the consent authority can be satisfied that the development site is suitable for the proposed development, in accordance with State Environmental Planning Policy (Resilience and Hazards) 2021.

State Environmental Planning Policy (SEPP) (Transport and Infrastructure) 2021

At the time of the development application's lodgment with Council, SEPP Infrastructure 2007 was relevant to the assessment of this application. However, on 1 March 2022, that SEPP was repealed by SEPP (Transport and Infrastructure) 2021. A transitional savings provision was not included within SEPP (Transport and Infrastructure) 2021, as such the application is considered against SEPP (Transport and Infrastructure) 2021.

Ausgrid

The proposed development involves works within 5m of overhead power lines and in the vicinity of underground cables. In accordance with Part 2.3, Division 5, Subdivision 1, Clause 2.45 of SEPP (Transport and Infrastructure) 2021, a referral to the electricity supply authority for the area was required to be undertaken.

Ausgrid have assessed the plans lodged in support of the application and advise that they consent to the proposed development subject to conditions relating to certain matters including the supply of electricity to the site, infrastructure installation, and managing any impacts on existing electricity network assets.

Given this, the proposed development is compatible with the provisions of SEPP (Transport and Infrastructure) 2021.

Sydney Trains

The application was referred to Sydney Train for concurrence. The application has been reviewed by Sydney Trains who have provided concurrence subject to the imposition of conditions to be satisfied prior to works commencing and during the construction process.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (SEPP BASIX)

In accordance with SEPP BASIX, a BASIX Certificate accompanied this application. The Certificate makes a number of energy/resource commitments relating to water, energy and thermal comfort. The relevant commitments indicated on the BASIX Certificate have been shown on the plans in order to satisfy the objectives of the SEPP. Given this, the proposed development satisfies the provisions of SEPP (Building Sustainability Index: BASIX) 2004.

State Environmental Planning Policy 65 - Design Quality of Residential Apartment Development (SEPP 65)

This policy applies to residential apartment development and is required to be considered when assessing this application. Residential apartment development is defined under SEPP 65 as development for the purpose of a residential flat building, shop top housing or mixed use development with a residential accommodation component. The development must consist of the erection of a new building, the conversion of an existing building or the substantial redevelopment or refurbishment of an existing building. The building must also be at least 3 or more storeys and contain at least 4 or more dwellings. Residential apartment development does not include boarding houses or serviced apartments.

The proposed development, being a Residential Flat Building containing 23 units (dwellings) and 4 storeys in height, meets the requirements to be considered against SEPP 65.

SEPP 65 aims to improve the design quality of residential apartment development across NSW and provides an assessment framework, the Apartment Design Guide (ADG), for assessing 'good design'. The application was accompanied by a design verification statement from a qualified designer (registered architect) at lodgment of the development application that addresses the design quality principles contained in Schedule 1 of SEPP 65 and demonstrates how the objectives in Parts 3 and 4 of the ADG have been achieved. These principles are discussed as follows:

Principle 1: Context and Neighbourhood Character

A poor design response with regard to structures within the front setback has been proposed. The introduction of bulky waste into the front setback, combined with the proposed ramp, has reduced the front landscaping of the site. The design also seeks a departure from a number of objectives, including separation distances and building within the front setback, which does not align with the desired future character of the locality.

Principle 2: Built Form and Scale

The building form is non-compliant with the relevant built form standards including building within the front setback, height and separation distance, increasing the perception of bulk. These elements result in a design that does not contribute to the desired future character of the locality and do not enhance the existing surrounding streetscapes.

Principle 3: Density

The density of the proposed development is considered to be satisfactory.

Principle 4: Sustainability

A BASIX Certificate has been submitted to Council with this development application, which details the resource, energy and water efficiency measures that will be incorporated into this proposal.

Principle 5: Landscape

The architect's SEPP 65 statement refers to each of the units having access to outdoor balconies and/or terraces, some with various aspects. Communal open space is incorporated into the development on the ground floor. However, the front setback is heavily impacted by the raised nature of the private open space areas facing the street, and the built elements within the front setback which do not allow for the desired landscaping outcomes.

Principle 6: Amenity

The proposed development has not been designed to maximise solar access. The opportunities for solar access to the units with an easterly external wall have been removed, as a result of a reduced separation distance to the eastern property boundary. Unit G02 specifically relies upon a highlight window and other eastern units rely solely upon recessed balcony doors, to achieve solar access, which is not desirable.

Principle 7: Safety

The applicant has failed to consider Crime Prevention through Environmental Design (CPTED) principles as outlined in Bankstown Development Control Plan 2015 in the design of the project. The proposed entrance lobby/lift lobby opens into the car park area with no door to separate these spaces.

Principle 8: Housing Diversity and Social Interaction

The proposed design incorporates various dwelling sizes and includes adaptable units promoting diversity, affordability and access to housing choice.

Principle 9: Aesthetics

The building form is non-compliant with the relevant built form standards, increasing the perception of bulk, as well as adversely impacting on the internal and external amenity of the development. These elements result in a design that does not contribute to the desired future character of the locality and do not enhance the existing surrounding streetscapes.

Apartment Design Guide

Further to the design quality principles discussed above, the proposal has been considered against the various provisions of the Apartment Design Guide in accordance with Clause 28(2)(c) of SEPP 65.

Objectives within the ADG contain both Design Criteria and Design Guidance. Design Criteria form the specific requirements of the individual Objectives, while the Design Guidance provide advice on how to achieve the Design Criteria. For the most part, the development satisfactorily addresses the design guidance, or the design guidance is not applicable in this instance. The following table details how the proposal addresses the Design Criteria of the Objectives in the ADG and, where relevant, includes a discussion where the proposal has been found to fail to satisfactorily address the Design Guidance in the ADG.

Part 3 – Sitting of the Development			
Objective	Design Guidance (unless where indicated as Design Criteria)	Proposed	Complies (Y/N)
3B-1 <u>Orientation - Streetscape</u> Building types and layouts respond to the streetscape and site while optimising solar access within the development	Buildings along the street frontage define the street, by facing it and incorporating direct access from the street	The proposed design addresses and faces the street and incorporates access to it. However built elements of the development encroach into the front setback and therefore fail to define the street frontage.	No
	Where the street frontage is to the east or west, rear buildings should be orientated to the north	Not Applicable.	Not Applicable
	Where the street frontage is to the north or south, overshadowing to the south should be minimised and buildings behind the street frontage should be orientated to the east and west (see figure 3B.2)	Achieved.	Yes
3-D-1 <u>Communal Open Space (COS)</u> An adequate area of communal open space is provided to enhance residential amenity and to provide opportunities for landscaping	Design Criteria 1. Communal open space has a minimum area equal to 25% of the site 2. Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid winter)	Site Area = 1783.2m ² . Ground floor communal open space = 506.3m ² (28%) with minimum dimension of 6m proposed. 2 hours of solar access has been achieved. COS located to the north of the development	Yes.
	Direct, equitable access should be provided to communal open space areas from common circulation areas, entries and lobbies (Design Guidance)	Communal open space is not directly accessible. To enter the communal open space directly from the ground floor,	No

		residents and visitors to the site need to walk through the at-grade car parking area, through a back door and into the undercroft space (this is the path of travel required for the residents of unit G02 and all residents living on the upper levels that use the lift). Alternatively, one can exit the building via the stairs, enter the side setback at the rear of Unit G01, to then walk to the rear of the site.													
3E-1 Deep Soil Zones Deep soil zones provide areas on the site that allow for and support healthy plant and tree growth. They improve residential amenity and promote management of water and air quality	Design Criteria Deep soil zones are to meet the following minimum requirements: <table><tr><th>Site area</th><th>Minimum dimensions</th><th>Deep soil zone (% of site area)</th></tr><tr><td>less than 650m²</td><td>-</td><td rowspan="4">7%</td></tr><tr><td>650m² - 1,500m²</td><td>3m</td></tr><tr><td>greater than 1,500m²</td><td>6m</td></tr><tr><td>greater than 1,500m² with significant existing tree cover</td><td>6m</td></tr></table>	Site area	Minimum dimensions	Deep soil zone (% of site area)	less than 650m ²	-	7%	650m ² - 1,500m ²	3m	greater than 1,500m ²	6m	greater than 1,500m ² with significant existing tree cover	6m	Site Area = 1783.2m ² . Minimum Dimension required = 6m / 9m provided. Required deep soil zone = 124.82m ² . Proposed deep soil zone = 411.9m ² = 23%.	Yes
Site area	Minimum dimensions	Deep soil zone (% of site area)													
less than 650m ²	-	7%													
650m ² - 1,500m ²	3m														
greater than 1,500m ²	6m														
greater than 1,500m ² with significant existing tree cover	6m														
3F-1 Building Separation Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy	Design Criteria Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows: <table><tr><th>Building height</th><th>Habitable rooms and balconies</th><th>Non-habitable rooms</th></tr><tr><td>up to 12m (4 storeys)</td><td>6m</td><td>3m</td></tr><tr><td>up to 25m (5-8 storeys)</td><td>9m</td><td>4.5m</td></tr><tr><td>over 25m (9+ storeys)</td><td>12m</td><td>6m</td></tr></table> Note: Separation distances between buildings on the same site should combine required building separations depending on the type of room (see figure 3F.2) Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties	Building height	Habitable rooms and balconies	Non-habitable rooms	up to 12m (4 storeys)	6m	3m	up to 25m (5-8 storeys)	9m	4.5m	over 25m (9+ storeys)	12m	6m	Separation is not achieved to the eastern side of the building. A 4.5m boundary setback is proposed throughout, where 6m is required to a habitable room, balcony, and open gallery.	No
Building height	Habitable rooms and balconies	Non-habitable rooms													
up to 12m (4 storeys)	6m	3m													
up to 25m (5-8 storeys)	9m	4.5m													
over 25m (9+ storeys)	12m	6m													

3H-1 Vehicle Access Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes	Vehicle entries should be located at the lowest point of the site minimising ramp lengths, excavation and impacts on the building form and layout	Vehicle entrance located at the higher end of the site/frontage.	No
	Vehicle standing areas that increase driveway width and encroach into setbacks should be avoided	Car waiting bay encroaches into side setback.	No
	Garbage collection, loading and servicing areas are screened	Bin room integrated into ground floor of the proposed development. Bulky waste is provided for in a bin room within the front setback.	No
	Clear sight lines should be provided at pedestrian and vehicle crossings	These have not provided.	No
3J-1 Proximity to public transport Car parking is provided based on proximity to public transport in metropolitan Sydney and centres in regional areas	Design Criteria For development in the following locations: <ul style="list-style-type: none"> • on sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan Area; or • on land zoned, and sites within 400 metres of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre the minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less The car parking needs for a development must be provided off street	The development proposal includes 3 x 1BR apartments and 20 X 2 BR apartments. The Guide to Traffic Generating Developments requires carparking to be provided at the following rates: 1 BR: 0.6 spaces = 2 spaces required. 2 BR: 0.9 spaces = 18 spaces required. Visitors: 1 space per 5 units = 5 spaces required. Total minimum no. of spaces required = 25 spaces. Proposed car parking spaces: 29 car parking spaces. 2 accessible spaces. 1 car wash bay.	Yes
3J-2 Other modes of transport parking Parking and facilities are provided for other modes of transport	Conveniently located and sufficient numbers of parking spaces should be provided for motorbikes and scooters	None shown.	No
	Secure undercover bicycle parking should be provided that is easily accessible from both the public domain and common areas	None shown.	No
Part 4 – Designing the building			
4A-1 Solar access	Design Criteria 1. Living rooms and private open spaces of at least 70% of apartments in a	A breakdown of the solar access achieved	Yes

	<p>building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas</p> <p>2. In all other areas, living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 3 hours direct sunlight between 9 am and 3 pm at mid winter</p> <p>3. A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid winter</p>	<p>for each unit is provided below:</p> <table><tr><th>Unit</th><th>Hours Achieved</th></tr><tr><td>G01</td><td>Nil</td></tr><tr><td>G02</td><td>Nil</td></tr><tr><td>101</td><td>9am-11am</td></tr><tr><td>102</td><td>2-3pm (1 hour)</td></tr><tr><td>103</td><td>2-3pm (1 hour)</td></tr><tr><td>104</td><td>1-3pm</td></tr><tr><td>105</td><td>1-3pm</td></tr><tr><td>106</td><td>1-3pm</td></tr><tr><td>107</td><td>9am-12pm</td></tr><tr><td>201</td><td>Nil (9-11am via a highlight window)</td></tr><tr><td>202</td><td>2-3pm (1 hour)</td></tr><tr><td>203</td><td>2-3pm (1 hour)</td></tr><tr><td>204</td><td>1-3pm</td></tr><tr><td>205</td><td>1-3pm</td></tr><tr><td>206</td><td>1-3pm</td></tr><tr><td>207</td><td>9am-12pm</td></tr><tr><td>301</td><td>9-11am</td></tr><tr><td>302</td><td>1-3pm</td></tr><tr><td>303</td><td>1-3pm</td></tr><tr><td>304</td><td>1-3pm</td></tr><tr><td>305</td><td>1-3pm</td></tr><tr><td>306</td><td>1-3pm</td></tr><tr><td>307</td><td>9am-12pm</td></tr></table> <p>Total Units = 23. 70% = 16 16 provided. 15% = 3 3 No solar.</p>	Unit	Hours Achieved	G01	Nil	G02	Nil	101	9am-11am	102	2-3pm (1 hour)	103	2-3pm (1 hour)	104	1-3pm	105	1-3pm	106	1-3pm	107	9am-12pm	201	Nil (9-11am via a highlight window)	202	2-3pm (1 hour)	203	2-3pm (1 hour)	204	1-3pm	205	1-3pm	206	1-3pm	207	9am-12pm	301	9-11am	302	1-3pm	303	1-3pm	304	1-3pm	305	1-3pm	306	1-3pm	307	9am-12pm	
Unit	Hours Achieved																																																		
G01	Nil																																																		
G02	Nil																																																		
101	9am-11am																																																		
102	2-3pm (1 hour)																																																		
103	2-3pm (1 hour)																																																		
104	1-3pm																																																		
105	1-3pm																																																		
106	1-3pm																																																		
107	9am-12pm																																																		
201	Nil (9-11am via a highlight window)																																																		
202	2-3pm (1 hour)																																																		
203	2-3pm (1 hour)																																																		
204	1-3pm																																																		
205	1-3pm																																																		
206	1-3pm																																																		
207	9am-12pm																																																		
301	9-11am																																																		
302	1-3pm																																																		
303	1-3pm																																																		
304	1-3pm																																																		
305	1-3pm																																																		
306	1-3pm																																																		
307	9am-12pm																																																		
<p>4A-2 Daylight access</p> <p>Daylight access is maximised where sunlight is limited</p>	<p>Courtyards, skylights and high level windows (with sills of 1,500mm or greater) are used only as a secondary light source in habitable rooms</p>	<p>Highlight windows (with a sill height of 1.8m) are relied upon as a primary source of light. This can be seen in Unit 201, which is a south facing unit. However solar access has been achieved.</p>	<p>Yes</p>																																																
<p>4B-3 Cross Ventilation</p> <p>The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents</p>	<p>Design Criteria</p> <p>1. At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building.</p> <p>2. Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line</p> <p>The building should include dual aspect apartments, cross through apartments and corner apartments and limit apartment depths</p>	<p>Total Units = 23 Required: 60% = 14 apartments.</p> <p>Compliant apartments: 15 (>60%).</p> <p>Cross through apartment depth less than 18m.</p> <p>No cross over apartments proposed.</p> <p>Dual aspect and corner apartments provided.</p>	<p>Yes</p> <p>Yes</p>																																																

	In cross-through apartments external window and door opening sizes/areas on one side of an apartment (inlet side) are approximately equal to the external window and door opening sizes/areas on the other side of the apartment (outlet side) (see figure 4B.4)	Window sizes are approximately equal for cross through apartments.	Yes																				
	Apartments are designed to minimise the number of corners, doors and rooms that might obstruct airflow	Apartments have been designed to minimise airflow obstructions.	Yes																				
4C-1 Ceiling heights Ceiling height achieves sufficient natural ventilation and daylight access	Design Criteria Measured from finished floor level to finished ceiling level, minimum ceiling heights are: <table><tr><th colspan="2">Minimum ceiling height for apartment and mixed use buildings</th></tr><tr><td>Habitable rooms</td><td>2.7m</td></tr><tr><td>Non-habitable</td><td>2.4m</td></tr><tr><td>For 2 storey apartments</td><td>2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area</td></tr><tr><td>Attic spaces</td><td>1.8m at edge of room with a 30 degree minimum ceiling slope</td></tr><tr><td>If located in mixed used areas</td><td>3.3m for ground and first floor to promote future flexibility of use</td></tr></table>	Minimum ceiling height for apartment and mixed use buildings		Habitable rooms	2.7m	Non-habitable	2.4m	For 2 storey apartments	2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area	Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope	If located in mixed used areas	3.3m for ground and first floor to promote future flexibility of use	<table><tr><td>Ground</td><td>2.8m</td></tr><tr><td>Level 1</td><td>2.8m</td></tr><tr><td>Level 2</td><td>2.8m</td></tr><tr><td>Level 3</td><td>2.8m</td></tr></table>	Ground	2.8m	Level 1	2.8m	Level 2	2.8m	Level 3	2.8m	Yes
Minimum ceiling height for apartment and mixed use buildings																							
Habitable rooms	2.7m																						
Non-habitable	2.4m																						
For 2 storey apartments	2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area																						
Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope																						
If located in mixed used areas	3.3m for ground and first floor to promote future flexibility of use																						
Ground	2.8m																						
Level 1	2.8m																						
Level 2	2.8m																						
Level 3	2.8m																						
	Ceiling height can accommodate use of ceiling fans for cooling and heat distribution.	Ceiling height can achieve use of ceiling fans.	Yes																				
4D-1 – Apartment size	Design criteria 1. Apartments are required to have the following minimum internal areas: <table><tr><th>Apartment type</th><th>Minimum internal area</th></tr><tr><td>Studio</td><td>35m²</td></tr><tr><td>1 bedroom</td><td>50m²</td></tr><tr><td>2 bedroom</td><td>70m²</td></tr><tr><td>3 bedroom</td><td>90m²</td></tr></table> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each</p> 2. Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms	Apartment type	Minimum internal area	Studio	35m ²	1 bedroom	50m ²	2 bedroom	70m ²	3 bedroom	90m ²	Minimum internal areas and window areas achieved.	Yes										
Apartment type	Minimum internal area																						
Studio	35m ²																						
1 bedroom	50m ²																						
2 bedroom	70m ²																						
3 bedroom	90m ²																						
	Kitchens should not be located as part of the main circulation space in larger apartments (such as hallway or entry space)	Kitchens appropriately located.	Yes																				

	A window should be visible from any point in a habitable room	Achieved.	Yes
	Where minimum areas or room dimensions are not met apartments need to demonstrate that they are well designed and demonstrate the usability and functionality of the space with realistically scaled furniture layouts and circulation areas. These circumstances would be assessed on their merits	Minimum areas met.	Not Applicable
4D-2 Environmental performance	Design Criteria 1. Habitable room depths are limited to a maximum of 2.5 x the ceiling height 2. In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window	Units 104, 105, 204, 205, 304 and 305 living areas exceed maximum depth (8.2m each).	No
	Greater than minimum ceiling heights can allow for proportional increases in room depth up to the permitted maximum depths	Not achieved.	No.
	All living areas and bedrooms should be located on the external face of the building	Achieved.	Yes
4D-3 apartment layout	Design Criteria 1. Master bedrooms have a minimum area of 10m ² and other bedrooms 9m ² (excluding wardrobe space) 2. Bedrooms have a minimum dimension of 3m (excluding wardrobe space) 3. Living rooms or combined living/dining rooms have a minimum width of: • 3.6m for studio and 1 bedroom apartments • 4m for 2 and 3 bedroom apartments	1. Master bedrooms achieve the dimensions. 2. Bedrooms achieve the dimensions. 3. Achieved.	Yes
	Access to bedrooms, bathrooms and laundries is separated from living areas minimising direct openings between living and service areas	Bedrooms, bathrooms and laundries are separated from living areas	Yes
	All bedrooms allow a minimum length of 1.5m for robes	Robes comply.	Yes
	The main bedroom of an apartment or a studio apartment should be provided with a wardrobe of a minimum 1.8m long, 0.6m deep and 2.1m high	These dimensions have been achieved within the units.	Yes
	Apartment layouts allow flexibility over time, design solutions may include: • dimensions that facilitate a variety of furniture arrangements and removal • spaces for a range of activities and privacy levels between different spaces within the apartment • dual master apartments • dual key apartments Note: dual key apartments which are separate but on the same title are	Apartment designs are considered to be acceptable.	Yes

	regarded as two sole occupancy units for the purposes of the Building Code of Australia and for calculating the mix of apartments • room sizes and proportions or open plans (rectangular spaces (2:3) are more easily furnished than square spaces (1:1)) • efficient planning of circulation by stairs, corridors and through rooms to maximise the amount of usable floor space in rooms																	
4E-1 POS Apartments provide appropriately sized private open space and balconies to enhance residential amenity	Design criteria 1. All apartments are required to have primary balconies as follows: <table><tr><th>Dwelling type</th><th>Minimum area</th><th>Minimum depth</th></tr><tr><td>Studio apartments</td><td>4m²</td><td>-</td></tr><tr><td>1 bedroom apartments</td><td>8m²</td><td>2m</td></tr><tr><td>2 bedroom apartments</td><td>10m²</td><td>2m</td></tr><tr><td>3+ bedroom apartments</td><td>12m²</td><td>2.4m</td></tr></table> The minimum balcony depth to be counted as contributing to the balcony area is 1m 2. For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m ² and a minimum depth of 3m	Dwelling type	Minimum area	Minimum depth	Studio apartments	4m ²	-	1 bedroom apartments	8m ²	2m	2 bedroom apartments	10m ²	2m	3+ bedroom apartments	12m ²	2.4m	All balconies meet the minimum area requirements. The balustrade has been excluded from the calculations. 2. GF areas of POS achieve the minimum area and depth requirements.	Yes
Dwelling type	Minimum area	Minimum depth																
Studio apartments	4m ²	-																
1 bedroom apartments	8m ²	2m																
2 bedroom apartments	10m ²	2m																
3+ bedroom apartments	12m ²	2.4m																
4F-1 Common circulation space Common circulation spaces achieve good amenity and properly service the number of apartments	Design criteria The maximum number of apartments off a circulation core on a single level is eight Greater than minimum requirements for corridor widths and/ or ceiling heights allow comfortable movement and access particularly in entry lobbies, outside lifts and at apartment entry doors Daylight and natural ventilation should be provided to all common circulation spaces that are above ground Windows should be provided in common circulation spaces and should be adjacent	Maximum 7 units to a circulation core. Not required. Common circulation spaces on the first, second and third floors are proposed as an open gallery which is open to the elements on the eastern elevation, allowing for daylight and natural ventilation to the common circulation spaces that are above ground. However there is no separation of the ground floor entry lobby, and the car parking area. The lift opens into the open gallery spaces and	Yes Not applicable No Yes															

	to the stair or lift core or at the ends of corridors	is proposed adjacent the stairwell.											
	Longer corridors greater than 12m in length from the lift core should be articulated. Design solutions may include: <ul style="list-style-type: none">• a series of foyer areas with windows and spaces for seating• wider areas at apartment entry doors and varied ceiling heights	Common circulation spaces on the first, second and third floors are proposed as open galleries which include seating and podium landscaping.	Yes										
	Design common circulation spaces to maximise opportunities for dual aspect apartments, including multiple core apartment buildings and cross over apartments	Provided. Circulation spaces are designed to allow a number of apartments to have dual aspects and increase the opportunity for cross ventilation.	Yes										
	Primary living room or bedroom windows should not open directly onto common circulation spaces, whether open or enclosed. Visual and acoustic privacy from common circulation spaces to any other rooms should be carefully controlled	Living and bedroom windows do not open directly to common circulation spaces.	Yes										
4G-1 Storage	Design Criteria	Storage areas are provided within each of the apartments and additional storage cages are also proposed within the basement.	Yes										
Adequate, well designed storage is provided in each apartment	1. In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided: <table><tr><th>Dwelling type</th><th>Storage size volume</th></tr><tr><td>Studio apartments</td><td>4m³</td></tr><tr><td>1 bedroom apartments</td><td>6m³</td></tr><tr><td>2 bedroom apartments</td><td>8m³</td></tr><tr><td>3+ bedroom apartments</td><td>10m³</td></tr></table>	Dwelling type	Storage size volume	Studio apartments	4m³	1 bedroom apartments	6m³	2 bedroom apartments	8m³	3+ bedroom apartments	10m³		
Dwelling type	Storage size volume												
Studio apartments	4m³												
1 bedroom apartments	6m³												
2 bedroom apartments	8m³												
3+ bedroom apartments	10m³												
	At least 50% of the required storage is to be located within the apartment												
	Storage is accessible from either circulation or living areas	Provided off circulation space.	Yes										
	Storage provided on balconies (in addition to the minimum balcony size) is integrated into the balcony design, weather proof and screened from view from the street	None provided.	Not applicable										
	Left over space such as under stairs is used for storage	Not applicable	Not applicable										
4H-1 Noise transfer	Adequate building separation is provided within the development and from neighbouring buildings/adjacent uses (see also section 2F Building separation and section 3F Visual privacy)	Not achieved. Only 4.5m buiding separation proposed on eastern elevation.	No										
Noise transfer is minimised through the siting of buildings and building layout													
4O-2 Landscape and streetscape	Landscape design responds to the existing site conditions including: <ul style="list-style-type: none">• changes of levels	Landscaping within the front setback is minimal and does not contribute	No										

Landscape design contributes to the streetscape and amenity	<ul style="list-style-type: none"> • views • significant landscape features including trees and rock outcrops 	to the streetscape. Refer also to BDCP 2015 assessment for further information.	
4W-1 Waste storage	Adequately sized storage areas for rubbish bins should be located discreetly away from the front of the development or in the basement car park	The bulky waste is not provided within the building. It is located within the front setback.	No
Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents	Waste and recycling storage areas should be well ventilated	Area is well ventilated with two openings.	Yes
	Circulation design allows bins to be easily manoeuvred between storage and collection points	These matters were the subject of a referral response by Council's Resource Recovery Officer, who raised no objection to the application.	Yes

Canterbury Bankstown Local Environmental Plan 2023 (CBLEP 2023)

Clause 1.8A "Savings provision relating to development applications" of the Canterbury-Bankstown Local Environmental Plan 2023 (CBLEP) states:

"If a development application has been made before the commencement of this plan in relation to land to which this plan applies and the application has not been finally determined before that commencement, the application must be determined as if this plan had not commenced."

This particular development application was formally lodged on 14 February 2022, which predates the commencement of the CBLEP 2023 on 23 June 2023. Therefore, the application must be assessed based on the provisions contained in the Bankstown Local Environmental Plan 2015.

Bankstown Local Environmental Plan 2015 (BLEP 2015)

This site is zoned R4 High Density Residential under BLEP 2015. The controls applicable to this application are discussed below.

Clause 1.2 Aims of Plan

The proposed development must have regard to the relevant aims of the BLEP 2015, which are as follows:

- (d) to provide development opportunities that are compatible with the prevailing suburban character and amenity of residential areas of Bankstown,
- (f) to provide a range of housing opportunities to cater for changing demographics and population needs,

- (i) to achieve good urban design in terms of site layouts, building form, streetscape, architectural roof features and public and private safety,*
- (k) to consider the cumulative impact of development on the natural environment and waterways and on the capacity of infrastructure and the road network,*

The proposed development is considered to meet the Aims of the Plan except for Aims (d), (i) and (k). It is considered that based on the assessment provided in this report, that the proposal fails to achieve a good urban design outcome, provides for incompatible front setbacks on the site and proposes a poor streetscape interface. Further, the unresolved stormwater management plan represents an undesirable impact of development on the natural environment and capacity of infrastructure.

Clause 2.3 Zone objectives and Land Use Table

Clause 2.3(2) of BLEP 2015 states that the consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.

The objectives of the R4 High Density Residential Zone are as follows:

- To provide for the housing needs of the community within a high density residential environment.*
- To provide a variety of housing types within a high density residential environment.*
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The proposed development meets the objectives of the R4 zone as it provides for residential housing within a residential flat building. The design comprises a mix of one and two bedroom apartments to contribute to the needs of the community.

An assessment of the proposed development against the relevant controls contained within BLEP 2015 is provided below:

Provision/ Standard	Requirement	Proposal	Complies
Part 2 Permitted or Prohibited Development			
2.1-2.3 Zoning	R4 High Density Residential	Residential Flat Building.	Yes
2.7 Demolition requires development consent	The demolition of a building or work may be carried out only with development consent.	Demolition proposed.	Yes
Part 4 Principal Development Standards			
4.1B Minimum lot sizes and special provisions for certain dwellings	Residential Flat Buildings Zone R4: <ul style="list-style-type: none"> • Minimum 1500m² site area; and • Minimum 30m frontage 	Site Area = 1783.2m ² . Frontage = 30.48m.	Yes

Provision/ Standard	Requirement	Proposal	Complies
4.3 Height of Buildings	Maximum permitted height 13m	13m shown on plans via height plane diagram, however spot natural ground levels on the survey and site plan indicate 13.45m at the point of worst case along the east elevation (parapet at RL43.1 above NGL of RL29.65).	No
4.4 Floor Space Ratio	Maximum permitted 1:1	Site Area = 1783.2m ² Ground = 177.6m ² - 13.3 m ² = 164.3 m ² At grade parking = 456.4m ² First = 515m ² Second = 515m ² TOTAL = 1650.7m ² FSR = 0.92:1 Condition that gallery cannot be enclosed.	Yes
4.6 Exceptions to Development Standards	(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating— (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and (b) that there are sufficient environmental planning grounds to justify contravening the development standard.	A satisfactory Clause 4.6 has not been submitted with the application.	No

Provision/ Standard	Requirement	Proposal	Complies
5.21	<p>(1) The objectives of this clause are as follows—</p> <p>(a) to minimise the flood risk to life and property associated with the use of land,</p> <p>(b) to allow development on land that is compatible with the flood function and behaviour on the land, taking into account projected changes as a result of climate change,</p> <p>(c) to avoid adverse or cumulative impacts on flood behaviour and the environment,</p> <p>(d) to enable the safe occupation and efficient evacuation of people in the event of a flood.</p> <p>(2) Development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development—</p> <p>(a) is compatible with the flood function and behaviour on the land, and</p> <p>(b) will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and</p> <p>(c) will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and</p> <p>(d) incorporates appropriate measures to manage risk to life in the event of a flood, and</p> <p>(e) will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.</p> <p>(3) In deciding whether to grant development consent on land to which this clause applies, the consent authority must consider the following matters—</p> <p>(a) the impact of the development on projected changes to flood behaviour as a result of climate change,</p> <p>(b) the intended design and scale of buildings resulting from the development,</p> <p>(c) whether the development incorporates measures to minimise the risk to life and ensure the safe evacuation of people in the event of a flood,</p> <p>(d) the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion.</p>	<p>This matter was referred to Council's Development Engineer for comment. The Development Engineer raised objection to the proposal. See below.</p>	No.

Provision/ Standard	Requirement	Proposal	Complies
Part 6 Local Provisions			
6.2 Earthworks	<p>Before granting consent to development including earthworks, the following must be considered:</p> <p>(a) drainage patterns and soil stability (b) the likely future use or redevelopment of the land, (c) quality of the fill or the soil to be excavated, or both, (d) effect of development on existing and likely amenity of adjoining properties, (e) the source of any fill material and the destination of any excavated material, (f) the likelihood of disturbing relics, (g) the potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area, (h) appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</p>	The proposal is not inconsistent with this clause.	Yes.

Proposed Instruments [section 4.15(1)(a)(ii)]

There are no proposed planning instruments applicable to the assessment of this development application.

Development control plans [section 4.15(1)(a)(iii)]

Canterbury-Bankstown Development Control Plan (CBDCP) 2023

At its Ordinary Meeting of 25 May 2021, Council resolved that the Canterbury-Bankstown Development Control Plan and supporting guides will apply to development applications lodged on or after the date the draft CBLEP is gazetted. CBLEP was gazetted on 23 June 2023.

As this Development Application was lodged prior to 23 June 2023, the Development Application will be assessed against the planning controls within the Bankstown Development Control Plan 2015.

Bankstown Development Control Plan 2015 (BDCP 2015)

The following table provides a summary of the development application against the controls contained in the following parts of Bankstown Development Control Plan 2015:

- Part B1 - Residential Development (Section 9); and
- Part B5 – Parking.

Standard	Requirement	Proposal	Complies
Part B1 Section 9			
9.1 Isolation	The consent authority must not grant consent to any development on land within Zone R4 High Density Residential if the proposed development will have the effect of isolating land with an area of less than 1,200m ² and a width of less than 20 metres at the front building line so as to preclude the reasonable development of that land.	<p>The adjoining allotments to the east and the west of 30-32 Wellington Road remain undeveloped and it would be reasonable to expect that they can be consolidated and developed in the future.</p> <p>The consolidated sites would have a site area in excess of 1200m² and a width of over 20m. As such, it is considered that these allotments would not be isolated as a result of the proposed development.</p>	Yes
9.2 Storey Limit	<p>Development must comply with the storey limit that corresponds with the maximum building height shown for the site on the Height of Building Map as follows:</p> <p>4 Storeys (subject development)</p>	Maximum 4 storeys proposed excluding basement.	Yes
9.3 Siting of Development	The siting of residential flat buildings, serviced apartments, shop top housing and landscaping works must be compatible with the existing slope and contours of the allotment and any adjoining property. Council does not allow any development that involves elevated platforms on columns; or excessive or unnecessary terracing, rock excavation, retaining walls or reclamation.	The siting of the development is considered to be compatible with the slope.	Yes
9.4 Fill	<p>Any reconstituted ground level on the allotment must not exceed a height of 600mm above the natural ground level of an adjoining property except where:</p> <p>(a) the residential flat building, serviced apartments or shop top housing is required to be raised to achieve a suitable freeboard in accordance with Part B12 of this DCP; or</p> <p>(b) the fill is contained within the ground floor perimeter of the residential flat building, serviced apartments or shop top housing to a height no greater than 1 metre above the natural ground level of the allotment.</p>	No fill proposed as part of application.	Yes

Standard	Requirement	Proposal	Complies
9.5 Primary Setback	The minimum setback for a building wall to the primary frontage is 6 metres for all other allotments.	The development proposes a number of built elements within the 6m setback.	No
9.8 Side & Rear Setbacks	For a building with 3 or more storeys, the minimum setback to the side and rear boundaries of the allotment is 4.5 metres provided the average setback is 0.6 multiplied by the wall height.	Setbacks prescribed by the ADG prevail from those contained within the BDCP 2015.	Not Applicable
9.10 Basement Setbacks	The minimum setback for a basement level to the side and rear boundaries of the allotment is 2 metres.	Over 2m setback achieved throughout.	Yes
9.11 Driveway Setbacks	The minimum setback for a driveway to the side and rear boundaries of the allotment is 1 metre.	1m provided for the most part however the car waiting bay encroaches into the 1m setback.	No
9.12 Private Open Space	Development must locate the private open space behind the front building line. This clause does not apply to any balconies where it is used to provide articulation to the street facade.	All POS provided behind the front building line.	Yes
9.13 Building Design	Council applies the design quality principles of State Environment Planning Policy No. 65–Design Quality of Residential Apartment Development and the Apartment Design Guide to residential flat buildings, serviced apartments and shop top housing. This includes buildings that are two storeys or less, or contain less than four dwellings.	As above, SEPP 65 and the Apartment Design Guide have been considered.	No
9.14 Demolition	Development for the purpose of residential flat buildings, serviced apartments and shop top housing must demolish all existing dwellings (not including any heritage items) on the allotment.	All dwellings and associated ancillary structures are proposed to be demolished.	Yes
9.15 Adaptable Dwellings	Residential flat buildings, serviced apartments and shop top housing with 10 or more dwellings must provide at least one adaptable dwelling plus an adaptable dwelling for every 50 dwellings in accordance with AS 4299–Adaptable Housing. (1 required)	2 provided.	Yes

Standard	Requirement	Proposal	Complies
9.16 Roof Pitch	The maximum roof pitch for residential flat buildings, serviced apartments and shop top housing is 35 degrees.	Flat roof proposed.	Yes
9.20 Roof top terrace	Council does not allow residential flat buildings, serviced apartments and shop top housing to have roof-top balconies and the like.	No roof top balconies are proposed.	Yes
9.21 Plant Siting	The siting of a plant room, lift motor room, mechanical ventilation stack, exhaust stack, and the like must: (a) integrate with the architectural features of the building to which it is attached; or (b) be sufficiently screened when viewed from the street and neighbouring properties.	Plant / pump room is located within the carparking areas.	Yes
9.22 Car Parking	Development must locate the car parking spaces behind the front building line	Located behind the front building line and within the basement.	Yes
9.23 Substations	The location and design of substations must be shown on the plans.	Not shown on the plans. The applicant has advised that upon consultation with a Level 3 provider a substation is not required.	Not Applicable.
9.24 Substations	Substations should locate underground. Where not possible, substations are to be integrated into the building design and concealed from public view.	Not shown on the plans. The applicant has advised that upon consultation with a Level 3 provider a substation is not required.	Not Applicable.
9.25 Substations	Substations must not locate forward of the front building line.	Not shown on the plans. The applicant has advised that upon consultation with a Level 3 provider a substation is not required.	Not Applicable.
9.26 Utilities	The location and design of utilities and building services (such as plant rooms, hydrants, equipment and the like) must be shown on the plans.	The proposal identifies indicative areas capable of housing these services.	Yes
9.27 Utilities	Utilities and building services are to be integrated into the building design and concealed from public view.	Utilities and building services are integrated into the building design and concealed from public view.	Yes
9.29 Landscaping	Development must landscape the following areas on the allotment by way of trees and shrubs with preference given to native vegetation endemic to the City of Bankstown (refer to Appendix 4 and Appendix 5 for a list of suitable species):	(a) Front setback = 184.4m ² . Landscaped area = 75.2m ² . 41% of the area between the building and the primary frontage has been provided as landscaping. (b) NA.	No

Standard	Requirement	Proposal	Complies
	(a) a minimum 45% of the area between the building and the primary frontage; and (b) a minimum 45% of the area between the building and the secondary frontage; and (c) plant more than one 75 litre tree between the building and the primary frontage (refer to Appendix 5 for a list of suitable trees in the City of Bankstown)	(c) Two (2) x 75L trees proposed within front setback.	
Part B5 Car Parking			
2.1 Number of car parking spaces	R4 zone: <ul style="list-style-type: none"> • 1 Space per 1 bed dwelling (3 spaces) • 1.2 car spaces per 2 bed dwelling (24 spaces); • 1.5 car spaces per 3 or more bed dwelling (0 spaces); and • 1 Visitor space per 5 dwellings (5 spaces) • Total 32 spaces 	Total minimum no. of spaces required = 25 spaces. Proposed car parking spaces: 29 car parking spaces. 2 accessible spaces. 1 car wash bay. Proposed car parking spaces: 29 car parking spaces. 2 accessible spaces. 1 car wash bay.	Not applicable as the ADG overrides

The proposed development is generally compliant with the exception of the numerical controls assessed in the above table and discussed in further detail below:

Clause 9.5 Primary Setback

Clause 9.5 requires that the minimum setback for a building wall to the primary frontage is 6 metres. The bulky waste room and ramp are both proposed to be located 1.6m from the front boundary which is inconsistent with the primary setback requirement and results in a poor streetscape presentation with limited opportunities to provide a suitable level of landscaping.

Clause 9.11 Driveway Setback

Clause 9.11 requires that the minimum setback for a driveway to the side and rear boundaries of the allotment is 1 metre. The proposed driveway generally complies with this requirement except where the driveway widens on the southern property boundary where the car waiting bay encroaches into the 1m setback. The concern that arises is that there is no opportunity for worthwhile landscaping along the site's western boundary within the front setback. The overall appearance of the development will be dominated by hard surfaces and building infrastructure.

This exacerbates the landscaping issue raised in relation to Clause 9.5 of the DCP as the combination of non-compliant front and side setbacks means that landscaping is only able to make a minimal contribution to the overall presentation of the development. In contrast, well landscaped front setbacks are a common element in the locality and the overall outcome in this instance will be a stark building that undermines the local character.

Clause 9.29 Landscaping

Clause 9.29 requires that development must landscape a minimum 45% of the area between the building and the primary frontage. The proposed development provides for 41% of the landscaped area within the front setback which is inconsistent with this requirement and results in a poor streetscape presentation.

REFERRAL RESPONSES

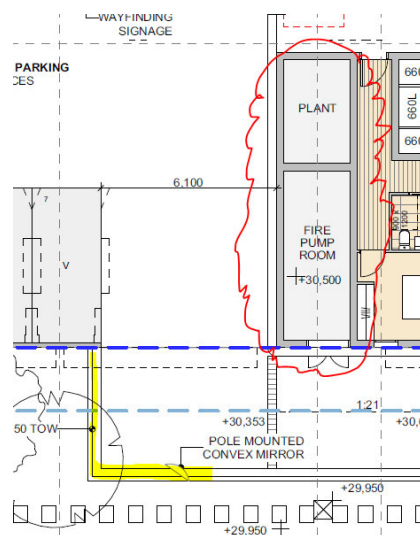
Whilst the referral responses are summarised in the assessment tables above, they are included here in their entirety for clarity:

Development Engineer

The proposed development was referred to Council's Development Engineer and the following issues were identified as still being outstanding in the amended plans.

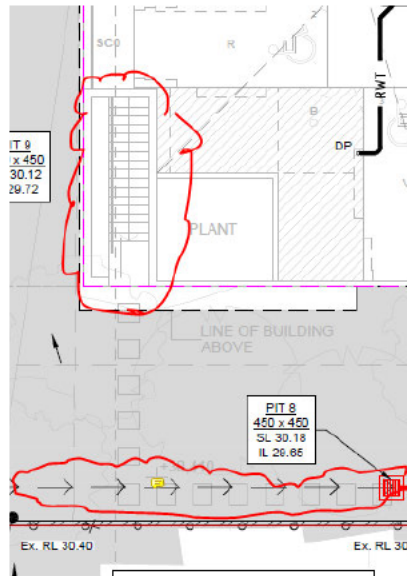
Car Parking Facilities:

1. *Combination of convex mirror and bypassing opportunity as demonstrated on the latest architectural plan Revision B dated 7th of February 2023 is not satisfactory due to limited vision provided to an incoming driver from Wellington Road which raises safety concerns. As such, the applicant shall provide a bypassing opportunity where the sharp turn presented leading to ground floor car park to ensure no vehicle reversing backward be required (See extract below). This may be achieved by relocating the pump & plant room and providing a bypassing opportunity where the pump room currently is proposed.*

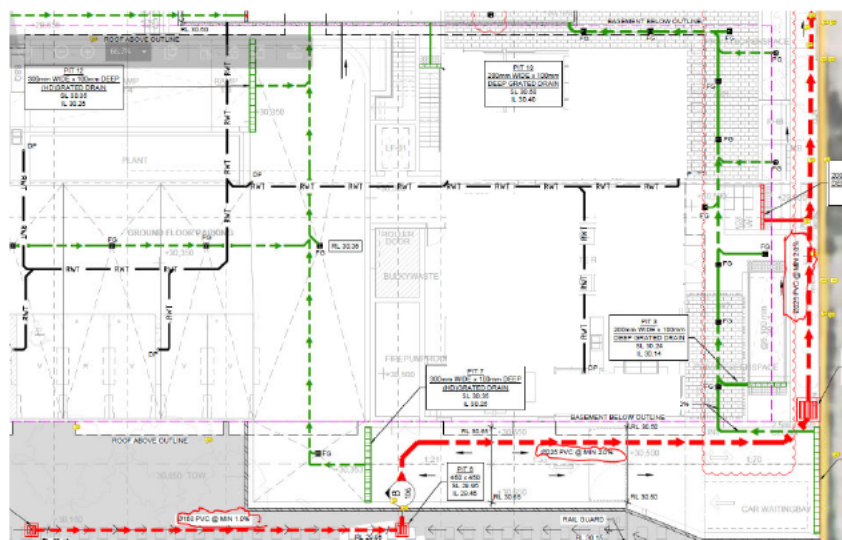


Stormwater Management Plans:

2. *The stair way leading to the basement as proposed is not supported (See extract below). Should the swale drainage system fail, the basement is susceptible to flood inundation as it is directly facing the overland flow path of the upstream catchment. The applicant shall amend the proposal to ensure the basement stairway is not facing or in proximity to the swale drainage system or overland flow path.*



3. It is noted that the calculated swale drainage capacity required is 270 l/s, the pipeline provision for the swale being DN150 and DN225 appears to be undersized and fails to comply to AS3500.3..



4. *The applicant shall confirm the existing kerb inlet pit located within Wellington road's invert level. All inlet and outlet's invert levels connecting to the pit shall also be confirmed on survey & stormwater management plan where extension work is proposed to enable an accurate design of longitudinal section for Council's team to further review. The current design is based on an assumed invert level of the pit which is not satisfactory. (See Extract Below).*



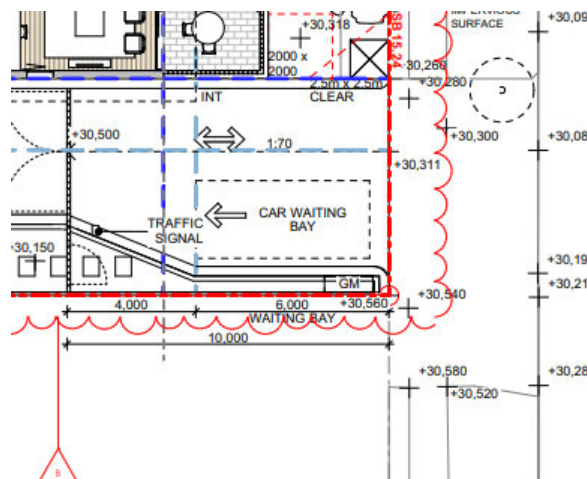
Traffic Engineer

The proposed development was referred to Council's Traffic Engineer and the following issues were identified as still being outstanding in the amended plans:

Driveway arrangement

To comply with Council's VFC Policy a minimum of two metre clearance is required between the western property boundary and the driveway. The drawing does not show the clearance.

Moreover, the wings of the proposed driveway will overlap and cause damage to the adjoining driveway of No 34. This is not acceptable.



Ramp arrangement

The aisle has two 90 degree bends (blind spots) which is a safety concern.

Sight distance to Pedestrians

Ground Floor GA Plan (Dwg DA-102, Rev B - dated 7/02/2023) shows the sight triangle for pedestrian safety at the proposed driveway. However, it is not clear from the plan that it will be kept clear of any obstructions.

Moreover, the photo montage shows that the sight triangles are obstructed by the fence.

Canterbury Bankstown Local Infrastructure Contributions Plan 2022

Should the application be supported, the proposed development would attract a contribution under the Canterbury Bankstown Local Infrastructure Contributions Plan 2022. However, as the application is not being supported in this instance, no contributions are sought at this stage.

Planning agreements [section 4.15(1)(a)(iia)]

There are no planning agreements, or draft planning agreements, applicable to the proposed development.

The regulations [section 4.15(1)(a)(iv)]

The proposed development is consistent with the relevant provisions of the Environmental Planning and Assessment Regulation, 2021.

The likely impacts of the development [section 4.15(1)(b)]

The key potential impacts of the development have been discussed throughout this report. Based on the above findings, it is considered that the proposed development will result in an undesirable impact on the locality.

Suitability of the site [section 4.15(1)(c)]

The application has been assessed under Section 4.15 of the Act, and as demonstrated throughout the body of this report, the application is poorly resolved in a number of areas. It is acknowledged that there has been some attempt by the applicant to address concerns raised by Council. However, those efforts have resulted in additional non-compliances that have not been considered further and the amended design still results in a number of variations to the relevant planning controls, which cannot be supported. The site is of sufficient width and area that it is suitable for residential flat development. However, the issue is that the particular design that has been proposed in this instance is not a suitable outcome for the site or the locality.

Submissions [section 4.15(1)(d)]

The application was advertised and notified for a period of twenty-one (21) days from 23 February 2022 to 15 March 2022. No submissions were received during this period.

The application was then re-notified for period of fourteen (14) days, from 2 May 2023 to 15 May 2023. One (1) submission was received which raised concerns relating to:

- Concern: *A concern was raised in relation to the provision of inadequate side setbacks that may impact on the development potential of adjoining properties*

Response: The proposed development was assessed against the separation distance criteria detailed in 3F-1 Building Separation of the Apartment Design Guide. Adequate building separation distances have not been provided for the eastern elevation of the proposed development. In that respect concerns in relation to building separation form a reason for refusal of this application.

- Concern: *A concern was raised about shadow impacts from the proposed development arising from the inadequate setbacks*

Response: The proposed development was assessed against the overshadowing criteria for neighbouring sites, detailed in 3B-2 Orientation – Overshadowing of the Apartment Design Guide and is found to be compliant. In that respect concerns in relation to solar access to adjoining properties do not form a reason for refusal of this application.

- Concern: *A concern was raised about the privacy impacts of the proposed development on existing and future residents in the adjoining properties.*

Response: The proposed development was assessed against the visual privacy criteria detailed in 3F – Building Separation in the Apartment Design Guide. Adequate building separation distances have not been provided for the eastern elevation of the proposed development. In that respect concerns in relation to setbacks and privacy form a reason for refusal of this application.

- Concern: *A request was made to ensure that appropriate species be planted along the eastern and western boundaries of the development site. Appropriate plantings would enable reasonable solar access to adjoining dwellings while maintaining a level of privacy. They would also ensure tree species have a canopy, root system and/or tree protection zone that do not adversely affect the future development potential of the adjoining properties.*

Response: As the application is being refused any additional landscaping measures requested by the objector to provide for the privacy of the adjoining residents will not need to be implemented.

The public interest [section 4.15(1)(e)]

The proposed development, in its current form, is considered to contravene the public interest. The proposed departures from the key planning controls will result in a design that is not in keeping with the current and future desired character of similar development within the locality.

CONCLUSION

The Development Application has been assessed in accordance with the provisions of Section 4.15 of the Environmental Planning and Assessment Act 1979, Bankstown Local Environmental Plan 2015 and Bankstown Development Control Plan 2015. As outlined in the report, the applicant has been afforded ample opportunity to address the non-compliances raised throughout the assessment of the development

application. The proposed development fails to comply with a number of standards and controls and, given the consideration above, the development application is not worthy of support.

RECOMMENDATION

It is recommended that the application be refused, for the reasons set out in Attachment B.

APPENDIX B

REASONS FOR REFUSAL

1. The proposed development fails to comply with the Environmental Planning & Assessment Regulation, 2021 Section 24 with regard to the application being accompanied by sufficient information to allow proper consideration of the development. Of note is insufficient information to demonstrate sufficient stormwater management on the site and flood planning, as well as safe traffic movement on the site [Pursuant to 4.15(1)(a)(iv) of the *Environmental Planning and Assessment Act, 1979*]; and
2. The proposed development, pursuant to the provisions of Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, is not consistent with Clause 28(2)(c) of State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (2002 EPI 530) with respect to the following parts:
 - a. 3B-1 Orientation and Streetscape in that the proposed development encroaches into the front setback and fails to define the street frontage;
 - b. 3D-1 Communal Open Space in that direct, equitable access has not been provided to communal open space areas from common circulation areas, entries and lobbies;
 - c. 3F-1 Building Separation in that inadequate building separation has been provided for on the eastern side of the development;
 - d. 3H-1 Vehicle Access 3H-1 Vehicle Access as the vehicle access point is located on the high side of the site which results in extended ramp lengths and impacts on the building form and layout. Further the vehicle circulation along the driveway remains unresolved;
 - e. EJ-2 Parking Facilities in that it is not clear as to the provision, and location of bicycle, motorcycle and scooter parking;
 - f. 4D-2 Environmental Performance in that units 104, 105, 204, 205, 304 and 305 exceed maximum habitable room depths;
 - g. 4H-1 Noise Transfer in that the proposed development fails to comply with building separation distances, and
 - h. 4O-2 Landscape and Streetscape in that the proposed front landscaping does not contribute to the desired streetscape character of the area.
3. The proposed development pursuant to the provisions of Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, is not consistent with Clause 4.3 of Bankstown Local Environmental Plan 2015 with respect to Height of Buildings.
4. The proposed development pursuant to the provisions of Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, is not consistent with Clause 5.21 of Bankstown Local Environmental Plan 2015 with respect to Flood Planning.

5. The proposed development pursuant to the provisions Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*, as it does not comply with the controls of the Bankstown Development Control Plan 2015, including:
 - a. Part B1 Clause 9.5 Primary Setback in that the development encroaches into the front setback;
 - b. Part B1 Clause 9.11 Driveway Setbacks in that the driveway is not appropriately set back from the property boundary
 - c. Part B1 Clause 9.29 Landscaping in that insufficient area between the building and the primary frontage has been provided as landscaping.
 - d. Part B12 Flood Risk Management as the proposed basement is susceptible to inundation as it is currently proposed.
6. The proposed development is unsatisfactory, pursuant to the provisions of Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979*, providing an undesirable and unacceptable impact on the streetscape and adverse impact on the surrounding built environment.
7. The proposed development, pursuant to the provisions of Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979*, is unsatisfactory given the inadequate proposed means of access to and from the development site and manoeuvring of vehicles.
8. Pursuant to the provisions of Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979*, the proposed development is unsatisfactory as it fails to demonstrate acceptable disposal of stormwater from the subject land.
9. Pursuant to the provisions of Section 4.15(1)(b) and Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*, insufficient information has been provided by the applicant to allow a proper and thorough assessment of the impacts of the proposed development and the suitability of the site for the development.
10. Having regard to the previous reasons noted above, pursuant to the provisions of Section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*, approval of the development application is not in the public interest.

-END-