



# **AGENDA FOR THE CANTERBURY BANKSTOWN LOCAL PLANNING PANEL MEETING**

**7 December 2020 - 6.00pm**

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## ORDER OF BUSINESS

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### ORDER OF BUSINESS

### APOLOGIES AND DECLARATIONS

### CONFIRMATION OF MINUTES OF PREVIOUS MEETING

### BANKSTOWN WARD

- 1        20 East Terrace, Bankstown**
- Demolition of existing site structures, construction of a nine storey residential flat building comprising of one ground floor commercial tenancy, 19 residential units, basement car parking and associated site works and landscaping. 3

### CANTERBURY WARD

- 2        26 Ninth Avenue, Campsie**
- Demolition of existing dwelling and construction of a six storey mixed development comprising 20 room boarding house (including one manager's room), and one commercial premises on ground floor above three levels of basement car parking under the State Environmental Planning Policy (Affordable Rental Housing) 2009. 69

### ROSELANDS WARD

- 3        146-148 Haldon Street, Lakemba**
- Demolition of existing structures and construction of a part four and part five storey shop top housing development containing ground floor pub with a bottle shop and gaming, 19 x residential units and basement car parking. Also involves a planning agreement (PA) for the purposes of land dedication to Council for the road widening of Davidson Lane. The PA includes Lot 1 DP324535 and a portion at the rear of Lot 7 DP 7187. 101
- 4        1-3 Weyland Street, Punchbowl**
- Demolition of existing structures and construction of a six storey mixed use development comprising two shops at ground level with 34 residential apartments and basement car parking. 151
- 5        54-56 Graham Road, Narwee**
- Demolition of existing structures and construction of a three storey in-fill affordable housing development over a basement carpark pursuant to the Affordable Rental Housing SEPP 2009. 197

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## Canterbury Bankstown Local Planning Panel - 07 December 2020

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<b>ITEM 1</b>	<b>20 East Terrace, Bankstown</b>
	<b>Demolition of existing site structures, construction of a nine storey residential flat building comprising of one ground floor commercial tenancy, 19 residential units, basement car parking and associated site works and landscaping.</b>
<b>FILE</b>	<b>DA-850/2018 - Bankstown</b>
<b>ZONING</b>	<b>B4 Mixed Use</b>
<b>DATE OF LODGEMENT</b>	<b>9 November 2018</b>
<b>APPLICANT</b>	<b>CD Architects</b>
<b>OWNERS</b>	<b>ANR Investment Holdings Pty Limited</b>
<b>ESTIMATED VALUE</b>	<b>\$5,741,517</b>
<b>AUTHOR</b>	<b>Planning</b>

### SUMMARY REPORT

This matter is reported to Council's Local Planning Panel as the application seeks consent for a development for 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-850/2018 proposes the demolition of existing site structures, construction of a nine storey residential flat building comprising of one ground floor commercial tenancy, 19 residential units, basement car parking and associated site works and landscaping.

DA-850/2018 has been assessed in accordance with the provisions of Section 4.15 of the *Environmental Planning and Assessment Act, 1979* requiring, amongst other things, an assessment against State Environmental Planning Policy No. 55 – Remediation of Land, State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development, State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017, Greater Metropolitan Regional Environmental Plan No 2—Georges River Catchment (a deemed SEPP), Bankstown

Local Environmental Plan 2015, Bankstown Development Control Plan 2015 and the Draft Consolidated Canterbury Bankstown Local Environmental Plan 2020.

The application is generally compliant, however proposes minor variations to the requirements contained in the Apartment Design Guide. The assessment of the development application has found that these variations are justified in the circumstances of this case, in the context of both the overall development and the surrounding locality.

The application was advertised for a period of 21 days and re-advertised twice for 21 days with amended plans. Six submissions and a petition with 14 signatures were received during the notification periods. The submissions raised concerns with traffic volumes, pedestrian safety, inappropriate behaviour of future occupants, health and safety risk due to the buildings location, potential impacts from construction work, density, privacy, over shadowing, bulk and scale, setbacks, dust control, acoustic impacts, landscaping, character and the potential impacts of the development on the buildings nearby.

The proposal seeks consent for a nine storey mixed use development and proposes some minor variations to State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development and the associated Apartment Design Guide (ADG). In particular, the report identifies and discusses the proposed non-compliances with the setbacks to the northern and southern boundaries and a minor variation to the storage requirements as contained in the ADG.

Despite the non-compliances proposed with the application, it is considered that the development application is an appropriate outcome in the context of the surrounding locality and has been recommended for approval on a deferred commencement basis subject to the applicant obtaining the required easements for drainage.

## **POLICY IMPACT**

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This matter has no direct policy implications.

## **FINANCIAL IMPACT**

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The proposed matter being reported has no direct financial implications.

## **RECOMMENDATION**

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It is recommended that the application be approved on a deferred commencement basis, subject to the attached conditions.

## **ATTACHMENTS**

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- A. Assessment Report
- B. Conditions

## **DA-850/2018 ASSESSMENT REPORT**

### **SITE & LOCALITY DESCRIPTION**

The subject site is known as 20 East Terrace, Bankstown. The site is an irregular shaped allotment that is currently zoned B4 Mixed Use. The site has a primary frontage of 17.7m, a length of 60.9m to the northern boundary and 61.7m to the southern boundary and a rear boundary width of 7.7m. The overall site area is 778.8m<sup>2</sup>. The site has a general slope from the west to the east (being to the rear of the site) of approximately 700mm.

The site contains a single storey brick dwelling and associated structures. The site contains some vegetation, most notably a large tree is located at the front of the site within the road reserve. The surrounding development consists of a mix of residential and commercial developments. Immediately to the north and north east of the site is St Euphemia College. To the south is a commercial site occupied by a childcare centre. The site to the south east is occupied by a residential apartment complex, fronting Stacey Street. To the west, across East Terrace, is the commercial operations of the Polish Club and associated structures and parking.



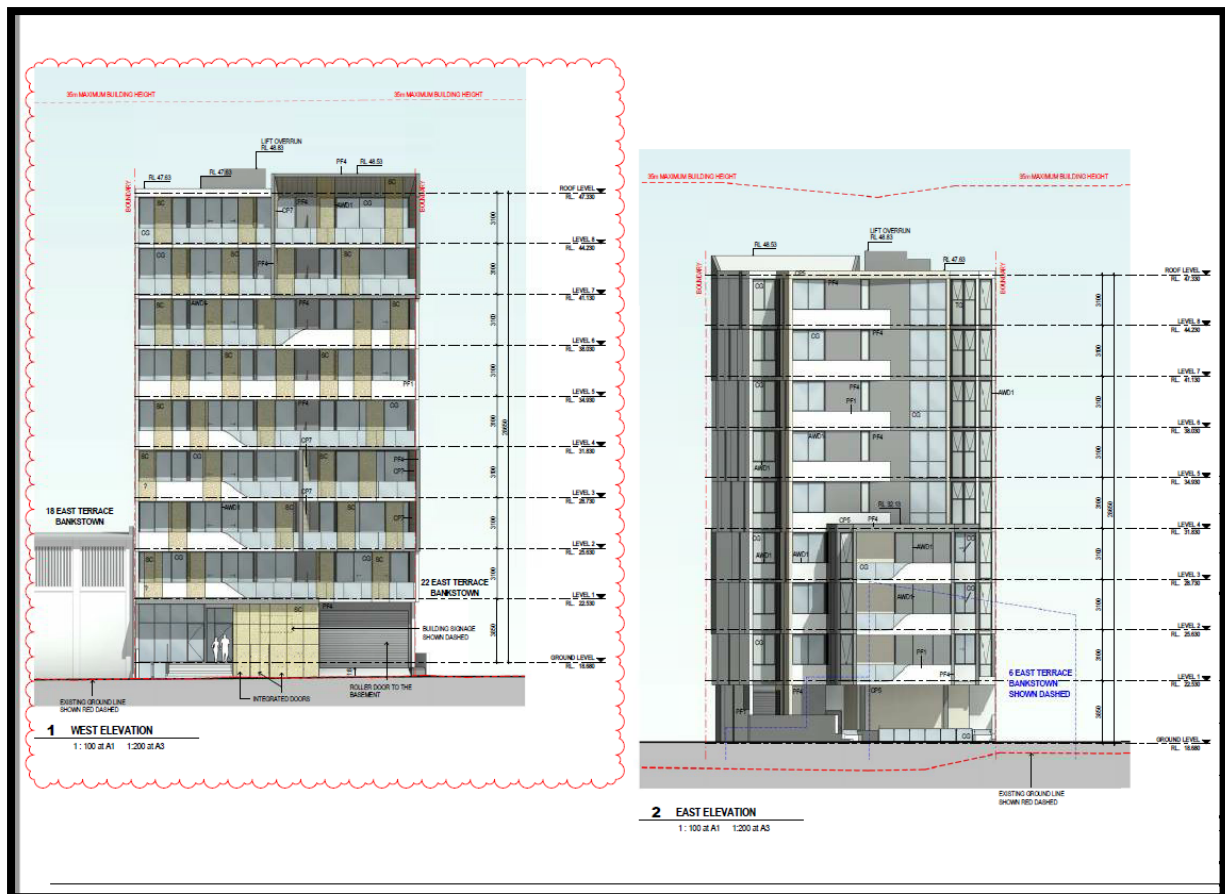
**Figure1:** Aerial of subject site in yellow. **Source:** NearMaps 2020

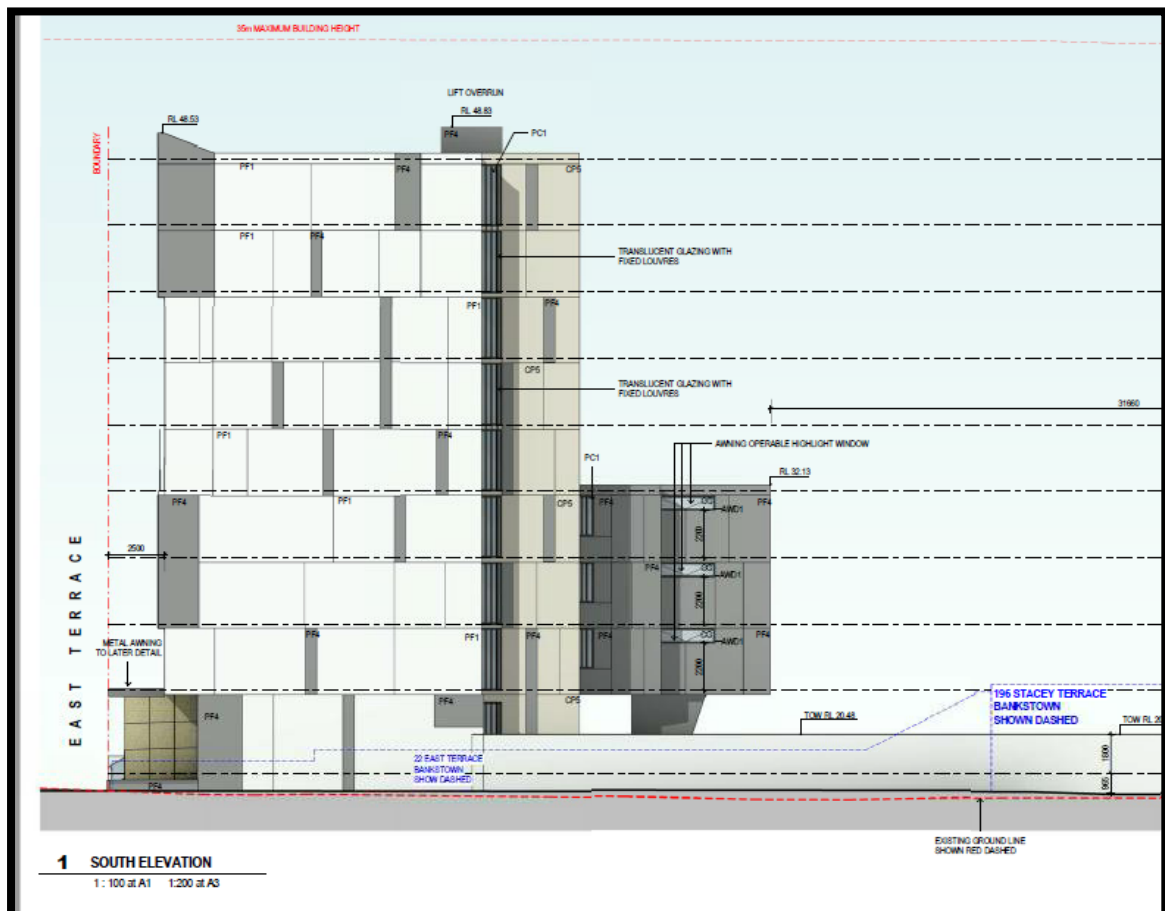
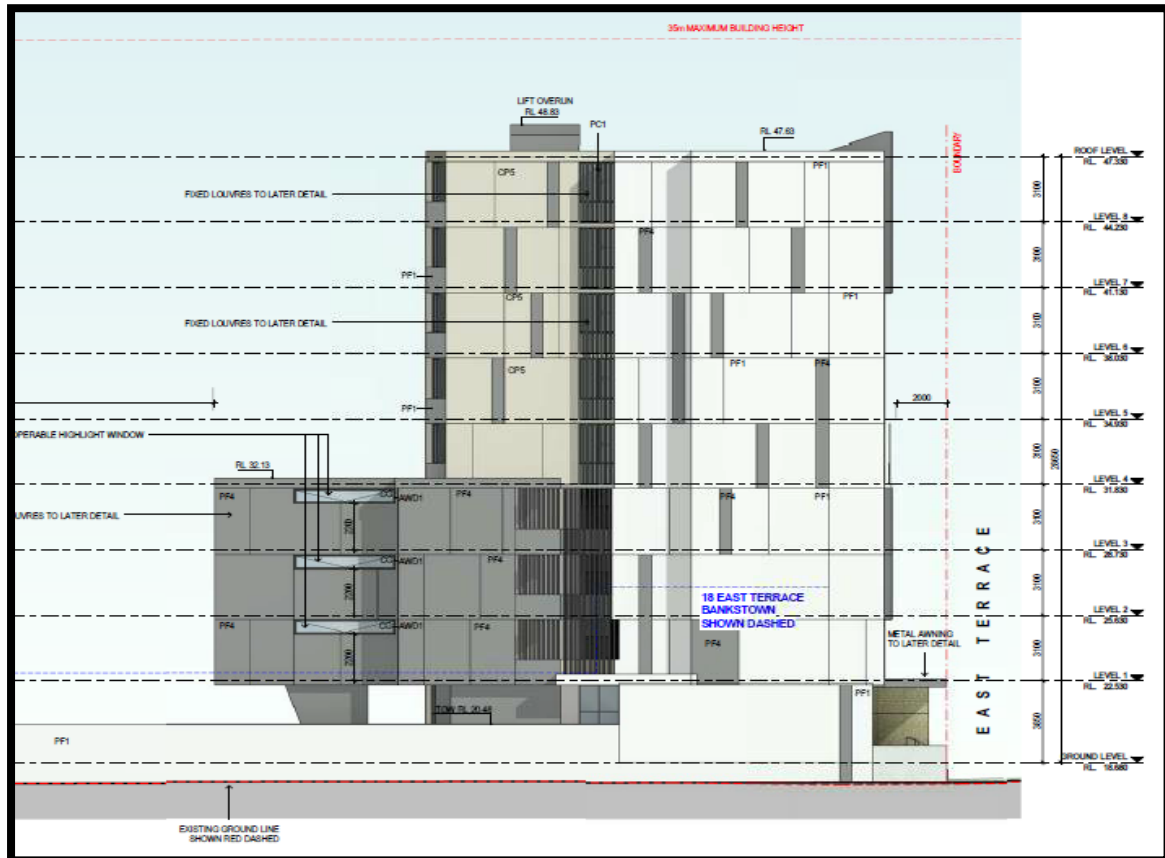
### **PROPOSED DEVELOPMENT**

The development application proposes the demolition of the existing structures and construction of a nine storey mixed used development containing one ground floor commercial tenancy and 19 residential apartments, basement car parking and associated site works and landscaping.

The development includes two basement levels to service the development. Both levels provide for 12 car parking spaces and associated residential storage, with the lower basement level having 9 bicycle spaces. The ground floor within the development provides for a 30m<sup>2</sup> commercial tenancy and associated commercial and residential waste storage areas. The communal open space is located on the ground floor.

Levels 1 to 3 within the development each contain three residential units comprising of two x two bedroom units and one x one bedroom unit. The remaining levels 4 to 8 each contain two x two bedroom units.







## 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 55 – Remediation of Land (SEPP 55)
- State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development (SEPP 65)
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017
- Deemed State Environmental Planning Policy - Greater Metropolitan Regional Environmental Plan No 2—Georges River Catchment
- Bankstown Local Environmental Plan 2015 (BLEP2015)
- Bankstown Development Control Plan 2015 (BDCP 2015)
- Draft Consolidated Canterbury Bankstown Local Environmental Plan 2020

### **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 55 – Remediation of Land (SEPP 55)**

SEPP 55 requires the consent authority to consider whether the development site is contaminated and, if it is, whether it is suitable for the proposed development either in its contaminated state or following remediation works.

The site has been used for residential purposes dating back to the mid 20<sup>th</sup> century. No Council records have been located showing any non-residential uses being approved on site. The residence and associated structures are maintained on site. In accordance with the Managing Land Contamination Planning Guidelines, the historical use of the site would not warrant the need for further consideration of contamination and testing.

In light of the fact that there is no evidence of contamination in the historical use of the site, it is therefore considered that the consent authority can be satisfied that the development site is suitable for the proposed development, in accordance with Clause 7 of SEPP 55.

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

In accordance with BASIX SEPP, 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 objectives of the SEPP. The BASIX Certificate requirements have been incorporated into conditions of consent.



**Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment**

The site is located within land identified as being affected by Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment, being a deemed SEPP under Clause 120 of Schedule 6 of the EP&A Act, 1979. The GMREP 2 contains a series of general and specific planning principles which are to be taken into consideration in the determination of development applications. An assessment of the proposal indicates that the development will not significantly impact upon the environment of the Georges River, either in a local or regional context, and that the development is not inconsistent with the general and specific aims, planning principles and planning considerations of the GMREP No. 2.

**State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017**

The proposed development seeks approval for the removal of five trees. Council's Tree Management Officers have reviewed the application and raised no objection to the removal of the trees on site and one on Council's nature strip, subject to the replacement tree plantings and the tree protection measures recommended for the remaining street tree to be retained. Conditions of consent have been imposed to achieve this requirement. It is considered that the proposal meets the requirements of Clauses 7, 9 and 10 of the SEPP.

**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.

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'. Clause 50(1A) of the Environmental Planning and Assessment Regulation 2000 requires the submission of a design verification statement from a qualified designer (registered architect) at lodgment of the development application that addresses the design quality principles contained in SEPP 65 and demonstrates how the objectives in Parts 3 and 4 of the ADG have been achieved.

The proposal has been considered against the various provisions of the Apartment Design Guide in accordance with Clause 28 (2)(c) of SEPP 65. The development is considered to be consistent with the objectives and Design Quality Principles contained in the SEPP and ADG, and responds appropriately to the site's context. Moreover, the application generally conforms with the key 'design criteria' contained in the Apartment Design Guide, as illustrated in the table below, with the exception of side boundary setbacks and the storage requirements.

'DESIGN CRITERIA'	PROPOSED	COMPLIES?
<p><b>3B – Orientation</b></p> <p><u>Design Guidance:</u></p> <ul style="list-style-type: none"> <li>Solar access to living rooms, balconies and private open spaces of neighbours should be considered</li> <li>Where an adjoining property does not currently receive the required hours of solar access, the proposed building ensures solar access to neighbouring properties is not reduced by more than 20%</li> <li>If the proposal will significantly reduce the solar access of neighbours, building separation should be increased beyond minimums contained in section 3F Visual privacy</li> <li>Overshadowing should be minimised to the south or downhill by increased upper level setbacks</li> <li>A minimum of 4 hours of solar access should be retained to solar collectors on neighbouring buildings.</li> </ul>	<p>The adjoining residential flat development to the south east at 196 Stacey Street currently complies with the ADG requirement for 70% of the units achieving solar access.</p> <p>When a review of the floor plan approved for the development was undertaken, it revealed that of the windows along the western wall of 196 Stacey Street, only one window on each level was to a living area. All other windows were to bedrooms or bathrooms.</p> <p>The window on the western wall (elevation) of 196 Stacey that is a living area window is situated approximately 25.4m away from the site's boundary (southern boundary of this site).</p> <p>The design of this proposal and the orientation of the site will start to impact 196 Stacey Street from approximately 1.30pm.</p> <p>Based on the height and setbacks of the development proposed, three units along the western elevation of 196 Stacey Street will have their solar access impacted.</p> <p>A review of that development has found that the impacting of the three units, whilst it will reduce the level of solar achieved, it will not result in a total loss of daylight to any unit.</p> <p>The three units impacted does not alter the overall development at 196 Stacey Streets compliance with the solar access standards. The overall development will still achieve a minimum of 70% of units with compliant solar access.</p>	<p>Yes.</p>

	<p>The bulk and scale of the built form proposed complies with the design guidance of the ADG in terms of impact to the south eastern building. As such it is considered the setbacks proposed are appropriate.</p> <p>No solar panels are present on the adjoining building.</p>	
<p><b>3C – 1 Transition</b>  <u>Design Guidance:</u></p> <ul style="list-style-type: none"> <li>• Direct street entry (terraces, balconies, courtyards) where appropriate</li> <li>• Changes in levels from street to private courtyards – improve surveillance and visual privacy</li> <li>• Fences permeable materials, solid fences max 1m</li> <li>• Multiple entries should be differentiated.</li> </ul>	<p>The commercial premises has glazing proposed to the East Terrace frontage. The services are screened with cladding replicated across the higher levels within the building design to assist in harmonizing the design of the overall development.</p> <p>The site is subject to flooding and as such an elevated ground level approximately 1m above the adjoining footpath level is required to be provided. The development has addressed this interface and level change through the use of stairs and accessible provisions within the commercial component and residential entry.</p> <p>The residential entry is identifiable, and the commercial space is defined with a glazed entry and material change to the waste area. The waste area accommodates a reduced finished floor level to ensure waste collection can be undertaken, and as such the built form distinction is created between the areas at the street interface.</p> <p>The development does not contain ground floor residential units.</p>	Yes.
<p><b>3C – 2 Amenity of public domain</b>  <u>Design Guidance:</u></p> <ul style="list-style-type: none"> <li>• Minimise visual prominence of underground carpark</li> </ul>	<p>Car parking does not dominate the streetscape as it is concealed within the basement. Services and garbage areas have been appropriately designed within the development and do not dominate the public domain.</p>	Yes.

<ul style="list-style-type: none"> <li>• Substations, pump rooms, garbage areas etc. to be in basement or out of view.</li> <li>• Ramping for accessibility should be minimised by building entry location and setting ground floor levels in relation to footpath levels.</li> </ul>	<p>Where services have been provided within the building, it is considered that the façade appearance has been reduced as much as possible. The materials selected have been continued within the overall façade design to assist the integration of the services into the overall design aesthetic. Some minor ramping elements have been utilised within the frontage to ensuring waste can be removed and access provided.</p> <p>The ground floor level of the commercial premises is within 1m of the footpath level as a result of a flooding affectation. The access proposed is considered suitable.</p>	
<p><b>3D – Communal open space</b>  <u>Design Criteria:</u>  25% of the site area is to be communal open space, and 50% of the COS must receive at least 2 hours direct sunlight between 9am-3pm on 21 June.</p> <p><u>Design Guidance:</u></p> <ul style="list-style-type: none"> <li>• Minimum dimension 3m</li> <li>• Co-located with deep soil zones</li> <li>• Direct access to communal area from entries, lobbies &amp; circulation areas.</li> <li>• Where communal open space cannot be provided at ground level, provide at podium or roof</li> <li>• Where unable to achieve design criteria (small lots, business zones, dense urban areas) should: <ul style="list-style-type: none"> <li>○ provide COS elsewhere (landscape roof top, terrace or common room), provide larger balconies or</li> <li>○ provide larger balconies/POS</li> <li>○ demonstrate good proximity to public open space and facilities</li> </ul> </li> </ul>	<p>The site has an area of 778.8m<sup>2</sup>. The ADG requires 25% i.e. 194.7m<sup>2</sup> of communal open space (COS) are be provided.</p> <p>The application proposes 211m<sup>2</sup> of communal open space on the ground floor.</p>	<p>Yes.</p>

<ul style="list-style-type: none"> <li>Facilities are provided within communal open spaces and common spaces for a range of age groups and can incorporate seating, BBQ areas, play equipment/areas, swimming pools, gyms, tennis courts or common rooms</li> <li>COS visible from habitable rooms and POS while maintaining privacy, bay windows, corner windows or balconies.</li> <li>Safe - fenced/contained for young children</li> <li>Connect to public street along one edge</li> <li>Clear boundaries between public and private open space</li> </ul>														
<p><b>3E – 1 Deep Soil Zones</b></p> <p><u>Design Criteria:</u> Sites with an area of between 650m<sup>2</sup> and 1,500m<sup>2</sup> is to provide 7% of the site as deep soil zone with a minimum dimension of 3m</p>	<p>The entire site has an area of 778.8m<sup>2</sup> which equates to 54.5m<sup>2</sup> deep soil zone. A deep soil zone of 100m<sup>2</sup> has been provided along the eastern boundary adjoining the communal open space. The minimum width of the deep soil zone is 7m.</p>	<p>Yes.</p>												
<p><b>3F – 1 Visual Privacy (Building separation)</b></p> <p>Minimum required separation distances from buildings to the side and rear boundaries are as follows:</p> <table border="1" data-bbox="209 1480 632 1951"> <thead> <tr> <th>Building height</th><th>Habitable rooms &amp; balconies</th><th>Non-habitable rooms</th></tr> </thead> <tbody> <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> </tbody> </table>	Building height	Habitable rooms & 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	<p><b><u>North</u></b></p> <p>Level 1, (ground floor) zero to 1.6m setback to ground floor building wall</p> <p>Level 2-4, varying setback from zero to 1m to 2.8m (at furthest point)</p> <p>Level 5-9, varying setback from zero to 2.8m (at closest point)</p> <p><b><u>East (rear)</u></b></p> <p>Level 1, (ground floor) has a 40m setback to the fire stairs and utility rooms</p> <p>Levels 2-4, 31.6m</p> <p>Levels 5-9, 40m</p>	<p>No, see discussion below.</p>
Building height	Habitable rooms & 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												

<p>Note: Separation distances between building on the same site should be combine required building separations depending on the type of room.</p> <p>Design Guidance</p> <p><u>No separation is required between blank walls</u></p>	<p><b><u>South</u></b></p> <p>Level 1 (Ground Floor) 5.1m to BW across driveway and 1.7m to hydrant pump room</p> <p>Level 2-4, varying setback from zero to 1.7m to 4m (at furthest point)</p> <p>Level 5-9, varying setback from zero to 1.7m (at furthest point)</p> <p><b><u>West (East Terrace Frontage)</u></b></p> <p>Level 1 (ground floor) – 9, 0.8m to 2.5m setback is proposed</p>	
<p><b>3G – 1 Pedestrian access and entries</b></p> <ul style="list-style-type: none"> <li>• Building entries should be clearly identifiable and communal entries should be clearly distinguishable from private entries</li> <li>• Access, entries and pathways are accessible and easy to identify</li> </ul>	<p>The building materials and façade treatments enhance way finding through the development.</p> <p>The commercial entry and residential entry are identifiable at street level.</p>	<p>Yes.</p>
<p><b>3H – Vehicle access</b></p> <p>Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and creates high quality streetscapes.</p>	<p>One vehicle access point for the development is considered to be acceptable from both a functionality and a streetscape perspective. The driveway is proposed at the most southern point, away from the substantial street tree that requires retention. Council's Engineers and Traffic team have assessed the proposal against the relevant Australian Standards and have found the vehicular access driveway to be satisfactory.</p>	<p>Yes.</p>
<p>3J – 1 Bicycle and parking</p> <p><b>Minimum car parking requirement must be provided on site</b></p> <p><b><i>BDCP 2015 Part B5 parking</i></b></p> <p><b><i>Residential Flat Building in B4</i></b></p>	<p>Development contains 19 units</p> <p><u>Residential:</u></p> <p>Required Min:19 spaces Required Max: 57 spaces Visitors: required 3.8 (4)</p>	<p>Yes.</p>

<b>Minimum 1 per unit</b> <b>Maximum 3 per unit</b> <b>1 car space per visitors space</b>  <b>Commercial floor area 1 per 40m<sup>2</sup></b>	<u>Commercial:</u>  1 per 40m <sup>2</sup> 30sqm proposed  $30 / 40 = .75$  Required: .75 (1)  <b>Total spaces required minimum = 23.55 (24)</b>  <b>Total spaces required maximum = 61.55 (62)</b>  <b>Total spaces provided = 24</b>  9 bicycle spaces have been provided within the basement.  The development complies with the minimum car parking requirements of 24 spaces for residential as contained in the BDCP 2015, Part B5.	
<b>4A-1 Solar access</b> 70% of apartments should receive two hours solar access between 9am - 3pm midwinter.	16 of 19 apartments (84%) receive a minimum of 2hrs solar access midwinter between 9am – 3pm.	Yes.
<b>4A-3 Solar access</b>  A maximum 15% of apartments receive no direct sunlight between 9am and 3pm mid winter	Two apartments (10%) receive no direct sunlight at mid-winter.	Yes.
<b>4C-1 Ceiling heights</b>  Min. 2.7m for habitable rooms. If variation is sought then satisfactory daylight access must be demonstrated.  Min. 3.3m to ground floor commercial	Floor-to-ceiling heights are 2.8m to all residential floors.  Minimum 3.3m provided	Yes.  Yes.
<b>4D-1 Unit size</b>  Studio – min 35m <sup>2</sup> 1 bed – min. 50m <sup>2</sup> 2 bed – min. 70m <sup>2</sup> 3 bed – min. 90m <sup>2</sup>	1 bed, 1 bath – min. 50 m <sup>2</sup> 2-bed, 2 bath – min 75m <sup>2</sup>	Yes.



Add 5m <sup>2</sup> for each additional bathroom/WC		
Every habitable room must have a window in an external wall	All habitable rooms have a window in an external wall	Yes.
<b>4D-2 unit performance maximised</b>  In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window	All units comply with this requirement.	Yes.
<b>4D – 3 Apartment layouts</b> <ul style="list-style-type: none"> <li>• Master Beds: 10m<sup>2</sup> min</li> <li>• Other beds: 9m<sup>2</sup> min</li> <li>• Bedrooms min dimension of 3m</li> <li>• Living rooms at least 4m wide</li> </ul>	<p>All main bedrooms are at least 10m<sup>2</sup> and other bedrooms are a minimum of 9m<sup>2</sup> with a minimum dimension of 3m.</p> <p>All living rooms within the apartments have a minimum dimension of 3.6m or 4m as required.</p>	Yes.
<b>4E -1 Private Open Space</b> 1 bed: Min. 8m <sup>2</sup> , 2m depth to primary balconies. 2 bed: Min. 10m <sup>2</sup> , 2m depth to primary balconies. 3 bed: Min 12m <sup>2</sup> , 2.4m depth to primary balconies. Ground level units: Min 15m <sup>2</sup> , 3m depth	All units meet the required minimum areas and dimensions	Yes.
<b>4F – 1 Internal circulation</b> Max. 8 units accessed from a single corridor.	One main lift/corridor proposed. No more than 3 units off the lift and associated corridor.	Yes.
<b>4G-1 Storage</b> 1 beds: 6m <sup>3</sup> , 2 beds: 8m <sup>3</sup> , 3 beds: 10m <sup>3</sup> (At least half to be provided within the unit)	Unit 3 on levels 1 to 3 do not achieve compliance with the minimum 50% of storage provided within the unit, however sufficient space is afforded within the basement to accommodate the storage needs to the unit. It is considered that a condition can be imposed to ensure that each of these units have ample allocation of storage within the unit and basement to ensure compliance-	Yes, subject to the imposition of conditions of consent.

	All other units are provided with sufficient storage, and at least half is provided within the unit.	
<b>4H – Acoustic privacy</b> Acoustic privacy is about protecting sound transmission between external and internal spaces, between apartments and communal areas and between apartments within a building	An acoustic report was prepared and submitted for the proposed development that detailed the development's ability to achieve satisfactory internal amenity for residents and how to mitigate noise to impacts to adjoining sites from mechanical ventilation. Council's Environmental Health Officer reviewed the proposal and the associated acoustic report. The acoustic assessment found that the development is considered satisfactory subject to conditions of consent.	Yes.
<b>4K – Apartment mix</b> A mix of apartment choice provides housing choice and supports equitable housing access	<u>Apartments</u> 1 bedroom x 3 2 bedrooms x 16  The development provides for an appropriate level of housing choice in accordance with the ADG.	Yes.
<b>4M-Facades</b> The design of facade contributes greatly to the visual interest of the building and the character of the local area.  Facades that face the street have an impact on the public domain, while side and rear facades often influence the amenity of neighbouring buildings and communal and private open spaces.	The streetscape design and the external finishes proposed are representative of more modern forms of architecture found throughout the area. It is considered that the development will not detract from the existing streetscape and identity of the business zone.	Yes.
<b>4O – Landscaping</b> Sites up to 850m <sup>2</sup> to have 1 medium tree per 50m <sup>2</sup> deep soil zone	The deep soil zone is 100m <sup>2</sup> . This would require 2 medium trees on site.  Council's tree management officer has provided conditions of consent to require the development comply with the submitted landscape plan showing the planting of two water gums in the deep soil area.	Yes.

<p><b>4P – Planting on structures</b></p> <p>Planting on structures can provide amenity, improve air quality and microclimate and reduces direct energy use and stormwater runoff. It can also supplement deep soil planting on site where opportunities for this area limited or restricted, e.g. in high density areas.</p>	<p>The proposed development incorporates substantial landscaping adjacent to the communal open space areas on the ground floor. The location of the larger trees will be in the area containing deeper soil, with further landscaping on structures occurring above the lower basement levels. The landscaping proposed is consistent with the design guidance.</p>	<p>Yes.</p>
<p><b>4Q – Universal design</b></p> <p>Universal design is an international design philosophy that enables people to continue living in the same home by ensuring that apartments are able to change with the needs of the occupants. Universally designed apartments are safer and easier to enter, move around and live in. They benefit all members of the community, from young families to older people, their visitors, as well as those with permanent or temporary disabilities.</p>	<p>The development is satisfactory with regard to the universal design principles.</p>	<p>Yes.</p>
<p><b>4S – Mixed use</b></p> <ul style="list-style-type: none"> <li>• Mixed use development includes multiple uses in one building. In apartment buildings this is commonly achieved vertically with different uses stacked above one another. A vertical mix of uses is more likely to increase activity through the days and night which in turn improves passive surveillance of the public domain.</li> <li>• Mixed use developments are provided in appropriate locations and provide active street frontages that encourage pedestrian movement</li> <li>• Mixed use development should be concentrated around public transport and centres</li> <li>• Residential entries and services to be separated to commercial entries.</li> <li>• Concealment opportunities are</li> </ul>	<p>The development is a mixed-use development containing a residential flat building and a ground floor commercial tenancy.</p> <p>The site is limited in its width of 17.7m to provide separate entry elements.</p> <p>The development provides an active frontage with a commercial edge to ground floor northern portion. The façade locates the residential entry point at the pedestrian level adjoining the commercial edge.</p> <p>The location of the waste servicing elements and driveway are presented in the streetscape, however this cannot be altered given the width of the site and the waste serving and access requirements.</p>	<p>Yes.</p>

avoided <ul style="list-style-type: none"> <li>Landscaped communal open space areas should be provided at podium or roof levels.</li> </ul>	The design incorporates activation of the public domain during the day and night with passive surveillance opportunities.  The communal open space area behind the ground floor, is adjoined by landscaped areas including planting on structures.	
<b>4U – Energy efficiency</b> <ul style="list-style-type: none"> <li>The development incorporates passive environmental design.</li> <li>Development incorporates passive solar design to optimise heat storage in winter and reduce heat transfer in summer</li> <li>Adequate natural ventilation minimises the need for mechanical ventilation</li> </ul>	The development application complies with the requirements of <i>State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</i> . The development meets the objectives and design guidance that relates to energy efficiency.	Yes.
<b>4V – Water management and conservation</b> <ul style="list-style-type: none"> <li>Potable water use is minimised</li> <li>Urban stormwater is treated on site before being discharged to receiving waters.</li> <li>Flood management systems are integrated into the site design.</li> </ul>	The development application complies with the requirements of <i>State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</i> . The development meets the objectives and design guidance that relate to water management and conservation.	Yes.
<b>4W – Waste</b> <ul style="list-style-type: none"> <li>Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents.</li> <li>Domestic waste is minimised by providing safe and convenient separation and recycling.</li> </ul>	The development meets the requirements of Council's Waste Management Guide for New Developments and BDCP 2015 – Part 13 Waste Management and Minimisation. Council's waste team have reviewed the proposal and consider it to be satisfactory in this regard, subject to conditions.	Yes.

### Visual Privacy – Setbacks

Objective 3F-1 of the Apartment Design Guide (ADG) sets out 'design criteria' for building setbacks to property boundaries, in order to ensure appropriate visual privacy can be maintained between units in residential flat buildings and adjoining developments.

The application proposes variations to the required setbacks on the northern and southern boundaries. The building wall to the north has a setback ranging from zero to 2.8m. The northern elevation areas of non-compliance arises from the setback to the corridor providing access to the units (on all levels) and a window to unit 3 at the rear of the floor plan on levels 1-3. The building wall to the south has a setback ranging from zero to 4m. The southern elevation areas of noncompliance arises from a window proposed to the bathroom on all levels and a bedroom window within unit 3 on levels 1-3.

The non-compliance of the corridor (north) and to the bathroom window to the south are the result of the design select to assist in providing articulation to the side setbacks. The reduction in the visual dominance of blank walls to both the north and south building wall was requested within the assessment of the application. The changes in materials and recess proposed help alleviate the visual appearance of the blank walls. The corridor and bathrooms are not habitable spaces. The introduction of the setbacks in these areas is an overall design response to enhance the presentation and visual interest of the built form, whilst reducing where possible the bulk and scale presented. It is considered that the setbacks shown are satisfactory and provide for a better design outcome for the proposal.

Unit 3 (on levels 1-3) at the rear of the floor plan seeks consideration for a wall to a living area containing a window with a 2.2m sill height facing north, and a bedroom window facing south with a 1.8m translucent highlight window. The setback to the windows are 2.5m and 4m respectively, thus fails the ADG. Whilst both walls contain a window to a habitable room, the windows height and location provides a presentation more likened to that of a blank wall, or non-habitable room. The windows are translucent or pose minimum sill height of 1.8m or greater, serves the design by providing visual interest and breaks in the elevations, light and where possible ventilation, but does not cause a visual privacy concern as this has been mitigated through the design.

The width of the site at the front boundary is 17.7m and reduces to 7.7m at the rear, with an effective width of 14.3m through unit 3 within the proposal. The effective width of the site limits any form of development not reliant on a zero setback as the triangular nature of the allotment restricts a floor plate's functionality and practicality when increased setbacks are incorporated.

It is considered that the design of the development is satisfactory in the context of the site, its surroundings, given the adjoining developments and the minor nature of the departure. It is not considered that significant visual privacy impacts are likely for the existing adjoining developments, given the design of the subject proposal. The minor variations to the side setbacks are not likely to cause any significant impact. It is further considered that the proposal would not cause significant visual privacy issues to any likely future development on the adjoining sites.

Despite the numerical non-compliances, sufficient separation and visual privacy is achieved to each boundary through the use of architectural treatments and the floor plan proposed. As a result, the variations are considered worthy of support.

### **Bankstown Local Environmental Plan 2015 (BLEP 2015)**

This site is zoned B4 Mixed use under BLEP 2015. The following clauses of the Bankstown Local Environmental Plan 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 2.7 – Demolition requires development consent  
 Clause 4.3 – Height of buildings  
 Clause 4.4 – Floor Space Ratio  
 Clause 6.2 – Earthworks

An assessment of the development application revealed that the proposal complies with the matters raised in each of the above clauses of Bankstown Local Environmental Plan 2015. A more detailed assessment against the zoning, environmental and numerical development standards contained in the abovementioned clauses is provided below.

### **Clause 1.2 Aims of Plan**

The proposed development is consistent with the relevant aims of the BLEP 2015, which provides as follows:

#### **1.2 Aims of Plan**

- (a) to manage growth in a way that contributes to the sustainability of Bankstown, and minimizes the needs and aspirations of the community,*
- (b) to protect and enhance the landform and vegetation, especially foreshores and bushland, in a way that maintains the biodiversity values and landscape amenity of Bankstown,*
- (c) to protect the natural, cultural and built heritage of Bankstown,*
- (d) to provide development opportunities that are compatible with the prevailing suburban character and amenity of residential areas of Bankstown,*
- (e) to minimize risk to the community in areas subject to environmental hazards by restricting development in sensitive areas,*
- (f) to provide a range of housing opportunities to cater for changing demographics and population needs,*
- (g) to provide a range of business and industrial opportunities to encourage local employment and economic growth,*
- (h) to provide a range of recreational and community service opportunities to meet the needs of residents of and visitors to Bankstown,*
- (i) to achieve good urban design in terms of site layouts, building form, streetscape, architectural roof features and public and private safety,*
- (j) to concentrate intensive trip-generating activities in locations most accessible to rail transport to reduce car dependence and to limit the potential for additional traffic on the road network,*
- (k) to consider the cumulative impact of development on the natural environment and waterways and on the capacity of infrastructure and the road network,*
- (l) to enhance the quality of life and the social well-being and amenity of the community.*

Comment: The proposal generally complies with the relevant aims of this Plan.

**Clause 2.3 Zone objectives and Land Use Table**

Clause 2.3(2) of BLEP 2015 outlines 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 B4 Mixed Use Zone are as follows:

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- *To maintain the role of the Bankstown CBD as a major metropolitan centre.*

The proposed development meets the objectives of the B4 zone as it provides for residential housing options within a mixed use development, incorporating a residential flat building and commercial premise. The design comprises a mix of residential types that contribute to providing a range of housing choices to meet the needs of the community within the CBD. The location of the ground floor commercial tenancy will assist in the integration of business and residential options within the CBD. The mix of uses proposed is considered compatible on the site and within the wider CBD.

Provision/ Standard	Requirement	Proposal	Complies
<b>Part 2 Permitted or Prohibited Development</b>			
2.1-2.3 Zoning	B4 Mixed Use	Mixed use development, comprising a residential flat building and commercial tenancy.	Yes.
2.7 Demolition requires development consent	The demolition of a building or work may be carried out only with development consent.	Demolition is proposed.	Yes.
<b>Part 4 Principal Development Standards</b>			
4.3 Height of Buildings	Maximum 35m	31.33m proposed	Yes.
4.4 Floor Space Ratio	Maximum 2:1	Proposed 2:1	Yes.



Provision/ Standard	Requirement	Proposal	Complies
<b>Part 6 Local Provisions</b>			
6.2 Earthworks	<p>Before granting consent to development including earthworks, the following must be considered:</p> <ul style="list-style-type: none"> <li>(a) drainage patterns and soil stability</li> <li>(b) the likely future use or redevelopment of the land,</li> <li>(c) quality of the fill or the soil to be excavated, or both,</li> <li>(d) effect of development on existing and likely amenity of adjoining properties,</li> <li>(e) the source of any fill material and the destination of any excavated material,</li> <li>(f) the likelihood of disturbing relics,</li> <li>(g) the potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area, appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</li> </ul>	The proposal is not considered to be inconsistent with this clause.	Yes.

Provision/ Standard	Requirement	Proposal	Complies
6.3 Flood planning	<p>Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development—</p> <p>(a) is compatible with the flood hazard of the land, and</p> <p>(b) will not significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and</p> <p>(c) incorporates appropriate measures to manage risk to life from flood, and</p> <p>(d) will not significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and</p> <p>(e) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.</p>	<p>The site is impacted by the medium risk flood affectation. The application was accompanied by a stormwater system report and detailed engineering drawings reviewing the level of flood impact across the site.</p> <p>The flooding impacts were reviewed by Council's Engineers who advised that the minimum habitable floor level for the proposal was 18.6 AHD.</p> <p>The application has been designed and all habitable spaces are proposed at or above 18.6AHD.</p> <p>The development is considered satisfactory in respect to flood planning of the site. Council's Engineers have issued conditions of consent to ensure compliance with Council's policies.</p>	Yes.

**Proposed Environmental Planning Instruments [section 4.15(1)(a)(ii)]**

The following draft environmental planning instrument applies to this development.

***Draft Canterbury Bankstown Consolidated Local Environmental Plan 2020***

The Draft Canterbury Bankstown Local Environmental Plan 2020 (CBLEP 2020) applies to the subject site. The Draft CBLEP 2020 has been publicly exhibited and adopted by the Canterbury Bankstown Local Planning Panel on 30 June 2020 and is now to be reviewed by the Department of Planning. While the draft instrument proposes the introduction of some additional provisions, in the most part, the Draft CBLEP 2020 provides for an administrative conversion of both the BLEP 2015 and CLEP 2012 into a combined document under the Standard Instrument LEP template.

With respect to the proposed development, the proposal remains consistent with the aims and objectives of the draft instrument. The proposed development is not inconsistent with the draft provisions.

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

The following table provides a summary of the development application against the controls contained in Part A1 and B5 of the Bankstown Development Control Plan 2015.

**Bankstown Development Control Plan 2015 (BDCP 2015)**

STANDARD	PART A1 and B5 of BDCP 2015		COMPLIANCE
	REQUIRED	Proposed	
<b>Part A1 Centres</b>	<p>Built Form Objectives</p> <p>The objectives to achieve the desired character are:</p> <p>(a) To require a continuous built edge to the street at locations where it is essential to have active street frontages.</p> <p>(b) To ensure setbacks are compatible with the surrounding context and desired urban character of the Bankstown CBD precincts.</p> <p>(c) To provide specific guidelines for key redevelopment sites that will significantly contribute to the desired urban character of the Bankstown CBD precincts.</p> <p>(d) To encourage the orientation of buildings to optimise passive design strategies that will reduce the need for artificial lighting and mechanical heating and cooling systems, and thus contribute to a sustainable urban environment.</p> <p>(e) To retain the original building elements that contribute to the townscape significance of the Bankstown City Plaza precinct and, where original elements are missing, to encourage their reinstatement.</p>	<p>The site is shown in Figure 3 of BDCP 2015 – Part A1, to require a zero setback. The proposal complies with this and it is considered the street is activated in accordance with the DCP. The site is not identified as a key development site within the CBD, however the site is shown in Figure 7 of BDCP 2015 – Part A1 as desirable for having ground and first floor commercial land uses.</p> <p>The building design maximized western exposures to assist in ensuring solar access and the need for artificial lighting is reduced in the proposal. The development does not contain any single aspect south facing units, ensuring that all units have reasonable access to natural light.</p> <p>The application is not within the Bankstown City Plaza precinct.</p>	Yes.

STANDARD	PART A1 and B5 of BDCP 2015		COMPLIANCE
	REQUIRED	Proposed	
	(f) To ensure development and signage in the Bankstown City Plaza precinct is compatible with the distinctive character of the buildings and surrounding context.		
<b>Primary Setback</b>	<b>East Terrace</b>	Figure 3 of BDCP 2015 – Part A1 depicts a zero setback required.	Yes.
<b>Side and rear setbacks</b>	<p>In determining the side and rear setbacks, Council must take into consideration the following matters:</p> <p>(a) whether the proposed setbacks respond to site conditions; and</p> <p>(b) whether the proposed setbacks are compatible with the surrounding context and desired character of the precinct; and</p> <p>(c) whether the proposed setbacks comply with the Apartment Design Guide.</p> <p>Certain development proposals must submit a site analysis plan to illustrate the site conditions and relationship to the surrounding context.</p>	<p>The development has a varying front setback to the ground floor waste collection of 0.8m and 3m to the ground floor commercial building wall. The upper levels have a 2.5m setback to the balconies whilst the building wall is setback 4.5m.</p> <p>The adjoining sites to the north, south and east are zoned B4 Mixed Use therefore no additional setbacks are required.</p> <p>The proposal is considered satisfactory in respect to the design guidance and visual privacy controls outlined in the ADG, as discussed above. It is considered that the design presented is acceptable given the existing and desired future character of the locality.</p>	Yes.
<b>Active street frontages</b>	<p>The design of street frontages must ensure:</p> <p>(a) the ground floor is at the same general level as the footpath and accessible directly from the street; and</p> <p>(b) the ground floor provides a positive street address in the form of entries, lobbies and clear glazing that contribute to street activity and promote</p>	<p>Figure 7 of BDCP 2015 – Part A1, notes this site is desirable, not necessarily essential, for ground and first floor commercial floor space.</p> <p>The development has proposed a 30m<sup>2</sup> commercial tenancy to the ground floor plan to assist in activating the</p>	Yes.

STANDARD	PART A1 and B5 of BDCP 2015		COMPLIANCE
	REQUIRED	Proposed	
	<p>passive surveillance. The ground floor facade must minimise large expanses of blank walls.</p> <p>This clause applies to locations where it is essential or desirable to retain the ground and first floors as commercial and retail floor space as shown in Figure 7.</p>	<p>street frontage within the CBD. The tenancy provides direct access to the street and visual relief and interest at pedestrian level with the façade.</p>	
<b>Vehicle footpath crossings</b>	<p>Development must optimise the opportunities for active street frontages and streetscape design by:</p> <ul style="list-style-type: none"> <li>(a) making vehicle access points as narrow as possible;</li> <li>(b) limiting the number of vehicle access ways to a minimum; and</li> <li>(c) avoiding the location of car park entries, driveways and loading docks at the corners of street intersections.</li> </ul> <p>For sites with two or more frontages, car park entries, driveways and loading docks must locate on lanes and minor streets rather than primary street frontages or streets with high pedestrian activity.</p>	<p>The development site is narrow with a 17.7m frontage.</p> <p>The development has located the VFC to the southernmost portion of the site to maximise the distance between the VFC and the tree within Council's nature strip. Council's Development and Traffic Engineers are satisfied with the access proposed.</p>	Yes.
<b>Part B5 Parking</b>			
<b>Car Parking</b>	<p><b><i>BDCP 2015 Part B5 parking</i></b></p> <p><b><i>Residential Flat Building in B4</i></b></p> <p><b><i>Minimum 1 per unit</i></b>  <b><i>Maximum 3 per unit</i></b>  <b><i>1 car space per visitors space</i></b></p> <p>Development contains 19 residential units</p> <p><u>Residential:</u>            Required Min:19 spaces            Required Max: 57 spaces            Visitors: required 3.8 (4)</p>	<p>The development provides for 24 car parking spaces within two levels of basement and 9 bicycle spaces.</p>	Yes.

STANDARD	PART A1 and B5 of BDCP 2015		COMPLIANCE
	REQUIRED	Proposed	
	<u>Commercial:</u>  <b>Commercial floor area 1 per 40m<sup>2</sup></b>  <b>30 / 40 = .75</b>  Required: .75 (1)  <b>Total spaces required minimum = 23.55 (24)</b>  <b>Total spaces required maximum = 61.55 (62)</b>  <b>Total spaces provided = 24</b>		

**Planning agreements [section 4.15(1)(a)(iii)]**

There are no planning agreements applicable to the proposed development.

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

The proposed development is not inconsistent with the provisions of the Environmental Planning and Assessment Regulation, 2000.

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

The proposed development is not considered likely to result in any significant detrimental environmental, social or economic impacts on the locality. As detailed in this report, where non-compliances with the relevant 'design criteria' in the ADG occur, they have been addressed and are considered worthy of support. As such, it is considered that the impact of the proposed development on the locality will be acceptable.

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

The site is considered suitable for the proposed development.

**Submissions [section 4.15(1)(d)]**

The application was advertised and notified for a period of 21 days and re-notified twice for a period of 21 days as a result of the submission of amended plans. Six submissions and a petition were received during these periods, which raised concerns relating to the below:

Submission: Health risks associated with setbacks and construction work and long-term performance impacts on students.

Response: The development consent will impose conditions throughout the demolition and construction process that would ensure works are undertaken in accordance with the relevant Austrian Standards and guidelines to minimise potential impacts resulting from the development in relation to odour, noise and dust. It is considered that the development is unlikely to result in significant health impacts or be detrimental to student's performance with the imposition of the conditions proposed.

Submission: The development will result in an increase in density of the area as more people will move in and overcrowd the area and basic services e.g. roads, parking, and public security issues.

Response: The proposal is for a mixed-use development, containing a ground floor commercial premises and 19 residential apartments located within the Bankstown CBD. It is not considered that the development will result in any significant adverse impacts on the existing services, such as roads and parking as the development contains its required parking on site.

The development is permitted in the zone and it is not considered that the establishment of the development will pose any significant safety issues as a result.

Submission: The development restricts views/block views and potential visual privacy to neighbouring apartments.

Response: Though there are no protected view corridors within the CBD, it is not considered the development will result in the significant loss of any views for adjoining properties within the CBD. The development has taken advantage of the street frontage to East Terrace and orientated all but three balconies to the street. Levels 1-3 within the development contain eastern facing balconies that are approximately 17m away from the closest point to the neighbouring residential flat building at 196 Stacey Street, and have proposed solid walls to the north and south elevation to restrict views to the adjoining school and childcare centre.

Submission: Shadow impacts to northern windows of 196 Stacey Street.

Response: The development will have limited impact to the northern windows of 196 Stacey Street. Given the orientation of the subject site being generally to the north east of the development, the proposal will only impact the northern elevation in mid-winter from approximately 3pm. This is considered consistent with the relevant controls in regard to solar access.



Submission: Overshadowing of childcare centre to the south.

Response: The development as proposed results in significant shadowing to the childcare centre at 22 East Terrace in mid-winter. The orientation of the site to the north of the childcare centre would render any redevelopment of the site, in excess of 3 storeys to produce significant impacts on the childcare centre in terms of overshadowing. The play area to the west, at the mid-winter solstice will retain solar access from approximately 12 midday but will be impacted before this time. The play area to the east will receive minimal solar access in the morning hours and will be overshadowed from approximately 12.30pm in mid-winter.

During the Equinox, the shadow diagrams demonstrate that the outdoor play area to the east on the adjoining site will receive solar access to approximately 50% throughout the day, with little impact to the western play area. It is considered that the achievement of solar access to the external play area within the equinox is satisfactory.

Submission: Concerns raised over increase in new apartments and faulty construction practices and the potential impacts on other buildings nearby.

Response: The development will be conditioned to comply with the requirements of the Building Code of Australia and is subject to compliance with all relevant standards and will be undertaken under the watch of the appointed Certifier to ensure all codes and regulations are met. It is not considered the construction of the development will detrimentally impact upon the existing developments in the area. Prior to works commencing a dilapidation report is required to be completed and a geotechnical report to ensure that the built form and construction methods are suitable.

Submission: The development should be reduced in size and a reduction in storeys proposed. The bulk and scale is not suitable and is an over development of the site.

Response: The site has a maximum floor space ratio of 2:1 and a maximum height limit of 35m under the Bankstown Local Environmental Plan 2015. The proposal complies with the maximum 2:1 floor space ratio control and provides for an overall building height less than the maximum height permitted. The development is not subject to a maximum storeys control, however it is considered the number of storeys is satisfactory in respect to the overall height permitted within the CBD. The proposal is considered to be consistent with the desired future character of the locality as demonstrated through compliance with the relevant development standards.

**Submission:** Requests that a dilapidation report, full depth pilling adjacent to the building and no permanent anchors on their land and a geotechnical report be completed.

**Response:** A dilapidation and Geotechnical report will be conditioned within the consent. A condition will be imposed that no permanent or temporary anchors are to be used on adjoining properties without prior consent from the adjoining land owners. The development will have conditions imposed requiring that all engineering works comply with the relevant Australian Standards.

**Submission:** A request for a 12m setback was provided. Health and safety concerns to adjoining properties due to the setbacks proposed.

**Response:** The subject site is 17.7m wide at the front boundary and narrows to 7.7m wide at the rear of the allotment. The imposition of a 12m setback would inhibit any form of development occurring on the site. The site is located within a B4 Mixed Use zone and can be developed proposing zero setbacks where appropriate. The design has incorporated setbacks to provide visual relief across the built form as presented along the northern and southern elevation. It is considered that the development and setbacks shown are suitable in the context of the site and the surrounding area. The setbacks are not considered to result in any detrimental impacts to the health and safety of the adjoining residents/occupants.

**Submission:** Additional traffic generation will exacerbate the current safety issues and adversely impact the performance of key intersections in the local road network, including East and South Terrace, Stanley and Stacey Street. The development will adversely impact in the local road network and pedestrian safety.

**Response:** The low volume of additional trips would not cause a significant impact on the performance of key intersections in the local road network including the intersections of East and South Terrace and Stanley and Stacey Streets or safety in the area. In the areas which have schools, the AM peak is generally more critical compared to school PM peak which does not coincide with the commuter PM peak.

It should be noted that hourly and daily fluctuation of traffic in the area due to through traffic and non-local traffic accessing various land uses in the locality would be more than the net trip generation from the development.

The additional traffic does not affect the Level of Service of the surrounding road network or traffic and pedestrian safety in the area.

Submission: In appropriate behaviour/dress of future residents/visitors to the site and the impacts to the adjoining school, church and residents.

Response: This is not a matter for consideration as part of the development assessment.

Submission: Councils consideration (approval) of previous development applications within the area and lack of changes as a result of concerns raised.

Response: Each development application is assessed on the merits of the DA with the relevant planning controls and considerations. The submissions made are considered within the assessment and may or may not require amendments to the development throughout the assessment process.

Submission: Concern over the eastern and western balconies and overlooking school grounds

Response: The balconies proposed to the east are within levels 1-3 and propose solid walls to the northern and southern elevation restricting views of the school and childcare centres to the north and south respectively.

Further the existing structure along the adjoining site to the north, has a building footprint that continues past the balconies proposed for Unit 3 (on levels 1-3), further restricting the ability for views to the school grounds.

The balconies that face west, looking onto East Terrace and are not considered to result in any visual privacy issues to the school or childcare centre as a result of their location, orientation and design.

Submission: Large scale development are compromising the amenity of the area and exacerbating traffic/pedestrian conflicts and safety concerns.

Response: The approval of this development will not result in any significant detrimental impacts to the existing road network. The additional traffic does not affect the Level of Service of the surrounding road network or traffic and pedestrian safety in the area.

Submission: Traffic report doesn't note the impact of childcare centre pick up and drop off.

Response: It is not considered the traffic report requires consideration of the pick up and drop off times for the adjoining childcare centre as the development provides for all of its required parking within the basement on site.

Submission: Concern over visual privacy from communal roof plan.

Response: The application, as amended does not propose a communal rooftop area. All communal open space is located on the ground floor of the development.

Submission: Concerns over overlapping driveways and basement circulation.

Response: The amended plans have been reviewed by Council's Engineers who have advised that the access arrangements and manoeuvring into, out of and around the site is satisfactory. The development requires the retention of the tree within the road reserve to the north of the driveway.

Submission: Statement of Environmental Effects is insufficient.

Response: The statement of environmental effects provided an outline of the proposal. Detailed assessment of the proposal is contained within this report.

Submission: Waste collection.

Response: The application has been reviewed by Council's waste officers, who are satisfied with the proposed method of waste collection. Conditions of consent regarding access and bin sizes to be used have been included in the consent. The proposal has been found to be satisfactory in respect to waste.

Submission: Lack of vegetation and landscaping.

Response: The primary setback of the development does not contain landscaping, rather provides access arrangements into the site, given the level changes required responding to the flood affectation on the site. The development incorporates 100sqm of deep soil plantings at the rear of the site. The development retains a significant tree within the road reserve and is considered to provide for an appropriate landscape outcome for the site.

Submission: Construction works management plan should consult with neighbours about best delivery times.

Response: A condition of consent has been imposed requiring the submission of a Construction Management Plan ensuring that major deliveries are undertaken outside of peak school times.

Submission: The development will limit redevelopment of adjoining sites being two sensitive receivers i.e. school and childcare centre.

Response: It is not considered the development of 20 East Terrace will result in an inability of 18 or 22 East Terrace to develop. The adjoining sites are zoned B4 Mixed Use and have the opportunity to provide for a number of permissible uses on site, including commercial or residential development types. Future development of the adjoining sites could pose a zero setback, similar to the setback proposed within this application to provide a unified street appearance. It is not considered the development of this lot will preclude the future orderly and economic development occurring within the adjoining sites.

**Submission:** The site is too small for the development of a residential flat building, owing to the minimum dimensions specified in the R4 zone requiring a minimum 30m frontage and 1500sqm. The site is too small to achieve reasonable outcomes.

**Response:** The development as presented is a response to the controls and the general site constraints. The development is generally compliant with all relevant standards with a minor non-compliance in regard to setbacks which have been justified in this report. The site is not subject to a minimum standard in regards to frontage or area as the site is within a B4 Mixed Use zone allowing flexibility in design within the CBD with expected built form outcomes different to what is envisaged within the R4 zone. The site is generally compliant with all relevant planning requirements, as such, it is considered that the site is capable of accommodating the built form proposed.

**Submission:** The Apartment Design Guideline requires setbacks to be increased where they adjoin a change in zoning to provide for adequate daylight. The ADG notes setbacks in 3F regarding visual privacy.

**Response:** The sites immediately to the North and South are zoned B4 Mixed Use. The site to the east for the length of the boundary is zoned SP2 Education Establishment, and the setback proposed within this application is 31m from the building wall to the rear boundary. It is considered that the setback to the adjoining zoned properties is in accordance with the design guidance within the ADG.

An address of the proposal's compliance with the visual privacy controls is contained within this report. It is considered the design as proposed is satisfactory in respect to visual privacy.

The windows in questions are orientated towards the east of the site. The windows within unit 1 and unit 3 which were raised as concerns in the submission, are contained within the first 15m and 22m of the building foot print respectively. The windows are to non-habitable rooms. The structure on the adjoining property to the north runs along the boundary to the site for a greater depth than the overall proposal within this application limiting and possible views to the adjoining school.

**Submission:** Setbacks and fire ratings

**Response:** The application has been reviewed and conditions of consent imposed to ensure Building Code of Australia compliance.

**Submission:** It is unclear if the solar access modelling has taken into account the shadow from existing residential flat buildings to the north-west of the site (West/South/East Terrace) and the future development potential of the neighbouring sites.

Response: The development application has been assessed and consideration of the current site constraints undertaken. The site is not reliant upon the northern windows to achieve solar access compliance. It is not considered that the development as designed will inhibit the adjoining sites from further development as a result of the floor plan proposed.

Submission: The narrow street frontage is incapable of supporting the proposed building massing, ingress and egress without impacting the streetscape. The interface between the building and the public street is poor and contains servicing elements that dominate the frontage.

Response: The interface between the development and the street is limited in its design as the site is impacted by flooding and must have a minimal flood planning level. This has resulted in a design that requires the provision of servicing forward of the proposal to ensure adequate and accessible access can be provided for the servicing of the building and for residents and visitors to the proposal. The interface between the development and the street level cannot be changed and as such the design as shown is considered suitable response to the site constraints.

Submission: Impact of the excavation on the street tree shown for retention.

Response: The application was reviewed by Council's Tree Management Officers who have supported the proposal and the retention of the tree. Conditions have been imposed to ensure the viability of the tree throughout the development process.

Submission: Commercial tenancy viability

Response: The tenancy proposed can offer a small business opportunity within the area and will be subject to consideration under a separate application. It is considered that a suitable tenancy could be accommodated within the design and provide a positive contribution to the streetscape.

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

Approval of the proposed development is not considered to contravene the public interest.

**CONCLUSION**

The Development Application has been assessed in accordance with the provisions of Section 4.15 of the *Environmental Planning and Assessment Act, 1979* requiring, amongst other things, an assessment against State Environmental Planning Policy No. 55 – Remediation of Land, State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development, State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017, Greater Metropolitan Regional Environmental Plan No 2—Georges River Catchment (a deemed SEPP), Bankstown Local Environmental Plan 2015 and Bankstown Development Control Plan 2015 and the Draft Consolidated Canterbury Bankstown Local Environmental Plan 2020.

The application proposes minor variations to the requirements contained in the Apartment Design Guide. However, the assessment of the development application has found that these variations are justified in the circumstances of this case, in the context of both the overall development and the surrounding locality.

**RECOMMENDATION**

It is recommended that the application be approved on a deferred commencement basis, subject to the attached conditions.



## CONDITIONS

### DEFERRED COMMENCEMENT REQUIREMENTS (Schedule A)

**The following deferred commencement conditions must be complied with to the satisfaction of Council within 12 months of the date of this deferred commencement consent, prior to the issue of an operational development consent:**

1. The stormwater easement to be created must be undertaken in accordance with Council's Development Engineering Standards. The plan must reflect a drainage easement to be created over 196 Stacey Street, Bankstown. An updated stormwater drainage design, including downstream drainage works is required to be provided to Council. Any required upgrading of the drainage infrastructure on No. 196 Stacey Street, Bankstown, is to be shown on the plans.

Evidence must be submitted to Council demonstrating that the proposed stormwater drainage easement through No. 196 Stacey Street, Bankstown, has been registered with NSW Land & Property Information, prior to operational consent being granted for this development.

### FORESHADOWED CONDITIONS OF APPROVAL (Schedule B)

**The following conditions of consent including any other conditions that may arise from resolution of matters listed in Schedule A, will be included in an operational development consent that will be issued by Council after the applicant provides information sufficient to satisfy Council in relation to the condition of the deferred commencement consent:**

These conditions are imposed taking into account the matters for consideration in determining a Development Application pursuant to Section 4.15 of the Environmental Planning & Assessment Act, 1979 and other relevant Acts and Regulations.

#### **Notes:**

1. This Determination Notice does not constitute permission to begin works associated with the development. A Construction Certificate (where applicable) must be obtained prior to the commencement of any development works.
2. This Determination Notice operates or becomes effective from the endorsed date of Consent.
3. If you are dissatisfied with this decision, you may apply for a review of determination pursuant to Section 8.2 of the Environmental Planning and Assessment Act, 1979 or appeal to the Land and Environment Court pursuant to Sections 8.7 and 8.10 of the Environmental Planning and Assessment Act, 1979. Any application for a review pursuant to Section 8.2 must be received, assessed and determined by Council within 6 months after the date of receipt of this Determination Notice. It is therefore advisable to lodge

the application for review as soon as possible to ensure that assessment is complete within the statutory timeframes. Section 8.10 in the Environmental Planning and Assessment Act 1979 extends this six month period to twelve months for determinations made during, or six months before, the Prescribed Period of 25 March 2020 and 25 March 2022. You should seek advice from your legal advisor on the time limits for the lodgement of any appeal.

4. Sections 9.37 and 9.50 of the Environmental Planning and Assessment Act, 1979 confers the authority to direct any person to comply with the terms and conditions of any Consent and any person failing to comply with such a direction shall be guilty of an offence under that Act.
5. This consent will lapse 5 years from the endorsed date of consent unless the use has commenced, or any building works have physically commenced.
6. The applicant or any other person entitled to act on this Consent may apply to modify the Development Consent in accordance with Section 4.55 of the Environmental Planning and Assessment Act, 1979.
7. Failure to comply with a condition contained within this Development Consent may result in a fine or prosecution by Council.

## CONDITIONS OF CONSENT

- 1) The proposal shall comply with the conditions of Development Consent. A Construction Certificate shall not be issued until the plans and specifications meet the required technical standards and the conditions of this Development Consent are satisfied.
- 2) Development shall take place in accordance with Development Application No.DA-850/2018, submitted by Cd Architects, accompanied by the drawings as listed in the table below, and affixed with Council's approval stamp, except where otherwise altered by the specific amendments listed hereunder and/or except where amended by the conditions contained in this approval.

Drawing No.	Drawing Title	Revision	Dated	Prepared by
1005	Site Plan	E	13.07.20	CDA Architects
1007	Demolition Plan	B	17.05.19	
1100	Lower Basement Floor plan	E	19.08.20	
1101	Upper basement floor plan	E	19.08.20	
1102	Ground Floor Plan	F	19.08.20	
1103	Level 01 Floor plan	E	14.02.20	
1104	Level 02 Floor plan	E	14.02.20	
1105	Level 03 Floor plan	E	14.02.20	
1106	Level 04 Floor plan	E	14.02.20	
1107	Level 05 Floor plan	E	14.02.20	
1108	Level 06 Floor plan	E	14.02.20	

1109	Level 07 Floor plan	D	14.02.20	
1110	Level 08 Floor plan	D	14.02.20	
1112	Roof Plan	C	22.10.19	
2001	East and west elevation	G	19.08.20	
2002	North Elevation	F	13.07.20	
2003	South Elevation	F	13.07.20	
3001	Section	F	13.07.20	
3002	Driveway Sections	D	14.02.20	
7041	Finishes Schedule	G	19.08.20	

- 3) No approval is granted or implied for the use of the commercial floor space within the building. Separate Development Consent for the use of the commercial floor space is required.
- 4) The acoustic report submitted in support of the development application, prepared by Acoustic, Vibration & Noise Pty Ltd, titled, '*Acoustic Traffic & Environmental Noise for proposed development at 20 East Terrace, Bankstown*' dated 24 October 2018, Ref 2018-416 and the noise attenuation recommendations stated in the report, forms part of the development consent.
- 5) A qualified arborist - minimum Australian Qualification Framework (AQF) Level 5 Diploma of Horticulture (Arboriculture) and/or equivalent experience - shall be retained and regularly consulted throughout all demolition, clearing and construction work to ensure protection of the trees retained and compliance of all work with Australian Standard AS4373-2007 Pruning of amenity trees and Australian Standard AS4970-2009 Protection of trees on development sites.
- 6) The Arboricultural Impact Assessment, Dated 1/11/2018, prepared by Tree and Landscape Consultants (TALC) forms part of this consent. Where a reference is provided to the Arborist report within the conditions, the reference is to the TALC report submitted.
- 7) Underground services shall use common trenches outside Tree Protection Zones. If services need to be run within a Tree Protection Zone then all utility pipes and similar are to be installed using appropriate directional boring techniques. No tree roots are to be severed or damaged during this work.
- 8) Prior to the commencement of works, a dilapidation report shall be prepared by the developer and a copy provided to directly adjoining property owners to the north, south, east and south east of the subject site. The report must clearly identify the condition of existing structures on adjoining properties prior to the commencement of works. All care shall be taken during the construction process to ensure adjoining structures are protected and should any change in condition occur from that recorded in the dilapidation report, the rectification of such shall be at full cost to the developer of the subject site.

- 9) All substation, hydrants, boosters and other services must be contained within cabinets in the built form. Separate approval is required for any services outside of the built form and not authorised through this Development Consent.
- 10) The deep soil areas located in the front setback along Meredith Street and to the rear of the site must be retained as deep soil and landscaping for the lifetime of the development. No encroachments for services or any structure is permitted within these areas.
- 11) Access to all communal and public areas of the development, including communal open spaces, are to be designed and constructed in accordance with the requirements of *Disability (Access to Premises — Buildings) Standards 2010*.
- 12) Storage areas within all units must be provided in accordance with the Apartment Design Guidance (ADG) Criteria outlined in 4G-1. The plans must demonstrate prior to the issuing of a Construction Certificate that 50% of the required storage is provided within each unit, exclusive of any kitchen, bathroom and bedroom storage. The storage must be contained within the unit and not result in any failures of any other controls within the ADG as a result of its location. The plans should also identify the storage within the basement areas, demonstrating capacity for the remaining storage not within the units as required by the ADG 4G-2.
- 13) The plans must demonstrate that the proposal meets the requirement that Universal Design Principles are utilised in 20% of the apartments within the development. All Construction Certificate documentation must demonstrate compliance with this requirement.

## **CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE**

Prior to the release of a Construction Certificate the following conditions MUST be satisfied and nominated fees/contributions/bonds paid:

- 14) The Certifying Authority must ensure that any certified plans forming part of the Construction Certificate are not inconsistent with this Development Consent and accompanying plans.
- 15) Landscaping is to be installed in accordance with the approved landscape plan Drawing No. 19470GD.01, 1947.GD.03 and 1947.GD.04 prepared by Greenland Design all Issue B dated 20.04.20.
- 16) The landscape plan shall include the provision for the replacement of all boundary fencing. A new 1.8m fence is to be erected along all side and rear boundaries of the subject allotment at full cost to the developer. The colour of the fence is to complement the development and the fence is to be constructed of lapped and capped timber paling, sheet metal or other suitable material unless the type of material is stipulated

in any flood study prepared for the site. The selection of materials and colours of the fence is to be determined in consultation with the adjoining property owners. Fencing forward of the building line shall be no higher than 1m unless otherwise approved by Council.

- 17) Approval in accordance with Council's Tree Preservation Order (TPO) is granted to lop or remove only the trees identified to be lopped or removed on the approved plans. Separate approval shall be obtained to prune or remove trees on adjoining properties or other trees located on the site. Failure to comply with Council's TPO may result in a fine of up to \$100,000.
- 18) Approval is granted for the removal of the following tree on the nature strip:

Tree Species	Location
T8 x <i>Cinnamomum camphora</i> (camphor tree)	Refer to Appendix C – Tree location plan (As per Arboricultural impact assessment report, Date: 1/11/2018).

The tree removal works are subject to the following conditions:

- I. All tree removal works must be carried out by a qualified arborist - minimum qualification Australian Qualification Framework (AQF) Level 3 or equivalent;
- II. The tree removal contractor must hold a Public Liability Insurance Certificate of Currency with a minimum indemnity of \$20 million, together with a NSW Workers Compensation Insurance Certificate of Currency;
- III. The tree removal work shall comply with the Amenity Tree Industry – Code of Practice, 1998 (Workcover, NSW) and the Guide to Managing Risks of Tree Trimming and Removal Work (Safe Work Australia 2016);
- IV. The tree stump is to be ground to 300mm below ground level. Investigation to locate underground services shall be the responsibility of the applicant.
- V. All tree material shall be removed from site, and the nature strip shall be backfilled, compacted and restored to the original level.
- VI. The site must be maintained in a safe condition at all times;
- VII. Appropriate hazard signage to be in place at all times during the tree works.

All other street vegetation not specifically identified above is to be retained and protected from construction damage and pruning.

- 19) Approval is granted for the removal of the following trees on site:

- I. Any tree/s where the base of the trunk of the tree is located within 3 metres of the external wall of an approved dwelling;
- II. Any declared noxious plant. The applicant, builder and all contractors are to ensure that all noxious plants are properly identified, controlled and/or removed on this site without injury or death of any protected plants;

III. Any tree species listed under clause 2.4 of Bankstown Development Control Plan 2015 Part B11 – Tree Management Order;

IV. Any of the following tree/s:

Tree Species	Location
T4 - <i>Jacaranda mimosifolia</i> (jacaranda)	Refer to Appendix C – Tree location plan (As per Arboricultural impact assessment report, Date: 1/11/2018).
T5 - <i>Callistemon viminalis</i> (weeping bottlebrush)	Refer to Appendix C – Tree location plan (As per Arboricultural impact assessment report, Date: 1/11/2018).
T7 – <i>Araucaria heterophylla</i> (norfolk island pine)	Refer to Appendix C – Tree location plan (As per Arboricultural impact assessment report, Date: 1/11/2018).

All tree removal works must comply with the Amenity Tree Industry – Code of Practice, 1998 (Workcover, NSW) and Guide to Managing Risks of Tree Trimming and Removal Work (Safe Work Australia 2016).

All other vegetation not specifically identified above, and protected by Councils Tree Management Order, is to be retained and protected from construction damage and pruning. The Tree Management Order protects trees over 5m in height.

- 20) A soil erosion and sediment control plan must be prepared by a suitably qualified professional, in accordance with Council's Demolition and Construction Guidelines and Council's Development Engineering Standards, and submitted to the certifying authority for approval prior to the issue of a construction certificate.
- 21) The Council Approved building plans, including demolition plans, must be submitted to Sydney Water for assessment. This will determine if the proposed structure(s) would affect any Sydney Water infrastructure or if there are additional requirements. Building plan approvals can be submitted online via Sydney Water Tap in™.

Please refer to [www.sydneywater.com.au/tapin](http://www.sydneywater.com.au/tapin)

For Sydney Water's Guidelines for building over or next to assets, visit [www.sydneywater.com.au](http://www.sydneywater.com.au) 'Plumbing, building & developing' then 'Building Plan Approvals' or call 13000 TAPIN.

Prior to release of a construction certificate Sydney Water must issue either a Building Plan Assessment letter which states that your application is approved, or the appropriate plans must be stamped by a Water Servicing Coordinator.

- 22) A Construction Certificate shall not be issued until written proof that all bonds, fees and/or contributions as required by this consent have been paid to the applicable authority.
- 23) A long service levy payment which is 0.35% of the total cost of the work is to be paid to the Building and Construction Industry Long Service Payments Corporation.
- 24) Pursuant to section 4.17 of the Environmental Planning and Assessment Act 1979, and the Bankstown City Council Section 94A Development Contributions Plan 2009 (Section 94A Plan), a contribution of \$57,415.17 shall be paid to Council.

The amount to be paid is to be adjusted at the time of actual payment, in accordance with the provisions of the Section 94A plan. The contribution is to be paid before the issue of the construction certificate.

**Note:** The Section 94A Contributions Plans may be inspected at Council's Customer Service Centre, located at Upper Ground Floor, Civic Tower, 66-72 Rickard Road, Bankstown, between the hours of 8.30am-5.00pm Monday to Friday.

- 25) Finished surface levels of all internal works and at the street boundary, including driveways, landscaping and drainage structures, must be as shown on the approved plans. The levels at the street boundary must be consistent with the Street Boundary Alignment Levels issued by Council.
- 26) Stormwater drainage from the development shall be designed so as to comply with Council's Development Engineering Standards and the requirements of the BASIX Certificate. A final detailed stormwater drainage design shall be prepared by a qualified Professional Civil Engineer in accordance with the above requirements and shall generally be in accordance with the concept stormwater plan No. 10-108, issue D dated 16/4/2020 prepared by Australian Consultant Engineers and the plan approved by Council in order to address the deferred commencement condition and specifically referred to in a letter notifying of an operational consent being granted. The final plan shall be certified by the design engineer that it complies with Council's Development Engineering Standards, the BASIX Certificate and the relevant Australian Standards.
- 27) The subject site is affected by local overland flooding and shall comply with the following:
  - (i) The minimum floor level of the proposed structure(s) shall be constructed to RL 18.6m AHD including freeboard. The basement ramp shall have a crest set at RL 18.30m AHD. All approved construction details shall be consistent with this requirement.
- 28) The layout of the proposed car parking areas associated with the subject development (including, driveways, grades, turn paths, sight distance, aisle widths, aisle lengths, and parking bay dimensions) shall be in accordance with the Australian Standard AS 2890 parking series.



- 29) Where Council approved cut or fill exceeds 200mm and stable batter of 1 vertical to 3 horizontal maximum grade cannot be achieved, then a masonry or other proprietary material retaining wall, intended and suitable for that purpose, shall be constructed within the development site. Note, filling of the site needs specific approval from Council.

The retaining wall shall be located so that it will not impede or obstruct the natural flow of stormwater. Retaining walls exceeding 600mm in height shall be designed by a qualified professional Civil/Structural Engineer. Plans and details prepared and signed by the Engineer are to be submitted to the Principal Certifying Authority (PCA) prior to the issue of the Construction Certificate.

All works associated with the construction of the wall, including backfilling and drainage, is to be located wholly within the allotment boundaries.

- 30) An all weather pavement shall be designed to withstand the anticipated wheel loads for all areas subjected to vehicular movements. Internal pavements specification prepared and certified by all qualified professional Civil Engineer to comply with the relevant Australian Standards, shall be submitted to the Principal Certifying Authority (PCA) for approval prior to the issue of a construction certificate.
- 31) The Construction Certificate plans shall include details of the garbage receptacle area. The garbage receptacle area shall not be visible from the street. The garbage receptacle area shall be located within the building or screened from the street by dense landscaping.
- 32) A Work Permit shall be applied for and obtained from Council for the following engineering works in front of the site, at the applicant's expense:
- a) A heavy duty VFC at the property boundary.
  - b) Drainage connection to Council's system.
  - c) Concrete footway paving along the site's entire frontage.
  - d) Removal of all driveway surfaces, reinstatement of laybacks to kerb and gutter and reshaping of the footway, all associated with redundant VFCs. 1.2 to 2 metre-wide to match the existing concrete footway paving along the sites entire frontage to East Terrace.
  - e) Pavement to be to Council's CBD Type 4 standard (Type 4 is 125mm depth fibre-reinforced concrete base with 40mm asphalt, Urbanstone 'Silver Grey' 400 x 400 x min 50mm concrete paver banding and header treatment), unless otherwise approved by this work permit
  - f) Repair of any damage to the public road including the footway occurring during development works.
  - g) Reinstatement of the footway reserve and adjustment or relocation of existing public utility services to match the footway design levels as proposed on the approved Work Permit. Adjustment or relocation to any public utility services shall be carried out to the requirements of the public utility authority.



- h) Details must be provided outlining that the drainage connection will protect the street trees fronting East Terrace.

Note: As a site survey and design is required to be prepared by Council in order to determine the necessary information, payment for the Work Permit should be made at least twenty one (21) days prior to the information being required and must be approved prior to the issue of the Construction Certificate.

- 33) The pump out drainage system for the access ramp and basement car parking area shall be provided in accordance with Council's Development Engineering Standards. Engineering details and specifications shall be submitted to the Principal Certifying Authority (PCA) for approval prior to the issue of any Construction Certificate.
- 34) Engineering details and manufacturers specifications for the pumps, switching system and sump pit shall be submitted to the Principal Certifying Authority (PCA) for approval prior to issue of any Construction Certificate.
- 35) For internal driveways with a gradient exceeding 10% (1 in 10), longitudinal profiles of all vehicular driveways and ramps shall be submitted for approval by the Principal Certifying Authority (PCA) prior to the issue of the Construction Certificate. The maximum grade of the driveway/ramp shall not exceed **25%** and shall comply with AS 2890.1. The profile shall be drawn at a reduction ratio of 1 to 25 vertical and horizontal and shall be related to the datum used for the issue of the footway design levels and shall also show the road centre line levels, Council issued footway design levels and gutter levels. Council's Car Clearance Profile in Council's Development Engineering Standards, (Plan No. S 006) shall be used to design the profile.
- 36) Sight distance triangles for pedestrian safety must be provided within the site boundary as shown on Figure 3.3 from AS2890.1:2004. No fencing adjoining the driveway along the southern boundary higher than 1m is permitted. The Construction Certificate plans must demonstrate compliance with the above.
- 37) The basement of the development is located adjacent to a Council Public Road Reserve. Separate approval and Work Permit is to be obtained from Council for any temporary or permanent anchoring works under Council's Public Road.
- 38) No permanent or temporary anchors are to be installed on adjoining properties without the approval of the adjoining land owners.
- 39) If any neighbouring properties or roadway are to be utilised for support, the legal rights of any adjoining properties must be respected including for temporary supports. In this regard the written permission of the affected property owner must be obtained and a copy of the owner's consent for temporary rock anchors or other material in adjacent lands must be lodged to Canterbury Bankstown Council prior to the issue of a Construction Certificate.

Temporary rock anchors are rock anchors that will be de-stressed and removed during construction. All other rock anchors are permanent rock anchors for the purposes of this Consent.

Council will not permit permanent rock anchors in adjacent private lands unless they are specifically permitted in a Development Consent.

Where temporary anchors are proposed to be used, an Application must be made to Canterbury Bankstown Council for approval under Section 138 of the Roads Act 1993, via a Road Works Permit application. The submission would need to be supported by an engineering report prepared by a suitably qualified Structural Engineer, with supporting details addressing the following issues:

- a) Demonstrate that any structures within the road reserve are of adequate depth to ensure no adverse impact on existing or potential future service utilities in the road reserve.
  - b) All existing services must be shown on a plan and included on cross sectional details where appropriate.
  - c) Demonstrate how the temporary anchors will be removed and replaced by full support from structures within the subject site by completion of the works.
  - d) The report must be supported by suitable geotechnical investigations to demonstrate the efficacy of all design assumptions.
- 40) A geotechnical report must be submitted prior to the issue of any Construction Certificate. The Geotechnical report must review the soil conditions and identify appropriate construction methods for the building as designed. The building design and construction must not use the adjoining properties for temporary or permanent anchors, unless written owner consent is provided. The recommendations of the report are to provide alternative construction methods to be incorporated where adjoining sites do not permit temporary or permanent anchors. The recommendations in the report are shall be incorporated into the plans prior to the issuing of a Construction Certificate and are to be complied with during the construction process.
- 41) Prior to the issue of any Construction Certificate for this development, the applicant must obtain approval from Council's Traffic Section for a Site, Pedestrian and Traffic Management Plan (SPTMP). This Plan must address the measures that will be implemented for pedestrian safety and traffic management as specified below.

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This plan shall include details of the following:

- a) Proposed ingress and egress points for vehicles to and from the construction site;
- b) Proposed protection of pedestrians, adjacent to the constructions site;

- c) Proposed pedestrian management whilst vehicles are entering/exiting the construction site;
- d) Proposed method of loading and unloading excavation machines, building material, construction materials and waste containers during the construction period;
- e) Proposed traffic control measures such as advanced warning signs, barricades, warning lights, after hours contact numbers etc. are required to be displayed and shall be in accordance with Council's and the NSW Roads and Maritime Services requirements and AS1742.3.
- f) Proposed route for transportation of bulk and excavation materials to and from the development site.

The route for transportation to and from the development site of bulk and excavation materials shall generally be by the shortest possible route to the nearest "State Road" via "Regional Roads", with every effort to avoid school zones on public roads. Alternate longer routes will only be considered in order to bypass school zones during school zone hours. If school zones cannot be avoided **no heavy construction vehicle movements are to arrive or depart the site during signposted school zone periods 8:00am - 9:30am and 2:30pm - 4:00pm on school days.**

An Agreement to Council's satisfaction, signed by the applicant/owner specifying the approved route and acknowledging responsibility to pay Council to rectify damages to public property adjacent to the site as a consequence of building works shall be lodged with Council prior to release of any Construction Certificate. Damage will be rectified as required by Council to remove unsafe conditions. All damage must be rectified upon completion of work to the satisfaction of Council.

The approved Site, Pedestrian and Traffic Management Plan is to be implemented prior to the commencement of any works on the construction site.

In addition a RMS Approval / Road Occupancy Licence will be required for works on Regional or State Roads or within 100m of a traffic facility including roundabouts and traffic signals. Refer to Council's Development Engineering Standards for a list of Regional and State Roads.

- 42) Prior to the issue of any Construction Certificate for this development, the Principal Certifying Authority must approve a Site Operations Management Plan (SOMP). This Plan must address the measures that will be implemented for the ongoing management of operations on and around the construction site, the protection of adjoining properties, and other requirements as specified below.

This plan shall include details of the following:

- a) Proposed hoardings, scaffolding and/or fencing to secure the construction site;
- b) Proposed measures to be implemented, under the separately approved Works Permit issued by Council, for the protection of all public roads and footway areas surrounding the construction site from building activities, crossings by heavy equipment, plant and materials delivery and static load from cranes, concrete pumps and the like;
- c) Proposed method of support of any excavation, adjacent to adjoining buildings or the public road. The proposed method of support is to be certified by a Civil Engineer with National Professional Engineering Registration (NPER) in the construction of civil works.
- d) Proposed measures to be implemented in order to ensure that no soil/excavated material is transported on wheels or tracks of vehicles or plant and deposited on the public road.
- e) Proposed measures for protection of the environment, according to the relevant provisions of the Protection of Environment Operations (POEO) Act, 1997 including procedures to control environmental impacts of work e.g. sediment control, proper removal, disposal or recycling of waste materials, protection of vegetation and control/prevention of pollution i.e. water, air noise, land pollution.

A number of the above matters may require separate approval from Council, particularly those relating to works on or adjacent to Council property. These may be covered by separate conditions of consent contained in this Determination Notice. Appropriate approvals will need to be obtained prior to the approval of this plan.

The approved Site Operations Management Plan is to be implemented prior to the commencement of any works on the site, and an approved copy provided to Council for information. Ongoing compliance with the matters detailed in the SOMP shall be monitored by the appointed Principal Certifying Authority.

- 43) As any works within, or use of, the footway or public road for construction purposes requires separate Council approval under Section 138 of the Roads Act 1993 and/or Section 68 of the Local Government Act 1993, Council requires that prior to any Construction Certificate for this development being issued, a Works Permit and or a Roadway/Footpath Building Occupation Permit shall be obtained where one or more of the following will occur, within, on or over the public footway or public road:

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WORKS REQUIRING A 'WORKS PERMIT'

- a) Dig up, disturb, or clear the surface of a public footway or public road,
- b) Remove or interfere with a structure or tree (or any other vegetation) on a public footway or public road,
- c) Connect a road (whether public or private) to a classified road,
- d) Undertake footway, paving, vehicular crossing (driveway), landscaping or stormwater drainage works within a public footway or public road,
- e) Install utilities in, under or over a public road,
- f) Pump water into a public footway or public road from any land adjoining the public road,
- g) Erect a structure or carry out a work in, on or over a public road
- h) Require a work zone on the public road for the unloading and or loading of vehicles
- i) Pump concrete from within a public road,
- j) Stand a mobile crane within a public road
- k) Store waste and recycling containers, skips, bins and/or building materials on any part of the public road.
- l) The work is greater than \$25,000.
- m) Demolition is proposed.
- n) Subdivision is proposed.
- o) A Swimming pool is proposed.
- p) A Heavy-duty Vehicular Footway Crossing (VFC) at the property boundary. All existing and / or new infrastructure located on Council's land in front of the development site is to be provided in accordance with Council's Engineering Standard STD DWG N° S-004. All costs associated in achieving compliance with this condition must be borne by the person having the benefit of this Determination Notice. All work must be completed prior to the issue of any Occupation Certificate.

Assessment of Works Permits (a to e) includes the preparation of footway design levels, vehicular crossing plans, dilapidation reports and issue of a Road Opening Permit.

All proposed works within the public road and footway shall be constructed under the supervision and to the satisfaction of Council. The applicant/developer shall arrange for necessary inspections by Council whilst the work is in progress.

For commercial or multi-unit residential developments within the designated CBD or an urban village area, footway design and construction and street tree supply, installation and tree hole detailing shall be as per the Council master plan for that area. Full width footways are to be supplied and installed at full cost to the developer to specification as supplied by Council. Layout plan of pavement to be submitted to Council for approval prior to the issue of the Works Permit.

All Council fees applicable, minimum restoration charges and inspection fees shall be paid prior to the assessment of the Work Permit in accordance with Council's adopted fees and charges. Note: Additional fees after approval will be charged where the Work Permit requires occupation of the Road or Footpath ie Hoardings, Work Zones etc.

In determining a Works Permit, Council can impose conditions and require inspections by Council Officers.

Forms can be obtained from Councils Customer Service counter located on the ground floor of Council's administration building at 66 - 72 Rickard Road, Bankstown or Council's website [www.cbcity.nsw.gov.au](http://www.cbcity.nsw.gov.au)

Part of any approval will require the person or company carrying out the work to carry public liability insurance to a minimum value of ten million dollars. Proof of the policy is to be provided to Council prior to commencing any work approved by the Work Permit including the Road Opening Permit and must remain valid for the duration of the works.

The commencement of any works on public land, including the footway or public road, may incur an on the spot fine of not less than \$1100 per day that work continues without a Works Permit and/or a Roadway/Footpath Building Occupation Permit.

All conditions attached to the permit shall be strictly complied with prior to occupation of the development. Works non-conforming to Council's specification (includes quality of workmanship to Council's satisfaction) shall be rectified by the Council at the applicant's expense.

- 44) The Construction Certificate plans shall ensure that any recommendations outlined in the acoustic report submitted in support of this application, prepared by Acoustic, Vibration & Noise Pty Ltd, titled, *'Acoustic Traffic & Environmental Noise for proposed development at 20 East Terrace, Bankstown dated 24 October 2018, Ref 2018-416* and the noise attenuation recommendations stated in the report, forms part of the development consent and are demonstrated on the Construction Certificate plans..
- 45) Waste Storage Room Construction - A design certificate and detailed plans are to accompany any Construction Certificate application which demonstrate that the waste storage room has been designed to be constructed in accordance with the Waste Management Guide for New Developments and including the following requirements:
- a. Floors must be constructed of concrete at least 75mm thick and graded and drained to a Sydney Water approved drainage fitting.
  - b. The floors must be finished so that is non-slip and has a smooth and even surface.
  - c. The room is to be integrated within the building, a minimum 2.1m unobstructed room height is required in accordance with the Building Code of Australia;
  - d. The walls must be constructed of solid impervious material.
  - e. The ceilings must be finished with a smooth faced non-absorbent material capable of being cleaned.
  - f. Walls, ceiling and floors must be finished in a light colour.
  - g. Is to be provided with an adequate supply of hot and cold water mixed through a centralised mixing valve with hose cock.
  - h. A self-closing door openable from within the room.

- i. Must be constructed to prevent the entry of birds and vermin.
  - j. Be provided with adequate light and ventilation. Light source must be through controlled light switches located both outside and inside the room.
  - k. Any doorways must be 2m wide.
  - l. Designed to fit 7x 660L recycling bins
  - m. Designed to fit 4 x 660L garbage bins
- 46) Bin Carting Route - A design certificate and detailed plans are to accompany any CC application which demonstrate that the bin carting route from the waste storage room to nominated collection point has been designed to be constructed in accordance with the following requirements:
- a. Direct and less than 10 metres,
  - b. Minimum 2m wide hard surface;
  - c. Non-slip, free from obstacles and steps;
  - d. Not within a driveway or carpark, this is considered a conflict point for vehicles and collection staff;
  - e. A maximum grade of 1:30 (3%); and
  - f. Layback installed at the nominated collection point.
- 47) Bulky Waste Storage Room Construction - A design certificate and detailed plans are to accompany any Construction Certificate (CC) application which demonstrate that the bulky waste storage room has been designed to be constructed in accordance with the Waste Management Guide for New Developments and including the following requirements:
- a. Floors must be constructed of concrete at least 75mm thick and graded and drained to a Sydney Water approved drainage fitting.
  - b. The floors must be finished so that is non-slip and has a smooth and even surface.
  - c. The walls must be constructed of solid impervious material.
  - d. The room is to be integrated within the building, a minimum 2.1m unobstructed room height is required in accordance with the Building Code of Australia;
  - e. The ceilings must be finished with a smooth faced non-absorbent material capable of being cleaned.
  - f. Walls, ceiling and floors must be finished in a light colour.
  - g. Is to be provided with an adequate supply of hot and cold water mixed through a centralised mixing valve with hose cock.
  - h. A self-closing door openable from within the room.
  - i. Must be constructed to prevent the entry of birds and vermin.
  - j. Be provided with adequate light and ventilation. Light source must be through controlled light switches located both outside and inside the room.
  - k. Any doorways must be 2m wide.
  - l. Designed to a minimum size of 4m<sup>2</sup>
- 48) Separate approval is required for any heat shield and/or associated fire assembly structures/facilities not shown on the approved plans.



- 49) In the unforeseen event that an additional substation is required, the size and location of the substation is to be submitted for approval to Council and Ausgrid, prior to the issue of any Construction Certificate or the commencement of use, whichever is earlier. A substation has not been approved and if required details must be submitted to Council.

The substation must not be situated within any landscaped area, must not be situated in any area visible from the public domain and must be integrated into the building.

If required by the applicable energy supplier, the owner must dedicate to the applicable energy supplier an area of land **within** the building to enable an electricity substation to be installed.

- 50) All roof-top plant and associated equipment must be located within the approved building envelope and must not be visible from the public domain.
- 51) The development is to be carried out in accordance with the commitments shown on the BASIX Certificate for the residential flat building. The BASIX commitments approved with this Development Application are to be reflected in the Construction Certificate plans and specifications. Any proposed changes to the BASIX commitments after the Construction Certificate has been issued will require an updated BASIX Certificate and a new Construction Certificate.

The location of the air-conditioning and hot water units and associated infrastructure must be located to ensure that they are not visible from the street, and that they do not result in a non-compliance with the relevant built form controls and private open space controls contained within the Apartment Design Guide. Confirmation from a suitably qualified architect that the BASIX commitments do not compromise the design guidance as contained within the Apartment Design Guide must be provided prior to the issuing of a Construction Certificate.

- 52) A Construction Certificate shall not be issued until design verification from a qualified designer has been received. The design verification is a statement in which the qualified designer verifies that the plans and specifications achieve or improve the design quality of the development of which Development Consent was granted, having regard to the design quality principles set out in Schedule 1 of SEPP No. 65.
- 53) The plans must demonstrate that the proposal meets the requirement that Universal Design Principles are utilised in 20% of the apartments within the development. All Construction Certificate documentation must demonstrate compliance with this requirement.



## CONDITIONS TO BE SATISFIED PRIOR TO CONSTRUCTION

- 54) The following street trees shall be retained and protected from removal and damage for the duration of the development **prior to any works commencing**:

Tree Species	Location	Protection Zones*
T1 - <i>Lophostemon confertus</i> (brushbox)	Refer to Appendix C – Tree location plan (As per Arboricultural impact assessment report, Date: 1/11/2018).	TPZ: 3.6 SRZ: 2.1
T2 - <i>Lophostemon confertus</i> (brushbox)	Refer to Appendix C – Tree location plan (As per Arboricultural impact assessment report, Date: 1/11/2018).	TPZ: 4.8m SRZ: 2.3m
T3 - <i>Eucalyptus leucoxylon</i> (lillypilly)	Refer to Appendix C – Tree location plan (As per Arboricultural impact assessment report, Date: 1/11/2018).	TPZ: 6m SRZ: 2.6m

\* TPZ and SRZ in metres measured from the centre of the trunk of the tree.

Tree protection measures shall comply with Australian Standard AS4970-2009 Protection of trees on development sites, together with the following conditions:

- I. The tree/s are to be retained and protected together with their relevant Tree Protection Zone (TPZ) and Structural Root Zone (SRZ) shall be marked on all demolition and construction drawings.
- II. All contractors and workers on site shall be briefed on the tree protection and management procedures in place as part of their site induction. A written record of the induction process is to be kept on site.
- III. The area of Council's nature strip – excluding the concrete footpath – shall be fenced off for a distance of a 2 metres radius measured from the trunk of T1 - *Lophostemon confertus* (brushbox) refer to Appendix C – Tree location plan (As per Arboricultural impact assessment report, Date: 1/11/2018) prior to the commencement of demolition / construction. The tree protection fencing is to be constructed of chain wire mesh 1.80 metres high, supported by steel posts and shall remain in place throughout the duration of site works.
- IV. The area of Council's nature strip – excluding the concrete footpath – shall be fenced off for a distance of a 2 metres radius measured from the trunk of T2 - *Lophostemon confertus* (brushbox) refer to Appendix C – Tree location plan (As per Arboricultural impact assessment report, Date: 1/11/2018) prior to the commencement of demolition / construction. The tree protection fencing is to be constructed of chain wire mesh 1.80 metres high, supported by steel posts and shall remain in place throughout the duration of site works.

- V. The area of Council's nature strip – excluding the concrete footpath – shall be fenced off for a distance of a 5 metres radius measured from the trunk of T3 - *Eucalyptus leucoxylon* (lillypilly) refer to Appendix C – Tree location plan (As per Arboricultural impact assessment report, Date: 1/11/2018) prior to the commencement of demolition / construction. The tree protection fencing is to be constructed of chain wire mesh 1.80 metres high, supported by steel posts and shall remain in place throughout the duration of site works.
- VI. The applicant will display in a prominent location on the fencing of each tree protection zone a durable, weather resistant sign of a similar design, layout and type size as per Appendix C, Australian Standard AS4970-2009 Protection of trees on development sites clearly showing:
- The Development Consent number;
  - The name and contact phone number of the consultant arborist;
  - The purpose of the protection zone;
  - The penalties for disregarding the protection zone;
- VII. No vehicular access, excavations for construction or installation of services shall be carried out within the fenced off Tree Protection Zone.
- VIII. All utility services, pipes, stormwater lines and pits shall be located outside the fenced off Tree Protection Zone.
- IX. Building materials, chemical storage, site sheds, wash out areas, and similar shall not be located within the fenced off Tree Protection Zone.
- X. Any approved excavation within the Tree Protection Zone of protected trees must be carried out by hand under the care and control of a qualified arborist - minimum Australian Qualification Framework (AQF) Level 4 or equivalent - to avoid unnecessary damage to tree roots.
- XI. Trees marked for retention must not be damaged or used to display signage, or as fence or cable supports for any reason.
- XII. Pruning of Council street trees/s can only be carried out under the authority of a Works Permit approving tree pruning and in accordance with the conditions imposed.
- 55) The following tree on the adjoining site shall be retained and protected from removal and damage for the duration of the development **prior to any works commencing**:

Tree Species	Location	Protection Zones*
T9 – <i>Agonis flexuosa</i> (willow myrtle)	Refer to Appendix C – Tree location plan (As per Arboricultural impact assessment report, Date: 1/11/2018).	TPZ: 4.8m SRZ: 2.3m

- The tree/s to be retained and protected together with their relevant Tree Protection Zone (TPZ) and Structural Root Zone (SRZ) shall be marked on all demolition and construction drawings.
- All contractors and workers on site shall be briefed on the tree protection and management procedures in place as part of their site induction. A written record of the induction process is to be kept on site.

- III. No vehicular access, excavations for construction or installation of services shall be carried out within the Tree Protection Zone.
  - IV. All utility services, pipes, stormwater lines and pits shall be located outside the Tree Protection Zone.
  - V. Building materials, chemical storage, site sheds, wash out areas, and similar shall not be located within the Tree Protection Zone.
  - VI. Trees marked for retention must not be damaged or used to display signage, or as fence or cable supports for any reason.
  - VII. If tree roots are exposed during approved works, roots with a diameter less than 25mm are to be pruned cleanly using sharp hand tools and not torn or ripped by machinery. Tree roots greater than 25mm in diameter are to be assessed by a qualified arborist - minimum Australian Qualification Framework (AQF) Level 4 or equivalent – before any pruning work is undertaken. If necessary, changes in design or relocation of works may be required.
  - VIII. Root mapping is to be undertaken on (subject tree/s) within (specify location to be mapped). All work shall incorporate the recommendations following the root mapping.
  - IX. No ripping or rotary hoeing within the Tree Protection Zone of trees to be retained is permitted.
  - X. Any approved excavation within the Tree Protection Zone of protected trees must be carried out by hand under the care and control of a qualified arborist - minimum Australian Qualification Framework (AQF) Level 4 or equivalent - to avoid unnecessary damage to tree roots.
- 56) The demolition of all structures currently existing on the property must be undertaken, subject to strict compliance with the following:
- a) The developer is to notify adjoining residents seven (7) working days prior to demolition. Such notification is to be clearly written on A4 size paper giving the date demolition will commence and be placed in the letterbox of every premises (including every residential flat or unit, if any) either side, immediately at the rear of, and directly opposite the demolition site.
  - b) Written notice is to be given to Canterbury-Bankstown Council for inspection prior to demolition. Such written notice is to include the date when demolition will commence and details of the name, address, business hours and contact telephone number and licence number of the demolisher. The following building inspections shall be undertaken by Canterbury-Bankstown Council:
    - (i) A *precommencement* inspection shall be carried out by Council when all the site works required as part of this consent are installed on the site and prior to demolition commencing.
    - (ii) A *final* inspection shall be carried out by Council when the demolition works have been completed to ensure that the site is left in a satisfactory manner, in accordance with the conditions of this consent.

**NOTE:** Payment of an inspection fee at Council's current rate will be required prior to each inspection. Council requires 24 hours notice to carry out inspections. Arrangements for inspections can be made by phoning **9707 9410, 9707 9412 or 9707 9635.**

- c) Prior to demolition, the applicant must erect a sign at the front of the property with the demolisher's name, license number, contact phone number and site address.
- d) Prior to demolition, the applicant must erect a 2.4m high temporary fence or hoarding between the work site and any public place. Access to the site shall be restricted to Authorised Persons Only and the site shall be secured against unauthorised entry when the building work is not in progress or the site is otherwise unoccupied. Where demolition is to occur within 3m of a public place a Work Permit application for the construction of a Class A or Class B hoarding shall be submitted to Council for approval.
- e) The demolition plans must be submitted to the appropriate Sydney Water Office to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements. If the development complies with Sydney Water's requirements, the demolition plans will be stamped indicating that no further requirements are necessary.
- f) Demolition is to be carried out in accordance with the appropriate provisions of Australian Standard AS2601-2001.
- g) The hours of demolition work shall be limited to between 7.00am and 6.00pm on weekdays, 7.00am and 1.00pm on Saturdays and no work shall be carried out on Sundays and public holidays, and weekends (Saturdays and Sundays) adjacent to public holidays.
- h) Where materials containing asbestos cement are to be removed, demolition is to be carried out by licensed contractors who have current Workcover Accreditation in asbestos removal.
- i) Hazardous or intractable wastes arising from the demolition process shall be removed and disposed of in accordance with the requirements of WorkCover NSW and the NSW EPA 'Environmental Guidelines: Assessment, Classification and Management of Liquid and Non-Liquid Wastes 2004'.
- j) Demolition procedures shall maximise the reuse and recycling of demolished materials in order to reduce the environmental impacts of waste disposal.
- k) During demolition, the public footway and public road shall be clear at all times and shall not be obstructed by any demolished material or vehicles. The public road and footway shall be swept (NOT hosed) clean of any material, including clay, soil and sand. (NOTE: If required, Council will clean the public road/footway at the applicant's expense). On the spot fines may be levied by Council against the demolisher and or owner for failure to comply with this condition.
- l) All vehicles leaving the site with demolition materials shall have their loads covered and vehicles shall not track soil and other material onto the public roads and footways and the footway shall be suitably protected against damage when plant and vehicles access the site. All loading of vehicles with demolished materials shall occur on site.

- m) The burning of any demolished material on site is not permitted and offenders will be prosecuted.
  - n) Care shall be taken during demolition to ensure that existing services on the site (ie. sewer, electricity, gas, and phone) are not damaged. Any damage caused to existing services shall be repaired by the relevant authority at the applicant's expense.
  - o) Suitable erosion and sediment control measures shall be erected prior to the commencement of demolition works and shall be maintained at all times.
  - p) Prior to the demolition of any building constructed before 1970, a Work Plan shall be prepared and submitted to Council in accordance with Australian Standard AS2601-2001 by a person with suitable expertise and experience. The Work Plan shall outline the identification of any hazardous materials, including surfaces coated with lead paint, method of demolition, the precautions to be employed to minimise any dust nuisance and the disposal methods for hazardous materials.
- 57) The building / subdivision work in accordance with the development consent must not be commenced until:
- a. a construction certificate for the building / subdivision work has been issued by the council or an accredited certifier, and
  - b. the person having benefit of the development consent has:
    - i. appointed a principal certifying authority for the building / subdivision work, and
    - ii. notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
  - c. the person having the benefit of the development consent, if not carrying out the building 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 certifying authority of any such appointment, and
    - iii. unless the person is the principal contractor, notified the principal contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
  - d. the person having the benefit of the development consent has given at least 2 days' notice to the council of the person's intention to commence the building / subdivision work.
- 58) Existing trees within the vicinity of the construction works or paths of travel for construction vehicles accessing the development that are to be retained shall be protected with temporary fencing of a style non injurious to tree roots, placed 2m from the trunk base of the existing tree to prevent damage during construction, and retained

in accordance with Council's Tree Preservation Order. There is to be no stockpiling of materials within the 2m fenced zone.

- 59) A qualified arborist - minimum Australian Qualification Framework (AQF) Level 5 Diploma of Horticulture (Arboriculture) and/or equivalent experience - shall be retained and regularly consulted throughout all demolition, clearing and construction work to ensure protection of the trees retained and compliance of all work with Australian Standard AS4373-2007 Pruning of amenity trees and Australian Standard AS4970-2009 Protection of trees on development sites.
- 60) Suitable erosion and sediment control measures shall be erected in accordance with the plans accompanying the Construction Certificate prior to the commencement of construction works and shall be maintained at all times.
- 61) Council warning sign for Soil and Water Management must be displayed on the most prominent point of the site, visible to both the street and site works. The sign must be displayed throughout the construction period.
- 62) Prior to the commencement of work, the applicant must provide a temporary on-site toilet if access to existing toilets on site is not adequate.
- 63) A section 73 compliance certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation. Make early application for the certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design.

Application must be made through an authorised Water Servicing Coordinator. For help either visit [www.sydneywater.com.au](http://www.sydneywater.com.au) > Building and Developing > Developing your Land > Water Servicing Coordinator or telephone 13 20 92.

- 64) Prior to the commencement of work, a fence must be erected around the area of the works, except where an existing 1.8m high boundary fence is in good condition and is capable of securing the area. Any new fencing shall be temporary (such as cyclone wire) and at least 1.8m high. All fencing is to be maintained for the duration of construction to ensure that the work area is secured.

Where the work is located within 3.6m of a public place then a Type A or Type B hoarding must be constructed appropriate to the works proposed. An application for a Work Permit for such hoarding must be submitted to Council for approval prior to the commencement of work.

- 65) A sign shall be displayed on the site indicating the name of the person responsible for the site and a telephone number of which that person can be contacted during and outside normal working hours or when the site is unattended.

- 66) In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of the Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.
- 67) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:
- a. in the case of work for which a principal certifying is required to be appointed:
    - i. the name and licence number of the principal contractor, and
    - ii. the name of the insurer by which the work is insured under Part 6 of the Act,
  - b. in the case of work to be done by an owner-builder:
    - i. the name of the owner-builder, and
    - ii. If the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.

- 68) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
- a. showing the name, address and telephone number of the principal certifying authority 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, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

## **CONDITIONS TO BE SATISFIED DURING CONSTRUCTION**

- 69) Construction may only be carried out between 7.00 am and 5.00 pm on Monday to Saturday and no construction is to be carried out at any time on a Sunday or a public holiday.



- 70) The building work must be carried out in accordance with the requirements of the Building Code of Australia.
- 71) Prior to the ground floor slab being poured, an identification report by a Registered Surveyor must be submitted to the principal certifying authority verifying that the proposed buildings finished ground floor level and siting to the property boundaries conforms to the approved plans.
- 72) All Civil and Hydraulic engineering works on site must be carried out in accordance with Council's Development Engineering Standards. All Civil and Hydraulic engineering works associated with Council's assets and infrastructure must be carried out in accordance with Council's Work Permit requirements and to Council's satisfaction.
- 73) All excavations and backfilling must be executed safely and in accordance with the relevant Australian Standards.
- 74) If soil conditions require it, retaining walls or other approved methods of preventing movement of the soil must be provided, and adequate provisions must be made for drainage. Separate approval may be required for retaining walls should they be required.
- 75) All soils and material(s), liquid and solid, to be removed from the site must be analysed and classified by an appropriately qualified environmental consultant, in accordance with the *Protection of the Environment (Waste) Regulation 2014* and related guidelines, in particular the 'Waste Classification Guidelines' (NSW EPA, 2014), prior to off-site disposal.

The waste classification report, including the results of testing, must be compiled, or reviewed and approved by an appropriately qualified environmental consultant and must be submitted to Council.

All waste material(s) must be disposed of at an appropriately licensed waste facility and receipts for the disposal of the waste must be submitted to Council.

- 76) If unexpected soil contaminants are unearthed during excavation and/or construction works which has the potential to alter previous conclusions made regarding site contamination all work is to cease and Council notified immediately.

The contaminated land situation is to then be evaluated by a suitably qualified and experienced environmental consultant and an appropriate response determined by the applicant and/or owner, which is agreed to by Council, prior to the re-commencement of works. Council may also request that a NSW EPA accredited site auditor is involved to assist with the assessment of the new contamination information. The cost of these investigations and the involvement of the accredited site auditor, if required, will be borne by the proponent.



- 77) Any fill imported on to the site shall be classified validated to ensure that it is suitable for the proposed land use. This validation must be undertaken by a suitably qualified and experienced environmental consultant in accordance with relevant EPA Guidelines. Fill imported on to the site shall also be compatible with the existing soil characteristic for site drainage purposes.
- 78) Any activity carried out in accordance with this approval shall not give rise to offensive odour, offensive noise or pollution of air, land or water as defined in the *Protection of the Environment Operations Act 1997* and Regulations.
- 79) If the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
- a. protect and support the adjoining premises from possible damage from the excavation, and
  - b. where necessary, underpin the adjoining premises to prevent any such damage.
- 80) All boundary fencing behind the building line shall be replaced by a 1.8m high lapped and capped timber or sheet metal fence, or as stipulated in a flood study prepared for the site, or as determined in consultation with the adjoining property owners at the developer's expense. Fencing forward of the building line shall be no higher than 1m unless otherwise approved by Council.
- 81) The stormwater drainage system shall be constructed in accordance with Council's Development Engineering Standards and the engineering plans and details approved by the Principal Certifying Authority (PCA). Should the developer encounter any existing, live, underground stormwater drainage pipes, which carry flow from upstream properties, the developer must maintain the stormwater flow and re-route the stormwater pipes around the subject building or structures at the developer's expense.
- 82) Prior to the commencement of work, the builder shall prepare a photographic record of the road reserve which clearly shows its condition prior to works occurring on site. For the entirety of demolition, subdivision or construction works, there shall be no stockpiling of building spoil, materials, or storage of equipment on the public road, including the footway and the road reserve shall be maintained in a safe condition at all times. No work shall be carried out on the public road, including the footway, unless a Work Permit authorised by Council has been obtained.
- 83) The implementation of this development shall 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, waste water, waste products, grit, oil or other harmful products.

- 84) 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.
- 85) Requirements of the approved WMP shall be complied with during all site preparation works, demolition (if proposed) and throughout all construction works.

When implementing the WMP the developer is to ensure:

- (a) The disposal of any demolition and construction waste must be undertaken in accordance with the requirements of the *Protection of Environment Operations Act 1997*
- (b) All waste on site is to be stored, handled and disposed of in such a manner as to not create air pollution, offensive noise or pollution of land and water as defined by the *Protection of Environment Operations Act 1997*
- (c) Generation, storage, treatment and disposal of hazardous waste is conducted in accordance with the relevant waste legislation administered by the EPA and relevant Occupational Health and Safety legislation administered by WorkCover NSW
- (d) All waste generated (including excavated materials) which cannot be reused or recycled must be transported to a facility which can lawfully accept it
- (e) Records are required regarding the details and location of the disposal of all demolition and construction waste (including excavated material), description of waste and are to be kept on site as evidences of lawful disposal. Records are to include receipts and weighbridge dockets which verify material types and volumes, time and date of disposal, waste vehicle rego, and confirmation of the waste disposal facility. Records/ details are also to be kept of person removing the waste.
- (f) All materials and resources that are to be stored on site during construction works are contained on the site, The provisions of the *Protection of Environment Operations Act 1997* must be complied with when placing/stock piling loose material, disposal of concrete waste or activities which have potential to pollute drains and water courses
- (g) The storage of waste and recycling containers must be within the boundaries of the development site at all times. Public footways and roads must not be used for the storage of any waste and must be kept clear of obstructions during all construction works

## **CONDITIONS TO BE SATISFIED PRIOR TO OCCUPATION**

- 86) The occupation or use of the building must not be commenced unless an occupation certificate has been issued for the building.

- 87) A final Occupation Certificate shall not be issued until all conditions relating to demolition, construction and site works of this development consent are satisfied and Council has issued a Work Permit Compliance Certificate (where applicable).
- 88) A suitably qualified Professional Civil Engineer shall certify that the driveways, parking bays, and service areas have been constructed in accordance with the approved plans and specifications. Such Certification shall be submitted prior to the issue of the Occupation Certificate or occupation of the site.
- 89) The premises must be readily identified from the street with the allocated house numbers. Numbering of the development without Council's written approval is not permitted. An official "house numbering" letter will be sent to the applicant indicating the proposed house numbers of the new development. Note: The house numbers of the development are subject to change depending of the type on subdivision that may occur at a later stage.
- 90) Prior to the issue of any Occupation Certificate a design verification from a qualified designer shall be submitted to the Principal Certifying Authority. The design verification is a statement in which the qualified designer verifies that the development has been constructed as shown in the plans and specifications in respect of which the Construction Certificate was issued, having regard to the design quality principles set out in Schedule 1 of SEPP No. 65.
- 91) A report prepared by a suitably qualified acoustic consultant must be submitted to Council certifying that the development complies with the requirements of (as relevant):
- i. *State Environmental Planning Policy (Infrastructure) 2007;*
  - ii. *Protection of the Environment Operations Act 1997* and Regulations; and
  - iii. Acoustic report prepared by Acoustic, Vibration & Noise Pty Ltd, titled, '*Acoustic Traffic & Environmental Noise for proposed development at 20 East Terrace, Bankstown* dated 24 October 2018 Ref 2018-416
- The report must include post construction validation test results and must be submitted to the satisfaction of the principal certifying authority and Council prior to the issue of any occupation certificate.
- 92) On completion of the installation of the mechanical ventilation system in the car park a certificate from a qualified and experience acoustic consultant shall be provided to Council certifying that the system has been installed, inspected, commissioned in accordance with relevant Australian Standards.
- 93) Access to the permanent residential spaces must be restricted for permanent residents only. A boom gate or similar other retractable devices must be provided with swipe card access or similar to act as a barrier between permanent residential and all other parking spaces.

- 94) A registered surveyor shall prepare a Work As Executed Plan, and a suitably qualified Hydraulic Engineer shall provide certification of the constructed on-site stormwater detention system.

The Work As Executed information shall be shown in red on a copy of the approved stormwater plan and shall include all information specified in Council's Development Engineering Standards. The Work As Executed plan shall be submitted to the Hydraulic Engineer prior to certification of the on-site stormwater detention system.

The engineer's certification of the on-site stormwater detention system should be carried out similar to Council's standard form "On-Site Stormwater Detention System - Certificate of Compliance", contained in Council's Development Engineering Standards.

A copy of the Work As Executed Plan and Hydraulic Engineer's Certification shall be submitted to Council for information prior to issue of the final occupation certificate.

- 95) The developer shall register, on the title of the subject property, a Restriction on the Use of Land and Positive Covenant, in accordance with the standard terms for "Registration of OSD on title", as outlined in Council's Development Engineering Standards and in accordance with the appropriate provisions of the Conveyancing Act.

Note: The location of the "On-Site Stormwater Detention System" shall be shown on the plan of subdivision where subdivision is proposed. Where subdivision is not proposed the location of the "On-Site Stormwater Detention System" shall be included on an A4 size site plan attached to the Section 88E Instrument and registered on the title prior to the issue of the final occupation certificate.

The developer shall submit to Council evidence of the final registration of the Restriction and Positive Covenant on the title of the property.

- 96) Prior to the issue of any Occupation Certificate, an authorised Council waste officer is to inspect and approve all waste management facilities to ensure they comply with the development approval, Waste Management Plan. Specifically, the path of travel for all waste, from unit to point of waste collection, waste storage room sizing, access to water and sewer connections, finished materials, access and door way dimensions, truck turntables, and that all waste facilities are fit for purpose.
- 97) Prior to the issue of any Occupation Certificate, the developer is to enter into a formal agreement with Council for the utilisation of Council's Domestic Waste Collection Service. This is to include Council being provided an easement for unimpeded access to and from the waste collection locations for council and its contractors to enter and exit for the purpose of waste and recycling collection. The development is also required to indemnify council and its contractors against claims for loss or damage or wear and tear of access roads or to other parts of the building. A positive covenant shall be placed on the property title, such as section 88B certificate.

Note: By entering into an agreement with Council for waste collection, the development will be required to operate in full compliance with Council's Waste Management collection requirements.

The provision of Council's waste collection service will not commence until formalisation of the agreement.

- 98) Prior to the issue of any Occupation Certificate, the owner is to enter into a formal agreement with a licenced private waste contractor to service the commercial portion of the development. The contract is to ensure the removal of all waste from the development site.

Prior to entering into an agreement for a private commercial waste collection service, the owner is to ensure that:

- (a) The service is functional and meets the operational needs of the development
- (b) The service minimises environmental nuisances including noise and other adverse impacts on the safety and amenity of residents and the public.

A copy of the contract is to be forwarded to Council prior to the issue of any Occupation Certificate.

- 99) 24 off street car spaces being provided in accordance with the submitted plans. This shall comprise:

- 19 residential spaces
- 4 residential visitor spaces
- 1 business / commercial spaces

All car parking spaces shall be allocated and marked according to these requirements.

- 100) Landscaping is to be installed in accordance with the approved landscape plan. All works and methods nominated and materials and plants specified on the approved landscape plan are to be completed prior to the issue of an occupation certificate. The landscaping shall be maintained for the life of the development.
- 101) A suitably qualified Professional Civil Engineer shall certify that the driveways, parking bays, and service areas have been constructed in accordance with the approved plans and specifications. Such Certification shall be submitted prior to the issue of the Occupation Certificate or occupation of the site.
- 102) Lighting must be provided to the entries of the dwellings, driveways and parking areas to promote a high level of safety and security at night and during periods of low light. Lighting provided should be hooded, shielded or directed away from neighbouring dwellings to minimise glare and associated nuisances to residents.

- 103) The premises must be readily identified from the street with the allocated house numbers. Numbering of the development without Council's written approval is not permitted. An official "house numbering" letter will be sent to the applicant indicating the proposed house numbers of the new development. Note: The house numbers of the development are subject to change depending of the type on subdivision that may occur at a later stage.
- 104) The Section 73 compliance certificate under the Sydney Water Act 1994 must be submitted to the principal certifying authority before occupation of the development / release of the plan of subdivision.
- 105) Final registration of drainage shall be finalised prior to the issue of the Occupation Certificate or occupation of the site.

### **Use of the site**

- 106) Identification number/s are to be conspicuously displayed at the front of the premises, including for each commercial tenancy.
- 107) No external signage is approved under this development consent. External signage details must be submitted to Council for approval prior to installation unless in accordance with State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.
- 108) Any area that is within any of the required sight distance triangles for the ingress and egress to the site must be kept clear of any and all obstruction at all times.
- 109) All storage areas are to be clearly identifiable and secured. Any storage areas in alcoves need to be well lit and mirrors to be erected to assist with unclear sightlines.
- 110) Access control for the basement must include the provision of a roller door installed with swipe card and intercom access.
- 111) Access into the residential lobby shall be via key/swipe card and/or intercom for visitors.
- 112) CCTV is to be installed to the basement levels, commercial tenancy and to the entries in proximity to the letter boxes for the development.
- 113) All letter boxes are to have non-master key locks, to prevent mail theft and fraud.
- 114) Council reserves the right to impose parking or other stopping restrictions at the kerbside collection point on collection days to ensure safe and unobstructed access to the development for the purpose of waste collection.

- 115) Waste Management Plan Implementation - The approved WMP is to be implemented throughout the ongoing use of the development.
- 116) Waste Management Collection Policy - The development must operate in full compliance with Council's Waste Management collection requirements.
- 117) Kerbside Collection Point - The nominated kerbside collection point is to be utilised to facilitate the collection of garden waste bins for the development. All mobile garbage bins that are left kerbside for collection must be taken back within the property boundary on the same day of service.
- 118) Collect and Return Service - The nominated collect and return collection point is to be utilised to facilitate the collection of waste and recycling bins for the development.
- 119) Licenced Waste Collection - All businesses must have written evidence on site of a valid and current contract with a licenced waste collector for waste and recycling collection disposal. You must be able to show your waste collection contract if it is requested by a Council Enforcement Officer.
- 120) Contracts (or agreements) with cleaners, building managers and tenants must clearly outline the waste management and collection system and must clearly identify everyone's role and responsibility. This is to include:
- (a) Responsibility for cleaning and maintaining waste storage bins and containers
  - (b) Responsibility for cleaning and maintaining waste storage room
  - (c) Responsibility for the transfer of bins to the nominated collection point
  - (d) Method of communication to new tenants and residents concerning the developments waste management system.
  - (e) Cleaning up and management of bulky waste
  - (f) Responsibility for maintaining the compost bin or wormfarm
- Where the development incorporates strata title subdivision, the by-laws are to clearly set out the management responsibilities for the developments waste and recycling system.
- 121) No waste storage containers are to be located or placed outside the approved waste storage area at any time except for collection purposes.
- 122) Adequate signage is to be provided and maintained on how to use the waste management system and what materials are acceptable for recycling within all waste storage areas of the development. Signage is also to be provided and maintained which clearly identifies which bins (and containers) are to be used for general waste and recycling and what materials can be placed in each bin.
- 123) The premises must comply with the relevant sections of the *Protection of the Environment Operations Act 1997* and Regulations and the NSW Environment Protection Authority's '*Noise Policy for Industry*' 2017.

- 124) The proposed use of the premises and/or machinery equipment installed must not create noise so as to interfere with the amenity of the neighbourhood or nearby residential or commercial premises. If a noise nuisance occurs, the person in control of the premises must arrange at their cost for an acoustic assessment to be carried out by an accredited Acoustic Consultant, obtain Council's concurrence for the recommendations of the Acoustic Consultant, and implement those recommendations so as to remove the noise nuisance. The acoustic assessment is to be conducted by a suitably qualified Acoustic Consultant recognised by the Australian Association of Acoustical Consultants (AAAC) and who has not been previously involved with the proposal. The acoustic assessment must be completed within 30 days from the date requested by Council.
- 125) Any activity carried out in accordance with this approval shall not give rise to offensive odour, offensive noise or pollution of air, land or water as defined in the *Protection of the Environment Operations Act 1997* and Regulations.
- 126) The implementation of this development shall 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, waste water, waste products, grit, oil or other harmful products.
- 127) Any lighting of the premises shall be installed in accordance with Australian Standard 4282-1997 so as 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 shall be varied at Council's discretion if Council considers there to be adverse effects on the amenity of the area.
- 128) The use of the premises and the operation of plant and equipment must not give rise to the transmission of a vibration nuisance or damage to other premises as defined in the *'Assessing Vibration: A Technical Guideline'* (NSW Department of Environment and Conservation, 2006).

-END-



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## Canterbury Bankstown Local Planning Panel - 07 December 2020

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<b>ITEM 2</b>	<b>26 Ninth Avenue, Campsie</b>
	<b>Demolition of existing dwelling and construction of a six storey mixed development comprising 20 room boarding house (including one manager's room), and one commercial premises on ground floor above three levels of basement car parking under the State Environmental Planning Policy (Affordable Rental Housing) 2009.</b>
<b>FILE</b>	<b>DA-1109/2019 – Canterbury</b>
<b>ZONING</b>	<b>B2 Local Centre under Canterbury Local Environmental Plan 2012</b>
<b>DATE OF LODGEMENT</b>	<b>23 December 2019, amended plans June 2020, September 2020, November 2020</b>
<b>APPLICANT</b>	<b>Campsie Ninth Avenue Development Pty Ltd</b>
<b>OWNERS</b>	<b>Campsie 9<sup>th</sup> Avenue Developments Pty Ltd, Mr Gerald An, Mr Young Ja An</b>
<b>ESTIMATED VALUE</b>	<b>\$2,977,458</b>
<b>AUTHOR</b>	<b>Planning</b>

### REPORT

This matter is reported to Local Planning Panel as the number of objections received to the application exceeds 10.

Development Application No. DA-1109/2019 proposes the demolition of the on site structures and the construction of a six storey mixed development comprising 20 room boarding house (including one manager's room), and one commercial premises on ground floor above three levels of basement car parking

DA-1109/2020 has been assessed against the requirements of State Environmental Planning Policies and Canterbury Local Environmental Plan 2012 and Canterbury Development Control Plan 2012 and the application fails to comply with a number of key controls including minimum room sizes for boarding houses, car parking requirements and accessibility.

The application was advertised/notified for a period of 21 days, between 15 January 2020 and 5 February 2020. 43 objections were received during this period, including 3 petitions containing 15, 42 and 10 signatories.

## **POLICY IMPACT**

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The consideration of the application does not raise any policy impacts.

## **FINANCIAL IMPACT**

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The consideration of the application does not have any financial impacts.

## **RECOMMENDATION**

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It is recommended that the application be refused for the reasons contained in Appendix B.

## **ATTACHMENTS**

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- A. Assessment Report
- B. Reasons for Refusal

## **DA-1109/2019 Assessment Report**

### **SITE & LOCALITY DESCRIPTION**

The subject site (Lot 1 on Deposited Plan (DP) 326935 is known as 26 Ninth Avenue, Campsie. The site contains a single storey house, which fronts Ninth Avenue. The site is irregular shaped and has a frontage to Ninth Avenue of 16m. It has a depth ranging from 16.325m to 19.315m and a rear boundary width of 19.17m. The site area is approximately 311.2m<sup>2</sup>. The site has a fall to the street, with a difference in height of 0.5m from rear to front.

To the east of the site is a two-storey office development, forming part of Campsie Centre. To the west of the site is an access driveway to a four storey residential flat building. To the rear of the site is an eight storey residential flat building fronting on Campsie Street. To the north of the site is Ninth Avenue, beyond which are single storey dwellings.



**Figure 1:** Aerial of subject site pinned. **Source:** NearMaps 2020



**Figure 2:** Streetview of the site.

### **PROPOSED DEVELOPMENT**

The Development Application proposes the demolition of the existing dwelling and construction of a six storey mixed development comprising 20 room boarding house (including one manager's room), and one commercial premises on ground floor above three levels of basement car parking.

Basement Level 3 Comprises:

- 3 car parking spaces,
- 1 small car parking space,
- 3 motorcycle spaces,
- and an access stair and lift.

Basement Level 2 comprises:

- 1 car parking space,
- 1 small car parking space,
- 1 accessible car parking space,
- 2 motorcycle spaces,
- and an access stair and lift.

Basement Level 1 comprises:

- 1 car parking space,
- 1 small car parking space,
- 1 accessible car parking space,
- 5 wall mounted bicycle racks,
- and an access stair and lift.

Ground Floor comprises:

- Basement access ramp,
- A 46.5m<sup>2</sup> shop,
- Commercial, residential and bulky waste areas,
- Building services and storage area,
- and an access stair and lift.

First Floor comprises:

4 single occupancy rooms,  
3 double occupancy rooms,  
and an access stair and lift.

Second Floor Comprises:

4 single occupancy rooms,  
3 double occupancy rooms,  
and an access stair and lift.

The Third floor comprises:

A 23m<sup>2</sup> common living area with 20m<sup>2</sup>,  
A manager's room with an area of private open space,  
A double occupancy room,  
and an access stair and lift.

The Fourth floor comprises:

3 single occupancy rooms, two of which have private open space,  
and an access stair.

The Fifth floor comprises:

A double occupancy room,  
A balcony area of approximately 29.9m<sup>2</sup>,  
and an access stair.

The plans submitted show a total of 11 single occupancy room and 8 double occupancy room and a manager's room which is also double occupancy. Therefore, the total number of potential residents is 29 residents.

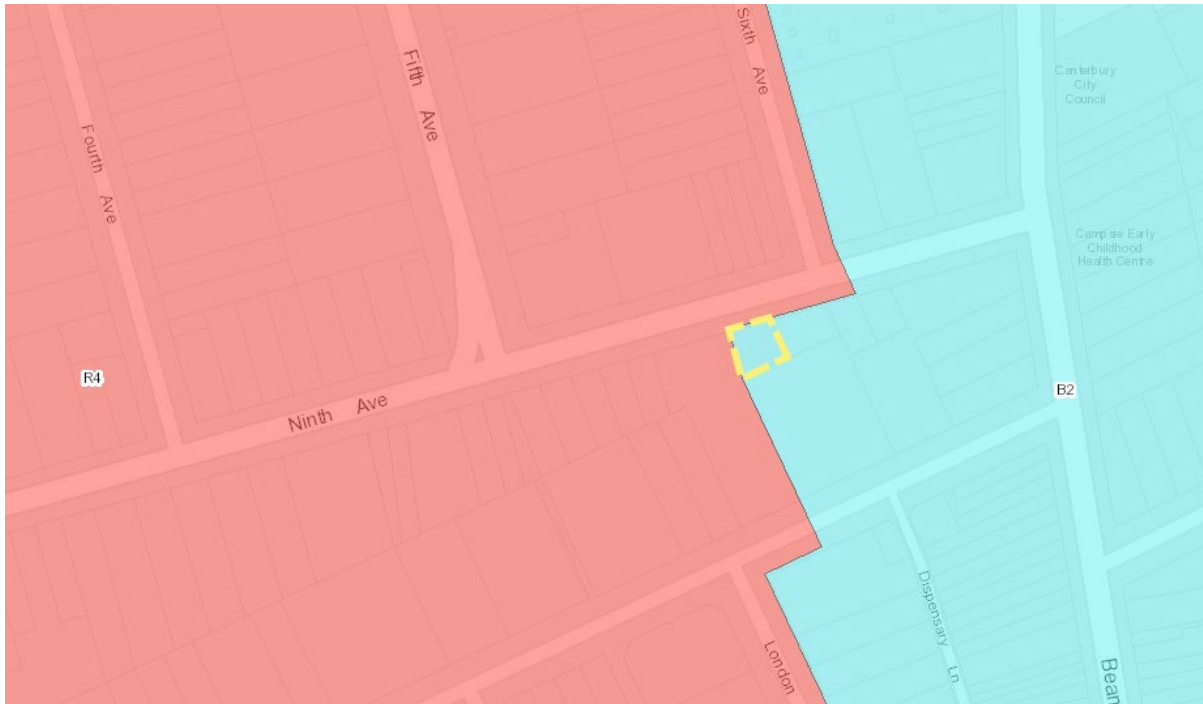
### **STATUTORY CONSIDERATIONS**

When determining this application, the relevant matters listed in Section 4.15C 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 55 – Contaminated Land (SEPP 55)
- State Environmental Planning Policy (Affordable Rental Housing) 2009 (SEPP ARH)
- State Environmental Planning Policy 2004 (Building Sustainability Index: BASIX)
- State Environmental Planning Policy (Infrastructure) 2007 (ISEPP)
- Canterbury Local Environmental Plan 2012 (CLEP 2012)
- Canterbury Development Control Plan 2012 (CDCP 2012)
- Canterbury Development Contributions Plan 2013 (Contributions Plan 2013)



## **PERMISSIBILITY**



**Figure 3 - Land Zoning Map**

The site is identified within a B2 – Local Centre Zone

The proposal is defined as a mixed development comprising a Boarding House and a Commercial premises.

Both boarding houses and commercial premises are permissible in the zone with consent.

## **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 55 – Contaminated Land (SEPP 55)**

Clause 7 of SEPP 55 – Remediation of Land requires Council to consider whether the land is contaminated prior to granting consent to the carrying out of any development on that land. Should the land be contaminated, we must be satisfied that the land is suitable in a contaminated state for the proposed use. If the land requires remediation to be undertaken to make it suitable for the proposed use, we must be satisfied that the land will be remediated before the land is used for that purpose.

The existing land use is residential in nature and an assessment of the history of the site shows that the site has been in residential use since records began. There is no identified history or uses which would cause contamination on the land. Council's Environmental Health Officer has reviewed the documents and is satisfied subject to the imposition of suitable conditions of consent. Accordingly, the site is suitable for the purpose of the proposed development in accordance with SEPP 55 – Remediation of Land.

### **State Environmental Planning Policy (Infrastructure) 2007 (ISEPP)**

The application was referred to Ausgrid under Clause 45(2) of ISEPP. Ausgrid raised no objection to the application stating

*"Ausgrid has no objection to this development application, however the design submission must comply with relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice for construction works near existing electrical assets."*

*The "as constructed" minimum clearances to Ausgrid's infrastructure must not be encroached by the building development. It also remains the responsibility of the developer and relevant contractors to verify and maintain these clearances onsite."*

Given the above, the application is consistent with the relevant provisions of ISEPP.

### **State Environmental Planning Policy Affordable Rental Housing (SEPP ARH) 2009**

Division 3 – Boarding Houses of SEPP ARH is relevant to the assessment of this application. Clause 26 states that Division 3 applies to land within certain zones, including in Local Centres.

In relation to Clause 29(1) it should be noted that there is no maximum floor space ratio indicated for the site indicated within the Canterbury Local Environmental Plan 2012.

#### Clause 29(2)(a) Building Height

The site is located within an area with a maximum building height of 21m, as defined in the Canterbury Local Environmental Plan 2012. The proposed development is 18.6m in height above existing ground level. The proposal therefore does not exceed the maximum permitted building height.

#### Clause 29(2)(b) Landscaped Area

The proposed development sits within a B2 Local Centre zone. The adjacent office development has no front landscaped area. The proposed development is consistent with the context of buildings abutting the pavement.

#### Clause 29(2)(c) Solar Access

This clause requires a boarding house common room to receive 3 hours of solar access between 9am and 3pm at midwinter. The common room is located on the third floor and has windows facing both north and west. The applicant has provided solar access plans confirm that the common room receives the required level of solar access. The proposal is consistent with this clause.

Clause 29(2)(d) Private Open Space

The requirement of subclause (i) is that at least one common area is provided of 20m<sup>2</sup> with internal dimension exceeding 3m in width. A common area is provided on the third floor of 20m<sup>2</sup>, with minimum dimensions of 3.543m x 5.057m in width. The proposal is therefore consistent with the open space requirements of SEPP ARH.

A building manager is only required if the boarding house accommodates 20 or more lodgers, and the proposed development, according to the applicant's details shows rooms for 29 lodgers. A manager's room is required with a minimum of 8m<sup>2</sup> of private open space, with a minimum dimension of 2.5m. The managers room is shown on level 3, with an attached area of open space of 8.2m<sup>2</sup>, with dimensions of 3.291m x 2.5m. The proposal is therefore consistent with this part of this clause.

Clause 29(2)(e) Parking

Subclause (iia) states that "in the case of development not carried out by or on behalf of a social housing provider—at least 0.5 parking spaces are provided for each boarding room". In this instance the development is not being carried out by a social housing provider. The development proposed 20 rooms, which at a rate of 0.5 spaces per room results in a car parking requirement of 10 spaces.

Whilst 10 spaces are shown within the basement car park for use by the occupants of the boarding house, and this would be in line with the requirements of the Clause, the proposed development has been considered by Council's Development Engineer who confirms that the basement access does not comply with the relevant Australian Standard, as such none of the car parking spaces can be accessed and the proposed development does not comply with the Clause of the SEPP.

Clause 29(2)(f) Accommodation Size

This clause requires that single boarder rooms are a minimum of 12m<sup>2</sup> and that double boarder rooms are a minimum of 16m<sup>2</sup>.

Council has considered the plans submitted with the application and measured each room, inconsistencies between the room sizes have been discovered. The table below details the room sizes shown on the plans and Council's calculations.

Room No.	Single/Double	Plan size	Calculated Size	Complies
Room 1	Single	12.3m <sup>2</sup>	12.2m <sup>2</sup>	Yes
Room 2	Double	16m <sup>2</sup>	15.8m <sup>2</sup>	No - Single room only
Room 3	Double	16m <sup>2</sup>	15.8m <sup>2</sup>	No - Single room only
Room 4	Double	16m <sup>2</sup>	16m <sup>2</sup>	Yes
Room 5	Single	12.7m <sup>2</sup>	12.8m <sup>2</sup>	Yes
Room 6	Single	14.5m <sup>2</sup>	14.1m <sup>2</sup>	Yes
Room 7	Single	14.5m <sup>2</sup>	15.2m <sup>2</sup>	Yes
Room 8	Single	12.3m <sup>2</sup>	12.4m <sup>2</sup>	Yes
Room 9	Double	16m <sup>2</sup>	15.9m <sup>2</sup>	No - Single room only



Room 10	Double	16.2m <sup>2</sup>	15.8m <sup>2</sup>	No - Single room only
Room 11	Double	16.1m <sup>2</sup>	15.9m <sup>2</sup>	No - Single room only
Room 12	Single	12.7m <sup>2</sup>	12.5m <sup>2</sup>	Yes
Room 13	Single	14.5m <sup>2</sup>	14m <sup>2</sup>	Yes
Room 14	Single	14.5m <sup>2</sup>	14.4m <sup>2</sup>	Yes
Room 15 (Managers)	Double	16.1m <sup>2</sup>	16m <sup>2</sup>	Yes
Room 16	Double	17.5m <sup>2</sup>	17m <sup>2</sup>	Yes
Room 17	Single	12m <sup>2</sup>	11.8m <sup>2</sup>	No
Room 18	Single	12.2m <sup>2</sup>	12m <sup>2</sup>	Yes
Room 19	Single	12m <sup>2</sup>	11.9m <sup>2</sup>	No
Room 20	Double	20m <sup>2</sup>	20.2m <sup>2</sup>	Yes

The floor size calculations have been checked and not all rooms accord with the minimum accommodation size requirements of Clause 29(2)(f). Whilst rooms 2, 3, 9, 10 and 11 could be conditioned to be single occupancy rooms, Rooms 17 and 19 are below the minimum size for a single room.

#### Clause 30(1)(a) Common Living Rooms

Clause 30(1)(a) requires that a boarding house with more than 5 rooms must have at least one common room. The proposed development has 20 rooms and proposes a common living room on the third floor.

#### Clause 30(1)(b) Maximum Gross Floor Area

This clause states 'no boarding room will have a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of more than 25 square metres'. No room exceeds the maximum gross floor area.

#### Clause 30(1)(c) Maximum lodgers per room

This clause limits the maximum number of lodgers per room to 2. The proposed development states all rooms are either single or double occupant rooms and a condition of consent can be placed to limit the maximum occupancy of the rooms to 2.

#### Clause 30(1)(d) Bathroom and Kitchen Facilities

Each room has its own bathroom and kitchen.

#### Clause 30(1)(e) Boarding House Manager

Clause 30(1)(e) requires a boarding room be provided for a manager if the total capacity of the boarding house is 20 or more lodgers. This proposed development has 8 double and 11 single rooms, with a maximum capacity of 29 occupants, per the applicant. A manager room is required in this instance. Room 15 has been identified as the managers room, in accordance with this clause.

Clause 30(1)(g) Ground Floor Use

This clause states “if the boarding house is on land zoned primarily for commercial purposes, no part of the ground floor of the boarding house that fronts a street will be used for residential purposes unless another environmental planning instrument permits such a use”. No part of the ground floor is provided as boarding rooms, and the proposal is compliant with this clause.

Clause 30(1)(h) Bicycle and Motorcycle Parking

This clause requires that provision for motorcycle and bicycles be made at a rate of 1 space per 5 rooms. With 20 rooms, 4 motorcycle spaces and 4 bicycle spaces are required. 5 motorcycle spaces are provided in the basement car park (2 on Basement Level 2 and 3 in basement Level 3), and 5 wall mounted bicycle rack spaces are provided in Basement Level 1, meeting the requirements of the clause.

Clause 30A Character of Local Area

The planning principle set out by *Project Venture Developments v Pittwater Council* [2005] NSWLEC 191 states that the most important contributor to urban character is the relationship of built form to surrounding space, a relationship that is created by building height, setbacks and landscaping.

In relation to character of the area, it is noted that the proposal is in line with the maximum height controls (as discussed above). In relation to front landscaping, the proposed development follows the building line of the property to the east (20-24 Ninth Avenue) which is also within the B2 Local Centre Zone, which has a nil setback to the street.

In relation to side and setbacks, the proposed development fails to comply with the setback requirements of the Canterbury Development Control Plan 2012, as discussed elsewhere in this report. Given this, the proposed development is not considered consistent with the character of the area.

**Canterbury Local Environmental Plan 2012 (CLEP 2012)**

This site is zoned B2 Local Centre Residential under CLEP 2012. The controls applicable to this application are discussed below.

Clause 1.2 Aims of Plan

The proposed development is consistent with the relevant aims of the CLEP 2012 which include:

- 2(a) to provide for a range of development that promotes housing, employment and recreation opportunities for the existing and future residents of Canterbury,
- 2(b) to promote a variety of housing types to meet population demand,
- 2(c) to ensure that development is of a design and type that supports the amenity and character of an area and enhances the quality of life of the community,
- 2(d) to create vibrant town centres by focusing employment and residential uses around existing centres and public transport nodes, and

- 2(e) to revitalise Canterbury Road by encouraging a mix of land uses that does not detract from the economic viability of existing town centres.

The proposed development is consistent with the relevant aims of the CLEP 2012.

#### Clause 2.3 Zone objectives and Land Use Table

Clause 2.3(2) of CLEP 2012 outline 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 B2 Local Centre Zone are as follows:

- To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.
- To encourage employment opportunities in accessible locations.
- To maximise public transport patronage and encourage walking and cycling.
- To facilitate and support investment, economic growth and development for active, diverse and well-designed centres.

The proposed development meets the objectives of the B2 zone as it provides for uses within a centre to serve people to live in, work in and visit.

#### **Other CLEP 2012 Provisions and Standards**

Provision/ Standard	Requirement	Proposal	Complies
<b>Part 2 Permitted or Prohibited Development</b>			
2.7 Demolition requires development consent	The demolition of a building or work may be carried out only with development consent.	The proposal involves the demolition of the existing building.	Noted
<b>Part 4 Principal Development Standards</b>			
4.3 Height of Buildings	21m maximum	18.6m maximum proposed	Yes

<b>Part 6 Local Provisions</b>			
6.1 Acid Sulfate Soils	Development consent must not be granted under this clause for the carrying out of works unless an acid sulfate soils management plan has been prepared for the proposed works in accordance with the Acid Sulfate Soils Manual and has been provided to the consent authority.	<p>The site is identified within a Class 5 Acid Sulfate soil area.</p> <p>The proposed development site is located less than 500m Class 4 land.</p> <p>The proposed development incorporates a three level basement. When the original application was submitted the development included a two level basement. No updated geotechnical report has been submitted and the proposal is not in keeping with the controls set out in Part 6.1 of CLEP 2012.</p>	No
6.2 Earthworks	<p>Before granting consent to development including earthworks, the following must be considered:</p> <ul style="list-style-type: none"> <li>(a) drainage patterns and soil stability</li> <li>(b) the likely future use or redevelopment of the land,</li> <li>(c) quality of the fill or the soil to be excavated, or both,</li> <li>(d) effect of development on existing and likely amenity of adjoining properties,</li> <li>(e) the source of any fill material and the destination of any excavated material,</li> <li>(f) the likelihood of disturbing relics,</li> <li>(g) the potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,</li> <li>(h) appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</li> </ul>	<p>The earthworks required for the construction of the proposed development will not impact upon neighbouring uses, including the council easement which runs along the eastern edge of the site.</p> <p>Given this, the proposed development is in keeping with this clause of CLEP 2012.</p>	Yes

6.4 Stormwater Management	Consent must not be granted unless: (a) Water permeable surfaces are maximized having regard to soil characteristics affecting on-site stormwater infiltration. (b) Includes on-site detention if practical as an alternative means of water supply. (c) Avoids significant impacts of run-off on adjoining land or the environment or minimises and mitigates impacts.	The application has been considered by Council's Development Engineer in relation to Stormwater Management. The Development Engineer raised no objections to the proposal subject to the imposition of standard conditions. The proposal is therefore in accordance with the provisions of Clause 6.4.	Yes
6.6 Essential Services	Essential services must be available or adequate arrangements have been made to make them available, including: - the supply of water; - the supply of electricity (substation); - the disposal and - management of sewage; - stormwater drainage or on-site conservation; - suitable vehicular access.	The proposed development has been considered against the provisions of Clause 6.6. The matters of adequate arrangements have been addressed and can be confirmed through the imposition of standard conditions. If the application was to be supported.	Yes

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

On 6 March 2020, the Canterbury Bankstown Local Planning Panel endorsed a Planning Proposal to undergo exhibition for the Consolidated Canterbury Bankstown Local Environmental Plan (CBLEP). The Draft CBLEP was on public exhibition from 9 March 2020 until 24 April 2020. The Planning Proposal (PP\_2019\_CBANK\_005) seeks to produce a single set of planning rules and combine and align the Bankstown LEP 2015 and Canterbury LEP 2012 into a consolidated Local Environmental Plan by:

- Producing a single land use table consistent with the Local Strategic Planning Statement, Standard Instrument (Local Environmental Plans) Order 2006 and other State requirements.
- Resolving differences between Bankstown LEP 2015 and Canterbury LEP 2012.
- Complying with the Gateway Determination issued by the Department of Planning, Industry & Environment (dated 20 February 2020), namely the conditions to preclude any changes to residential land uses and development standards, and to preclude the rezoning of any land other than those included in current land use strategies.

Planning Proposal (PP\_2019\_CBANK\_005) which has been publicly exhibited is a draft instrument and is a matter for consideration under Section 4.15 (1)(a)(ii) of the Environmental Planning and Assessment Act, 1979. The Draft CBLEP also seeks to insert a saving provision “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”.

On 30 June 2020 the Draft Consolidated LEP was presented to the Local Planning Panel (LPP) with the following two recommendations:

- i. Council adopt the planning proposal as provided in Attachment A.
- ii. Council submit the planning proposal to the Department of Planning, Industry and Environment to make the Consolidated Local Environmental Plan.

The LPP adopted the Planning Proposal as per the Panel’s agenda with some minor changes, which will not impact this proposal.

The Planning Proposal has been submitted to the Department of Planning, Industry and Environment to finalise the Consolidated Local Environmental Plan (LEP). The proposal has been assessed against the provisions contained within the Draft CBLEP2020 and has been found to be consistent with the draft instrument.

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

The following table provides a summary of the development application against the controls contained in *Canterbury Development Control Plan 2012*.

#### **Canterbury Development Control Plan 2012 (CDCP 2012)**

The proposed development has been compared to the requirements of CDCP 2012 as follows:

##### **Part B1 – Transport and Parking**

The proposed development meets the boarding house parking requirements as set out in SEPP ARH (see above).

However, the proposal is a mixed development also comprising a shop. The shop is 46.5m<sup>2</sup> in size. Control C1 of Part B1.3.1 of CDCP 2012 states that, for shops in B2 zones, 1 car space is required per 66.7m<sup>2</sup> of GFA where the total GFA is less than 120m<sup>2</sup>. Given this 0.7 spaces are required for the shop.

Clause B1.2.2 General Parking Provisions clarifies that “if the parking calculation results in a fraction of a parking space, the number of spaces is required is rounded to the nearest whole number’. In this instance, therefore, the required number of spaces for the shop is 1, whereas no spaces are provided. Given this, the proposal is not consistent with the parking requirements set out in Part B1 of Canterbury Development Control Plan 2012.

Furthermore, the application was referred to Council's Development Engineer who raised the following objections to the application:

The basement section does not comply with AS2890.1 - 2.5.3 in that the ground clearance for B85 is less than a minimum required – AS2890.1 – B5 ground clearance.

**Part B4 – Accessible and Adaptable Design**

The proposed development shows a lift access from Basement Level 3 to (above ground) Level 3, no lift access to levels 4 and 5 is available. The proposed development is therefore not consistent with the BCA and DDA requirements for accessibility. The proposed development is therefore not consistent with the requirements of Control C1 of Part B4.2 – General Controls of CDCP 2012.

**Part B5 – Stormwater and Flood Management**

The application was referred to Council's Development Engineer who raised no objection with the current design, subject to conditions of consent.

**Part B7 – Crime Prevention and Safety**

An assessment of the proposed design against the relevant provisions of Part B7 is provided in the table below:

Standard	Requirement	Proposal	Complies
Crime Prevention through Environmental Design	Avoid blind corners	The proposed development includes an access corridor for potential lodgers to access the lift. This corridor has blind corners within it, and has access from the shop so is not limited solely for access to the boarding house. Whilst it is acknowledged that the location of the lift is limited as a result of the narrowness of the site, the knock-on effect of this is blind corners within the access and limited surveillance to the detriment of safety.	No
	Provide natural surveillance for communal and public areas.	Common areas as generally visible from public areas, e.g. the outdoor common space.  The uppermost level outdoor space is not considered to be common as the location of windows and access results in poor	Yes

		privacy standards for the occupant of Room 20.	
	Provide clearly visible entries.	The proposed design of the building ensure public entries are visible. The shop also has direct access from the street.	Yes
	Design the fence to maximise natural surveillance from the street to the building.	Fences are not proposed	Yes
	Avoid landscaping that obstructs natural surveillance.	No landscaping is proposed.	Yes
	Ensure buildings are clearly identified by street numbers.	This matter can be dealt with by condition.	Yes
	Use materials that reduce the opportunity for vandalism.	The proposed materials are suitable.	Yes
	Provide an appropriate level of security for individual dwellings and communal areas through use of intercoms, self closing doors and signage.	This matter can be dealt with by condition.	Yes

#### Part B9 - Waste

The application was referred to Council's Project Officer – Resource Recovery who raised no objection with the current design, subject to conditions of consent.

#### Part C7 – Boarding Houses

Control	Requirement	Proposal	Complies
C7.2.1 Minimum Lot Sizes Frontage	No lot size is provided in the LEP for B2 Zones  Boarding Houses are not permitted on battle-axe allotments.	16m  The site is not a battleaxe allotment.	Yes



Control	Requirement	Proposal	Complies
C7.2.2 Isolated Sites	<ul style="list-style-type: none"> <li>- Neighbouring properties are not to be isolated so that the property will be unable to reasonably accommodate redevelopment.</li> <li>- Negotiations are to be undertaken with neighbouring owners to seek amalgamation and enable coordinated redevelopment.</li> <li>- If neighbouring landowners do not agree on terms for amalgamation, provide evidence is to be provided of reasonable offers, including at least two recent independent valuations.</li> <li>- If the amalgamation of adjoining properties cannot be achieved, demonstrate that the remaining property has reasonable potential for redevelopment by preparing an indicative schematic design that provides: <ul style="list-style-type: none"> <li>(a) A building envelope; and</li> <li>(b) A general</li> </ul> </li> </ul>		No (See Note [1] Below)

Control	Requirement	Proposal	Complies
C7.2.3 Layout and Orientation	<p>Orientate development to maximise solar access and natural lighting, without unduly increasing the building's heat load.</p> <p>Site the development to avoid casting shadows onto neighbouring dwelling's primary living area, private open space and solar cells.</p> <p>Coordinate design for natural ventilation with passive solar design techniques.</p> <p>Site new development and private open space to avoid existing shadows cast from nearby buildings.</p> <p>Site a building to take maximum benefit from cross-breezes and prevailing winds.</p> <p>Do not compromise the creation of casual surveillance of the street, communal space and parking areas, through the required orientation.</p> <p>Consider opportunities for the provision of private open space for individual rooms where it will not result in a visual or acoustic privacy impact upon neighbouring properties.</p>	<p>The application is orientated to face north, thereby supporting natural solar access. The common room receives appropriate solar access in accordance with the requirements of the SEPP ARH.</p> <p>The applications solar access diagrams have been assessed and living areas, including private open space, for 17-21 Campsie Avenue maintain 3 hours of solar access between 9am and 3pm in accordance with the requirements of Part C7 of the Canterbury Development control plan.</p> <p>There are no solar panels on adjacent properties which will be impacted by the proposal.</p> <p>The shop is designed with windows and access to the street which allow for passive surveillance of the street and the orientation allows boarding rooms facing the street.</p> <p>Some rooms include balconette areas which are allow for greater amenity for rooms.</p>	Yes
<p>C7.3.1 Floor Space, Height and Building Depth, C3.7.2 Setbacks for Boarding Houses, C7.4.1 Design of Boarding Houses.</p> <p>Refer to Part D below</p>			
C7.5 Car Parking	Refer to Part B1 above		

Control	Requirement	Proposal	Complies
C7.6.1 Solar Access	<p>Boarding houses should be located so that solar access to at least 50% of the communal open space areas and to communal living windows is achieved for at least 3 hours of sunlight between 8.00am and 4.00pm on 21 June.</p> <p>Where site orientation permits boarding rooms must receive a minimum of 3 hours of sunlight between 8.00am and 4.00pm on 21 June.</p> <p>Principle areas of private open space must receive a minimum of 3 hours of sunlight between 8.00am and 4.00pm on 21 June to at least 50% of the open space surface area.</p> <p>All habitable rooms are to have access to natural ventilation through an external window.</p> <p>Natural light is to be available from an external window or from a light well – not from a skylight. Access to light is to be provided by way of a window or door with a minimum floor area of the room of 10%. Note: Skylight as a sole source of light is not permitted.</p>	<p>The proposed development's common open space and common room receives three hours of solar access at midwinter.</p> <p>Site orientation and size limits the possibility of achieving solar access to the same degree for individual rooms.</p> <p>All rooms have natural ventilation through windows and natural light.</p>	Yes

Control	Requirement	Proposal	Complies
C7.6.2 Solar Access to neighbouring development	<p>Proposed development must retain a minimum of 3 hours of sunlight between 8.00am and 4.00pm on 21 June for existing primary living areas and communal rooms and to 50% of the principal private open space.</p> <p>If a neighbouring dwelling or a boarding house currently receives less than 3 hours of sunlight, then the proposed development must not reduce the existing level of solar access to that property.</p> <p>Sunlight to solar hot water or photovoltaic systems on adjoining properties must comply with the following: a. Systems must receive at least 3 hours of direct sunlight between 8.00am and 4.00pm on 21 June. b. If a system currently receives less than 3 hours sunlight, then proposed development must not reduce the existing level of sunlight. Clothes drying areas on adjoining residential properties must receive a minimum of 3 hours of sunlight on 21 June.</p>	<p>The proposed development will not detrimentally impact upon the solar access of any adjacent residential property, particularly those at 17-21 Campsie Avenue which is located directly south of the site. The view from the sun plans submitted with the application have been checked and show that properties to the south and west of the site receive the 3 hours required by Control C7.6.2</p> <p>There is no impact upon any solar panels or photovoltaic systems.</p>	Yes
C7.7.2 Building Services	All services, including mailboxes, substations and facilities must not be visually obtrusive and suitably located, designed and screened as appropriate.	The services for the proposed development have been appropriately designed.	Yes

### [1] Site Isolation

Part 7.2.2 of the Canterbury Development Control Plan 2012 states that

*“Isolated Sites Isolation of sites occurs where a property that adjoins a development site would be narrower or smaller than required to be developed under Canterbury LEP. Consequently the isolated site would be incapable of accommodating the form of redevelopment envisaged by the planning controls.”*

Council has considered whether this development will result in the isolation of neighbouring sites, and the isolation of this site.

The site at 20-24 Ninth Avenue has a frontage of 21.5m. Part D1.2.1 requires a minimum frontage in B2 zones of 18m. Given this, 20-24 Ninth Avenue will not in itself be isolated because of the subject application.

However, Council has requested that the applicant approach the neighbouring property at 20-24 Ninth Avenue to explore the possibility of amalgamation. This was requested as the site immediately adjacent (no. 18A) to that property forms part of a planning proposal (RR\_2020\_CBANK\_001\_00) with other land seeking a rezoning and a change to the maximum height control, to a 25 storey or 86m height limit. This land is being considered as part of a wider consolidated Master Plan for Campsie. This Master Plan is due to be considered prepared in the next six months (by end of March 2021), with the Planning Proposal considered after that time.



**Figure 4 - Extent of the Planning Proposal**

The Canterbury Development Control Plan 2012 seeks to “ensure that land adjoining a development site is not left sterilised or isolated so that it is incapable of being reasonably developed under the applicable controls.”

Council has concerns that the narrowing nature of 20-24 Ninth Avenue may result in that land being unable to be appropriately redeveloped. The site narrows to the east to a site depth of 12.7m. Council’s Development Engineers are not satisfied that this depth is enough for car manoeuvrability in order to access basement car parking. Furthermore, an objection by the owners of 20-24 Ninth Avenue, to this application, suggests that they are concerned about being isolated if this development were to proceed.

In order to ensure a site is not isolated or sterilised Canterbury Development Control Plan 2012 requires a number of steps to be undertaken:

- 1) Undertake negotiations with neighbouring owners to seek amalgamation and enable coordinated redevelopment.
- 2) If neighbouring landowners do not agree on terms for amalgamation, provide evidence of reasonable offers, including at least two recent independent valuations.
- 3) If the amalgamation of adjoining properties cannot be achieved, demonstrate that the remaining property has reasonable potential for redevelopment by preparing an indicative schematic design that demonstrates: Boarding Houses C7 Canterbury Development Control Plan 2012
  - a. A building envelope; and
  - b. A general layout that complies with the current applicable planning controls.

The applicant has advised that the owners of 20-24 Ninth Avenue have not accepted approaches, however Council cannot be satisfied that the first requirement of the isolation control has been met. Furthermore, Council has not been satisfied of the second and third requirements of the isolation control.

The matter of isolation is further challenged by the easement which runs along the eastern boundary of the application site which further makes ground level amalgamation with 20-24 Ninth Avenue difficult. However, it has been confirmed by both the applicant's and Council's Engineers that, subject to some engineering matters, the development under the easement can occur. However, as no indicative schematics have been provided, Council cannot confirm that 20-24 Ninth Avenue can be developed in an appropriately.

Council considers it would be a better planning outcome to amalgamate this site with the neighbouring site (20-24 Ninth Avenue), resulting in improved vehicular access.

#### Part D1 – Business Centres General

Control	Requirement	Proposal	Complies
D1.2.1 Minimum Frontage	18m	16m	No, see isolation above.

Control	Requirement	Proposal	Complies
D1.2.2 Isolated Sites	<ul style="list-style-type: none"> <li>- Neighbouring properties are not to be isolated so that the property will be unable to reasonably accommodate redevelopment.</li> <li>- Negotiations are to be undertaken with neighbouring owners to seek amalgamation and enable coordinated redevelopment.</li> <li>- If neighbouring landowners do not agree on terms for amalgamation, provide evidence is to be provided of reasonable offers, including at least two recent independent valuations.</li> <li>- If the amalgamation of adjoining properties cannot be achieved, demonstrate that the remaining property has reasonable potential for redevelopment by preparing an indicative schematic design that provides: (a) A building envelope; and (b) A general</li> </ul>	See section C7.2.2 – isolated sites above.	Insufficient information
D1.3.2 Height	As prescribed in the LEP.	See assessment under the CLEP 2012.	Yes
D1.3.3 Floor to Ceiling	Provide a minimum floor to ceiling of 3.3m on ground floor	3.5m provided	Yes
	Car parking is required to have a floor to ceiling height in accordance to Australian Standard AS 2890.1.	The Council's Development Engineers considered the proposal and raised no objection to the height of the basement	Yes
D1.3.4 Setbacks	B2 Zone 1-2 storeys Build to front boundary; 3m setback for upper level	Ground and first floor are built to the property boundary. The 2 <sup>nd</sup> floor is setback 3m from the front boundary line.	Yes

Control	Requirement	Proposal	Complies
	Side setbacks are not required in B2 zones when the desired character is a continuous street frontage.	A setback to 20-24 Ninth Avenue is provided as there is an easement running along the boundary of the site. The desired character is a continuous street frontage and the proposed development achieves that goal with 20-24 Ninth Avenue.	Yes
	On a boundary with a residential zone (side setback) Establish a 45° height plane projected at 1.5m from the residential zone boundary. Provide minimum 1.5m setback to the residential zone boundary. A two-storey limit on the boundary with residential zone applies. (Refer to Figure D1.1)	The proposed development is adjacent to land zoned R4- High Density Residential.  The proposed development has a side setback to the west of 1.5m.  The proposed development however breaches the 45° height plane as required on the side setback, as a result the proposed development is not compatible with the setback controls	No
D1.3.5 Building Depth	The minimum building depth for commercial premises is 10m	The proposed commercial unit is 13m deep	Yes
D1.4.1 Orientation and Layout	Design and orientate the development to maximise solar access.  Avoid casting shadows onto neighbouring dwellings.	The property is designed following the existing pattern of development and ensures solar access to the communal room as required under SEPP ARH.  Whilst some shadows will be cast on neighbouring dwellings, the properties retain sufficient solar access to comply with Part B7 of the Canterbury Development Control Plan 2012.	Yes



Control	Requirement	Proposal	Complies
D1.4.2 Ground Level Interface	<p>Locate entrances to the street.</p> <p>Provide entries to upper levels from the street frontage to encourage activities on the ground floor.</p> <p>Provide service entries at to the rear of the building.</p>	<p>The main entrance to the street is from Ninth Avenue this is the access for both the boarding house and the shop.</p> <p>Due to the existing subdivision pattern, servicing can only occur from the front, however the bin storage spaces are appropriately design and located.</p> <p>The proposed entrance meets the existing street scene and is clearly legible.</p>	Yes
D1.4.3 Façade Design	<p>New building forms and design features shall not mimic traditional features but should reflect these in a contemporary design.</p> <p>Use a harmonious range of high quality materials, finishes and detailing</p>	<p>The proposed design takes cues from the existing streetscape but does not mimic traditional design. The design is contemporary, using appropriate finishing materials and colours to the area.</p>	Yes
D1.4.4 Roof Design	<p>Roofs must not exceed a pitch of 10°.</p> <p>Relate to the size and scale of the building, the building elevations and three dimensional building forms – including the design of any parapet or terminating elements, and the selection of roof materials.</p> <p>Relate roof design to the desired built form and context.</p>	<p>The proposal has a flat roof design</p> <p>The roof design is appropriate to the area and is in keeping with the existing and desired future character of the area.</p>	Yes

### Canterbury Development Contributions Plan 2013 (Contributions Plan 2013)

This development would attract a contributions payment under the Contributions Plan if the proposal were to be recommended for approval.

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

There are no planning agreements relevant to the assessment of this application.

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

The proposed development is not inconsistent with the provisions of the Environmental Planning and Assessment Regulation, 2000.

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

The proposed development will not provide adequate car parking on site so there is a potential off site car parking impact. Also, the development will have the impact of potentially isolating other properties.

**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 proposal is generally consistent with the planning controls and standards. The proposed development is permissible in the zone, subject to consent and the site is suitable for the proposed development. The subject site is not suitable for the proposed uses given that all functions of the proposed development cannot take place within the confines of the site.

**Submissions [section 4.15(1)(d)]**

The application was advertised/notified for a period of *21 days*. *43* objections including *3* petitions were received during this period, which raised concerns relating to *the following*:

*Objection: Insufficient Car Parking Provision On Site*

*Comment:* The proposal has been assessed against the Car Parking rates required under State Environmental Planning Policy (Affordable Rental Housing) 2009 and the Canterbury Development Control Plan 2012. A total of 11 spaces are required for this development, but only 10 spaces have been provided, as a result this application is being recommended for refusal.

*Objection: Impacts on On-Street Parking*

*Comment:* Concern was raised that the lack of carparking on-site will lead to occupants and visitors from the proposal parking on the street. Both the State Environmental Planning Policy (Affordable Rental Housing) 2009 and the Canterbury Development Control Plan 2012 require that all parking be off-street. As the proposed development have insufficient car parking spaces available, the proposal will result in on-street parking contrary to the relevant controls.

*Objection: Use of Mechanical Parking Devices*

*Comment:* Objections relating to mechanical parking devices (car lifts) relate to an earlier and now amended set of plans. The new proposal does not include mechanical parking devices.

*Objection: Height of Building*

Comment: Concern was raised that the building was six storeys and that this represents an overdevelopment of the site. The maximum building height control contained within the Canterbury Local Environmental Plan 2012 is 21m. The proposed development height is 18.6m. The development is therefore consistent with the maximum height control.

*Objection: Rubbish / Litter / Illegal Dumping*

Comment: The proposed development contains commercial waste storage areas for the shop, residential waste areas for the boarding house and bulky waste storage. The application has been considered by Council's Waste Section who raised no objection to the proposal subject to the imposition of standardised conditions. There is, therefore, sufficient waste storage within the site to avoid dumping of waste on street.

*Objection: Over-Development of the Site / Setbacks*

Comment: Comment was received relating to the size of the site and the proposed number of storeys and rooms and the incompatibility between the two. The site lies within a B2 Local Centre zoning. B2 Zones do not include maximum Floor Space requirements instead they set the maximum height and setbacks which define the appropriate building envelope to be consistent in terms of the preferred future character of the area. Whilst the proposed development is below the maximum permissible height, the proposed development does not meet setback controls within Canterbury Development Control Plan 2012, and as such is an overdevelopment of the site.

*Objection: Incompatibility with Zoning / Ground Floor Use*

Comment: The site lies within a B2 Local Centre zoning as defined by the Canterbury Local Environmental Plan (CLEP) 2012. CLEP lists development Land Uses which are permissible in zones, both Boarding Houses and Shops (Commercial Premises) are permissible in the B2 Zone. The development types (Land Uses) are therefore compatible with the zone

*Objection: Site Isolation / Amalgamation*

Comment: Council has concerns that the development will result in the isolation of neighbouring properties whilst being isolated itself. The applicant has provided some information; however Council remains unsatisfied that the requirements under the Canterbury Development Control Plan 2012 have been fully satisfied.

*Objection: Local Services*

Comment: Concern was raised that local services, for example public transport, waste, etc, in the area is not able to accommodate any further development and is already at capacity. The proposed development is within the Local Centre and the increase in the form of development is as anticipated by the Canterbury Local Environmental Plan 2012.

*Objection: Noise*

Comment: Concern was raised that the use as a boarding house would lead to increased noise which will cause local disturbance. Boarding houses are residential in nature, i.e. where someone lives, and it is unlikely that normal residential noise will impact on other residences in the area. Due to the size of the boarding house, a on site manager would be required and complaints, etc, would be handled through the manager and police for any late night disturbances. Furthermore, the applicant has submitted an acoustic report with the application, which finds that the development will not result in undue noise to neighbouring properties.

*Objection: Public Safety and Crime*

Comment: Council is not allowed to consider the types of people who may or may not live in boarding houses as a material consideration in the assessment of an application, and crime is a matter for the police. However, the proposed development has been considered against Crime Prevention through Environmental Design chapter of the Canterbury Development Control Plan 2012 and has been found to be inconsistent with the requirements of the Plan, in particular in relation to internal design, surveillance and safety.

*Objection: Privacy*

Comment: Objections have been received that the proposed development will detrimentally impact on the privacy of neighbouring properties, particularly as the proposal breaches setback controls. Whilst windows are located on the west elevation these are high level windows and there are privacy screens located along open spaces. Given this, the proposed development will not result in detrimental privacy issues to neighbouring residential properties.

*Objection: Solar Access*

Comment: Objections have been received that the proposed development will impact on solar access, particularly to the ground floor units of 17-21 Campsie Street, which is to the south of the site. The proposed development maintains at least 3hours of solar access to both 17-21 Campsie Street and 23-25 Campsie Street, which is located to the west of the site.

*Objection: Affordability*

Comment: Concern has been raised that the boarding house component of the development does not meet the requirements of Affordable under the State Environmental Planning Policy (SEPP), particularly in relation to the cost of rent and the affordability of units in the area. Conditions could be placed on a consent which would require the Boarding House be restricted in line with the SEPP.

*Objection: Design / Character of the Area*

**Comment:** The proposed design of the development has been considered against the character of the area test within State Environmental Planning Policy (Affordable Rental Housing) 2009 and the Canterbury Development Control Plan 2012. The proposal is not consistent with those controls and is therefore not appropriate for the area.

*Objection: Property Values*

**Comment:** Concern has been raised that a boarding house will reduce the property values in the area. This is not a material planning consideration and cannot be considered by Council in the assessment of the application.

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

The public interest is served through the consistent and measured application of the relevant plans, policies and standards. Council considers that the proposal does not meet the relevant development standards and planning controls and variations to the controls/standards are not justified in this instance.

Whilst the number of objections received is not, in itself, relevant to the assessment of this application, the comments received and the consideration of these objections suggest the proposal is not in the public interest thus, the proposal should not be supported.

**CONCLUSION**

The Development Application has been assessed in accordance with the provisions of Section 4.15 of the Environmental Planning and Assessment Act 1979, and Canterbury Local Environmental Plan 2012 and Canterbury Development Control Plan 2012. The proposal is inconsistent with the policies and controls of these Plans, as outlined in this report, and cannot be supported.

**RECOMMENDATION**

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



## APPENDIX B – REASONS FOR REFUSAL

- 1) 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 29(2)(f) of State Environmental Planning Policy (Affordable Rental Housing) 2009 with respect to minimum accommodation size.
- 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 30A of State Environmental Planning Policy (Affordable Rental Housing) 2009 with respect to character of the area.
- 3) Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, it is considered that the proposed development does not satisfy the objectives contained in Clause 1.2 of the Canterbury Local Environmental Plan 2012, in particular Objective 2(c) 'to ensure that development is of a design and type that supports the amenity and character of an area and enhances the quality of life of the community'.
- 4) The proposed development is unsatisfactory, pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, as it does not comply with the provisions of the Canterbury Development Control Plan 2012 including:
  - i) Control C1 of Part B1.3.1 – General Parking Rates: Transportation and Parking
  - ii) Control C1 of Part B4.2 – General Controls: Accessible and Adaptable Design
  - iii) Control C1 of Part B7.2.1 – CPTED Principle: Surveillance: Crime Prevention and Safety
  - iv) Controls C1-C4 of Part C7.2.2 – Isolated Sites: Boarding Houses
  - v) Controls C1-C4 of Part D1.2.2 – Isolated Sites: Business Centres – General
  - vi) Control C4 of Part D1.3.4 – Setbacks: Business Centres - General
- 5) The proposed development is unsatisfactory, pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, as it does not comply with the objective O1 of part D1.2.2 Isolated Sites of the Canterbury Development Control Plan 2012 in that the adjacent site (20-24 Ninth Avenue) would be so isolated that it would be incapable of being reasonably developed under the applicable controls.
- 6) Having regard to the above non-compliances with Council's Canterbury Development Control Plan 2012 and pursuant to the provisions of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development is unsatisfactory and represents an overdevelopment of the subject site.



- 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 the area available for the loading and unloading of goods 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 excessive in terms of bulk and height and would adversely impact upon the amenity of the locality.
- 9) Having regard to the previous reasons noted above and the number of submissions received by Council against the proposed development, 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-

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## Canterbury Bankstown Local Planning Panel - 07 December 2020

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<b>ITEM 3</b>	<b>146-148 Haldon Street, Lakemba</b>
	<b>Demolition of existing structures and construction of a part four and part five storey shop top housing development containing ground floor pub with a bottle shop and gaming, 19 x residential units and basement car parking. Also involves a planning agreement (PA) for the purposes of land dedication to Council for the road widening of Davidson Lane. The PA includes Lot 1 DP324535 and a portion at the rear of Lot 7 DP 7187.</b>
<b>FILE</b>	<b>DA-512/2017 – Roselands</b>
<b>ZONING</b>	<b>B2 Local Centre under Canterbury Local Environmental Plan 2012</b>
<b>DATE OF LODGEMENT</b>	<b>21 December 2017</b>
<b>APPLICANT</b>	<b>Lakemba Property Pty Ltd C/O Mecone Pty Ltd</b>
<b>OWNERS</b>	<b>Lakemba Hotel Property Pty Ltd</b>
<b>ESTIMATED VALUE</b>	<b>\$8,445,000</b>
<b>AUTHOR</b>	<b>Planning</b>

### REPORT

This matter is reported to Council's Local Planning Panel as the application seeks consent for a development for which State Environmental Planning Policy (SEPP) 65 – Design Quality of Residential Apartment Development applies and is at least three or more storeys and contains four or more dwellings.

Development Application DA-512/2017 proposes the demolition of existing structures and construction of a part four part five storey shop top housing development, comprising of a bottle shop and pub on ground floor with 19 residential apartments above and two levels of basement parking.

The Development Application has been assessed in accordance with the provisions of Section 4.15 of the Environmental Planning and Assessment Act, 1979 and the relevant specific environmental planning instruments including Canterbury Local Environmental Plan 2012 (CLEP 2012) and the Canterbury Development Control Plan 2012 (CDCP 2012). The proposed development does not comply with several controls including, height, access and traffic, waste, stormwater drainage, design and open space.

The application was notified on two occasions (January 2018 and August 2019) both for a period of 21 days. A total of eight submissions from six objectors were received during the notification period and concerns raised are discussed in this report.

## **POLICY IMPACT**

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This development does not have any identified policy impacts.

## **FINANCIAL IMPACT**

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This matter has no direct financial implications.

## **RECOMMENDATION**

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It is recommended that the application be refused subject to the reasons outlined in Appendix B.

## **ATTACHMENTS**

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- A. Assessment Report
- B. Reasons for Refusal

## **DA-512/2017 ASSESSMENT REPORT**

### **BACKGROUND**

On 10 June 2016, Council received development application DA-241/2016 for the demolition of existing structures and the construction of a mixed use development with a ground floor hotel and residential accommodation above for 31 units and basement car parking at 146-148 Haldon Street, Lakemba.

On 26 July 2016 the Applicant filed an appeal with the Land and Environment Court (LEC) for the deemed refusal of DA-241/2016. The application was refused by the LEC.

### **SITE & LOCALITY DESCRIPTION**

The site is known as 146-148 Haldon Street, Lakemba and is legally identified as Lot A DP316463 and Lot 7 DP7187. The site is located within the B2 Local Centre Zone.

The site is an irregular shaped allotment with a 21.335m frontage to Haldon Street, two partial frontages to Davidson Lane at the rear each with a 6.095m dimension, shares a common boundary with 56 Croydon Street to the rear with a dimension of 15.24m, a northern side boundary of 44.36m, a southern side boundary of 50.455m and a total site area of 1,039m<sup>2</sup>. The topography of the site is steeply sloping with a 2.5m slope downwards from Haldon Street to the rear of the site.

The subject site contains a two-storey building currently utilised as a pub and short stay accommodation. Vehicular access to the site is provided from Davidson Lane, while pedestrian access to the site is provided from Haldon Street and Davidson Lane.

The site is located on the western side of Haldon Street, situated within the Lakemba Town Centre and to the south of the Railway Line, within 450 metre walking distance of the Lakemba Railway Station.

The immediate locality comprises a variety of land uses including residential, commercial and retail premises within the Lakemba Town Centre. Immediately adjoining the site to the north (142-144 Haldon Street) is a five storey mixed use development with roof top communal open space. Immediately adjoining the site to the south (154 Haldon Street) is a one storey with part two storey building currently being used as a restaurant. The western boundary adjoins Davidson Lane and 54 and 56 Croydon Street which currently contain single storey detached residential dwellings.

The site also includes a part of the site known as 58 Croydon Street, Lakemba and is legally identified as Lot 1 DP324535. This parcel is a regular shaped allotment with boundary dimensions of 6.095m by 14.935m. There are no built structures on this parcel of land and it is zoned B2 Local Centre. This site currently provides parking for staff and patrons of the pub and is accessible via a right of way over 154 Haldon Street.



**Figure 1:** Aerial of subject site in yellow. **Source:** NearMaps 2020



**Figure 2:** View of the subject site from Haldon Street.

### **PROPOSED DEVELOPMENT**

The Development Application proposes the demolition of existing structures at 146 -148 Haldon Street and the construction of a part four part five storey shop top housing development. The proposal also involves a planning agreement (PA) for the purposes of land dedication to Council for the road widening of Davidson Lane. The PA includes Lot 1 DP324535 and a portion at the rear of Lot 7 DP 7187. The proposed ground floor use is a pub and bottle shop. The proposed works include the following;

Basement 1	- 19 x car spaces (including 2 x accessible car spaces)
Basement 2	- 12 x car spaces (including 2 x accessible car spaces) - Car wash bay - Bicycle spaces - Additional storage
Lower Ground Floor	- Loading dock - Residential garbage room - 7 x staff car parking spaces - 1 x accessible car space - 6 x car spaces - 10 x bicycle spaces
Ground Floor	- Bottle shop fronting Haldon street - Main residential lobby accessed from Haldon Street - Pub area includes; gaming room, bar, kitchen, dining area and toilet facilities. - Secondary entrance into pub accessed from Davidson Lane - On Site Detention
Level 1	- 6 x residential units (1 x 1 bed, 4 x 2 bed and 1 x 2 bed and study). All units contain balconies and a separate courtyard, except for the 1 bed unit which only contains a balcony.
Level 2	- 6 x residential units (1 x 1 bed, 4 x 2 bed and 1 x 2 bed and study).
Level 3	- 5 x residential units (2x 1 bed, 1x 1 bed plus study, 1x 2bed, 1x 3bed).
Level 4	- 2 x residential units (1 x 2 bed and 1x2 bed and study)

### Operation of the ground floor pub and bottle shop

#### Hours of operation

The Lakemba Hotel has an existing 24/7 license approval (License reference number LIQH400103344). The proposed hours of operation for the pub are to remain as existing. The license allows consumption on the premises for the following hours:

Monday to Saturday 5:00am to 12:00am midnight  
Sunday 10:00am to 10:00pm

The hours of operation for the bottle shop are:  
Monday to Saturday 5:00am to 10:00pm  
Sunday 10:00am to 10:00pm

#### Number of employees

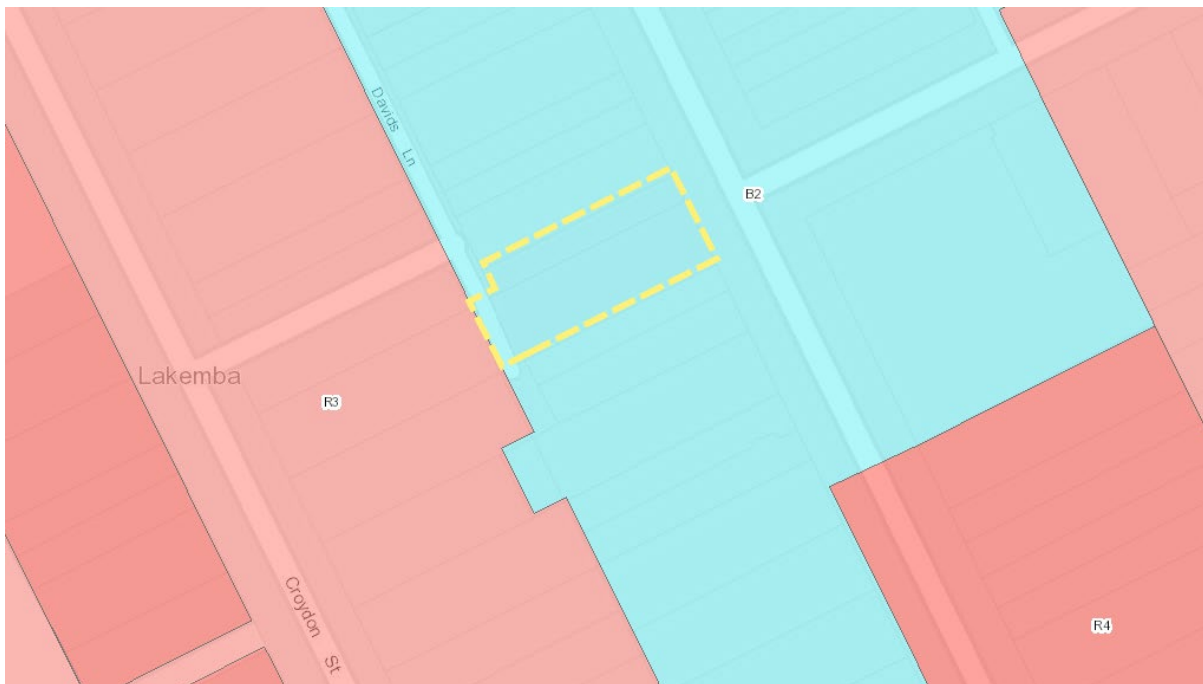
The pub, bottle shop and bistro will have between 3-8 staff depending on the time of trading.

### **PERMISSIBILITY**

The development is described as shop top housing development, which is defined in the Canterbury Local Environmental Plan 2012 as one or more dwelling located above ground floor retail premises or business premises.



The site is identified as within a B2 – Local Centre within the Canterbury Local Environmental Plan 2012. Shop top housing is a permissible use in the zone subject to consent.



**Figure 3 - Extract from Zoning Map**

### **Statutory Considerations**

When determining this application, the relevant matters listed in Section 4.15C 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:

- Water Management Act 2000
- State Environmental Planning Policy 55 – Remediation of Land (SEPP 55)
- State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development (SEPP 65)
- State Environmental Planning Policy (Infrastructure) 2007 (SEPP 2007)
- State Environmental Planning Policy 2004 (Building Sustainability Index: BASIX)
- Canterbury Local Environmental Plan 2012 (CLEP 2012)
- Canterbury Development Control Plan 2012 (CDCP 2012)
- Canterbury Development Contributions Plan 2013 (Contributions Plan 2013)

### **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 55 – Remediation of Land (SEPP 55)**

*State Environmental Planning Policy No. 55 – Remediation of Land* aims to promote the remediation of contaminated land to prevent the risk of harm to human health and the environment. Under the provisions of Clause 7 of SEPP 55, a consent authority must not consent to the carrying out of any development on land unless:

- (a) it has considered whether the land is contaminated, and*
- (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

In the case where land may be contaminated, the consent authority must be satisfied that the land is suitable for the proposed use. If the land requires remediation to be undertaken to make it suitable for the proposed use, the consent authority must be satisfied that the land will be remediated before the land is used for that purpose.

The application was referred to Council's Environmental Health Officer (EHO) who advised that the Stage 1 Preliminary Site Investigation (report No. 610. 16324-R1, dated 5 May 2016) prepared by Abanish Nepal from SLR Consulting P/L is satisfactory as the report concluded that the site is suitable for the proposed development. The application is therefore considered satisfactory regarding the requirements of State Environmental Planning Policy No 55—Remediation of Land.

**Water Management Act 2000**

The application was referred to NSW Natural Resources Access Regulator (NRAR) pursuant to Clause 92 of the Water Management Act 2000.

The Water Regulation Officer stated that a Geotechnical Report was required in order that an assessment of the application could be undertaken. Despite requests from Council for a geotechnical report to be submitted as part of this application to satisfy the requirements and undertake a full and proper assessment of the application, none was submitted. As such it is considered that the development does not satisfy the requirements of the Water Management Act 2000.

**State Environmental Planning Policy (Infrastructure) 2007 (SEPP 2007)**

In accordance with clause 45 of SEPP (Infrastructure), a referral to the electricity supply authority for the area was required as the proposed development involves works within 5m of overhead power.

Ausgrid have assessed the plans and raise no objection to the proposed development should the application be supported.

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

A BASIX Certificate has been prepared in support of the application, which details the thermal, energy and water commitments associated with the development. The proposal satisfies the requirements of State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 and is supported in this instance.

**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.

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'. Clause 50(1A) of the Environmental Planning and Assessment Regulation 2000 requires the submission of a design verification statement from a qualified designer (registered architect) at lodgement of the development application that addresses the design quality principles contained in 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**

The development is consistent with Council's maximum 18m building height control. Despite the proposed variations to the building separation and building height plane controls, given the context of the site, the proposed variations are considered acceptable and will align with the desired future character of the locality. The design ensures that the proposed development is appropriate in terms of scale and bulk.

**Principle 2: Built Form and Scale**

No maximum floor space ratio (FSR) development standard applies to the site. As outlined above, the development is consistent with Council's maximum 18m building height standard. However, the proposed development fails to comply with the building separation and building height controls which are not supported.

**Principle 3: Density**

The density of the proposed development is satisfactory and a reasonable response to the desired future context and built form.

**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. The BASIX Certificate is satisfactory and will form part of the conditions of consent.

**Principle 5: Landscape**

The proposed landscaping is in keeping with the nature of the Business Zone.

**Principle 6: Amenity**

The proposed development has been designed to maximise solar access. The proposed apartments offer sufficient internal amenity as the apartments meet the minimum size and the room dimensions exceed the minimum standards within the Apartment Design Guide. As such they will provide more than adequate space to meet the needs of future occupants.

Storage is provided within all units with additional storage within the allocated basement car parking spaces, whilst the outdoor private terraces are of enough size to meet the recreational needs of future occupants. Lift access has been provided from the basement throughout the building, thereby providing full accessibility for all residents and visitors.

However, the proposed development fails to meet the minimum requirements for natural ventilation, solar access, acoustic amenity and communal open space. Overall, the amenity afforded to the development is poor.

**Principle 7: Safety**

The applicant has considered Crime Prevention through Environmental Design (CPTED) principles as outlined in CDCP 2012 in the design of the project. The proposal provides increased activation and passive surveillance of the surrounding streets and private open space areas on the site. Residential entry and lobby areas are to be secured and well lit.

**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 proposed use of pattern, texture, form and colour seeks to produce a design aesthetic that reflects the quality of residential accommodation provided. The articulation of the external façades and compliance with the relevant built form standards lessens any perception of bulk, whilst maintaining internal and external amenity. These elements contribute to the desired future character of the locality and 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.

This consideration includes an assessment of the objectives of Parts 3 and 4 of the ADG. The applicant's architect provided a design verification statement at lodgement to demonstrate that the objectives have been achieved.

An assessment of the proposed development regarding the following 'Design Criteria' controls of the ADG is demonstrated in the table below:

Section	Design Criteria	Proposed	Complies
<b>Part 3 Siting the Development</b>			
3D Communal and Public Open Space	Communal open space has a minimum area equal to 25% of the site.	Based on a total site area of 1130m <sup>2</sup> , the communal open space requirement is a minimum 282.5m <sup>2</sup> .  Proposed communal open space is 108m <sup>2</sup> which is equivalent to 9.5% of the site.	No. See Discussion Below.
	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).	The communal open space receives some sunlight in the morning and the afternoon, but in strict numerical terms it can achieve 2 hours solar access between 1pm and 3pm.	Yes
3E Deep Soil Zones	Deep soil zones are to meet the following minimum dimensions:		No – however acceptable
	Site Area	Minimum Dimensions	
	Less than 650m <sup>2</sup>	-	
	650m <sup>2</sup> - 1,500m <sup>2</sup>	3m	
	Greater than 1,500m <sup>2</sup>	6m	
	Greater than 1,500m <sup>2</sup> with significant existing tree cover	6m	
		7%	
		79.01m <sup>2</sup> required (no minimum dimension applies) based on 7% of site area.  Notwithstanding this, nil deep soil area is provided. In accordance with the design guidance outlined within Part 3E of the ADG, where 100% site coverage on the ground floor level is proposed, there is no need to incorporate deep soil areas. When this occurs, the ADG suggests alternative forms of planting be incorporated into the design. Alternative forms of planting such as planter boxes have been provided on Ground, Level 1 and Level 4.  On this basis, the lack of deep soil is acceptable in this instance.	

Section	Design Criteria	Proposed	Complies									
3F Visual Privacy	<p>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:</p> <table><tr><th>Building Height</th><th>Habitable Rooms &amp; 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></table> <p>Note: An increased 3m building separation is required given the land to the west is a different zone (R3 Medium Density Residential) that permits lower density residential.</p>	Building Height	Habitable Rooms & Balconies	Non-habitable Rooms	Up to 12m (4 storeys)	6m	3m	Up to 25m (5-8 storeys)	9m	4.5m	Balconies are proposed adjacent to side boundaries. This leads to potential for detrimental impacts on visual privacy. The applicant has attempted to overcome this issue by installing, for example, privacy screens to ensure privacy to adjacent residential properties (142-144 Haldon Street). However, there is insufficient information provided to ensure that privacy is maintained. No privacy plan has been submitted and details of walls and screens have not been provided.	No
Building Height	Habitable Rooms & Balconies	Non-habitable Rooms										
Up to 12m (4 storeys)	6m	3m										
Up to 25m (5-8 storeys)	9m	4.5m										

Section	Design Criteria	Proposed	Complies
3J Bicycle and Car Parking	<p>For development within 800 metres of a railway station the minimum car parking requirement for residents and visitors is the lesser of that set out within the Guide to Traffic Generating Developments or Council requirements.</p> <p>Canterbury Development Control Plan 2012, figures are the lower rates and are as follows:</p> <p><u>B2 Zone- Large Local Centres Shop Top Housing</u></p> <p>Studio= 0.25 spaces per dwelling  1 bedroom= 0.8 spaces per dwelling  2 bedroom= 1 space per dwelling  3 bedroom or more= 1 space per dwelling</p> <p>Visitor Parking (Not required)</p> <p><u>Commercial car spaces</u>  <u>Bottle shop component:</u>  1 car space per 66.7m<sup>2</sup> for retail component (bottle shop).</p> <p><u>Pub component:</u>  Car spaces required for the Pub are as set out in the Traffic Report which have been calculated using the patronage and travel mode surveys of the existing pub operations from 3pm to 12AM on two occasions (February and November 2017) on a Friday and Saturday. This resulted in a peak additional generation of 1.7 vehicles per hour during the PM peak resulting in a demand for 10 spaces.</p>	<p>The site is located within 400 metres of Lakemba Train Station. The parking controls in CDCP 2012 have been complies with as follows:</p> <p>5 x 1 bed units requires 4 car spaces.  13 x 2 bed units requires 13 car spaces.  1 x 3 bed units requires 1 car space.  Total required for the residential part of the development is 18.</p> <p>The retail (bottle shop) generates a need for 2 car spaces based on an area of 77m<sup>2</sup>.</p> <p>The pub generates a need for 10 car spaces.</p> <p>Total car spaces required is 30.</p> <p>45 car spaces are provided within the basement levels including 5 accessible car spaces over the three levels of basement parking.</p>	Yes
	Any development containing 10 dwellings or more is to provide at least one car wash bay.	1 x car wash bay provided on basement 2 level.	Yes

Section	Design Criteria	Proposed	Complies
	Bicycle spaces Residents: minimum 1 space per 5 dwellings.	Minimum bicycle spaces required for residents is 4	Yes
	Visitors: Minimum 1 space per 10 dwellings.	Minimum bicycle spaces required for visitors is 2  19 bicycle spaces proposed	Yes
	The car parking needs for a development must be provided off street.	The car parking spaces are proposed in the basement levels.	Yes
3G Pedestrian Access and Entries	<p>Multiples entries should be provided to activate the street edge.</p> <p>Entry locations relate to the street and subdivision pattern / existing pedestrian network.</p> <p>Building entries should be clearly distinguishable from private entries.</p> <p>Building access areas (lift lobbies, stairwells and hallways) should be clearly visible from public domain and communal spaces.</p> <p>Minimise ground floor and underground level changes along pathways and entries. Steps and ramps integrated into design.</p>	Separate entry points are provided from Haldon Street for the residential lobby and the main entry to the ground floor pub and bottle shop. The residential lobby is approximately 3.5m wide and provides mail boxes and lift to upper residential floors within the main lobby. The residential entrance is distinguishable from the bottle shop and pub entry through the use of a glass awning over and a minimum 4m separation from the bottle shop entry.	Yes
Part 4 Designing the Building			
4A Solar and Daylight Access	<p>Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter.</p> <p>A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter</p>	<p>70% of apartments required to achieve solar access which is equivalent to 13.3 (14) apartments.</p> <p>Council has assessed the solar access diagrams provided by the applicant and has calculated that 13 of the 19 units (68.4%) receive 2 hours of solar access at midwinter.</p> <p>And that one (5.2%) unit receives no solar access through that time</p>	No



Section	Design Criteria	Proposed	Complies
4B Natural Ventilation	<p>At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartment at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.</p> <p>Design Guidance 4B-2 Courtyards or building indentations have a width to depth ratio of 2:1 or 3:1 to ensure effective air circulation and avoid trapped smells.</p>	<p>60% of apartments is equivalent to 11.4 (12) apartments which are required to achieve natural ventilation.</p> <p>The proposed units on levels 1 to 3 have one aspect which is on an internal courtyard which, although open at the fourth level, has separation of between 7m and 12m. Council considers 17 out of the 19 units, equivalent to 89% do not have sufficient natural ventilation.</p> <p>Northerly and southerly aspects are blocked by adjacent development, and there is a lack of information in the window schedule to confirm that windows into the courtyards are operable.</p> <p>The applicant has suggested that 16 of the 19 apartments will receive natural cross ventilation.</p> <p>The insufficient information provided, including internal elevations to the courtyard and window schedule make it difficult to confirm this figure.</p>	No
		<p>However, the width to depth ratio of the courtyard is not in line with the design guidance. Given this, Council cannot state that any of the units on levels 1 to 3 achieve appropriate levels of natural ventilation.</p>	

Section	Design Criteria	Proposed	Complies										
	Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	Depth of apartments doesn't exceed 18m	Yes										
4C Ceiling Heights	<div>Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</div> <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>If located in mixed used areas</td><td>3.3m for ground and first floor to promote future flexibility of use</td></tr></table> <div>These minimums do not preclude higher ceilings if desired.</div>	Minimum Ceiling Height for Apartment and Mixed-Use Buildings		Habitable rooms	2.7m	Non-habitable	2.4m	If located in mixed used areas	3.3m for ground and first floor to promote future flexibility of use	2.8m floor to ceiling height proposed for residential floors.	Yes		
Minimum Ceiling Height for Apartment and Mixed-Use Buildings													
Habitable rooms	2.7m												
Non-habitable	2.4m												
If located in mixed used areas	3.3m for ground and first floor to promote future flexibility of use												
4D Apartment Size and Layout	<div>Apartment are required to have the following minimum internal areas:</div> <table><tr><th>Apartment Type</th><th>Minimum Internal Area</th></tr><tr><td>Studio</td><td>35m<sup>2</sup></td></tr><tr><td>1 bedroom</td><td>50m<sup>2</sup></td></tr><tr><td>2 bedroom</td><td>70m<sup>2</sup></td></tr><tr><td>3 bedroom</td><td>90m<sup>2</sup></td></tr></table> <div>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m<sup>2</sup> each.</div> <div>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m<sup>2</sup> each.</div>	Apartment Type	Minimum Internal Area	Studio	35m <sup>2</sup>	1 bedroom	50m <sup>2</sup>	2 bedroom	70m <sup>2</sup>	3 bedroom	90m <sup>2</sup>	<div>One bedroom- Min 55m<sup>2</sup> (comprising one bathroom)</div> <div>Two bedroom: Min 79m<sup>2</sup> (comprising two bathrooms)</div> <div>Three bedroom: Min 97m<sup>2</sup> (comprising two bathrooms)</div> <div>None of the apartments contain a fourth bedroom.</div>	<div>Yes</div> <div>Yes</div> <div>Yes</div> <div>Yes</div>
Apartment Type	Minimum Internal Area												
Studio	35m <sup>2</sup>												
1 bedroom	50m <sup>2</sup>												
2 bedroom	70m <sup>2</sup>												
3 bedroom	90m <sup>2</sup>												
	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.	<div>The size of each habitable room window is acceptable for the size of the room it serves.</div> <div>Daylight and air are not borrowed from other rooms.</div>	Yes										
	In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.	Only 2 of the apartments comply with this control units 201 and 306.	No										

Section	Design Criteria	Proposed	Complies															
	Master bedrooms have a minimum area of 10m2 and other bedrooms 9m <sup>2</sup> (excluding wardrobe space).	All master bedrooms have a minimum area of 10m <sup>2</sup> . All other bedrooms have a minimum area of 9m <sup>2</sup> .	Yes															
	Bedrooms have a minimum dimension of 3m (excluding wardrobe space).	All bedrooms have a minimum dimension of at least 3m.	Yes															
	Living rooms or combined living/dining rooms have a minimum width of: <ul style="list-style-type: none"><li>3.6m for studio and 1 bedroom apartments</li><li>4m for 2 and 3 bedroom apartments</li></ul>	All living/dining rooms for one bedroom apartments provide a minimum width of 3.6m in both directions.  All living/dining rooms for two bedroom or three bedroom apartments comprise a minimum width of 4m in both directions.	Yes  Yes															
	The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts.	The width of each apartment is at least 4m.	Yes															
4E Private Open Space and Balconies	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>4m<sup>2</sup></td><td>-</td></tr><tr><td>1 bedroom apartments</td><td>8m<sup>2</sup></td><td>2m</td></tr><tr><td>2 bedroom apartments</td><td>10m<sup>2</sup></td><td>2m</td></tr><tr><td>3+ bedroom apartments</td><td>12m<sup>2</sup></td><td>2.4m</td></tr></table>	Dwelling type	Minimum Area	Minimum Depth	Studio apartments	4m <sup>2</sup>	-	1 bedroom apartments	8m <sup>2</sup>	2m	2 bedroom apartments	10m <sup>2</sup>	2m	3+ bedroom apartments	12m <sup>2</sup>	2.4m	One bedroom: Principal area of private open space ranges between 13m <sup>2</sup> and 23m <sup>2</sup> and a minimum depth of 2m.  Two bedroom: Principal area of private open space (including balconies and private courtyards) ranges between 8m <sup>2</sup> and 67m <sup>2</sup> and a minimum depth of 2m except for apartment 202 which only has 8m <sup>2</sup> .  Three bedroom: Principal area of private open space 45m <sup>2</sup> and a primary depth of 4.3m.	Yes  No  Yes
	Dwelling type	Minimum Area	Minimum Depth															
	Studio apartments	4m <sup>2</sup>	-															
	1 bedroom apartments	8m <sup>2</sup>	2m															
2 bedroom apartments	10m <sup>2</sup>	2m																
3+ bedroom apartments	12m <sup>2</sup>	2.4m																
	The minimum balcony depth to be counted as contributing to the balcony area is 1m.																	
	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 <sup>2</sup> and a minimum depth of 3m.	Noted- not applicable.	N/A															

Section	Design Criteria	Proposed	Complies										
4F Common Circulation and Spaces	The maximum number of apartments off a circulation core on a single level is eight.	The maximum number of apartments off a circulation core on a single level is 6.	Yes										
4G Storage	<div>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</div> <table><tr><td>Dwelling type</td><td>Storage size volume</td></tr><tr><td>Studio apartments</td><td>4m<sup>3</sup></td></tr><tr><td>1 bedroom apartments</td><td>6m<sup>3</sup></td></tr><tr><td>2 bedroom apartments</td><td>8m<sup>3</sup></td></tr><tr><td>3+ bedroom apartments</td><td>10m<sup>3</sup></td></tr></table> <div>At least 50% of the required storage is to be located within the apartment.</div>	Dwelling type	Storage size volume	Studio apartments	4m <sup>3</sup>	1 bedroom apartments	6m <sup>3</sup>	2 bedroom apartments	8m <sup>3</sup>	3+ bedroom apartments	10m <sup>3</sup>	Storage is shown on the proposed plans within each apartment and within the basement level. A condition of consent will be included to ensure that 50% of the storage is located within the apartments.	Yes- via a condition of consent.
Dwelling type	Storage size volume												
Studio apartments	4m <sup>3</sup>												
1 bedroom apartments	6m <sup>3</sup>												
2 bedroom apartments	8m <sup>3</sup>												
3+ bedroom apartments	10m <sup>3</sup>												

Section	Design Criteria	Proposed	Complies
4H Acoustic Privacy	<p>Adequate building separation is provided within the development and from neighbouring buildings/adjacent uses</p> <p>Noisy areas within buildings including building entries and corridors should be located next to or above each other and quieter areas next to or above quieter areas</p> <p>Rooms with similar noise requirements are grouped together</p> <p>Noise sources such as garage doors, driveways, service areas, plant rooms, building services, mechanical equipment, active communal open spaces and circulation areas should be located at least 3m away from bedrooms</p> <p><u>Design Guidance 4H-2</u></p> <p>Internal apartment layout separates noisy spaces from quiet spaces, using a number of the following design solutions:</p> <ul style="list-style-type: none"> <li>rooms with similar noise requirements are grouped together</li> <li>doors separate different use zones</li> <li>wardrobes in bedrooms are co-located to act as sound buffers</li> </ul>	<p>An Acoustic Assessment (Ref: 20717106.1/2012/R4/BW, Rev. dated 20/12/2017 from Ben White at Acoustic Logic Consultancy Pty Ltd, and the Acoustic Review of the Void Shaft Acoustic Treatments (Reference: 20170688.2/1906A/R0/BW, Dated: 19/06/2018) prepared by Ben White from Acoustic Logic Consultancy Pty Ltd) was submitted as part of this application. They were reviewed by Council's Environmental Health Officers who were satisfied with the recommendations of the report subject to conditions of consent.</p> <p>The proposal does not, however, comply with the design guidance contained with 4H-2, which aims to avoid conflicts in the internal layout between noisier and quieter rooms. For example, bedrooms are located adjacent to living rooms throughout the design, e.g. Units 301-302, 305-306. And this repeated throughout the design.</p>	No

Section	Design Criteria	Proposed	Complies
4S Mixed Use	<p>Mixed use developments positively contribute to the public domain.</p> <p>Design solutions may include:</p> <ul style="list-style-type: none"> <li>• development addresses the street</li> <li>• active frontages are provided</li> <li>• avoiding blank walls at the ground level</li> </ul> <p>Residential circulation areas should be clearly defined. Design solutions may include:</p> <ul style="list-style-type: none"> <li>• residential entries are separated from commercial entries and directly accessible from the street</li> <li>• commercial service areas are separated from residential components</li> <li>• residential car parking and communal facilities are separated or secured</li> <li>• security at entries and safe pedestrian routes are provided</li> <li>• concealment opportunities are avoided</li> </ul> <p>Landscaped communal open space should be provided at and commercial podium or roof levels</p>	Noted and achieved.	Yes

As identified in the above table, the proposed development seeks to depart from the following ADG design criteria:

[1] Communal open space

The ADG requires that communal open space within a development have an area of at least 25% of the site area. In this case the minimum area of communal open space required is 282.5m<sup>2</sup>, but 108m<sup>2</sup> is provided. This shortfall of 174.5m<sup>2</sup> equates to a 61% departure.

Objective 3D-1, which deals with communal open space, reads as follows:

An adequate area of communal open space is provided to enhance residential amenity and to provide opportunities for landscaping. The ADG states that the size, location and design of communal open spaces will vary depending on the site context and the scale of development. The function of open space is to provide amenity in the form of, inter alia, landscape character and design opportunities.

The design criteria states:

*'Where developments are unable to achieve the design criteria, such as on small lots, sites within business zones, or in a dense urban area, they should:*

- provide communal spaces elsewhere such as a landscaped roof top terrace or a common room*
- provide larger balconies or increased private open space for apartments*
- demonstrate good proximity to public open space and facilities and/or provide contributions to public open space.'*

The design guidance acknowledges in business zones, such as the subject application, that design criteria for communal open spaces may not be able to be met.

Notwithstanding the technical numerical departure from the requirement, it is important to acknowledge the proposal is dedicating approximately 183m<sup>2</sup> of the site area through a Planning Agreement (PA) for land dedication at the rear of the site (see further discussion on PA later within this report). On this basis, the site is significantly constrained with respect to the location. Contextually, it makes no sense to locate the communal open space adjacent to the proposed laneway within its 'rear setback'. The proposed location of the communal open space offers better amenity to future users in terms of acoustic privacy, solar access and visual privacy.

The location of the communal open space in the manner proposed is satisfactory for the following reasons:

1. It is more private than a space located at the rear (or any other side) of the building.
2. It is quieter and more tranquil than any other side at ground floor level.
3. The ADG acknowledges the relationship between balconies and communal open space and seeks more communal open space where the number or size of balconies is compromised. Inversely, an increase in balcony number or size assists in supporting a communal open space slightly reduced in size. In this case, the proposed balconies (in most cases) generously exceed the minimum ADG requirements and in some cases have dual aspect balconies. The communal open space, in combination with the proposed balconies, provides good opportunities for passive recreation or relaxation.

The proposed communal open space is appropriately located and contributes adequately to landscape character. Its departure from the minimum numerical requirements does not contravene the objectives in this case as a suitable, useable and inviting area is achieved that enhances the residential amenity of occupants.

### **Canterbury Local Environmental Plan (CLEP) 2012**

The site is zoned B2 Local Centre pursuant to CLEP 2012. The controls applicable to this application are discussed below.



Clause 1.2 Aims of Plan

The proposed development is consistent with the relevant aims of the CLEP 2012.

Clause 2.3 Zone objectives and Land Use Table

Clause 2.3(2) of CLEP 2012 outline 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 proposal for a shop top housing development is permitted in the zone subject to consent. The objectives of the B2 Local Centre zone are as follows:

- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*
- *To encourage employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*
- *To facilitate and support investment, economic growth and development for active, diverse and well-designed centres.*

The proposal is permissible in the zone and complies with the objectives of the zone in accordance with CLEP 2012. Specifically, the proposal provides for a shop top housing development comprising of a ground floor pub and bottle shop and residential units above.

The following clauses of the *Canterbury Local Environmental Plan 2012* were taken into consideration:

Provision/ Standard	Requirement	Proposal	Complies
<b>Part 2 Permitted or Prohibited Development</b>			
2.1-2.3 Zoning	B2 Local Centre	Shop Top Housing Development consists of ground level bottle shop and pub with residential development above.	Yes-permissible with consent.
2.7 Demolition requires development consent	The demolition of a building or work may be carried out only with development consent.	Consent is sought for demolition and is suitable subject to the imposition of suitable conditions.	Yes
<b>Part 4 Principal Development Standards</b>			
4.3 Height of Buildings	18m	18m	Yes
4.4 Floor Space Ratio	Not applicable	Not applicable. The provisions of the CDOP 2012 apply in relation to shaping the density and building envelope of the proposed development.	N/A
5.6 Architectural roof features		None proposed.	N/A

Provision/ Standard	Requirement	Proposal	Complies
5.10 Heritage Conservation	Not applicable	There are no heritage constraints in proximity to the proposed development.	N/A
<b>Part 6 Local Provisions</b>			
6.1 Acid Sulfate Soils	Development consent must not be granted under this clause for the carrying out of works unless an acid sulfate soils management plan has been prepared for the proposed works in accordance with the Acid Sulfate Soils Manual and has been provided to the consent authority.	The site is not affected by Acid Sulfate Soils and therefore an acid sulfate soils management plan was not required as part of this development.	N/A
6.2 Earthworks	Before granting consent to development including earthworks, the following must be considered: (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.	The proposal involves temporary dewatering for the purposes of excavation. The subject application was referred to Water NSW who advised they were unable to provide a detailed assessment due to inadequate information. Water NSW requested a detailed Geotechnical Assessment Report. The Applicant failed to provide the report and therefore a detailed assessment could not be carried out.	No

Provision/ Standard	Requirement	Proposal	Complies
6.3 Flood Planning	<p>This clause applies to land at or below the flood planning level.</p> <p>Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:</p> <ul style="list-style-type: none"> <li>(a) is compatible with the flood hazard of the land, and</li> <li>(b) will not significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and</li> <li>(c) incorporates appropriate measures to manage risk to life from flood, and</li> <li>(d) will not significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and</li> <li>(e) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.</li> </ul>	Not applicable as the site is not affected by overland flow.	N/A

Provision/ Standard	Requirement	Proposal	Complies
6.4 Stormwater Management	Consent must not be granted unless: (a) Water permeable surfaces are maximized having regard to soil characteristics affecting on-site stormwater infiltration. (b) Includes on-site detention if practical as an alternative means of water supply. (c) Avoids significant impacts of run-off on adjoining land or the environment or minimises and mitigates impacts.	The application was referred to Council's Development Engineer who does not support the application as insufficient information has been provided to demonstrate satisfactory stormwater management.	No
6.6 Essential Services	Essential services must be available or adequate arrangements have been made to make them available, including: - the supply of water; - the supply of electricity (substation); - the disposal and - management of sewage; - stormwater drainage or on-site conservation; - suitable vehicular access.	The applicant has shown an indicative location of the substation on the architectural plans at the property 58 Croydon Street (a property which is also owned by the same owner of the subject site, but which does not form part of the subject DA). This arrangement is not suitable and is not supported.	No

An assessment of the Development Application revealed that the proposal does not comply with several of the above clauses of the Canterbury Local Environmental Plan 2012.

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

**Draft Canterbury Bankstown Consolidated Local Environmental Plan**

On 30 June 2020 the Canterbury Bankstown Local Planning Panel endorsed the Planning Proposal (PP\_2019\_CBANK\_005) to proceed to the Department of Planning, Industry and Environment for finalisation and making. The Planning Proposal seeks to produce a single set of planning rules and align the Bankstown LEP 2015 and Canterbury LEP 2012 into a consolidated Local Environmental Plan. The Planning Proposal however does not propose any change to the planning or development provisions relating to this site.

As the Planning Proposal has been exhibited it must be considered under Section 4.15 (1)(a)(ii) of the Environmental Planning and Assessment Act, 1979. The Draft CBLEP also seeks to insert a saving provision "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".

The proposed development will not impact the Draft CBLEP and are considered consistent with the CBLEP.

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

The following table provides a summary of the development application against the controls contained in Canterbury Development Control Plan 2012.

**B1 Transport and Parking**

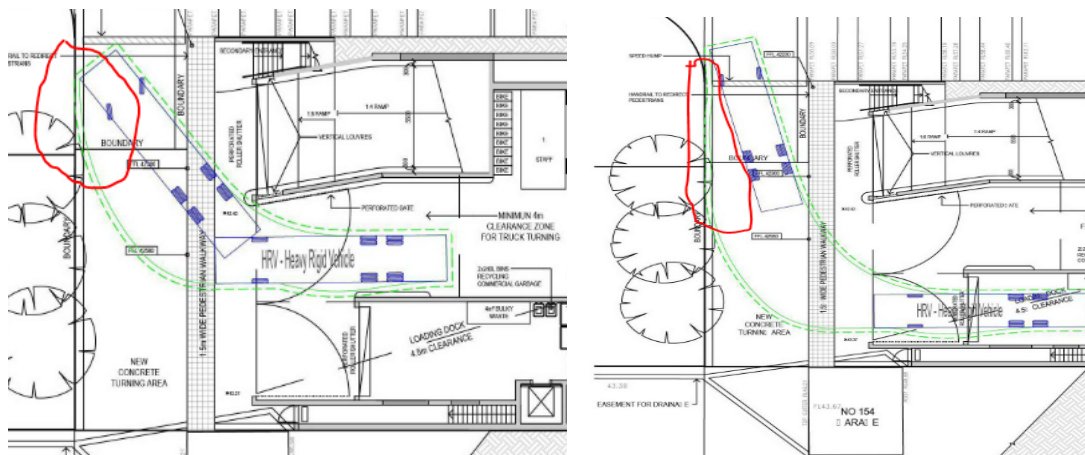
The application was referred to Council's Traffic Engineer and Development Engineer who raised objection to the proposed development on the following grounds:

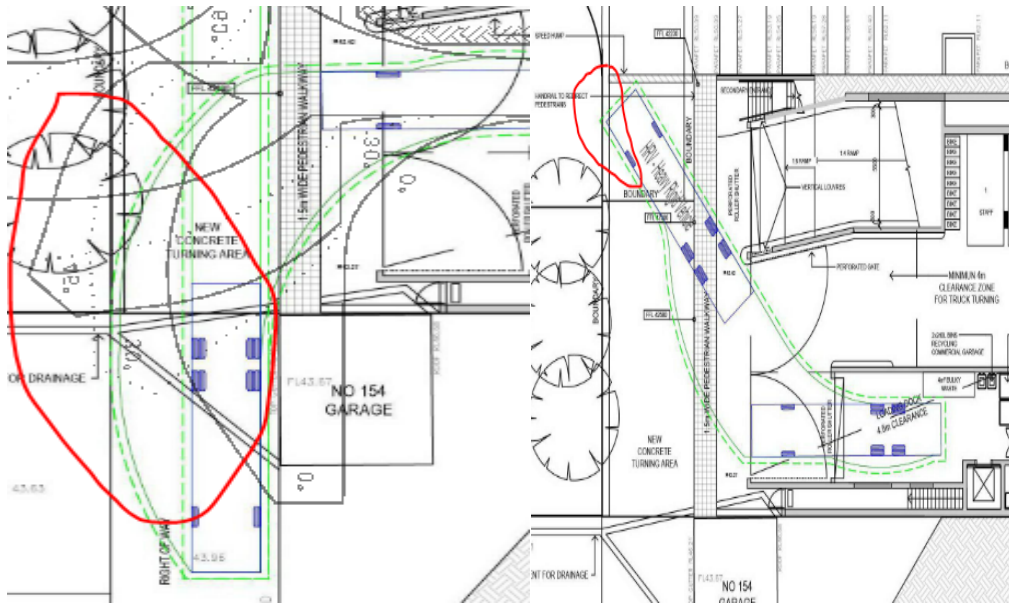
**Servicing the building:**

The service area (inclusive of Heavy Rigid Vehicles (HRV) manoeuvring areas) located on the parcel of land to be dedicated to Council has in excess of 700mm level difference. The current levels are not supported for a HRV to conduct manoeuvring and/or access to the subject premises.

Given the above, the proposed development does not comply with Objective O5 of Part B1.1 of the Canterbury Development Control Plan which aims to ensure that vehicle facilities are complaint, functional and safe.

As demonstrated by the applicant's traffic engineer and swept paths provided, the HRV body and clearances appear to be crossing over or come in contact with adjacent Lot boundaries. Furthermore, the truck is proposed to be crossing over potential kerblines proposed for the dedicated roadway, in multiple areas. As can be seen in the extracts from the Applicant's Traffic report and red highlights added below for emphasis.





The submitted proposed design does not address the steep crossfall (potentially 1.0m ) between the loading dock area/commercial parking entrance and the newly proposed roadway. This is critical to the reversing movement of the service vehicles. This issue has been previously raised and no response has been provided.

There is a pedestrian walkway proposed in the truck reversing areas, across the western boundary line and VPA roadway, traveling north to south. Pedestrians will be exposed to trucks reversing and this cannot be supported. The conflict between vehicular movements and pedestrian safety is contrary to objective O4 of the Canterbury Development Control Plan 2012 which aims 'to ensure servicing by larger vehicles occurs off-street in such a way that reduces impacts on the pedestrian environment.', and Objective O5 in relation to compliant functional and safe developments.

#### Sight Distance for Pedestrians

Sight distance for pedestrians has not been shown at the exit from the underground car park, from the ground floor parking area or from the loading dock. Clear sight lines as shown in Fig 3.3 from AS 2890.1:2004 shall be provided at the property line to ensure adequate visibility between vehicles leaving the car park and pedestrians on the frontage road footpath. The areas are to be kept clear of obstructions to visibility.

#### Reversing Truck Movements to Public Roads

In accordance with AS2890.1:2004 – Parking facilities – Off-street parking car parking, Section 3.2.2 Council does not support reversing vehicle movements to public roads. The swept path reversing truck movements shown in the Traffic Report are not supported as there is possible high pedestrian activity to and from the car parks off 'Davidson Lane' at the rear of the development. High pedestrian activity and reversing trucks is a very unsafe environment for pedestrians.

Given the above, the application is not consistent with the controls of Part B1 of the Canterbury Development Control Plan 2012.

**B2 Landscaping and B3 Tree Preservation**

The application was referred to Council's Landscape Architect who raised no objection to the application, subject to conditions of consent. Given this, the application is consistent with Parts B2 and B3 of the Canterbury Development Control Plan 2012

**B5 Stormwater and Flood Management**

The application was referred to Council's Development Engineer who raised objection to the proposed development.

The applicant is proposing to dispose the stormwater from the subject Lot via the existing easement and infrastructure held on title by the adjacent Lots (i.e. Lot 1 & Lot 2 of D.P 233365). No consent has been provided from the easement title holders. The Applicant has requested in a 'response letter', for Council to impose conditions supporting this requirement. Council cannot impose conditions on other pieces of land under ownership of others, and whilst a deferred commencement may be possible the applicant has not demonstrated that the proposed stormwater drainage system can actually function.

This is because of the lack of road design plans being provided, which means there is a potential that the levels of the land proposed to be a roadway can change and thus effecting the pipe invert levels within the easement and at the subject Lot. The existing easement that is proposed to be utilised as means of stormwater conduit is on the proposed PA roadway. As a result the application does not comply with the General Objectives (Section B5.1) of Part B5 Stormwater Management of the Canterbury Development Control Plan 2012 and in particular Objectives O1, O2, O3 and O4.

Furthmore, as the provided dealings and transfer documents pertaining to the subject Lot and surrounding Lots are not clear on title holdings of both right of way and stormwater easements, insufficient information has been submitted to the satisfaction of Council.

**B7 Crime Prevention and Safety**

Control	Requirement	Proposed	Complies
B7 Crime Prevention	Site and Building Layout: Address the street, or both streets and corners	The building, including individual units are orientated towards Haldon Street and Davidson Lane.	Yes
	Site and Building Layout: Position habitable rooms with windows adjacent to the main communal area.	No windows are orientated towards the roof-top communal open space area. However, should the application be approved, a condition of consent will be imposed to ensure the roof-top terrace has restricted access to residents only. This has been accepted for similar designs comprising roof top	Yes – via condition of consent



		communal open space in the locality.	
	Site and Building Layout: Avoid blind corners in pathways, stairwells, hallways and car parks.	The building layout avoids blind corners.	Yes
	Access Control: Access to the individual units be clearly marked and apparent to visitors.	The entry is to be clearly numbered with the dwellings accessible through that entry.	Yes- via a condition of consent
	Access Control: Install intercom, code or card locks or similar to main entries to buildings, including car parks.	Intercoms and controlled access measures (e.g. roller doors) to be installed at the residential building entry point, main entry point to basement car park and entry point to residential component of basement car park.	Yes – via condition of consent
	Access Control: Concealment points be eliminated.	The proposal eliminates concealment points by controlling access to the site.	Yes
	Mixed Land Uses: Located shops and business on lower floors and residences on upper floors.	The design comprises ground floor commercial/retail premises with residences located above.	Yes
	Ownership: Dwellings and communal areas to provide sense of ownership.	Sense of ownership is achieved using design features, building materials and site layout.	Yes

### B9 Waste Management

The application was referred to Council's Resource Recovery Project Officer who raised objection to the proposed development. The comments of the waste recovery officer are as follows:

- Council requests confirmation that the proposal requires waste collection vehicles to perform multiple reversing manoeuvres in order to reach the stationary loading position within the proposed loading dock. Council does not endorse collection practices which require multiple reversing manoeuvres.
- Further, it is noted the abovementioned maneuvers requires reversing across a pedestrian walkway, raising further safety concerns. Confirmation that the proposal requires waste collection vehicles to exit the site in the same direction as required for vehicular entry.
- The swept paths provided indicate the HRV body and clearances appear to be crossing over or coming into contact with adjacent lot boundaries as well as structural elements of the development. Additionally, the vehicle is illustrated to be crossing over the potential kerblines in multiple areas.



- Council notes that the waste collection vehicle will be required to access the site through Council carpark via Croydon Street. Council advises that it is concerned about the potential impacts and/or damage to the pavement and road surface as a result of HRV (with gross vehicle mass of up to 30 tonnes) utilising this area for the purpose of waste collection. Council requests further investigation be done to determine the suitability of the pavement and any further requirements to ensure ability to accommodate use by HRV.

Given this, the proposed development is not consistent with the objectives of Part B9 Waste Management of the Canterbury Development Control Plan 2012, in particular General Objective (Part B9.1) O1 which aims to ensure that facilities for handling, storage, collection and disposal of waste are incorporated into all development and are compatible with the design of the development.

### C5 Shop Top Housing

Control	Requirement	Proposed	Complies
C5.2.1.3 Balconies and Communal Open Space	Clause 6A of SEPP 65 states that development control plans that have provisions that are inconsistent with the ADG in relation to open space and balconies have no effect in the assessment of residential apartment development applications.  Clauses 3.3.3 of the CDCP are therefore not relevant to the assessment of this application and open space and balcony matters have been assessed only in relation to part 4E of the ADG (as detailed in the table above).		
C5.2.1.4 Layout and Orientation	Seeks to ensure that development is designed to ensure solar access and natural ventilation. These matters have been considered above in relation to the sections within the ADG.		
C5.2.2.2 Floor to Ceiling Height	Refer to 4C Ceiling Heights of the ADG made under SEPP 65 for objectives, design criteria and design guidance in relation to minimum ceiling heights.  Clause C5.2.2.2 of the CDCP is therefore not relevant to the assessment of this application and visual privacy matters have been assessed only in relation to part 4C of the ADG (as detailed in the table above).		
C5.2.2.3 Setbacks	Refer to Table D1 set out below with setback requirements.		
C5.2.2.4 Building Depth	The ADG sets the objectives and controls for building depth in the LGA for shop top housing to which SEPP 65 relates. Refer to 4B Natural Ventilation of the ADG for objectives, design criteria and design guidance.		
C5.2.2.5 Building Separation and Visual Privacy	The ADG sets the objectives and controls for building separation in the LGA for shop top housing to which SEPP 65 relates. Refer to 3F Visual Privacy of the ADG for objectives, design criteria and design guidance.  Clause C5.2.2.5 of the CDCP is therefore not relevant to the assessment of this application and visual privacy matters have been assessed only in relation to part 3F of the ADG (as detailed in the table above).		
C5.2.3.1 Built Form	<ul style="list-style-type: none"> <li>Provide accessible entries for all potential use such as the transporting of furniture.</li> </ul>	The entries to the building are suitable.	Yes

Control	Requirement	Proposed	Complies
	<ul style="list-style-type: none"> <li>Face habitable rooms towards the street, private open space, communal space, internal driveway or pedestrian ways in order to promote positive social interaction and community safety.</li> </ul>		
C5.2.3.2 Roof Design and Features	<ul style="list-style-type: none"> <li>Roof terraces are permitted with consent in all business zones except the B1 Zone.</li> <li>A management strategy is required and must be approved by Council as part of the development application, for any proposed roof terrace.</li> <li>Supplement open space on roof terraces by providing space and appropriate building systems to support the desired landscape design, incorporating shade structures and windscreens to encourage use of roof top open space.</li> <li>Demonstrate that roof terrace has been designed so as to protect the privacy, solar access and amenity of adjoining buildings. Measures to minimise overlooking of adjoining properties include screening or planting between properties and preventing rooftop users from standing at the edge of roof terraces that look into adjoining properties through planting and screens.</li> <li>Allow for views and passive surveillance of streets and public open space from roof terraces.</li> </ul>	The roof terrace is suitably screened with hedge planting around and will not result in privacy impacts to adjoining properties.	Yes
C5.2.3.3 Dwelling Layout and Mix	The ADG sets the objectives and controls for dwelling layout in the LGA for residential flat buildings to which SEPP 65 applies. Refer to 4D Apartment Size and Layout of the ADG for objectives, design criteria and design guidance. An additional objective and control in relation to the mix of dwellings are provided below.		
	10% of dwellings in any development must be accessible or adaptable to suit current or future residents with special needs.	The total number of residential apartments for this development is 19, therefore this control is not applicable.	Yes

Control	Requirement	Proposed	Complies
C5.2.3.4 Building Services	Seeks to ensure that all services and utilities are appropriately located. Of particular note is control C5 which states substations should be located underground, and, if not possible, integrated into the development.	Location of substation is not acceptable given that it doesn't form part of the DA site.	No
C5.2.4.1 Solar Access and Overshadowing	<p>Clause 6A of SEPP 65 states that development control plans that have provisions that are inconsistent with the ADG in relation to solar and daylight access, have no effect in the assessment of residential apartment development applications.</p> <p>Clause 6.2.6 of the CDCP is therefore not relevant to the assessment of this application and matters have been assessed only in relation to Part 4A of the ADG (as detailed in the table above).</p>		
	Daylight is to be provided to all common circulation areas (including lift wells) that are above ground.	Open voids incorporated in the design of the development to allow natural light access to common circulation areas.	Yes
C5.2.4.2 Acoustic Privacy	<p>Locate sensitive rooms, such as bedrooms, from likely sources of noise such as major roads and neighbouring living areas. Above ground access to new dwellings must not include communal balconies that would be located immediately next to a bedroom window.</p> <ul style="list-style-type: none"> <li>Bedroom windows in new dwellings that would be located at or close to ground level are be raised above, or screened from, any shared pedestrian pathway.</li> <li>Screen balconies or windows in living rooms or bedrooms that would face a driveway or basement ramp.</li> <li>On land adjoining railway or busy roads, address all requirements in 'Development Near Rail Corridors and Busy Roads - Interim Guideline' which has been published by the NSW Department of Planning and Environment.</li> </ul>	Acoustic privacy has been assessed against the requirements of SEPP 65 earlier within this report.	Yes
C5.2.5 Parking and Access	<p>Under clause 3J of the ADG, development within 800 metres of a railway station in the Canterbury Bankstown LGA must provide the minimum car parking requirement for residents and visitors that is the lesser of that set out within the RMS's Guide to Traffic Generating Developments or Council's requirements.</p> <p>Refer to discussion above relating to compliance with the minimum parking</p>		

Control	Requirement	Proposed	Complies
	requirements (3J Car Parking of the ADG compliance table).  In addition to the above, the application was referred to Council's Development Engineer and Team Leader Traffic and Transportation who raised no objection to the application, subject to conditions of consent.		

D1 Business Centres

Control	Requirement	Proposed	Complies
D1.2.1 Minimum Frontage	Where redevelopment is proposed in a B1 or B2 Zone of the LEP a minimum frontage of at least 18m shall be provided.	21.335m frontage to Haldon Street.	Yes
D1.2.2 Isolated Sites	New development should not result in the isolation of neighbouring property that would be narrower or smaller than the required and could not be able to accommodate redevelopment.	The proposed development does not result in the isolation of neighbouring properties.	Yes
D1.3.1 Floor Space Ratio	FSR as set out in the LEP.	There is no maximum FSR for the subject site.	Yes
D1.3.2 Height	Building height: Refer to CLEP 2012 for maximum height of buildings in meters.	As noted in the LEP table above.	Yes
D1.3.3 Floor to Ceiling Height	Floor to ceiling heights must: <ul style="list-style-type: none"> <li>• Provide a minimum 3.3m floor to ceiling height for the ground floor.</li> <li>• Provide a minimum 2.7m floor to ceiling height for residential floors.</li> <li>• Minimum car parking floor to ceiling height 2.8m.</li> <li>• The floor to ceiling height may need to be increased to meet the requirements of the intended use, however, the maximum building height will still need to be complied with.</li> </ul>	The proposed floor to ceiling heights comply with the provisions of the ADG, which overrides CDCP 2012 ceiling height controls.	Yes

Control	Requirement			Proposed	Complies
D1.3.4 Setbacks	Comply with the street level setback, number of storeys at the street level, and upper level setback in the following table.			Levels 1-3 are built to the front boundary (Haldon Street). The main building line of Levels 4 and 5 (ground floor being counted as Level 1) are setback 5m from the front boundary. The balconies on Level 4 encroach the 5m setback however it is not considered that this is detrimental to overall objectives of the control.	Yes
		Number of storeys at the street and setback	Upper level setback		
	B2 Zone (except Campsie Civic Centre Precinct, Canterbury Town Centre and Roselands Shopping Centre)	1-3 storeys  Build to front boundary	Fourth storey – 3m Greater than four storeys – 5 m (all storeys to be set back this distance including the fourth storey)		
	A rear setback is not required if the land adjoins a lane.			Refer to comment [1] below for discussion	Yes
	Side setback <ul style="list-style-type: none"> <li>Do not provide a side setback in the B1 or B2 zone when the desired character is for a continuous street frontage.</li> </ul>			The site lies within a B2 zone, where the desired future character is a for a continuous street frontage.	Yes
	On boundary with residential zone – side setback <ul style="list-style-type: none"> <li>Establish a 45° height plane projected at 1.5m from the residential boundary.</li> <li>Provide minimum 1.5m setback to the residential zone boundary.</li> <li>A two-storey limit on the boundary with residential zone applies.</li> </ul>			Noted but not relevant in this instance.	N/A

Control	Requirement	Proposed	Complies
	<p>On boundary with residential zone – rear setback</p> <ul style="list-style-type: none"> <li>Establish a 45° height plane projected at 6m from the residential boundary.</li> <li>Provide minimum 6m setback to the residential zone boundary.</li> <li>A two-storey limit on the boundary with residential zone applies.</li> <li>A setback to a rear laneway is not required.</li> </ul>	<p>The site adjoins an R3 Medium Density Residential Zone to the rear.</p> <p>There is a laneway to the rear of site which, by virtue of control C10, removes the required 6m rear setback of control C8. The proposal is therefore compliant with this element of the control, however controls at C7 and C9 require 45° building setback height plane. The proposed development does protrude into this rear setback, and whilst this mostly for rear balconies, there are some habitable space elements which are included which is contrary to the controls.</p>	No – refer to comment [1] below
D1.3.5 Building Depth	<p>Building depth for commercial premises must be in accordance with the following requirements:</p> <p>(a) Minimum depth of 10m; and</p> <p>(b) Maximum street frontage wall length of 50m.</p>	The commercial premise (pub) exceeds 10m in depth.	Yes
D1.4.1 Orientation and Layout	<ul style="list-style-type: none"> <li>Design and orient development to maximise solar access and natural light, without unduly increasing the building's heat load.</li> <li>Design and site development to avoid casting shadows onto neighbouring dwelling's primary living area, private open space and solar cells.</li> <li>Coordinate design for natural ventilation with passive solar design techniques.</li> </ul>	The orientation of the lot is such that the proposed development has been designed to maximise solar access. Issues of solar access to rooms and ventilation have been discussed elsewhere in this report.	Yes
D1.4.2 Ground Level Interface	<p>Building Entries:</p> <ul style="list-style-type: none"> <li>Locate entries so they relate to the existing street, subdivision pattern, street tree planting and pedestrian access network and are clearly visible</li> </ul>	The commercial entry point to the bottle shop and pub is located along Haldon Street which will ensure any future commercial/retail use will contribute to an active street frontage.	Yes

Control	Requirement	Proposed	Complies
	<ul style="list-style-type: none"> <li>Provide entries to upper levels from the street front façade to encourage activities on the ground floor.</li> <li>Provide entries for service activities to rear of the buildings.</li> <li>Provide an awning over the entry to contribute to the legibility of the development and the public domain.</li> </ul> <p><u>Ground Level Awnings</u></p> <ul style="list-style-type: none"> <li>The façade of the building shall be built to the front street boundary;</li> <li>A cantilevered awning from the building facade shall overhang the footpath at a minimum width of 3m;</li> <li>Cantilevered awning height is to be in the range of 3.2m - 4.2m from natural ground level;</li> <li>Awnings must complement the height, depth and form of the desired character or existing pattern of awnings and should match adjoining awnings so as to provide continuous pedestrian cover and eliminate gaps wherever possible;</li> <li>Awnings shall provide sufficient protection from sun and rain; and Posted awnings or colonnades will not be supported.</li> </ul>	A separate entry point for the residential use is located along the Haldon Street frontage. A cantilevered awning is proposed along the Haldon Street frontage to provide weather protection for entry points. A condition will be imposed to ensure the awning does not overhang onto the roadway.	Yes – via condition of consent
	<p><u>Shop Fronts</u></p> <p>Windows on the street frontage are transparent (not mirrored) to provide visibility between interior and exterior spaces, allow for surveillance of the street and provide interest for pedestrians.</p>	Windows and openings associated with the ground floor premises are such that they facilitate natural surveillance in and out of the site.	Yes
D1.4.3 Façade Treatment	<p>Façade design:</p> <ul style="list-style-type: none"> <li>Building form and design do not have to mimic traditional features, but should reflect these in a contemporary design.</li> <li>Avoid long spans of blank walls along street frontages and address both street frontages with façade treatment, and</li> </ul>	The design of the proposed development is contemporary through the use of flat roof and colours of materials and does not mimic traditional features.	Yes

Control	Requirement	Proposed	Complies
	<p>articulation of elevations on corner sites.</p> <ul style="list-style-type: none"> <li>• Incorporate contrasting elements in the façade - use a harmonious range of high quality materials, finishes and detailing: <ul style="list-style-type: none"> <li>- Define a base, middle and top related to the overall proportion of the building,</li> <li>- Express key datum lines using cornices, change in materials or change in setback,</li> <li>- Express the variation in floor to floor height, particularly at lower levels,</li> <li>- Articulate building entries with awnings, porticos, recesses, blade walls and projecting bays,</li> <li>- Use a variety of window types to create a rhythm or express building uses and use recessed balconies and deep windows to create shadows, adding visual depth to the façade,</li> <li>- Detail balustrades to reflect the type and location of the balcony and its relationship to the façade,</li> <li>- Incorporate architectural features which give human scale at street level, including entrances, awnings, colonnades, pergolas and fences,</li> <li>- Use colour, variation in the types of materials and arrangement of façade elements and materials to articulate different parts of a building façade - a material palette can include brickwork, rendered masonry, sheet materials, glazing, sandstone and treated metals and timbers,</li> <li>- Incorporate horizontal and/or vertical elements, such as indentations in the façade plane, string courses and</li> </ul> </li> </ul>	<p>The design of the proposed building is articulated through the inclusion of balconies, opens and setbacks. The design of the building is acceptable and is well defined.</p>	



Control	Requirement	Proposed	Complies
	<p>bandings, window openings and building entrances.</p> <ul style="list-style-type: none"> <li>Design façades to reflect the orientation of the site using elements such as sun shading devices, light shelves and bay windows.</li> <li>Modulate the wall alignment with a step in of at least 1m.</li> </ul>		
	<ul style="list-style-type: none"> <li>Do not allow balconies and voids to dominate publicly visible façades (excluding glass shop fronts and colonnades in business centres).</li> <li>Use a solid to void ratio in the vicinity of 50%, with each façade measured independently. Disharmony arises when the range of solid to void is extreme, such as fully glazed façades or those with multi-balcony 'egg crates'.</li> <li>Voids include fenestration, balconies, porches and loggias.</li> <li>Do not include shopfronts in the 50% solid to void ratio calculation</li> <li>Use balconies in moderation and integrate them into the overall composition of the façade - do not use a monotonous or repetitive configuration of balconies.</li> <li>Where possible place balconies facing an internal courtyard and do not place all balconies on an external façade.</li> <li>Use balcony types that respond to the street context, building orientation and residential amenity.</li> <li>Use lightweight materials and construction for balconies: <ul style="list-style-type: none"> <li>Support verandas and balconies with slender metal or timber frames, rather than concrete columns or masonry piers,</li> <li>Construct balcony balustrades with glass</li> </ul> </li> </ul>	<p>Balconies of the proposed development are orientated towards the adjoining streets to improve natural surveillance and obtain solar access (where possible).</p> <p>The balconies are integrated within the design of the building and there is adequate variety in balconies configuration along each street front. Further, the use of a variety of setbacks also ensures the proposed balconies do not appear to be monotonous when viewed from the adjoining streets.</p>	Yes

Control	Requirement	Proposed	Complies
	panels, open metal framing, board or sheet cladding, rather than entirely of masonry, or break up significantly blank walls of masonry with panels.		
D1.4.4 Roof Design	<p>Roofs must not exceed a pitch of 10 degrees.</p> <p>Emphasise building articulation with the shape and alignment of the roof.</p> <p>Relate roof design to the size and scale of the building, the building elevations and three dimensional building form – including the design of any parapet or terminating elements, and the selection of roof materials.</p> <p>Relate roof design to the desired built form and context.</p>	The proposed roof design is consistent with the design of other commercial/mixed use development along this portion of Haldon Street.	Yes
D1.4.6 Laneways	New laneways are identified for some town centres. Refer to relevant Chapter in Part D for controls relating to specific centres. Where sites are to be redeveloped and a new lane is identified over private land, creation of the laneway is required even if the laneway cannot be immediately utilised.	The land to the rear of the application site is identified as a new laneway (See Comment [2] below). Details have been provided for the construction of the laneway, and this has been discussed elsewhere in the report.	Yes
	<p>Unscreened appliances and meters should not be attached to any façade that would be visible from a street, driveway or a principal communal area within the site:</p> <ul style="list-style-type: none"> <li>• Screen air conditioning units behind balcony balustrades,</li> <li>• Provide screened recesses for water heaters rather than surface mounting them on exterior walls,</li> <li>• Locate meters in service cabinets.</li> </ul>	All services are integrated within the design of the building and/or within the basement.	Yes – via condition of consent
	Coordinate and integrate building services, such as drainage pipes, with overall façade and balcony design.	Drainage pipes etc are integrated within the overall façade.	Yes

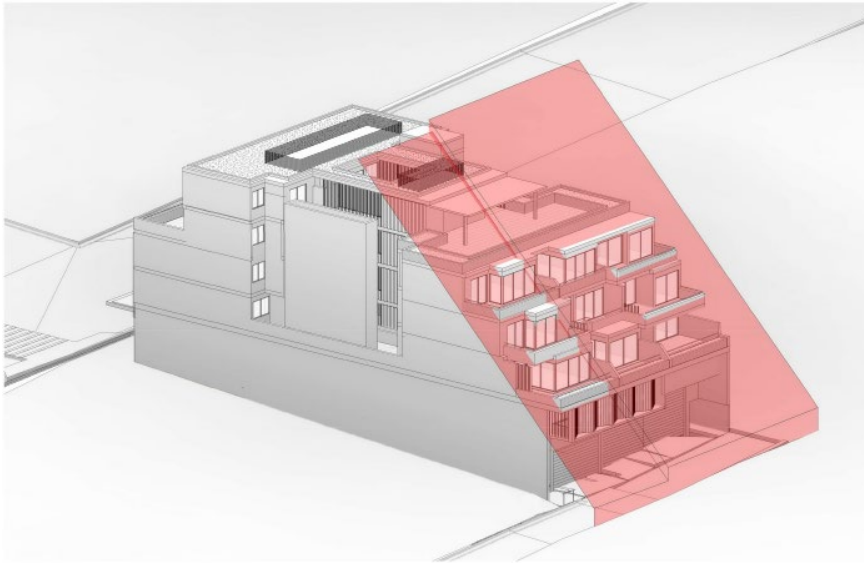
Control	Requirement	Proposed	Complies
	Siting solar hot water systems: <ul style="list-style-type: none"> <li>• Locate the system so it is not visible from the street or other public places.</li> <li>• Use colour that is consistent with the colour of roof materials.</li> <li>• Locate the water storage tank so it is separated from the solar collectors and can be situated on a less visually obtrusive part of the roof, or within the building (for example, within the roof space or laundry).</li> </ul>	Hot water systems can be integrated within the design of each apartment and will therefore be screened from public view.	Yes – via condition of consent

Control	Requirement	Proposed	Complies
D7.3 Local Centres	Development in the Lakemba Local Centre is to be in accordance to the structure plan shown in Figure D7.2 (See below).	The proposed development involves a Planning Agreement (PA) for the dedication of land at the rear of the site to extend an existing laneway. The nature of the PA is discussed further in this report. This will help to improve the structure and function of the Local Centre. The area for land dedication is in keeping with the structure plan in CDCP 2012 which is illustrated in Figure 3.5.6 below.	Yes

#### [1] Rear Setback

The site is located within a B2 Zone and adjoins in part Davidson Lane and in part a residential property, of which both are zoned R3 Medium Density Residential under CLEP 2012. In accordance with Part 3.1.8(ii) a nil setback to the boundary is permitted if the land adjoins a lane. The proposed design provides a nil setback to the part of the rear boundary that adjoins the lane. A 6.09m setback has been provided to the part of the rear boundary that adjoins the residential property. It is noted that the part of the site between the proposed building and the rear boundary with dimensions (6m x 15.24m) is proposed to be dedicated to Council for the extension of Davidson Lane.

It is acknowledged that after the subdivision takes place through **the PA**, the building will still comply with the requirements of CDCP 2012 given that a nil setback is permitted as the full extent of the subject sites rear boundary will be adjoining Davidsons Lane.



## 2 BUILDING ENVELOPE STUDY

### LEGEND

■ DCP BUILDING ENVELOPE

## [2] Creation of New Lanes

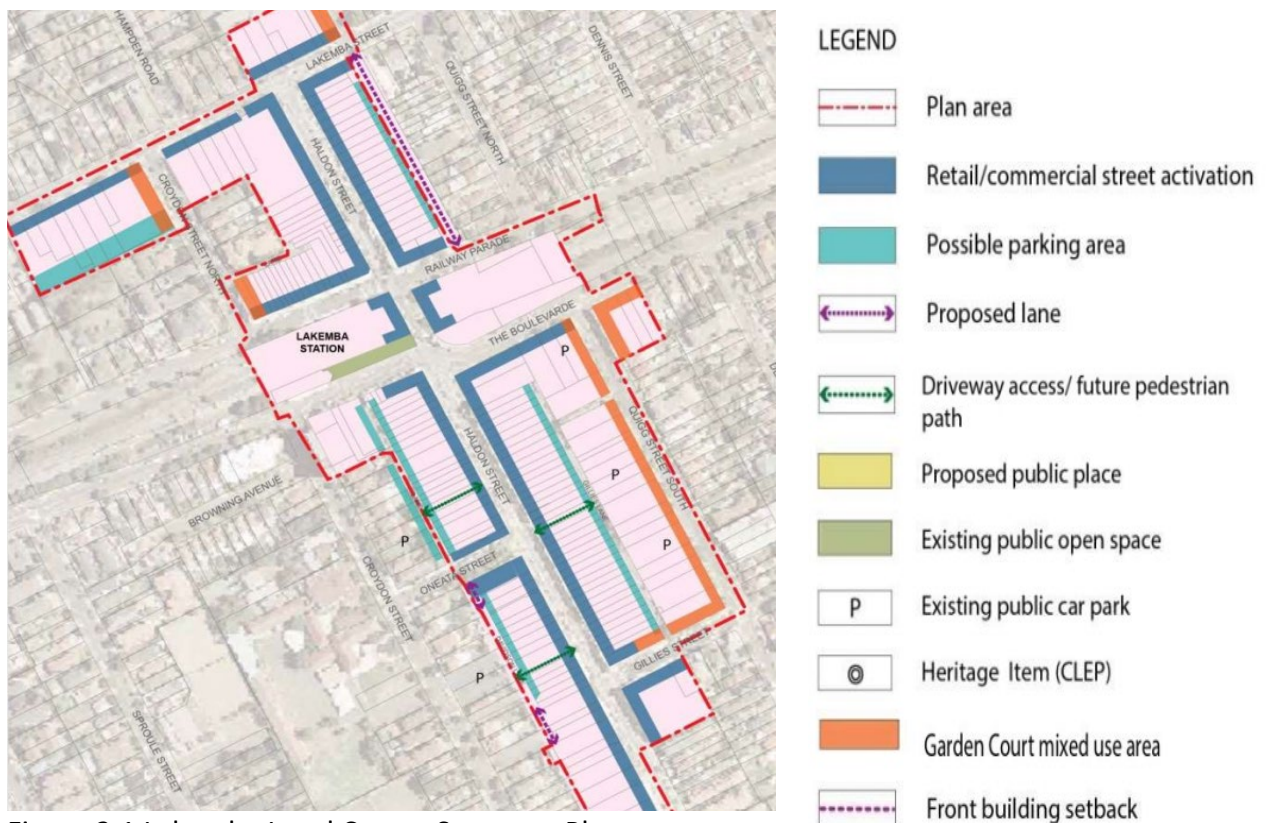


Figure 2.1 Lakemba Local Centre Structure Plan

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

*The Local Planning Panel Direction – Development Applications* signed by the Minister for Planning 23 February 2018 outlines the type of development applications that are to be referred to Local Planning Panels for determination for all Council's in Sydney and Wollongong City Council. The Direction states "*Local planning panels of Council's in the areas identified in the Table are to determine development applications involving development of a kind specified in the Schedule to this direction that is identified in the Table below*". The table lists Canterbury-Bankstown City Council referral criteria in Schedule 2. Section 4(f) of Schedule 2 states "*Development applications for which the developer has offered to enter into a planning agreement*".

Council adopted a Planning Agreement Policy on 28 February 2017. Clause 3.1.2 of the policy refers to Development Applications as follows:

*The Council will require the Developer to execute the agreed draft VPA or to have provided a detailed written irrevocable offer acceptable to the Council before the Development Application is determined (whether by the governing body or a delegate).*

*If the Developer has submitted a detailed written irrevocable offer acceptable to the Council, any Development Consent granted by the Council to the Development Application will ordinarily be subject to a deferred commencement condition requiring the VPA to be entered into in accordance with the offer before the consent operates.*

The VPA for land dedication for the purpose of road widening was referred to Council's Strategic Planner and Solicitor who agreed that in principle it was an acceptable offer, and should the application be supported conditions of consent would be imposed to ensure that the VPA is followed through. Should the application be supported, which it is not, a deferred commencement condition would be imposed requiring that a VPA be entered into for land dedication for the purpose of extending the laneway prior to the issue of an operational consent.

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

The proposed development is not considered to be inconsistent with the relevant provisions of the *Environmental Planning and Assessment Regulation, 2000*.

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

The likely impacts of the development have been discussed above.

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

Based on the information submitted, it has not been demonstrated that this is suitable for the proposed development. As demonstrated in the table below, several internal and external stakeholders do not support the application for the reasons detailed within this report.

Referral	Comments
Water NSW	Insufficient information has been submitted to enable Water NSW to carry out a detailed assessment and therefore do not support the application.
Ausgrid	Raised no objection.
Council's Development Engineer	Council's Development Engineer does not support the application for the reasons detailed within this report.
Council's Traffic Engineer	Council's Traffic Engineer does not support the application for the reasons detailed within this report.
Council's Environmental Health Officer	Council's Environmental Health Officer does not support the application for the reasons detailed within this report.
Council's Resource Recovery Officer	Council's Waste Officer does not support the application for the reasons detailed within this report.
Council's Fire Safety Officer	Raised no objection.
Council's Strategic Planner	Raised no objection.

#### **Submissions [section 4.15(1)(d)]**

The application was advertised and notified on two separate occasions, January 2018 and August 2019, both for a period of 21. 8 letters of objection were received during this period, which raised concerns relating to as summarised below.

Objection: Height  
 Comment: Some concerns raised related to earlier sets of plans which included a Clause 4.6 Variation request to breach the maximum height limit. The application has been amended since the original January 2018 notification period and the proposed development has been reduced to be in accordance with the maximum height control. The amended plans however do still exceed what is known as the 'setback height plane' to the rear of the site, and this will form a reason for refusal.

Objection: Car Parking  
 Comment: Concerns were raised that there was insufficient car parking for the proposed development. Comments raised concerns that both the hotel and the residential components were under-serviced. The proposed parking scheme has been assessed against the requirements of the relevant State and Council controls and the proposed development has enough car parking spaces to meet these requirements.

Objection: Waste Management and Bin Trucks  
 Comment: The application has been considered by Council's Waste Section and against the controls found in Council's Development Control Plan (DCP). The proposed development does not meet the requirements of the DCP and the Council's Waste Section have objected to the application, primarily on grounds that the site cannot be safely serviced by waste trucks. This will form a reason for refusal.



Objection: Loss of Privacy

Comment: Concerns were raised that there would be privacy impacts not only to the property to the rear of the application site, but also to 142-144 Haldon Street. Council has assessed the plans against the privacy controls of the Apartment Design Guide and the Development Control Plan. The proposed development does not meet the requirements under those controls for maintaining visual privacy and this will form a reason for refusal.

Objection: Safety and Security

Comment: The application has been assessed against Council's Development Control Plan for Crime Prevention Through Environmental Design and the proposed development is consistent with those policies. The application was also referred to Council's Community Safety Team who raised no objection to the proposal. Some matters raised in the objections are matters for police and cannot be controlled through the development application process.

Objection: Overshadowing and Solar Access to Neighbouring Properties

Comment: The application has been considered against the solar access and overshadowing controls of the Apartment Design Guide and the Development Control Plan. Whilst some overshadowing of neighbouring properties would occur, if the proposal were to be supported, the proposed development is consistent with the controls in those plans. As a result, it is not recommended that this forms a reason for refusal.

Objection: Loss of Outlook and Overdominance

Comment: The original application proposal exceeded the maximum height controls within the Local Environmental Plan. The proposal was amended, and the height of the development was reduced, to be compliant with the height control. Whilst the development would be 5 storeys high, this size of development is not inconsistent with the policy controls. Clearly the additional height above the existing 2 storey development would result in a different visual outlook, it is not considered that this objection should form a reason for refusal.

Objection: Traffic Congestion and the Laneway to the Rear of Site

Comment: Council has attempted to ensure that the laneway to the rear of the site is extended and improved as part of this application, however the levels of the laneway has meant the development cannot be suitably serviced by, for example, waste trucks and cannot be suitably accessed by those wishing to park in the basement car park. This means the development cannot be supported on road traffic and road safety grounds. The fact that site cannot be suitably accessed, and the lane cannot be suitably made safe has knock-on effects for the wider road network.

Objection: Noise and Other Anti-Social Behaviour

Comment: The residential portion of the proposed development is unlikely to have noise implications for surrounding residential developments. The commercial portion of the proposed development does have such implications; however, this must be weighed with the existing development which is of a similar type. The applicants have submitted two surveys which have been considered by Council's Environmental Health Officers (EHOs). The EHOs have raised no objection to the proposal based on noise.

The applicants have provided details of a management plan to deal with any anti-social elements who may attend the site and has, since the application was submitted, amended the proposal to limit the impacts of the smoking area on nearby and proposed dwellings.

Some elements raised in objections regarding anti-social behavior and the social aspects of patrons are matters for police which cannot be controlled through the development application process. It is not considered that the noise impacts of the development

Objection: The Use of 58 Croydon Street

Comment: As discussed under the Traffic Congestion and Laneway commentary above, Council has been unable to ensure the safety of the laneway. The applicant has had discussions about using the land at 58 Croydon Street to assist their application. Council has considered this, but they do not deal with the fundamental issues raised above. The loss of this land for carparking in the wider town centre, given its ownership, is not a relevant planning matter for this application.

Objection: Asbestos and Contaminated Land

Comment: The applicant provided a Preliminary Site Investigation Report with the application. This was considered by the Council's Environmental Health Officers (EHOs) who concluded the report was satisfactory and the site is suitable for the proposed development in relation to contaminated land. If the application were to be approved conditions relating to discovery, treatment and removal of asbestos and other contaminants could be included on a consent. As a result, it is not recommended that this form a reason for the refusal of this development application.

Objection: Loss of a Heritage-Style Building

Comment: Comments were received objecting to the demolition of the existing building. Concern was raised that the existing building was of a design which should be retained and had heritage features which should not be lost. Despite traditional elements in the design of the existing building, the existing building is not listed as a heritage item. As a result, to refuse this application on preserving a non-heritage item would not be supportable.



- Objection: Loss of access to existing voids in Omar Towers
- Comment: Concern was raised the proposed development would limit the access for maintenance and other reasons to voids located only the southern boundary of Omar Towers. The design of the development does have a void within the centre of the proposed building which would allow for access to the voids in Omar Towers.
- Objection: Loss of Property Value
- Comment: The loss of property values because of neighbouring development is not a material planning consideration and cannot be considered by Council in the assessment of the application.

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

Based on the detailed assessment of this application, the proposed development is not in the public interest.

**CONCLUSION**

The Development Application has been assessed in accordance with the provisions of Section 4.15 of the Environmental Planning and Assessment Act 1979, Canterbury Local Environmental Plan 2012 and Canterbury Development Control Plan 2012.

The proposed development does not result in an appropriate built form for the site which is consistent with the longer-term future desired future character illustrated in Council's Development Control Plan and Local Environmental Plan.

**RECOMMENDATION**

It is recommended that the development application DA-512/2017 be **REFUSED**, for the reasons outlined in Appendix B.



## APPENDIX B – REASONS FOR REFUSAL

- 1) 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:
  - a. Part 3F Visual Privacy in that insufficient information has been provided to ensure privacy between apartments within the development proposal and also adjacent development, in particular 142-144 Haldon Street.
  - b. Part 4A Solar and Daylight Access in that under 70% of apartments receive at least 2 hours of direct sunlight between 9am and 3pm at mid-winter.
  - c. Part 4B Natural Ventilation in that insufficient information has been provided to undertake a full and proper assessment of the natural ventilation provided through the courtyard element of the proposed development. In particular, the window schedule submitted with the application is unclear.
  - d. Part 4D Apartment Size and Layout in that apartments exceed the maximum habitable room depth from a window.
  - e. Part 4E Private Open Space and Balconies in that some private open spaces are below the minimum sizes indicated.
  - f. Part 4H Acoustic Privacy in that the proposed development conflicts with 4H-2 in relation to internal layout and separation of noisy and quiet areas.
- 2) Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, and having regard to the reasons of this notice, it is considered that the proposed development does not satisfy the objectives contained in Clause 1.2 of the Canterbury Local Environmental Plan 2012, in particular Objective 2(c) 'to ensure that development is of a design and type that supports the amenity and character of an area and enhances the quality of life of the community'.
- 3) Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, it is considered that the proposed development does not satisfy:
  - a. Clause 6.2 – Earthworks of the Canterbury Local Environmental Plan 2012 relating to (i) drainage patterns and soil stability and (ii) potential impacts on waterways, drinking water catchments or environmentally sensitive areas as insufficient information has been submitted to Council.
  - b. Clause 6.4 – Stormwater Management of the Canterbury Local Environmental Plan 2012 in that insufficient information has been provided to demonstrate satisfactory stormwater and run off management.
  - c. Clause 6.6 – Essential Services of the Canterbury Local Environmental Plan 2012 in that the location and supply of electricity has not been adequately addressed.

- 4) The proposed development is unsatisfactory, pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, as it does not comply with the provisions of the Canterbury Development Control Plan 2012 including:
- a. Objective O4 of Part B1.1 – General Objectives: Transport and Parking, which aims to ensure servicing by larger vehicles occurs off-street in such a way that it reduces impacts on the pedestrian environment
  - b. Objective O5 of Part B1.1 – General Objectives: Transport and Parking, which seeks to ensure vehicle facilities are complaint, functional and safe.
  - c. Control C16 of Part B1.4.6 – Basement Parking Facilities: Transport and Parking, which requires maintenance of pedestrian safety and minimising the potential for vehicular and pedestrian conflict by providing clear sight lines.
  - d. Control C2 of Part B1.5.1 – Parking Engineering & Technical Requirements: Transport and Parking which require that existing road and footpath levels, are taken into account in the design of proposed development.
  - e. Control C1 of Part B1.5.2 – Street Alignment Levels: Transport and Parking, which require site levels to be compatible with footpath and driveway levels.
  - f. Control C2 of Part B1.5.2 – Street Alignment Levels: Transport and Parking, which require vehicular access design to compatible with street alignment levels.
  - g. Control C1 of Part B1.5.3 – Vehicle Cross-Overs: Transport and Parking which requires that vehicle access is designed to be compatible with street alignment levels.
  - h. Control C9 of Part B1.5.3 – Vehicle Cross-Overs: Transport and Parking which requires vehicular driveway profiles to be compliant with Australian Standard AS2890.1.
  - i. Objectives O1-O4 of Part B5 Stormwater Management, which requires that the infrastructure design and construction is suitable for the site is well designed.
  - j. Objective O1 of Part B9 Waste Management, which requires that facilities for handling, storage, collection and disposal of waste are incorporated into all development and are compatible with the design of the development.
  - k. Control C5 of Part C5.2.3.4 Building Services: Shop Top Housing which requires that services are integrated and concealed from public view.
  - l. Control C7 of Part D1.3.4 Setbacks: Business Centres – General which requires that development does not exceed a 45° height plane on a boundary with a residential zoning.
- 5) Having regard to the above non-compliances with Council’s Canterbury Development Control Plan 2012 and pursuant to the provisions of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development is unsatisfactory and represents an overdevelopment of the subject site.
- 6) 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 the area available for the loading and unloading of goods and manoeuvring of vehicles.

- 7) Pursuant to the provisions of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development is excessive in terms of bulk and height and would adversely impact upon the amenity of the locality.
- 8) Pursuant to the provisions of Section 4.15(1)(b)) 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.
- 9) Having regard to the previous reasons noted above and the number of submissions received by Council against the proposed development, 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-



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## Canterbury Bankstown Local Planning Panel - 07 December 2020

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<b>ITEM 4</b>	<b>1-3 Weyland Street, Punchbowl</b>
	<b>Demolition of existing structures and construction of a six storey mixed use development comprising two shops at ground level with 34 residential apartments and basement car parking.</b>
<b>FILE</b>	<b>DA-286/2018 – Roselands</b>
<b>ZONING</b>	<b>B5 Business Development under Canterbury LEP 2012</b>
<b>DATE OF LODGEMENT</b>	<b>29 June 2018</b>
<b>APPLICANT</b>	<b>Mr Jin Hong Huang</b>
<b>OWNERS</b>	<b>Weyland Development Pty Ltd</b>
<b>ESTIMATED VALUE</b>	<b>\$8,180,909</b>
<b>AUTHOR</b>	<b>Planning</b>

### REPORT

This matter is reported to Council's Local Planning Panel as the application seeks consent for a development for 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-286/2018 proposes the demolition of existing structures and construction of a six storey mixed use development comprising two shops at ground level with 34 residential apartments and basement car parking.

DA-286/2018 has been assessed against the relevant provisions of:

- State Environmental Planning Policy 55 – Contaminated Land (SEPP 55);
- State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development (SEPP 65);
- State Environmental Planning Policy 2004 (Building Sustainability Index: BASIX);
- Canterbury Local Environmental Plan 2012 (CLEP 2012);
- Canterbury Development Control Plan 2012 (CDCP 2012); and
- Canterbury Development Contributions Plan 2013 (Contributions Plan 2013).

The application was advertised and notified for a period of 21 days. Two objections were received during this period, which have been addressed in the Report.

## **POLICY IMPACT**

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This matter has no direct policy impacts.

## **FINANCIAL IMPACT**

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This matter has no direct financial implications.

## **RECOMMENDATION**

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

## **ATTACHMENTS**

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- A. Assessment Report
- B. Reasons For Refusal



## **DA-286/2018 ASSESSMENT REPORT**

### **SITE & LOCALITY DESCRIPTION**

The subject site combines No's. 1 and 3 Weyland Street in Punchbowl (Lots 330 and 331 in DP 13801). It is rectangular in shape with a combined frontage of 24.38m to Weyland Street and a total site area of 1,040m<sup>2</sup>. Both No. 1 and 3 Weyland Street contains a single storey detached dwelling and outbuildings. It is a flat site. The immediate area is generally characterised by single and double storey detached dwellings, with a number of mixed use developments being constructed on the northern side of Weyland Street, and commercial and industrial activities to the east and north-east of the site. The subject site shares a rear boundary with properties fronting Canterbury Road.

The site is identified as a "key site" which permits mixed use development in the B5 Business Development zone as described under Clause 6.7 of the Local Environmental Plan. This matter is further discussed under the sub-heading 'Canterbury Local Environmental Plan 2012' in this report.



**Figure 1:** Aerial of subject site in yellow. **Source:** NearMaps 2020



Figure 2: Existing single storey dwellings located at No's. 1 & 3 Weyland Street, Punchbowl.

## Background

### Surrounding Development

- A six storey development has been approved at 17-19 Weyland Street. This development approves 29 units in two detached buildings separated by a central courtyard. From a streetscape perspective the first two levels (including ground level) are located at a nil front setback, the next two levels at a 2m setback, and the next two at a 4m to 5m setback.
- On 15 August 2016 the Canterbury Independent Hearing and Assessment Panel (IHAP) approved a six storey mixed use development at 13-15 Weyland Street (DA-263/2015) for 29 units. The development has the same street setbacks as the approved development at 17-19 Weyland Street.
- A six storey mixed use development has been approved (DA-632/2015) at 9-11 Weyland Street for 45 units and has a four storey nil front setback before stepping back to 2.9m, 4m and 5m for the fifth and sixth storey.
- A six storey mixed use development for 22 units was approved at 23 Weyland Street by DA-512/2013 and a Section 96 application approved to extend the time within which the deferred commencement may be activated. On 23 October 2015, the deferred commencement condition was satisfied and the consent activated.

### The subject site

- On 11 July 2016, a Development Application for 1-3 Weyland Street (DA-295/2016) was lodged proposing a six storey mixed use development with two shops and 45 units and basement carparking.
- DA-295/2016 was refused on 30 September 2016 at the Canterbury Independent Hearing and Assessment Panel (IHAP) for many reasons including excess height, a poor design response, inadequate communal open space, inadequate car parking and substandard residential amenity for future occupants (both internally and externally).

- On 21 November 2017 the Land & Environment Court (LEC) upheld the refusal determination by IHAP.
- The subject application DA-268/2018 was lodged with Council on 29 June 2018. An initial assessment of the application was undertaken by Council and on 22 March 2019, an additional information request letter was issued to the Applicant outlining a number of matters that needed to be addressed. A summary of the matters raised is outlined below:
  - Non-compliances with the relevant requirements outlined within the Apartment Design Guide including but not limited to, a lack of detail with regard to substations, pump rooms and garbage storage areas, communal open space, setbacks, equitable access, visual privacy, solar access, natural ventilation, ceiling heights, apartment size and layout, private open space, storage, façade design and adaptive reuse.
  - Requirement for a preliminary investigation for site contamination to be provided in accordance with State Environmental Planning Policy 55 – Remediation of Land.
  - Requirement for a revised BASIX Certificate to be provided in accordance with State Environmental Planning Policy (BASIX) 2004).
  - Non-compliances with the relevant provisions of Canterbury Local Environmental Plan 2012 including building height and essential services.
  - It was noted that the survey plan submitted was outdated and an updated survey plan was required.
  - Non-compliances with the relevant provisions of Canterbury Development Control Plan 2012, including but not limited to, minimum frontage, front setback, building depth, building design car parking, accessible and adaptable design and SEPP 65 Applications.
  - Matters raised by Council's Landscape Architect, Urban Designer, Waste Management Officer, Traffic Engineer and Development Engineer.

The abovementioned information was to be submitted to Council by 12 April 2019. The applicant requested a meeting with Council staff to discuss the concerns raised and the meeting took place on 10 April 2019, where an extension of time to submit information was granted until 14 June 2019.

Amended information was received from the applicant on 14 June 2019 where reassessment was undertaken and a letter notifying the applicant of outstanding issues was sent to the applicant on 15 June 2020. A summary of the matters raised is outlined below:

- Non-compliances with the relevant requirements outlined within the Apartment Design Guide including but not limited to, a sunken ground floor, a deeply recessed entry way, deep soil zones, visual privacy, car/bicycle parking, solar access, natural ventilation, ceiling heights, apartment size and layout, private open space, building separation, designing for mixed use.

- Requirement for Detailed Site Contamination Investigation (Stage 2) Report as there is a moderate potential for site contamination to be provided in accordance with the recommendations of the Preliminary Site Investigation submitted with the amended information of 14 June 2019 and State Environmental Planning Policy 55 – Remediation of Land.
- Non-compliances with the relevant provisions of Canterbury Local Environmental Plan 2012 including building height, essential services, acid sulfate soils and stormwater management.
- Non-compliances with the relevant provisions of Canterbury Development Control Plan 2012, including but not limited to, minimum frontage, building design, car parking, accessible and adaptable design, stormwater and flood management, crime prevention and safety, waste, layout and orientation, setbacks, façade design and building services.
- Matters raised by Council's Environmental Health Officer, Urban Designer, Waste Management Officer, Traffic Engineer and Development Engineer.

The applicant was provided the opportunity to withdraw the application or have the matter reported to the Local Planning Panel for determination. The applicant was provided with the opportunity advice on the preferred outcome of the subject application by 06 July 2020, but no response was received.

In that respect the matter is being reported to the Local Planning Panel for determination.

### **PROPOSED DEVELOPMENT**

The Development Application proposes the demolition of existing structures and construction of a six storey mixed use development comprising two shops at ground level with 34 residential apartments and basement car parking.

The specifics of the development are as follows:

<b>Floor</b>	<b>Description</b>
Basement Level 2	26 car parking spaces (including 1 accessible space), 1 waiting bay, 13 storage units, stairs and a lift shaft.
Basement Level 1	24 car parking spaces (including 2 accessible spaces), 1 waiting bay, 1 car wash bay, 20 storage units, 12 bicycle space, stairs, a lift shaft and mechanical plant room.
Ground Floor	2 x 2 bedroom apartments, 3 x 1 bedroom apartments, 1 shop tenancy with a total GFA of 92 sqm, a commercial lobby that is secured from access to the residential lobby, a lift shaft, stairs, 1 residential waste storage area, 1 commercial waste storage area and 262 sqm of communal open space.
Level 01	5 x 2 bedroom apartments, 2 x 1 bedroom apartments (both of which are adaptable units), a lift shaft and stairs.
Level 02	6 x 2 bedroom apartments (1 of which is nominated as an adaptable unit), a lift shaft and stairs.
Level 03	6 x 2 bedroom apartments (1 of which is nominated as an adaptable unit), a lift shaft and stairs.



Level 04	4 x 1 bedroom apartments, 2 x 2 bedroom apartments, and lift shaft and stairs.
Level 05	1 x 1 bedroom apartment, 3 x 2 bedroom apartments, communal open space (93 sqm), a lift shaft and stairs.

### Statutory Considerations

When determining this application, the relevant matters listed in Section 4.15C 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 55 – Contaminated Land (SEPP 55);
- State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development (SEPP 65);
- State Environmental Planning Policy 2004 (Building Sustainability Index: BASIX);
- Canterbury Local Environmental Plan 2012 (CLEP 2012);
- Canterbury Development Control Plan 2012 (CDCP 2012); and
- Canterbury Development Contributions Plan 2013 (Contributions Plan 2013).

### **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 55 – Contaminated Land (SEPP 55)**

Clause 7 of SEPP 55 – Remediation of Land requires Council to consider whether the land is contaminated prior to granting consent to the carrying out of any development on that land. Should the land be contaminated, we must be satisfied that the land is suitable in a contaminated state for the proposed use. If the land requires remediation to be undertaken to make it suitable for the proposed use, we must be satisfied that the land will be remediated before the land is used for that purpose.

The site adjoins industrial uses and a Preliminary Site Investigation was submitted for assessment. Based on the findings of the Preliminary Site Contamination Investigation Report (Stage 1) prepared by Environmental Investigation Services, reference: E29497KFrpt, dated: 18 May 2017 a Detailed Site Contamination Investigation (Stage 2) Report is to be completed and submitted prior to any DA approval to allow Council to review the documentation and ensure the site is suitable for its proposed use.

On 15 June 2020 a letter was prepared and issued advising the applicant as such. No further correspondence has been received from the applicant addressing Council's request.

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

In accordance with SEPP (BASIX), a BASIX Certificate accompanies 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 objectives of the SEPP.

**Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment**

The site is located within land identified as being affected by Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment, being a deemed SEPP under Clause 120 of Schedule 6 of the EP&A Act, 1979. The GMREP 2 contains a series of general and specific planning principles which are to be taken into consideration in the determination of development applications. An assessment of the proposal indicates that the development is generally consistent with the aims and objectives of the plan, as well as the planning principles as set out in Clause 8 of the GMREP 2.

**State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017**

The proposed development does not seek approval for the removal of any significant trees on the site.

**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 three or more storeys and contain at least four or more dwellings. Residential apartment development does not include boarding houses or serviced apartments.

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'. Clause 50(1A) of the Environmental Planning and Assessment Regulation 2000 requires the submission of a design verification statement from a qualified designer (registered architect) at lodgement of the development application that addresses the design quality principles contained in 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 has been submitted to address non compliances with the maximum building height control. Notwithstanding this, the design seeks departure from a number of development controls which represents an overdevelopment of the site. On this basis, the design is not considered to align with the desired future character of the locality.

**Principle 2: Built Form and Scale**

As outlined above, a poor design response has been submitted to comply with Council's maximum building height control.

Furthermore, the design seeks variations to a number of key development controls, including but not limited to, setbacks, visual privacy, solar access, natural ventilation, apartment size & layout, façade design and car parking. Departure from such controls results in a design that does not provide an appropriate built form on the site.

In light of the above, the design is not considered to be appropriate in terms of bulk and scale.

#### Principle 3: Density

The density of the proposed development is considered to be satisfactory and a reasonable response to the desired future context and built form.

#### 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. However, there are ADG non-compliances that result in a diminished amenity which may result in an excessive use of active means of temperature control where passive means incorporated into the design of the development are preferred.

#### Principle 5: Landscape

The architect's design verification statement refers to a landscape character for the ground level communal open space that has been designed to enhance the existing site opportunities and provide for a range of recreational opportunities for the residents.

It is considered that the design of the communal open space does not achieve this, as a large portion of the area nominated as communal open space on the ground floor is designated as accessways/pathways to units 1, 2 and 3. Further, the communal open space on the fifth floor conflicts with the private open space areas of other units (see Unit 31), which represents a poor amenity outcome for both the residents of that Unit and the users of the communal open space.

#### Principle 6: Amenity

The proposed design does not satisfy the key design controls including communal open space, visual privacy, solar access, natural ventilation, minimum apartment size, minimum private open space and storage requirements. On this basis, the design in its current form, does not provide for adequate amenity for future residents of the development.

#### Principle 7: Safety

The applicant has considered Crime Prevention Through Environmental Design (CPTED) principles as outlined in CDCP 2012 in the design of the project. The design generally complies with the relevant CPTED except for the control relating to clear building entries. The proposed main pedestrian entry point from Weyland Street is substantially setback within the building envelope. It is considered that the design does not facilitate a clear entry point through the proposed substantial setback and narrow presentation. This is further exacerbated by the sunken ground floor, an outcome adopted by the applicant in the amended design. This matter was raised with the Applicant, but was not addressed.

**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 contains many irregular forms (being awkward in appearance) from the side and the rear, and 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.

Section	Design Criteria	Proposed	Complies
<b>Part 3 Siting the Development</b>			
<b>3D Communal and Public Open Space</b>	Communal open space has a minimum area equal to 25% of the site. (Total site area is 1,040m <sup>2</sup> , requiring a minimum 260m <sup>2</sup> )  Min 6m dimension.	Ground floor communal open space = 262m <sup>2</sup> ** and rooftop open space = 93m <sup>2</sup> . TOTAL = 355m <sup>2</sup> .  **The ground floor communal open space provides for the minimum required area but a large portion of that area is designated as accessways/pathways to units 1, 2 and 3. In that respect the useable ground floor communal open space is minimal and creates a reliance on the rooftop communal open space which is not supported by Council.	<b>No.</b>
	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).	153m <sup>2</sup> of the ground floor communal open space is entirely north facing and will receive the minimum 2 hours of solar access between 9 am and 3pm.	Yes.



Section	Design Criteria			Proposed	Complies
3E Deep Soil Zones	Deep soil zones are to meet the following minimum dimensions:			Nil deep soil zones proposed. According to the layouts of the rear setback of the site which is also the communal open space is hard landscaped and the quantum of the soft landscape is not properly annotated. It is noted that the hard-landscaped area could not be counted as deep soil zone.	No.
	Site Area	Minimum Dimensions	Deep Soil Zone (% of site area)		
	Less than 650m <sup>2</sup>	-	7%		
	650m <sup>2</sup> - 1,500m <sup>2</sup>	3m			
	Greater than 1,500m <sup>2</sup>	6m			
	Greater than 1,500m <sup>2</sup> with significant existing tree cover	6m			
3F Visual Privacy & Building Separation	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:			Where a nil side setback is proposed there are no openings provided to the units, complying with the visual privacy requirements of design criteria 3F.  However, insufficient building separation is proposed. This is not a desirable outcome as the future development of the adjoining properties will not be able to sufficiently comply with this requirement and the perceived bulk of the proposed development is far greater than that permitted on the site.  The proposed private open space areas have not been placed appropriately and overlook each other. This is particularly problematic for units 8 & 9, 15 & 16 and 21 & 22 each of which overlook each other.	No.
	Building Height	Habitable Rooms & Balconies	Non-habitable Rooms		
	Up to 12m (4 storeys)	6m	3m		
	Up to 25m (5-8 storeys)	9m	4.5m		
	Note: An increased 3m building separation is required where the land to the north is a different zone that permits lower density residential.				

Section	Design Criteria	Proposed	Complies
<b>3J Bicycle and Car Parking</b>	For development within 800 metres of a railway station the minimum car parking requirement for residents and visitors is the lesser of that set out within the Guide to Traffic Generating Developments or Council requirements as set out in the table below. Otherwise, the CDCP 2012 applies.	The development site is not within 800m of a railway station therefore car parking requirements of CDCP 2012 apply.	Noted.
	<p>The car parking needs for a development must be provided off street.</p> <p>Requirements are as per Part 1.3 of the CDCP2012. The following rates apply:</p> <p>Studio/1br : 1 space per dwelling  <b>10 dwellings = 10 spaces required</b></p> <p>2br: 1.2 spaces per dwelling (the 0.2 is to remain common property)  <b>24 dwellings = 24 spaces + 5 common spaces required</b></p> <p>3br+: 2 spaces per dwelling</p> <p>Visitor parking: 1 space per 5 dwellings  34 dwellings proposed = 7 spaces required</p> <p>1 car wash bay required if more than 10 dwellings are proposed  At least 1 space required</p> <p>1 residential bicycle space per 5 dwellings  7 spaces required</p> <p>1 visitor bicycle space per 10 dwellings  3 spaces required</p> <p>1 adaptable space per adaptable dwelling  4 adaptable units = 4 spaces required</p>	<p>Off street car parking proposed.</p> <p>For 1 and 2 bedroom units - 34 residential spaces and 5 common spaces are required / <b>31 residential and 6 common spaces proposed</b></p> <p>No 3 bedroom dwellings proposed = 0 spaces required</p> <p>7 spaces required / 7 proposed</p> <p>1 required / 1 proposed</p> <p>7 spaces required / 7 spaces proposed</p> <p>3 spaces required / 4 spaces proposed</p> <p>4 spaces required / <b>3 spaces proposed</b></p>	<b>No.</b>

Section	Design Criteria	Proposed	Complies
<b>3G Pedestrian Access and Entries</b>	Multiples entries should be provided to activate the street edge.	Multiple entries proposed.	<b>No.</b>
	Entry locations relate to the street and subdivision pattern / existing pedestrian network.	Yes.	
	Building entries should be clearly distinguishable from private entries.	No. The main pedestrian entry point from Weyland Street is substantially setback within the building envelope. It is considered that the design does not facilitate a clear entry point through the proposed substantial setback & narrow presentation.	
	Building access areas (lift lobbies, stairwells and hallways) should be clearly visible from public domain and communal spaces.	No. The main pedestrian entry point from Weyland Street is substantially setback within the building envelope. It is considered that the design does not facilitate a clear entry point through the proposed substantial setback & narrow presentation.	
	Minimise ground floor and underground level changes along pathways and entries. Steps and ramps integrated into design.	Integrated.	
	Provide way finding maps for large developments. Electronic access and audio/video intercoms required.	Noted.	
	Provide pedestrian links to streets and destinations with clear sight lines.	Proposed.	

Part 4 Designing the Building											
4A Solar and Daylight Access	Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter.	70% = 23.8 units (24 units are required to receive solar access)  Compliant Units are: 1, 2, 4, 5, 6, 7, 9, 12, 13, 14, 16, 18, 19, 20, 22, 24, 25, 26, 28, 30, 30, 32 & 33 (23 out of 34 units comply) this is 67% of units  15% = max. 5 units	No.								
	A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter	Units that do not receive any solar access are: 10, 11, 17, 23, 29, and 34 (6 out of 34 units = 18%)	No.								
4B Natural Ventilation	At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartment at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.	60% = a minimum of 20.4 units (20 units) must achieve cross ventilation. 16 units appear to fail to be sufficiently cross ventilated.  Those that comply are: 1, 2, 3, 4, 6, 9, 11, 13, 16, 18, 19, 22, 24, 28, 30, 31, 32, and 33 (18 out of 34 units comply = 52%)	No.								
	Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	Not more than 18m length proposed.	Yes.								
4C Ceiling Heights	Measured from finished floor level to finished ceiling level, minimum ceiling heights are:	The proposed development provides the following finished floor to floor heights:	No.								
	<table border="1"><thead><tr><th colspan="2">Minimum Ceiling Height for Apartment and Mixed Use Buildings</th></tr></thead><tbody><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 main living area floor 2.4 for second floor, where its area does not exceed 50% of the apartment area</td></tr></tbody></table> <p>These minimums do not preclude higher ceilings if desired.</p>	Minimum Ceiling Height for Apartment and Mixed Use Buildings		Habitable rooms	2.7m	Non-habitable	2.4m	For 2 storey apartments	2.7m main living area floor 2.4 for second floor, where its area does not exceed 50% of the apartment area	<p>2.3m for Ground Retail/Commercial Level 2.3m for residential levels</p> <p>The proposed floor to floor heights were reviewed by Council’s Urban Designer and the applicant was advised they were considered to be insufficient as proposed slab thickness as shown on the Typical Floor Details map is 18cm which does not seem to be enough to accommodate for the provision of fixtures and services and will detrimentally impact internal amenity and flexibility.</p>	
Minimum Ceiling Height for Apartment and Mixed Use Buildings											
Habitable rooms	2.7m										
Non-habitable	2.4m										
For 2 storey apartments	2.7m main living area floor 2.4 for second floor, where its area does not exceed 50% of the apartment area										

4D Apartment Size and Layout	Apartment are required to have the following minimum internal areas:		<b>1 BR</b> U3: 53 m <sup>2</sup> U4: 58 m <sup>2</sup> U5: 59 m <sup>2</sup> U11: 63 m <sup>2</sup> U12: 56 m <sup>2</sup> U25: 64 m <sup>2</sup> U26: 72 m <sup>2</sup> U27: 46 m <sup>2</sup> U29: 65 m <sup>2</sup> U34: 60 m <sup>2</sup>  <b>2BR</b> U1: 74 m <sup>2</sup> U2: 74 m <sup>2</sup> U6: 86 m <sup>2</sup> U7: 85 m <sup>2</sup> U8: 72 m <sup>2</sup> U9: 87 m <sup>2</sup> U10: 73 m <sup>2</sup> U13: 86 m <sup>2</sup> U14: 85 m <sup>2</sup> U15: 72 m <sup>2</sup> U16: 75 m <sup>2</sup> U17: 76 m <sup>2</sup> U18: 99 m <sup>2</sup> U19: 81 m <sup>2</sup> U20: 81 m <sup>2</sup> U21: 72 m <sup>2</sup> U22: 74 m <sup>2</sup> U23: 72 m <sup>2</sup> U24: 98 m <sup>2</sup> U28: 76 m <sup>2</sup> U30: 94 m <sup>2</sup> U31: 92 m <sup>2</sup> U32: 94 m <sup>2</sup> U33: 72 m <sup>2</sup>	Yes.										
	<table><tr><th>Apartment Type</th><th>Minimum Internal Area</th></tr><tr><td>Studio</td><td>35m<sup>2</sup></td></tr><tr><td>1 bedroom</td><td>50m<sup>2</sup></td></tr><tr><td>2 bedroom</td><td>70m<sup>2</sup></td></tr><tr><td>3 bedroom</td><td>90m<sup>2</sup></td></tr></table>	Apartment Type			Minimum Internal Area	Studio	35m <sup>2</sup>	1 bedroom	50m <sup>2</sup>	2 bedroom	70m <sup>2</sup>	3 bedroom	90m <sup>2</sup>	
	Apartment Type	Minimum Internal Area												
	Studio	35m <sup>2</sup>												
1 bedroom	50m <sup>2</sup>													
2 bedroom	70m <sup>2</sup>													
3 bedroom	90m <sup>2</sup>													
The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m <sup>2</sup> each.														
A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m <sup>2</sup> each.														
	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.	Each habitable room has a minimum of 1 window.	Yes.											
	In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.	Less than 8m depth proposed	Yes.											

Master bedrooms have a minimum area of 10m <sup>2</sup> and other bedrooms 9m <sup>2</sup> (excluding wardrobe space).	<b>Unit No</b>	<b>Master BR (m<sup>2</sup>)</b>	<b>Other (m<sup>2</sup>)</b>	<b>No.</b>
	<b>1</b>	<b>9.5</b>	<b>9.4</b>	
	<b>2</b>	10.8	<b>7.9</b>	
	3	10.8	N/A	
	4	16.3	N/A	
	5	11	N/A	
	6	12.1	10.4	
	7	11.6	11	
	8	10.6	10.4	
	9	11	11	
	10	10.9	9.6	
	11	14.3	N/A	
	12	13.4	N/A	
	13	11.9	10.5	
	14	11.8	10.8	
	15	10.8	10.3	
	<b>16</b>	<b>9.7</b>	<b>9.4</b>	
	<b>17</b>	<b>9.7</b>	<b>9.5</b>	
	18	23	13	
	19	11.8	10.6	
	20	11.9	10.8	
	21	10.8	10.5	
	<b>22</b>	<b>9.7</b>	<b>9.6</b>	
	<b>23</b>	<b>9.5</b>	<b>9</b>	
	24	23.2	12.9	
	25	11	N/A	
	26	10.9	N/A	
	27	10.2	N/A	
	<b>28</b>	<b>9.7</b>	<b>9.6</b>	
	29	11	N/A	
	30	11.2	11	
	<b>31</b>	<b>9.8</b>	<b>9.6</b>	
	32	11.2	10.9	
	<b>33</b>	<b>9.6</b>	<b>9.8</b>	
	34	11.1	N/A	
Bedrooms have a minimum dimension of 3m (excluding wardrobe space).	Bedrooms in the following units do not comply: Unit 2 (2.4m wide).			<b>No.</b>
Living rooms or combined living/dining rooms have a minimum width of: <ul style="list-style-type: none"> <li>3.6m for studio and 1 bedroom apartments</li> <li>4m for 2 and 3 bedroom apartments</li> </ul>	A minimum width of 4m has been proposed for all combined living/dining areas of each unit.			Yes.
The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts.	Each unit exceeds the minimum width.			Yes.

4E Private Open Space and Balconies	All apartments are required to have primary balconies as follows:	<b>GF</b> Each unit has its own private courtyard and each proposed courtyard exceeds the minimum area requirements. <b>Except for Unit 4.</b>  <b>FF</b> 1 BR Units that fail: 11 2 BR: 9, 10  <b>Level 2</b> Complies  <b>Level 3</b> Complies  <b>Level 4</b> Units 25, 26 fail (both 1 BR)  <b>Level 5</b> Unit 34 (1 BR and virtually enclosed)  The proposed private open space areas have not been placed appropriately and overlook each other. This is particularly problematic for units 8 & 9, 15 & 16 and 21 & 22 each of which overlook each other.	<b>No.</b>															
	<table><tr><th>Dwelling type</th><th>Minimum Area</th><th>Minimum Depth</th></tr><tr><td>Studio apartments</td><td>4m<sup>2</sup></td><td>-</td></tr><tr><td>1 bedroom apartments</td><td>8m<sup>2</sup></td><td>2m</td></tr><tr><td>2 bedroom apartments</td><td>10m<sup>2</sup></td><td>2m</td></tr><tr><td>3+ bedroom apartments</td><td>12m<sup>2</sup></td><td>2.4m</td></tr></table>			Dwelling type	Minimum Area	Minimum Depth	Studio apartments	4m <sup>2</sup>	-	1 bedroom apartments	8m <sup>2</sup>	2m	2 bedroom apartments	10m <sup>2</sup>	2m	3+ bedroom apartments	12m <sup>2</sup>	2.4m
	Dwelling type			Minimum Area	Minimum Depth													
Studio apartments	4m <sup>2</sup>	-																
1 bedroom apartments	8m <sup>2</sup>	2m																
2 bedroom apartments	10m <sup>2</sup>	2m																
3+ bedroom apartments	12m <sup>2</sup>	2.4m																
The minimum balcony depth to be counted as contributing to the balcony area is 1m.																		
	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 15m2 and a minimum depth of 3m.	<b>Unit 4 fails (see above).</b>	<b>No.</b>															
4F Common Circulation and Spaces	The maximum number of apartments off a circulation core on a single level is eight.	Ground: 5 1: 7 2: 6 3: 6 4: 6 5: 4	Yes.															

<b>4G Storage</b>	<p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <table><tr><th>Dwelling type</th><th>Storage size volume</th></tr><tr><td>Studio apartments</td><td>4m<sup>3</sup></td></tr><tr><td>1 bedroom apartments</td><td>6m<sup>3</sup></td></tr><tr><td>2 bedroom apartments</td><td>8m<sup>3</sup></td></tr><tr><td>3+ bedroom apartments</td><td>10m<sup>3</sup></td></tr></table> <p>At least 50% of the required storage is to be located within the apartment.</p>	Dwelling type	Storage size volume	Studio apartments	4m <sup>3</sup>	1 bedroom apartments	6m <sup>3</sup>	2 bedroom apartments	8m <sup>3</sup>	3+ bedroom apartments	10m <sup>3</sup>	<p>Each unit contains storage within the dwelling and has an allocated storage area in the basement car park.</p>	<p>Yes.</p>
Dwelling type	Storage size volume												
Studio apartments	4m <sup>3</sup>												
1 bedroom apartments	6m <sup>3</sup>												
2 bedroom apartments	8m <sup>3</sup>												
3+ bedroom apartments	10m <sup>3</sup>												



<p><b>4H Acoustic Privacy</b></p>	<p>Adequate building separation is provided within the development and from neighbouring buildings/adjacent uses</p> <p>Noisy areas within buildings including building entries and corridors should be located next to or above each other and quieter areas next to or above quieter areas</p> <p>Rooms with similar noise requirements are grouped together</p> <p>Noise sources such as garage doors, driveways, service areas, plant rooms, building services, mechanical equipment, active communal open spaces and circulation areas should be located at least 3m away from bedrooms</p>	<p><b>Adequate building separation has not been proposed.</b></p> <p>Proposed.</p> <p><b>No. The internal design of the units is very poor and lacks logic in most of the them. There is no provision of grouping rooms with similar noise requirements to mitigate noise impacts through layout treatments.</b></p> <p><b>Units 3-4 on Ground level, Units 8 and 9 on level one, units 15,16,17 and 18 on level two and units 21, 22 on level 3 all have issues regarding the noise transmission.</b></p> <p>Proposed.</p>	<p><b>No.</b></p>
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<b>4S Mixed Use</b>	<p>Mixed use developments positively contribute to the public domain. Design solutions may include:</p> <ul style="list-style-type: none"> <li>• development addresses the street</li> <li>• active frontages are provided</li> <li>• avoiding blank walls at the ground level</li> </ul> <p>Residential circulation areas should be clearly defined. Design solutions may include:</p> <ul style="list-style-type: none"> <li>• residential entries are separated from commercial entries and directly accessible from the street</li> <li>• commercial service areas are separated from residential components</li> <li>• residential car parking and communal facilities are separated or secured</li> <li>• security at entries and safe pedestrian routes are provided</li> <li>• concealment opportunities are avoided</li> </ul> <p>Landscaped communal open space should be provided at and commercial podium or roof levels</p>	<p>The proposed design does not address the street as the ground floor is sunk below the existing level of the adjacent pedestrian footpath, which does not allow for an active frontage provided. Further, the entry lobby is deeply inset into the ground floor plan and is not clearly identifiable/visible from the street.</p> <p>The proposal also fails to address the blank walls on the side boundaries (where a nil setback is proposed).</p> <p><b>Commercial and residential car parking proposed together and only one lift core, how will the uses be separated and commercial visitors kept from accessing residential.</b></p> <p>Separate service areas also provided.</p> <p><b>Not proposed.</b></p> <p>Proposed.</p>	<b>No.</b>
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As identified in the above table, the proposed fails to comply with a number of requirements of the ADG.

## Canterbury Local Environmental Plan 2012.

This site is zoned B5 Business Development under CLEP 2012. The controls applicable to this application are discussed below.

### Clause 1.2 Aims of Plan

The proposed development is consistent with the relevant aims of the CLEP 2012:

- (2) *The particular aims of this Plan are as follows—*
- (a) *to provide for a range of development that promotes housing, employment and recreation opportunities for the existing and future residents of Canterbury,*
  - (b) *to promote a variety of housing types to meet population demand,*
  - (c) *to ensure that development is of a design and type that supports the amenity and character of an area and enhances the quality of life of the community, ...*
  - (h) *to protect the natural environment for future generations and implement ecological sustainability in the planning and development process,*

### Clause 2.3 Zone objectives and Land Use Table

Clause 2.3(2) of CLEP 2012 outline 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 relevant objectives of the B5 Business Development Zone are as follows:

- *To provide for residential use in conjunction with mixed use development to create an attractive streetscape supported by buildings with a high standard of design.*
- *To encourage employment opportunities on Canterbury Road and in accessible locations.*

The proposed development meets the objectives of the B5 zone as it provides for residential use in conjunction with mixed use development. The design comprises a mix of residential types through incorporating one and two bedroom apartments to and a commercial tenancy that contribute to the needs of the community.

Provision/ Standard	Requirement	Proposal	Complies
<b>Part 2 Permitted or Prohibited Development</b>			
2.1-2.3 Zoning	B5 Business Development	As above	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

Provision/ Standard	Requirement	Proposal	Complies
<b>Part 4 Principal Development Standards</b>			
4.3 Height of Buildings	<p>(1) The objectives of this clause are as follows:</p> <p>(a) to establish and maintain the desirable attributes and character of an area,</p> <p>(b) to minimise overshadowing and ensure there is a desired level of solar access and public open space,</p> <p>(c) to support building design that contributes positively to the streetscape and visual amenity of an area,</p> <p>(d) to reinforce important road frontages in specific localities.</p> <p>(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.</p> <p>(2A) Despite subclause (2), the height of a dwelling house or dual occupancy must not exceed 8.5 metres if the dwelling house or dual occupancy is to be located on land in Zone R4 High Density Residential.</p>	<p>The maximum building height permitted on the site is 18m.</p> <p><b>The proposal appears to comply with this requirement as the development has been sunk into the site and the FFL of the Ground Level is 1m below NGL. This produces a low quality public domain interface and compromises both the access into and the fit-out of the retail spaces, additionally no entry ramp to the building.</b></p>	No.
<b>Part 6 Local Provisions</b>			
6.1 Acid Sulfate Soils	<p>(1) The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.</p> <p>(2) Development consent is required for the carrying out of works described in the Table to this subclause on land shown on the Acid Sulfate Soils Map as being of the class specified for those works.</p>	<p><b>A Preliminary Acid Sulfate Soil Assessment is required as the site is located within areas mapped as Class 3 and Class 5 Acid Sulfate Soils. The applicant was advised of this and did not provide any additional information for assessment.</b></p>	No.

Provision/ Standard	Requirement	Proposal	Complies
	<p>(Refer to CLEP2012)</p> <p>(3) Development consent must not be granted under this clause for the carrying out of works unless an acid sulfate soils management plan has been prepared for the proposed works in accordance with the Acid Sulfate Soils Manual and has been provided to the consent authority.</p> <p>(4) Despite subclause (2), development consent is not required under this clause for the carrying out of works if:</p> <p>(a) a preliminary assessment of the proposed works prepared in accordance with the Acid Sulfate Soils Manual indicates that an acid sulfate soils management plan is not required for the works, and</p> <p>(b) the preliminary assessment has been provided to the consent authority and the consent authority has confirmed the assessment by notice in writing to the person proposing to carry out the works.</p> <p>(5) Despite subclause (2), development consent is not required under this clause for the carrying out of any of the following works by a public authority (including ancillary work such as excavation, construction of access ways or the supply of power):</p>		

Provision/ Standard	Requirement	Proposal	Complies
	<p>(a) emergency work, being the repair or replacement of the works of the public authority, required to be carried out urgently because the works have been damaged, have ceased to function or pose a risk to the environment or to public health and safety,</p> <p>(b) routine maintenance work, being the periodic inspection, cleaning, repair or replacement of the works of the public authority (other than work that involves the disturbance of more than 1 tonne of soil),</p> <p>(c) minor work, being work that costs less than \$20,000 (other than drainage work).</p> <p>(6) Despite subclause (2), development consent is not required under this clause to carry out any works if—</p> <p>(a) the works involve the disturbance of less than 1 tonne of soil, and</p> <p>(b) the works are not likely to lower the water table.</p>		

Provision/ Standard	Requirement	Proposal	Complies
6.2 Earthworks	<p>Before granting consent to development including earthworks, the following must be considered:</p> <ul style="list-style-type: none"> <li>(a) drainage patterns and soil stability</li> <li>(b) the likely future use or redevelopment of the land,</li> <li>(c) quality of the fill or the soil to be excavated, or both,</li> <li>(d) effect of development on existing and likely amenity of adjoining properties,</li> <li>(e) the source of any fill material and the destination of any excavated material,</li> <li>(f) the likelihood of disturbing relics,</li> <li>(g) the potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,</li> <li>(h) appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</li> </ul>	Excavation is proposed for two basement car parking levels. A Geotechnical Report was not requested as this could have been dealt with by way of condition of consent, but is not necessary given that the application is being reported for a refusal determination.	Yes.
6.4 Stormwater Management	<p>Consent must not be granted unless:</p> <ul style="list-style-type: none"> <li>(a) Water permeable surfaces are maximized having regard to soil characteristics affecting on-site stormwater infiltration.</li> <li>(b) Includes on-site detention if practical as an alternative means of water supply.</li> <li>(c) Avoids significant impacts of run-off on adjoining land or the environment or minimises and mitigates impacts.</li> </ul>	<p><b>The stormwater management plans were referred to Council's Development Engineer for review and the following comments were provided:</b></p> <p><b>No stormwater plans have been provided to support the new architectural layout.</b></p> <p><b>The stormwater management plans are required to be prepared by a suitably qualified engineer and be prepared in accordance with Canterbury Development Control Plan and AS3500.3. The stormwater plans were also required to address all the rear paved areas and landscape areas, particularly the ones with basement under.</b></p>	No.

Provision/ Standard	Requirement	Proposal	Complies
6.6 Essential Services	<p>Essential services must be available or adequate arrangements have been made to make them available, including:</p> <ul style="list-style-type: none"> <li>- the supply of water;</li> <li>- the supply of electricity <b>(substation)</b>;</li> <li>- the disposal and - management of sewage;</li> <li>- stormwater drainage or on-site conservation;</li> <li>- suitable vehicular access.</li> </ul>	Refer to DCP assessment.	Yes.
6.7 Mixed use development in business zones	<p>(1) This clause applies to land in the following zones—</p> <p>(a)...</p> <p>(b)...</p> <p>(c) Zone B5 Business Development.</p> <p>(2) Despite any other provision of this Plan, development consent may be granted to a mixed use development, on land to which this clause applies, incorporating residential accommodation and a medical centre.</p> <p>(3) Development consent must not be granted to development under subclause (2) for mixed use development incorporating residential accommodation and a medical centre unless the consent authority is satisfied that the ground level of the building will not be used for the purpose of residential accommodation.</p>	<p>Mixed use development proposed. Commercial tenancy proposed on the ground floor.</p>	Yes.

#### **Proposed Environmental Planning Instruments [section 4.15(1)(a)(ii)]**

The draft Canterbury Bankstown Local Environmental Plan 2020 is applicable to this development. It is considered that the proposal as assessed is inconsistent with the draft provisions as noted in the assessment above.



**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 Parts B1, B4, B7, B9, C4 & D1 of *Canterbury Development Control Plan 2012*.

**Canterbury Development Control Plan 2012 (CDCP 2012)**

The proposed development has been compared to the requirements of CDCP 2012 as follows:

**Part B1 – Transport and Parking**

An assessment of the proposal against the car and bicycle parking rates in Part B1 of CDCP 2012 is provided below:

Standard	Requirement	Proposal	Complies
<b>Car Parking &amp; Bicycle Parking</b>	Studio/1br : 1 space per dwelling <b>10 dwellings = 10 spaces required</b>	Off street car parking proposed.	<b>No.</b>
	2br: 1.2 spaces per dwelling (the 0.2 is to remain common property) <b>24 dwellings = 24 spaces + 5 common spaces required</b>	34 residential spaces and 5 common spaces required / <b>31 residential and 6 common spaces proposed</b>	
	3br+: 2 spaces per dwelling	No 3br dwellings proposed = 0 spaces required	
	Visitor parking: 1 space per 5 dwellings <b>34 dwellings proposed = 7 spaces required</b>	7 spaces required / 7 proposed	
	1 car wash bay required if more than 10 dwellings are proposed <b>At least 1 space required</b>	1 required / 1 proposed	
	1 residential bicycle space per 5 dwellings <b>7 spaces required</b>	7 spaces required / 7 spaces proposed	
	1 visitor bicycle space per 10 dwellings <b>3 spaces required</b>	3 spaces required / 4 spaces proposed	
	1 adaptable space per adaptable dwelling <b>4 adaptable units = 4 spaces required</b>	4 spaces required / <b>3 spaces proposed</b>	

#### Part B4 – Accessible and Adaptable Design

An access report was not submitted as a part of the development application. The application was referred to Council's Building Surveyor however and it was concluded that the design generally complies with the relevant standards. Where the design includes some non-compliances, these matters can be resolved through minor design changes or BCA Performance Solutions at the relevant Construction Certificate stage. On this basis, the design is considered acceptable from an accessible and adaptable design perspective.

#### Part B5 – Stormwater and Flood Management

The application was referred to Council's Development Engineer who raised the following concerns with the current design:

- *No stormwater plans have been provided to support the new architectural layout. A stormwater management system shall be prepared by a suitably qualified engineer and be prepared in accordance with Canterbury Development Control Plan and AS3500.3. The stormwater plans shall address all the rear paved areas and landscape areas, particularly the ones with basement under.*
- *The residential waste room does not have direct access from the building. All future residents would have to exit the building to use the residential waste room.*
- *The swept paths provided are not supported, as the location of the waiting bay provided would require extensive manoeuvring to get in to which is not realistic. The swept paths shall be revised to indicate how two vehicles can bypass each other in a single manoeuvre in accordance with AS2890.1:2004.*
- *The commercial shop elevation is lower than the street alignment level, this would create extensive issues if the façade is glazed. The façade shall be amended to show a 0.2m minimum concrete or masonry hob to allow for footpath construction at the boundary.*
- *Finally, the driveway level at the boundary shall match the existing boundary levels, and the ramp grade cannot exceed 1:4. All ramp profiles are to be provided to council for assessment.*

The applicant was provided the opportunity to respond to the items raised above, but did not respond to Council's request for information.

#### Part B7 – Crime Prevention and Safety

An assessment of the proposed design against the relevant provisions of Part B7 is provided in the table below:

Standard	Requirement	Proposal	Complies
Crime Prevention through Environmental Design	Avoid blind corners	No blind corners proposed	Yes.
	Provide natural surveillance for communal and public areas.	Capable of complying	Yes.
	Provide clearly visible entries.	The proposed primary entry point along the Weyland Street frontage is substantially setback from the front façade.	<b>No.</b>

		It is Council's view that the entry point should be brought forward to ensure it is clearly visible, when viewed from the street.	
	Design the fence to maximise natural surveillance from the street to the building.	No front fence proposed	N/A.
	Avoid landscaping that obstructs natural surveillance.	Acceptable landscaping proposed	Yes.
	Ensure buildings are clearly identified by street numbers.	Condition	Yes.
	Use materials that reduce the opportunity for vandalism.	Condition	Yes.
	Provide an appropriate level of security for individual dwellings and communal areas through use of intercoms, self-closing doors and signage.	Commercial and residential car parking proposed together and only one lift core, the applicant has failed to demonstrate how the uses be separated and commercial visitors kept from accessing residential components of the development.	<b>No.</b>

#### Part B9 - Waste

The application was referred to Council's Project Officer – Resource Recovery who raised the following concerns with the current design:

- *Doors to the bin storage area are to open outwards to prevent bins being obstructed for servicing.*
- *Bins may not be accurately dimensioned on the architectural plans (dimensions have been provided previously) and are to be illustrated with a 70mm gap between bins.*
- *The bulk waste storage area must be a separate designated space with defined borders and a closable access opening to ensure bulky waste is not dumped outside of the area and obstructing bins for use by residents and collection by Council.*
- *The kerbside collection point is to have a convenient layback to the roadway or remain flat to the truck loading area to facilitate Council's collect and return service.*
- *There must be a separation distance of at least 2 metres from street trees and the proposed collection point.*

#### C4 - Residential Flat Buildings

An assessment of the proposal against the relevant provisions contained in Part C4 of CDCP 2012 is provided below:

Standard	Requirement	Proposal	Complies
C4.2.1.1 - Frontage	4+ storey building: Min 30m frontage	24.384m	No.
C4.2.1.2 - Isolated Sites	Neighbouring properties are not to be isolated so that the property will be unable to reasonably accommodate coordinated development.	The applicant has not provided sufficient information to prove that the adjoining sites known as 5 & 7 Weyland Street will not be isolated.	No.
	Undertake negotiations with neighbouring owners to seek amalgamation and enable coordinated redevelopment.	The applicant has not provided sufficient information to prove that the adjoining sites known as 5 & 7 Weyland Street will not be isolated.	No.
	If adjoining owners do not agree on terms of amalgamation, provide evidence of reasonable offers and demonstrate that the isolated site is capable of reasonable redevelopment.		
C4.2.1.3 - Open space and balconies	Section 6A of SEPP 65 states that a DCP cannot be inconsistent with the provisions of the ADG made under that SEPP in relation to balconies and development to which the SEPP relates. An assessment against the minimum balcony provisions within the ADG has been undertaken earlier within this report.  Furthermore, an assessment against the communal open space requirements specified within the ADG has also been undertaken earlier within this report.		
C4.2.1.4 – Layout and Orientation	Orientate development to maximise solar access and natural lighting.	Refer to ADG assessment above	No.
	Site the development to avoid casting shadows onto neighbouring dwelling’s primary living area, private open space and solar cells.	The shadow diagrams submitted showing the shadow impact to the adjoining residential dwelling indicate that the development will overshadow for the entirety of the day except for 12pm. Further information is to be submitted to show that the living areas of the adjoining property will receive sufficient solar access.	No.
	Site new development and private open space to avoid existing shadows cast from nearby dwellings.	The proposed POS is sited to the northern end of the site and on Level 5 to achieve minimum solar access requirements.	Yes

	Site a building to take maximum benefit from cross-breezes and prevailing winds.	Refer to ADG assessment above	No.
C4.2.2.2 - Height	Basement that projects greater than 1m above ground level comprises a storey	Basement does not project above NGL.	Yes
C4.2.2.3 - Setbacks	Development, including basement and sub-floor areas fronting a major road must have minimum 9m front setback.	No frontage to a major road.	N/A
	Side: Min 4m	Nil setbacks proposed (minimum).	No.
	Rear: Min 6m	6m proposed.	Yes.
	Deep Soil – Setbacks: Front and Rear: Min 5m Side: Min 2m	Nil deep soil zones proposed	No.
C4.2.2.4 - Building Depth and C4.2.2.5 - Separation	Section 6A of SEPP 65 states that a DCP cannot be inconsistent with the provisions of the ADG made under that SEPP in relation to balconies and development to which the SEPP relates. An assessment against the minimum building depth and separation provisions within the ADG has been undertaken earlier within this report.		
C4.2.2.6 - Floor to Ceiling	Section 6A of SEPP 65 states that a DCP cannot be inconsistent with the provisions of the ADG made under that SEPP in relation to balconies and development to which the SEPP relates. An assessment against the minimum floor to ceiling provisions within the ADG has been undertaken earlier within this report.		
Part C4.2.3 – Building Design			
Contemporary Built Form	New building forms and design features shall not mimic traditional features.	Not proposed.	Yes.
	Access to upper storeys must not be via external stairs.	Not proposed.	Yes.
	All dwellings must contain one kitchen and laundry facility.	Proposed for each unit.	Yes.
Building Entries	Entries to residential buildings must be clearly identifiable.	Clearly identifiable and separate.	Yes.
	A minimum of one habitable room per dwelling must be oriented towards the streets.	Where units overlook the street a habitable room is oriented to the street.	Yes.
	Ground level private terraces located within the front setback must be setback at least 1m from the street boundary to accommodate a	Not proposed.	N/A.

	landscape strip which should remain in communal ownership.		
<b>Façade Design</b>	Façade design should reflect the orientation of the site using elements such as sun shading devices etc.	Façade design is considerate of the orientation of the site.	Yes.
	<u>Articulating Façade Panels:</u> Street Elevations: 6m to 8m  Side Elevations: 10m to 15m	Plans are significantly lacking in detail such that this detail is not evident on the proposed development.	<b>No.</b>
	Avoid long flat walls along street frontages – stagger the wall alignment with a step.	Minimal stepping proposed and lengths of wall proposed on both the street frontage.	<b>No.</b>
	Incorporate contrasting elements in the façade.  Layer and step facades in order to avoid buildings forms that are bland, bulky or over scaled.		
<b>Pavilions</b>	Facades should be layered and stepped in order to avoid building forms that are bland, bulk and over scaled.	Stepping through the vertical built form has been proposed. Yet the built form is poorly resolved and lacks clarity. The voids and open spaces are not aligned and clearly defined on different levels. The projection of Units 6, 7 on first floor at the rear of the building into the side setback is generating an awkward built form. The same issue is about balconies of Unit 9 and 12 on level 1, Units 25 and 26 and 28 on level four and Unit 33 on Level 5 where balconies are not aligned with the lower level walls which will likely provide maintenance and waterproofing challenges for the strata in future as well as aesthetic issues. The applicant should provide a 3D view of the northern side of the building as well as the	<b>No.</b>
	Layering of facades should incorporate the base and upper storey elements.		
	Stepping of facades should be provided by balconies, staggered alignments for exterior walls and by contrasting design elements.		

		South and resolve the issues raised by the irregular forms of each level.	
<b>Windows</b>	Windows must be rectangular.	Rectangular windows proposed	Yes.
	Windows and openings shall be appropriately located and shaded to reduce summer heat load and maximum winter sun.	Windows appropriately positioned	Yes.
<b>Roof Pitch</b>	Max 10 degrees.	2 degrees	Yes.
<b>C4.2.3.3 - Dwelling Layout and Dwelling Mix</b>	Section 6A of SEPP 65 states that a DCP cannot be inconsistent with the provisions of the ADG made under that SEPP in relation to balconies and development to which the SEPP relates. An assessment against the minimum dwelling layout provisions within the ADG has been undertaken earlier within this report.		
	Min 10% of apartments to be adaptable or accessible	4 out of 34 units are accessible = 12%	Yes
<b>C4.2.4.1 - Solar Access and Overshadowing</b>	Section 6A of SEPP 65 states that a DCP cannot be inconsistent with the provisions of the ADG made under that SEPP in relation to balconies and development to which the SEPP relates. An assessment against the solar access provisions within the ADG has been undertaken earlier within this report.		
<b>Solar Access and Overshadowing – Adjoining Development</b>	Development to retain a minimum of 2 hours of sunlight between 9am-3pm on 21 June for existing living areas and 50% of the principal private open space.	Refer to ADG assessment above.	<b>No.</b>
<b>C4.2.4.2 – Acoustic Privacy</b>	Address all requirements in 'Development Near Rail Corridors and Busy Roads (Interim Guideline') which has been published by the NSW Department of Planning.	Not Applicable	N/A.
<b>C4.2.5.1 - Fences</b>	Front fences within the front boundary setback are to be no higher than 1.2m	Not proposed.	N/A.
<b>C4.2.5.2 - Building services</b>	Integrate systems, services and utility areas within the design of the whole development.	The location of all utilities including Ausgrid substation, fire hydrants and the like has not been indicated on the plans. A letter was provided by Viscona Pty Ltd (the applicant's mechanical consultant) is considered to be insufficient to address the decision to not provide a substation.	<b>No.</b>

		Formal confirmation that Ausgrid is accepting of the proposed substation arrangement is required.	
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The proposed development is not consistent with the above objectives and numerical controls, with the exception of the following numerical controls:

**Additional considerations:**

***Waste***

The proposed development was referred to Council's Waste Officer and the following issues were raised:

- Doors to the bin storage area are to open outwards to prevent bins being obstructed for servicing.
- Bins may not be accurately dimensioned on the architectural plans (dimensions have been provided previously) and are to be illustrated with a 70mm gap between bins.
- The bulky waste area must be a separate designated area with defined borders and a closable access opening to ensure bulky waste is not dumped outside of the area and obstructing bins for use by residents and collection by Council.
- The kerbside collection point is to have a convenient layback to the roadway or remain flat to the truck loading area to facilitate Council's collect and return service.
- There must be a separation distance of at least 2 metres from street trees and the proposed collection point.

***Engineering***

The proposed development was referred to Council's Development Engineer and the following issues were raised:

- No stormwater plans have been provided to support the new architectural layout. A stormwater management system shall be prepared by a suitably qualified engineer and be prepared in accordance with Canterbury Development Control Plan and AS3500.3. The stormwater plans shall address all the rear paved areas and landscape areas, particularly the ones with basement under.
- The residential waste room does not have direct access from the building. All future residents would have to exit the building to use the residential waste room.
- The swept paths provided are not supported, as the location of the waiting bay provided would require extensive manoeuvring to get in to which is not realistic. The swept paths shall be revised to indicate how two vehicles can bypass each other in a single manoeuvre in accordance with AS2890.1:2004.
- The commercial shop elevation is lower than the street alignment level, this would create extensive issues if the façade is glazed. The façade shall be amended to show a 0.2m minimum concrete or masonry hob to allow for footpath construction at the boundary.



- Finally, the driveway level at the boundary shall match the existing boundary levels, and the ramp grade cannot exceed 1:4. All ramp profiles are to be provided to council for assessment.

### **Environmental Health**

The proposed development was referred to Council's Development Engineer and the following issues were raised:

- Based on the findings of the Preliminary Site Contamination Investigation Report (Stage 1) prepared by Environmental Investigation Services, reference: E29497KFrpt, dated: 18 May 2017 a Detailed Site Contamination Investigation (Stage 2) Report is required as there is a moderate potential for site contamination.

**Note:** This is consistent with Council's Contaminated Land Policy and SEPP 55. The Detailed Site Contamination Investigation (Stage 2) is to be completed and submitted prior to DA approval to allow Council to review the documentation and ensure the site is suitable for its proposed use.

- A Preliminary Acid Sulfate Soil Assessment is required as the site is located within areas mapped as Class 3 and Class 5 Acid Sulfate Soils.

### **Traffic**

The proposed development was referred to Council's Traffic Engineer and the following issues were raised:

1. Pedestrian sight distance triangles are required to be shown at the exit from the underground carparking on both sides of the driveway, as shown in Fig 3.3 from AS 2890.1:2004. The drawings appears to show walls within the sight distance triangle areas. This needs to be shown on Plan 5, and conditioned to be kept clear of any obstacles.
2. The driveway to the basement is not compliant with *Council's Vehicle Crossing Policy* and needs to be at least 1m from the boundary – the off-set distance from the boundary is not clear and/or not shown on the plan.

This was not raised with the applicant, as there were already a large number of non-compliances that were contributing to the outcome of the assessment of this application. Further, the applicant made no attempt to address any of the concerns that were raised in Council's second letter of issues.

### **Urban Design**

The proposed development was referred to Council's Urban Design Officer and the following issues were raised:

1. There is a significant lack of detail in the documentation as identified in the section Drawing Quality, these items should be clarified prior to approval.
2. There are inadequate setbacks to the sides at the rear of the building, these appear unnecessary for an efficient or effective apartment plan.

3. The ground level is below the level of the adjacent footpath and the NGL of the site generally, this is not acceptable. This produces a low quality public domain interface and compromises both the access into and the fit-out of the retail spaces, additionally no entry ramp to the building.
4. The floor to floor is only 3m not the 3.1m required in the DCP, this will affect height and given the problems with the ground level and the high number of units on the site, consideration should be given to removing a floor.' Internal Apartment planning appears haphazard and ill-considered, there is substantial irregularity in apartment layouts and relationships between the uses of adjacent rooms, this is far more significant than simply providing variation in the types of apartments offered.
5. The building form contains many irregular forms that will appear awkward to neighbouring buildings whilst also generating additional long term maintenance and waterproofing challenges for apartment owners.
6. The materials schedule and the identification of materials on elevations is inadequate, this requires clarification and the materials palette requires review to be more compatible with the approved neighbouring buildings and contemporary materials palettes generally.
7. There is no identification of the location of building services such as the electrical substation. The electrical substation needs to be integrated into the design.
8. The extent of face brick or render is not clear across the elevations.
9. The extent of signage for the retail is not shown.

Urban design team raises the following additional comments:

1. Building height and overshadowing

The proposed building height is 17.7m which seems to comply with the Canterbury Local Environmental Plan 2012 height limit. However, the lift overrun depth and the roof structure shown on the Floor and Ceiling Height Detail map does not seem to be enough. The applicant should provide a product brochure for the lift to ensure the lift overrun and roof structure meets meet the height limit.

2. Finished Floor-to-Floor Levels

- The proposed development provides the following finished floor to floor heights:
  - 3.3m for Ground Retail/Commercial Level
  - 3m for residential levels
- Proposed floor to floor heights are insufficient and detrimentally impact internal amenity and flexibility for the provision of fixtures and services.
- The slab thickness as shown on the Typical Floor Details map is 18cm which does not seem to be enough. The design must be reviewed by a structural engineer.

3. Floor to floor height should be amended to provide the following:
  - a. 4.4m for Ground Level to allow for café/ restaurant use. ADG prescribed 4m minimum ceiling height for café / restaurant use and a 0.4m building services and structural zone has been included within the 4.4m (TOS). If the applicant can provide evidence such as a tenancy lease, that the ground level would only consists of commercial/ retail use that is not hospitality (café/ restaurant) uses, the ground level can be 3.7m (ADG 4C-1 minimum ceiling height 3.3m mixed use at ground + 0.4m building services and structural height).
  - b. 3.1m for residential levels (ADG Figure 4C.1)
4. Built form and Setback
  - The built form is poorly resolved and lacks clarity. The voids and open spaces are not aligned and clearly defined on different levels. The projection of Units 6, 7 on first floor at the rear of the building into the side setback is generating an awkward built form. The same issue is about balconies of Unit 9 and 12 on level 1, Units 25 and 26 and 28 on level four and Unit 33 on Level 5 where balconies are not aligned with the lower level walls which will likely provide maintenance and waterproofing challenges for the strata in future as well as aesthetic issues. The applicant should provide a 3D view of the northern side of the building as well as the South and resolve the issues raised by the irregular forms of each level.
5. Streetscape and Public Domain Interface
  - The shop on the ground level is below the natural ground level. This is not acceptable, and the applicant should resolve levels so that the commercial tenancy does not sit below natural ground level as it provides poor interface with the street and would not promote pedestrian access to the business.
  - The residential building entry lobby is deeply inset and is not clearly identifiable. This might raise an issue in terms of safety for the residents of the building. It is recommended to change the location of the entrance in a way that it could be more visible from the street.
6. Parking and Service Access

The residential and the commercial parking both share the same entrance and space and there is no provision of separating these two parking on the plans and this might raise issues in terms of privacy and safety for the residents. It is recommended to separate the parking of these two different functions by assigning two different levels to the commercial and residential parking and implementing a separate gate for the residential parking.

It is recommended that in terms of safety the access to the residential parking to be gated and separated from the commercial parking.

## 7. Communal and Public Open Spaces

- The communal open space (C.O.S) is partly provided on the ground level and fifth floor beside unit 31. The ground level C.O.S is dominated by the paved pathway which is the access way to units 1,2 and 3 and the leftover does not provide sufficient space supporting different activities.
- The C.O.S provided on the fifth floor, is located right beside the balcony of unit 31 which would affect the visual and acoustic privacy of this unit. It is recommended to provide a buffer between the communal open space on level five and the private open space of unit 31.

## 8. Deep Soil Zone and Landscaping

While according to the basement floor plan the proposed deep soil area (73.15 sqm) meets ADG guidelines for deep soil at 7%, but according to the layouts of the rear setback of the site which is also the communal open space is hard landscaped and the quantum of the soft landscape is not properly annotated. It is noted that the hard-landscaped area could not be counted as deep soil zone.

## 9. Visual and Acoustic Privacy

As mentioned on the previous referral as well, there is no provision of grouping rooms with similar noise requirements to mitigate noise impacts through layout treatments.

Units 3-4 on Ground level, Units 8 and 9 on level one, units 15,16,17 and 18 on level two and units 21, 22 on level 3 all have issues regarding the noise transmission. It is recommended to redesign the internal layout of the above-mentioned apartments to meet the acoustic privacy criteria of the ADG objective 4H.

## 10. Internal Amenity, Layout, Solar Access and Natural Ventilation

- The entrance of unit one is located at the back of the building which makes addressing quite problematic. It is recommended to reconfigure the entrance of unit one to the west side of the building like units 2 and 3.
- A couple of ramps are provided at the back of the retail premise which one of them leads to a window, and the two others seems to have no uses.
- Shop 1 on Ground level has been sunk below ground to fit in the CLEP height level. Direct access to retails supports the liveability of the street and the active frontage of the building. It is recommended the retail premise to be at street grade and allow direct access from the footpath levels.
- There is a 35cm height difference between the entrance lobby and the street level but there is no provision of ramp or stair to solve this issue.
- The internal design of the units is very poor and lacks logic in most of them. Rather than not grouping of the rooms with the same acoustic requirements which was mentioned before, many units such as unit 2, 7, 9, 14, 16, 20, 22 and 26 have excessively long internal corridors.
- In unit 5 the space which is annotated as “laundry” is not enclosed and there is no provision of walls or cabinets for this space.

- There are slight differences on the ground levels on level 5 (37cm). This variation on the levels is probably a solution the applicant has implemented to fit the built form within the CLEP height limit. Using a single step in the corridor and the entrance of unit 33 is not acceptable as it would raise safety issue for the residents as well as accessibility problems for the disables.
- There are no walls provided around the mechanical shaft on basement levels.
- Part of the parking spaces and the lift is located on a ramp with slope of 1:20 on basement 1 and 2. There should be a provision of a flat space in front of the lift according to the BCA.
- Units 8, 15, 21, 27 and 34 which are annotated as cross ventilated units does not meet the design requirements for cross ventilation as the windows are not located on different pressure regions allowing the natural air flow. Only 18 out of 34 units of the residential apartments are cross ventilated which would be less than 60 percent of the units and does not meet the minimum requirements as per ADG objective 4B-3.
- The location of the kitchen with regards to the location of the window on units 9, 16 and 22 is quite problematic. The window abuts the living area is a snorkelling window and could not be acceptable as a source of natural light and ventilation for this space.
- The balconies of units 8 and 9 overlook each other and there is a privacy issue with these private open spaces. This is the same with units 21, 22 and units 15 and 16.

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

There are no 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, 2000.

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

The key potential impacts of the development have been discussed through-out this report. Apart from those matters already addressed, the following likely impacts are considered:

- National Construction Code  
The development application has been reviewed and assessed by Council's Building Officer who has raised no objection to the proposal subject to appropriate conditions being imposed, including that full compliance with the National Construction Code is to be achieved.
- Proposed excavation works  
The proposed development involves excavation and construction works in close proximity to property boundaries and neighbouring properties. Should the application be recommended for approval, relevant conditions requiring the applicant to provide a dilapidation report for the adjoining properties, prior to the issue of the Construction Certificate could be included on any consent issued. Should any damage to adjoining properties result from the proposed excavation works at the subject site, the applicant would be required to rectify all damages.

- **Sediment and Erosion Control**

Standard conditions could be included regarding the installation and maintenance of the sediment and erosion control measures as part of the pre and during construction phase of the development, should the application be supported.

The development will involve excavation of part of the site to accommodate the development. Any excavated material not utilised elsewhere on the property, will require proper disposal and transport in accordance with the Waste Avoidance and Recovery Act, and the Protection of the Environment Operations Act. A condition will be imposed in this regard.

**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 generally deficient of information to enable a detailed and thorough assessment of the application to be undertaken. Further information has been requested of the Applicant. It is acknowledged that there has been some attempt by the Applicant to address some concerns raised by Council. However, overall, the application is substantially deficient of information and the amended design still results in a number of variations to the relevant key planning controls, which represents an overdevelopment of the site.

As a result of the number of variations sought coupled with the lack of information submitted, the site is not suitable for the proposed development.

**Submissions [section 4.15(1)(d)]**

The application was advertised for a period of twenty-one (21) days. Two objections were received during this period, which raised concerns relating to the following:

1. **Visual Privacy/overlooking impacts from the proposed front balconies**

The front balconies are not considered to present overlooking impacts for properties on the opposite (southern) side of Weyland Street. The overlooking of the street network and front yards of neighbouring properties is considered a positive outcome for passive surveillance of the public domain and this would not be a matter that would contribute to the refusal of this application. However, the overall design of the front façade not supported by Council and forms part of the reasons for refusal of the application.

2. **The height of the proposed development (6 storeys)**

Insufficient information was submitted to determine whether the revised design complied with the maximum building height development standard applicable to the site whilst being able to provide the appropriate level of amenity to be afforded to the future residents of the site. Furthermore, the design seeks a number of variations to key design controls. On this basis, Council considers the design to be an overdevelopment of the site and is therefore not supported in its current form.

3. The traffic generated during construction

It is expected that there will be an increase in traffic attending the site in order to undertake construction works. In that regard, any development consent issued on the site would require that a construction management plan be prepared and utilized throughout the construction period. This issue is not a matter that would contribute to the refusal of this application.

4. Insufficient carparking proposed for residents

The proposed design does not satisfy the minimum parking generation requirements. Non-compliance with such controls is considered to reduce available on-street parking, which is not supported by Council. The proposed non-compliance with Council's minimum parking requirements forms part of the reason for refusal of the application.

5. Noise pollution created during construction

It is expected that there will be an increase in noise during the construction period. In that regard, any development consent issued on the site would require that construction work be undertaken within certain hours to ensure limited impact on the surrounding residents. This issue is not a matter that would contribute to the refusal of this application.

6. Narrow street width and limited street parking/public transport options

As mentioned above, the proposed design does not satisfy the minimum parking generation requirements. Non-compliance with such controls is considered to reduce available on-street parking, which is not supported by Council. The proposed non-compliance with Council's minimum parking requirements forms part of the reason for refusal of the application.

With respect to the street width, Weyland Street is considered to be of sufficient width and capacity accommodate the type of development proposed.

7. Proximity to Canterbury Road will exacerbate congestion

The design and supporting traffic impact assessment was referred to Council's Traffic Engineer for review and comment. Council's Traffic Engineer advised that the considered traffic generation of the report was deemed acceptable. In that regard, this would not be a matter that would have contributed to the refusal of the application.

8. Overpopulation of Canterbury Bankstown

The development fails to meet Council's minimum requirements for the type of development proposed. These requirements have been determined by Council's Strategic Planning section in order to meet State Government targets for the provision of dwellings. In this instance, as the development has failed to do so, it is considered to be an overdevelopment of the site and not a suitable development for the site.



9. Oversaturation of the property market

Given the lack of information submitted to support the design and the proposed number of variations to key development controls, Council considers the design to be an overdevelopment of the site and inconsistent with the desired character of the area. The proposed development is not supported. However, it is noted that there has been no evidence submitted to Council to suggest that the proposed development will contribute to an oversaturated property market. As detailed above, the minimum requirements for residential dwellings have been determined by Council's Strategic Planning section in order to meet State Government targets for the provision of dwellings.

10. Overshadowing of front yards in Weyland Street and subsequent devaluation of the surrounding properties

It is not considered that the overshadowing of the front yards of dwellings will result in the devaluation of properties. Nor has there been any evidence submitted to the Council that this is the case. While it is acknowledged that there will be some impact to the front yard of the dwellings on the opposite (southern) side of Weyland St, it is not considered to be significant in that the overshadowing will be limited at the mid-winter solstice.

**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* *Canterbury Local Environmental Plan 2012* and *Canterbury Development Control Plan 2012*.

**RECOMMENDATION**

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



## REFUSAL OF CONSENT

1. Insufficient information has been submitted with the application to enable proper consideration of the application, as requested by Council's correspondence dated 22 March 2019 and 15 June 2020. [Pursuant to Section 54 of the *Environmental Planning and Assessment Regulation, 2000* and Section 4.15(1)(a)(iv) of the *Environmental Planning and Assessment Act, 1979*];
2. The proposed development does not comply with the applicable provisions contained within State Environmental Planning Policy No 65- Design Quality of Residential Apartment Development with respect to the Apartment Design Guide criteria for deep soil zones, visual privacy, car & bicycle parking, solar access, natural ventilation, apartment size & layout, private open space, acoustic privacy, and planning for mixed uses. [Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*];
3. Insufficient information has been submitted with the application to enable proper consideration of the application with the applicable provisions contained within State Environmental Planning Policy 55 – Contaminated Land. [Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*];
4. An inappropriate design response has been submitted to allow a proper and through assessment of the design against the maximum building height development standard outlined within Clause 4.3 of Canterbury Local Environmental Plan 2012. [Pursuant to the provisions of Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*];
5. Insufficient information has been submitted to allow a proper and thorough assessment of Clause 6.1 of Canterbury Local Environmental Plan 2012. [Pursuant to the provisions of Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*];
6. Insufficient information has been submitted to allow a proper and thorough assessment of Clause 6.4 of Canterbury Local Environmental Plan 2012. [Pursuant to the provisions of Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*];
7. Insufficient information has been submitted to allow a proper and thorough assessment of Clause 6.1 of Canterbury Local Environmental Plan 2012. [Pursuant to the provisions of Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*];
8. The proposed development is unsatisfactory, as it does not comply with the objectives and controls of the Canterbury Development Control Plan 2012 (CDCP 2012) [pursuant to the provisions Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*], including:

- a) Part B1.3.1 – General Parking Rates. The development fails to comply with the minimum car parking and bicycle parking rate applicable for the development.
- b) Part B1 – Traffic and Parking. Insufficient information has been submitted to allow a proper and thorough assessment of the application against the relevant traffic and parking controls outlined within Part B1.
- c) Part B4 – Accessible & Adaptable Design. Insufficient information has been submitted to allow a proper and thorough assessment of the application against the relevant accessible & adaptable design controls outlined within Part B1.
- d) Part B5 – Crime Prevention & Safety. The development fails to comply with Part B7.2.1(C3) and Part C4.2.3.1(C7) of CDCP 2012 as the proposed primary entry point along the Canterbury Road frontage is substantially setback from the façade and is therefore not located in a prominent position to facilitate visibility.
- e) Part B9 – Waste. The development fails to comply with the relevant provisions of Part B9 of CDCP 2012 as the bin & bulk waste storage area design is inadequate and the kerbside collection point does not have a convenient layback to the roadway and there is to be of a certain distance from street trees.
- f) Part C4.2.1.4 – Layout and Orientation. The development fails to comply with Part C4.1.2.1.4 of CDCP 2012 as the design does not comply with the minimum natural ventilation and solar access requirements specified within the ADG and insufficient information has been submitted to allow a proper and thorough assessment against the remaining provisions outlined within this part of CDCP 2012.
- g) Part C4.2.2.3 – Setbacks. The proposed development fails to comply with the minimum side and deep soil setbacks outlined within Part C4.2.2.3(C1-C3) of CDCP 2012.
- h) Part C4.2.3.1 – General Building Design (Façade Treatment and Pavilions). The design fails to comply with the maximum width of articulating panels along the street elevations specified within Part C4.2.3.1(C17) of CDCP 2012 as they exceed 6m.
- i) Part C4.2.5.2 – Building Services. The design fails to comply with Part C4.2.5.2(C3) of CDCP 2012 as the location of utilities has not been shown on the architectural plans. Furthermore, insufficient information has been provided to determine whether a substation is required to cater for the site and its location within the design (if required).
- j) Part D1.2.1 – Minimum Frontage. The subject site fails to meet the minimum frontage requirement of 30m for the proposed development (residential flat buildings (4 storeys or greater)). Further, C4.2.1.2 - Isolated Sites requires that neighbouring properties are not to be isolated so that the property will be unable to reasonably accommodate coordinated development. Insufficient information has been provided to prove that the sites have not been isolated by the proposed development and that reasonable effort was made to acquire the adjoining sites.

9. Insufficient information has been submitted to allow a proper and thorough assessment of the design and its potential overshadowing impacts on adjoining residential development [Pursuant to the provisions of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979];
10. Having regard to the previous reasons noted above, approval of the development application is not in the public interest [Pursuant to the provisions of Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979].

-END-



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## Canterbury Bankstown Local Planning Panel - 07 December 2020

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<b>ITEM 5</b>	<b>54-56 Graham Road, Narwee</b>
	<b>Demolition of existing structures and construction of a three storey in-fill affordable housing development over a basement carpark pursuant to the Affordable Rental Housing SEPP 2009.</b>
<b>FILE</b>	<b>DA-258/2018 – Roselands</b>
<b>ZONING</b>	<b>R4 High Density Residential</b>
<b>DATE OF LODGEMENT</b>	<b>18 June 2018</b>
<b>APPLICANT</b>	<b>Design Link Australia P/L</b>
<b>OWNERS</b>	<b>H&amp;G Narwee Developments Pty Ltd</b>
<b>ESTIMATED VALUE</b>	<b>\$4,345,000</b>
<b>AUTHOR</b>	<b>Planning</b>

### REPORT

This matter is reported to Council's Local Planning Panel as the application seeks consent for a development for which State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development applies and is at least 3 or more storeys and contains 4 or more dwellings.

This Development Application (DA) proposes the demolition of existing structures and the construction of a three-storey in-fill affordable housing development containing 20 apartments with associated landscaping and basement car parking, pursuant to State Environmental Planning Policy (Affordable Rental Housing) 2009

The DA has been assessed against the relevant provisions of State Environmental Planning Policy No. 55- Remediation of Land, State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development, State Environmental Planning Policy (Infrastructure) 2007, State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, Canterbury Local Environmental Plan 2012 and Canterbury Development Control Plan 2012.

The application was notified for a period of 21 days from 10 July 2018 to 1 August 2018. Council received a total of one submission during the notification period and concerns raised are discussed in the report.

The site is suitable for the development and by virtue, the proposal is permissible within the zone. Therefore, the application is worthy of support and is recommended for approval subject to conditions of consent.

## **POLICY IMPACT**

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This matter has no direct policy implications.

## **FINANCIAL IMPACT**

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This matter has no direct financial implications.

## **RECOMMENDATION**

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

## **ATTACHMENTS**

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- A. Assessment Report
- B. Conditions

## **DA-258/2018 ASSESSMENT REPORT**

### **SITE & LOCALITY DESCRIPTION**

The subject site is known as 54-56 Graham Road, Narwee and is legally identified as lots 74 and 75 in DP 35912. The site is located on the southern side of Graham Road. The site is generally rectangular in shape, with a street frontage to Graham Road of 34m. The site has an eastern and western side boundary of 36.575m and a southern rear boundary of 33.9m and a total site area of 1233m<sup>2</sup>. The topography of the site slopes from the south (rear) to the boundary north (front) boundary by approximately 0.3m and from the east (side) boundary to the west (side) boundary by approximately 0.7m.

The existing development on the site consists of two single storey dwelling house developments and a detached fibro shed. The surrounding development is primarily residential with commercial uses on the corner of Graham road and Karne Street. Development to the south and east of the site comprises primarily single storey residential dwellings. To the west of the site is a two storey town house development, there are also several single and two storey residential dwellings fronting Karne street. To the north of the site on the opposite side of Graham Road is a single storey dwelling and several three and four storey residential flat buildings.



**Figure 1:** Aerial of subject site outlined in blue. **Source:** NearMaps 2020





**Figure 2:** View of the subject site from Graham Road

### **PROPOSED DEVELOPMENT**

The DA proposes the demolition of the existing structures and the construction of a three-storey in-fill affordable housing development containing 20 apartments with associated landscaping and basement car parking, pursuant to State Environmental Planning Policy (Affordable Rental Housing) 2009. The specifics of the development are as follows:

Floor	Description
Basement	<ul style="list-style-type: none"> <li>• Provision of a ramp and parking area containing 18 car spaces total (including two accessible car spaces) and 6 bicycle spaces;</li> <li>• A storage room with 13 cage storage units;</li> <li>• Provision of a wash bay;</li> <li>• A services/pump room;</li> <li>• Electrical services room;</li> <li>• Bin tug room;</li> <li>• Provision of two separate waste storage areas;</li> <li>• Provision for lifts to upper levels.</li> </ul>
Ground Floor	<ul style="list-style-type: none"> <li>• Provision of 6 units (including 2 adaptable units), one 3-bedroom unit, four 2-bedroom units, one 1-bedroom unit;</li> <li>• Provision of driveway access from Graham Road;</li> <li>• Provision of landscaping;</li> <li>• Provision of a bin presentation area;</li> <li>• Communal open space area; and</li> <li>• Provision for lifts to upper levels.</li> </ul>
Level 01	<ul style="list-style-type: none"> <li>• Provision of 7 units, four 2-bedroom units and three 1-bedroom units;</li> <li>• All units dedicated to affordable housing;</li> <li>• Lift access.</li> </ul>



Level 02	<ul style="list-style-type: none"> <li>• Provision of 7 units, four 2-bedroom units and three 1-bedroom units;</li> <li>• Lift access.</li> </ul>
Roof Top	<ul style="list-style-type: none"> <li>• Provision of a roof top communal open space area accessed via the stairs;</li> <li>• The roof top includes a central planter box and bench seating;</li> <li>• The roof top area is screened with a planter box for landscaping on the south and western side.</li> </ul>

### 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 55 – Contaminated Land (SEPP 55)
- State Environmental Planning Policy (Affordable Rental Housing) 2009 (SEPP ARH)
- State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development (SEPP 65)
- State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017
- State Environmental Planning Policy 2004 (Building Sustainability Index: BASIX)
- Canterbury Local Environmental Plan 2012 (CLEP 2012)
- Canterbury Development Control Plan 2012 (CDCP 2012)
- Canterbury Development Contributions Plan 2013 (Contributions Plan 2013)

### **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 55 – Remediation of Land (SEPP 55)**

Clause 7 of SEPP 55 – Remediation of Land requires Council to consider whether the land is contaminated prior to granting consent to the carrying out of any development on that land. Should the land be contaminated, Council must be satisfied that the land is suitable in a contaminated state for the proposed use. If the land requires remediation to be undertaken to make it suitable for the proposed use, Council must be satisfied that the land will be remediated before the land is used for that purpose.

The site's currently contains dwelling houses. Accordingly given the residential history of the site, Council is satisfied that the site is suitable for the purpose of the proposed development in accordance with SEPP 55 – Remediation of Land.

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

In accordance with BASIX SEPP, a BASIX Certificate (Certificate Number 802557M\_06) accompanies this application. The Certificate makes several 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 objectives of the SEPP. The BASIX Certificate requirements have been incorporated into conditions of consent.

**State Environmental Planning Policy (Affordable Rental Housing) 2009 (SEPP ARH)**

The application is for infill affordable housing development lodged pursuant to the provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARH SEPP). This Policy aims to provide new affordable rental housing and retain and mitigate any loss of existing housing by provision of a consistent planning regime. Specifically, the Policy provides for new affordable rental housing by offering incentives such as expanded zoning permissibility, floor space ratio bonuses and minimum development standards.

The following provisions of the ARH SEPP are relevant to this proposal:

**Permissibility (Clause 10(1))**

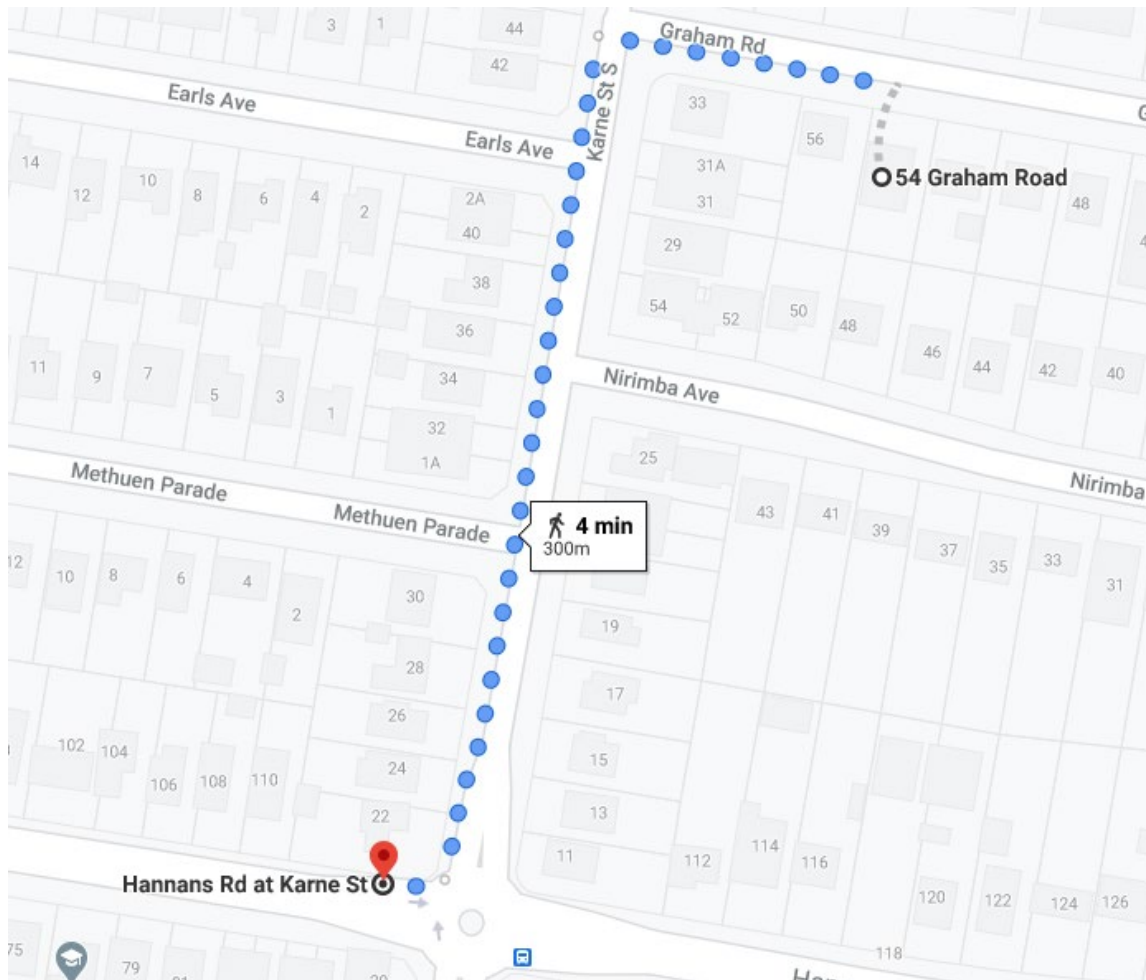
The proposal for infill affordable housing development comprising a residential flat building development is permissible in the R4 High Density Residential zone pursuant to Clause 10(1) of SEPP ARH, since residential flat building developments are permissible in the zone under Canterbury Local Environmental Plan (CLEP) 2012 and the proposal is not located on land containing a heritage item or within proximity of a conservation area.

**Accessibility (Clause 10(2))**

Clause 10(2) of the SEPP also requires that in-fill affordable housing developments in the Sydney Region be located within an 'accessible area' which is an area in proximity of certain transport nodes, and includes the following (emphasis added):

- a) 800 metres walking distance of a public entrance to a railway station or a wharf from which a Sydney Ferries ferry service operates, or
- b) 400 metres walking distance of a public entrance to a light rail station or, in the case of a light rail station with no entrance, 400 metres walking distance of a platform of the light rail station, or
- c) **400 metres walking distance of a bus stop used by a regular bus service (within the meaning of the Passenger Transport Act 1990) that has at least one bus per hour servicing the bus stop between 06.00 and 21.00 each day from Monday to Friday (both days inclusive) and between 08.00 and 18.00 on each Saturday and Sunday.**

The site is located within 300m walking distance from a bus stop used by a regular bus service that has at least one bus per hour servicing the bus stop between 6.00 and 21.00 each day from Monday to Friday and between 8.00 and 18.00 on each Saturday and Sunday. The 944 bus route goes from Mortdale to Bankstown, with another bus stop available across the street, which services the opposite route (as per Figure 3 below). The application therefore satisfies the requirements of this Clause. Given the distance to the bus stop, the site constitutes as an 'accessible area' under the ARH SEPP.



**Figure 3: Distance map from the subject site to a bus stop (944 bus route) with regular bus services (source google maps).**

Based on the above, the DA complies with the accessibility requirements pursuant to the requirements of the ARH SEPP.

#### Floor space ratio (FSR) bonus (Clause 13)

Clause 13(1) of the SEPP outlines the floor space ratio (FSR) bonus applicable to in-fill affordable rental housing if the percentage of gross floor area (GFA) to be used for affordable housing is at least 20% of the gross floor area of the development.

Floor space ratio is defined as the maximum floor space allowable in the subject zone (i.e. 0.9:1 for the subject site as per CLEP 2012) plus a floor space bonus based on the amount of floor space to be dedicated to affordable rental housing.

The development (according to GFA diagrams) provides a total gross floor area (GFA) of 1,522.3m<sup>2</sup> representing an FSR of 1.23:1.

Since this application proposes to dedicate the GFA of 497.5m<sup>2</sup>, as affordable housing, it therefore benefits from an FSR bonus.

Given the maximum allowable floor space ratio in the subject zone is 0.9:1, but increases to 1.23:1 with the added bonus of 0.33:1 emanating from the applicant's dedication of 33% (entire first floor) of the total GFA of the proposal as affordable housing, the proposed FSR of 1.23:1 complies with the maximum allowable FSR, satisfying the requirements of this clause.

Minimum standards that cannot be used to refuse consent (Clause 14)

Clause 14 prescribes minimum standards which cannot be used by Council to refuse consent. The following table is an assessment of the proposal against these standards:

Control	Requirement	Proposal	Complies
Site area	If the site area on which it is proposed to carry out the development is at least 450 square metres,	The total site area is 1,233m <sup>2</sup> .	Yes
Landscaped area	In the case of a development application made by a social housing provider—at least 35 square metres of landscaped area per dwelling is provided.  <b>in any other case—at least 30 per cent of the site area is to be landscaped,</b>	Development application has not been made by a social housing provider. Proposed overall landscaping for the development is 403m <sup>2</sup> (32.7% of site).	Yes
Deep soil zone	(i) there is soil of a sufficient depth to support the growth of trees and shrubs on an area of not less than 15 per cent of the site area (the <b>deep soil zone</b> ), and (ii) each area forming part of the deep soil zone has a minimum dimension of 3 metres, and (iii) if practicable, at least two-thirds of the deep soil zone is located at the rear of the site area	The proposed development provides 19.1% total deep soil area which is equivalent to 235.5m <sup>2</sup> and is a minimum of 3m in dimension. The deep soil areas located in the front setback has the ability to accommodate large canopy tree planting which will also serve to soften the built form presentation from Graham Road.  The ARH SEPP requires that two thirds of the deep soil area be provided at the rear of the site if practicable. In this case, approximately 66.4m <sup>2</sup> (28.2% of total deep soil area) deep soil area is provided in front of the main building line fronting Graham Road. 169.1m <sup>2</sup> (71.8% of total deep soil area) of deep soil area is located at the rear of the site.	Yes
Solar access	Living rooms and private open space areas for a minimum of 70% of dwellings are to receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter (equal to 14 out of 20 units)	The solar access requirements under the ADG are also relevant to the proposed development. The ADG requires that living rooms and private open space areas for a minimum of 70% of dwellings are to receive a minimum of 3 hours direct sunlight	Yes

		<p>between 9am and 3pm in mid-winter. Both policies are applicable to this application and each policy states that; "In the event of an inconsistency between this Policy and another environmental planning instrument, whether made before or after this Policy, this Policy prevails to the extent of the inconsistency". On this basis, the new development complies with the solar access requirements of part 4A of the ADG which is acceptable.</p> <p>The development provides 3 hours of solar access to 15 of the 20 units between 9am and 3pm. Units U-G04, UG05, U-103, U1-04 and U204 are unable to meet the 3 hours of required solar access, however, all other units within the development receive 3 hours of sunlight.</p>	
Car parking	At least 0.5 parking spaces are provided for each dwelling containing 1 bedroom, at least 1 parking space is provided for each dwelling containing 2 bedrooms and at least 1.5 parking spaces are provided for each dwelling containing 3 or more bedrooms (i.e requires 17 car parking spaces)	<p>The application was not made by a social housing provider. The proposal includes provision for 16 car parking spaces, in addition to 2 accessible parking spaces located within the basement, and accessed from the drive way crossings off Graham Road.</p> <p>18 car parking spaces have been proposed in total</p>	Yes
Dwelling size	<p>35m<sup>2</sup> per studio</p> <p>50m<sup>2</sup> per 1 bed</p> <p>70m<sup>2</sup> per 2 bed</p> <p>95m<sup>2</sup> per 3+ bed</p>	<p>1 Bed: All 7 of the proposed 1 bed dwellings achieve a minimum dwelling size of 50m<sup>2</sup></p> <p>2 Bed: All 12 of the proposed 1 bed dwellings achieve a minimum dwelling size of 70m<sup>2</sup></p> <p>3 Bed: G01 Does not comply with the 95m<sup>2</sup> minimum dwelling size as it has an area of 92.7m<sup>2</sup>. The apartment is deficient of the minimum requirement by 2.3m<sup>2</sup>. Notwithstanding the deficient apartment size, the apartment provides adequate private open space, and internal bedroom and living room sizes.</p>	No- however a condition can be placed to ensure compliance.

As demonstrated above the proposed development complies with most of the standards prescribed in Clause 14 of SEPP ARH, with the exception of the apartment size of G01, however it is acceptable for the reasons detailed above and subject to conditions of consent.

#### Design Requirements: Seniors Living Policy (Clause 15)

Clause 15 requires a two step assessment.

Firstly, Clause 15(1) requires Council to consider the provisions of the Seniors Living Policy: Urban Design Guidelines for Infill Development 2004 to the extent that the provisions are consistent with the SEPP.

Secondly, Clause 15(2) states that this clause does not apply where development falls under the definition of Clause 4 of SEPP 65 – Design Quality of Residential Apartment Development.

Given that SEPP 65 applies to the development, consideration is not required against the provisions of the Seniors Living Policy: Urban Design Guidelines for Infill Development.

#### Character of the Local Area

Clause 16(A) of the ARH SEPP requires that a consent authority take into consideration whether the design of the development is compatible with the character of the local area. The current planning controls applicable to the subject site and its surrounds allow for a range of development types, including multi dwelling housing.

Project Venture v Pittwater Council (2005, NSWLEC 191) sets out the planning principles for compatibility in the urban environment and expanded upon Fodor v Hornsby Shire Council (2005, NSWLEC 71). In the Project Venture decision, Senior Commissioner (SC) Roseth noted that ‘for a new development to be visually compatible with its context, it should contain, or at least respond to, the essential elements that make up the character of the surrounding urban environment’. SC Roseth opined that the most important contributor to urban character is the relationship between the built form and surrounding space; “a relationship that is created by building height, setbacks, and landscaping”.

The development is consistent with Council’s height controls and will align with the desired future character of the locality. The design ensures that the proposed development is appropriate in terms of scale and bulk. There are variations sought to the setback requirements, however the development is still capable of complying with the objectives and design criteria of the control. On this basis, the variation is acceptable and further discussion is provided within this report.

The proposed building form and scale is considered to be consistent with surrounding development in the vicinity, with the design adopted responding to relevant planning controls and the need to protect the amenity of neighbouring residents, with the exception of setbacks. Overall, the design of the proposed development positively contributes to the streetscape and the surrounding built form. The development has been designed to optimise internal amenity and minimise impacts to neighbours.

The proposed development has been considered under the ARH SEPP and has been found to respond appropriately to the intent of the Policy and satisfies the requirements of Clause 16(A). The proposed development is considered to be compatible with the character of the local area and is acceptable.

Must be used as Affordable Housing for Ten Years (Clause 17)

Clause 17 of the SEPP requires that the nominated affordable housing dwellings within the development must be used for affordable housing for a minimum period of ten years and managed by a registered community housing provider, specifically requiring that Council impose conditions to this effect, to ensure that the proposal satisfies this Clause. The proposal includes the dedication of proposed apartments as affordable housing through a registered community housing provider. On this basis, appropriate conditions of consent will be imposed to ensure Clause 17 is satisfied.

Subdivision (Clause 18)

Clause 18 of the SEPP allows land on which in-fill affordable rental housing has been carried out to be subdivided with consent. Subdivision is not proposed by this application.

**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.

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'. Clause 50(1A) of the Environmental Planning and Assessment Regulation 2000 requires the submission of a design verification statement from a qualified designer (registered architect) at lodgement of the development application that addresses the design quality principles contained in 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

The site is consistent with the objectives of the zone as the development consists of a residential flat building development, pursuant to the ARH SEPP. The proposed development will result in a building bulk and a development generally in keeping with the area. Whilst some breaches to the policies and controls exist, Council considers these breaches acceptable in this instance only, for the reasons set out in this report.



### Principle 2: Built Form and Scale

The design ensures that the proposed development is appropriate to the existing and desired future character of the streetscape in terms of scale, bulk and height. Also, the appropriate use of materials and finishes helps to define the base of the building from the upper store to provide articulation in the building façade.

### Principle 3: Density

The density of the proposed development is satisfactory and a reasonable response to the existing and desired future context as it offers a high level of amenity for residents and each apartment. The development results in a total of 20 apartments across three storeys' in the building and complies with the FSR bonus afforded to the site by virtue of the ARH SEPP.

### 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 Landscape design principle states that good design is recognised when landscaping and buildings operate as an integrated and sustainable system, resulting in attractive developments that contribute to the landscape character of the streetscape. It also states that good landscape design optimises usability, privacy and opportunities for social interaction, equitable access, and respect for neighbors' amenity, provides for practical establishment and long term management.

A Landscape Plan formed part of the documentation with this application which demonstrates good landscape design. The landscaping treatment for the development is provided along the primary frontage, and at the rear of the site. The landscape treatment fronting Graham Road provides an area of deep soil setback between the front boundary to the predominant building line with enough space for a single large canopy tree and other landscape planting which may serve as a buffer between the built form and the public domain.

The landscaped areas and communal open space areas (COS) are not contained in the same place, but rather are spaced out across the development to ensure equitable access to all future occupiers. Also, the COS areas provide bench seating and additional amenities on the roof top terrace which facilitates with social interaction.

For the reasons outlined above, the landscape treatment is satisfactory.

### Principle 6: Amenity

The proposed development offers good amenity through a combination of appropriate room dimensions, access to sunlight for 75% of the apartments, natural ventilation to 60% of apartments, storage contained within each new apartment and private open space. In addition to the internal amenity offered to each apartment, the overall layout of the development provides adequate parking and balance of the site in terms of the proportion of built form to landscaped areas and communal open space.



### Principle 7: Safety

The safety design principle states that good design optimises safety and security within the development and the public domain. The proposed development achieves safety through its compatibility with the Crime Prevention through Environmental Design (CPTED) principles as outlined in CDCP 2012. The proposal provides increased activation and passive surveillance of the surrounding streets and private open space areas on the site. Additionally, residential entry and lobby areas are to be secured and well-lit and this has been confirmed with a condition.

### Principle 8: Housing Diversity and Social Interaction

This principle aims to achieve good design by providing a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets. Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents.

The proposed development offers a combination of one bedroom, two bedroom and three bedroom apartments that will accommodate for low to moderate income earners pursuant to the ARH SEPP. The location of the site is in good proximity to public transport which widens the demographic and social mix. Additionally, the two separate communal spaces offered on the site will provide opportunities for social interaction among future occupiers.

### Principle 9: Aesthetics

The proposed use of pattern, texture, form and colour seeks to produce a design aesthetic that reflects the quality of residential accommodation provided. The use of contrast and definition is achieved using materials such as face brick, metal wall cladding, aluminium features, glass balustrades and aluminium louvre screening to enhance articulation to the building façade. Additionally, the development responds to the existing streetscape with a 3 storey building which has defined the ground floor and the first and second floors of the building using contrasting finishes to define the base and top of the building. Together, these elements contribute to the desired future character of the locality and 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.

Section	Design Criteria	Proposed	Complies
<b>Part 3 Siting the Development</b>			
<b>3C Public Domain Interface</b>	<ul style="list-style-type: none"> <li>- Transition between private and public domain is achieved without compromising safety and security</li> <li>- Amenity of the public domain is retained and enhanced</li> </ul>	The communal residential entry from Graham Road is clearly identifiable from the street. Landscape treatment and large canopy tree planting is provided in the front setback which serves as a buffer between the public and private domain to ensure amenity is enhanced and maintained.	Yes
<b>3D Communal and Public Open Space</b>	Communal open space has a minimum area equal to 25% of the site. (Total site area is 1,233m <sup>2</sup> , requiring a minimum 308.25m <sup>2</sup> )  Communal open space should have a minimum dimension of 3m.	The proposed development provides 243.7m <sup>2</sup> communal open space on ground floor and 119m <sup>2</sup> communal open space has been provided in the form of a roof top terrace, both are a minimum 3m dimension. In total, the site provides 362.7m <sup>2</sup> communal open space which is equivalent to 29.4% and exceeds the minimum requirement.	Yes
	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).	Despite the 172m <sup>2</sup> rear communal open space area not receiving adequate direct solar access, the 119m <sup>2</sup> communal open space located on the roof top terrace receives direct solar access between 9am and 3pm.	Yes

Section	Design Criteria	Proposed	Complies								
3E Deep Soil Zones	Deep soil zones are to meet the following minimum dimensions:	The proposed development has been submitted pursuant to the ARH SEPP 2009, which provides deep soil criteria which are the relevant deep soil in this regard.	Yes								
	<table><tr><th>Site Area</th><th>Min. Dimensions</th><th>Deep Soil Zone (% of site area)</th></tr><tr><td>Greater than 1,500m<sup>2</sup></td><td>6m</td><td rowspan="2">7%</td></tr><tr><td>Greater than 1,500m<sup>2</sup> with significant existing tree cover</td><td>6m</td></tr></table>	Site Area		Min. Dimensions	Deep Soil Zone (% of site area)	Greater than 1,500m <sup>2</sup>	6m	7%	Greater than 1,500m <sup>2</sup> with significant existing tree cover	6m	Based on a site area of 1,233m <sup>2</sup> , the ADG requires a minimum of 7% the site area to be deep soil which equates to 86.31m <sup>2</sup> .
	Site Area	Min. Dimensions		Deep Soil Zone (% of site area)							
	Greater than 1,500m <sup>2</sup>	6m		7%							
	Greater than 1,500m <sup>2</sup> with significant existing tree cover	6m									
		The proposed development provides total deep soil area which is equivalent to 243.7m <sup>2</sup> and is a minimum of 3m in dimension. The deep soil area has the ability to accommodate large canopy tree planting which will also serve to soften the built form presentation from Graham Road.									
3F Visual Privacy	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:	<u>Rear</u> -Requirement is 6m Minimum 6m from habitable room to rear boundary.	Yes								
	<table><tr><th>Building Height</th><th>Habitable Rooms &amp; Balconies</th><th>Non-habitable Rooms</th></tr><tr><td>Up to 12m (4 storeys)</td><td>6m</td><td>3m</td></tr></table>	Building Height		Habitable Rooms & Balconies	Non-habitable Rooms	Up to 12m (4 storeys)	6m	3m	<u>Side</u> -Requirement is 6m Minimum to eastern side boundary, 7.7m to the wall of the building and 5.2m to the balcony.		
	Building Height	Habitable Rooms & Balconies		Non-habitable Rooms							
Up to 12m (4 storeys)	6m	3m									
		Minimum to western side boundary, 6.9m to the wall of the building and 6m to the balcony.									

Section	Design Criteria	Proposed	Complies
<b>3J Bicycle and Car Parking</b>	<p>For development within 800 metres of a railway station the minimum car parking requirement for residents and visitors is the lesser of that set out within the Guide to Traffic Generating Developments or Council requirements.</p> <p>The subject site is not located within 800m of a railway station and therefore the parking rates under Part B1 Transport &amp; Parking of the CDCP 2012 apply.</p>	<p>The subject site is not located within 800m of a railway station, therefore Council's car parking controls would typically apply, except in specific circumstances such as this one. The proposed development has been submitted pursuant to the ARH SEPP 2009, which provides car parking rates which are the relevant parking controls in this regard. An assessment of the required car parking is provided in the ARH table above.</p>	Yes
	<p>The car parking needs for a development must be provided off street.</p>	<p>The proposal has provided all required car parking off street and located on the ground floor of the development.</p>	Yes

Section	Design Criteria	Proposed	Complies
<b>3G Pedestrian Access and Entries</b>	<p>Multiples entries should be provided to activate the street edge.</p> <p>Entry locations relate to the street and subdivision pattern / existing pedestrian network.</p> <p>Building entries should be clearly distinguishable from private entries.</p> <p>Building access areas (lift lobbies, stairwells and hallways) should be clearly visible from public domain and communal spaces.</p> <p>Minimise ground floor and underground level changes along pathways and entries. Steps and ramps integrated into design.</p> <p>Provide way finding maps for large developments. Electronic access and audio/video intercoms required.</p> <p>Provide pedestrian links to streets and destinations with clear sight lines.</p>	<p>The entry to the development fronts Graham road. The proposed driveway and pedestrian entry is welcoming and easily identifiable from the street. The entry is enhanced by the provided deep soil landscaping in the front setback. On this basis, pedestrian access and entry into the site is adequately achieved.</p>	Yes

<b>Part 4 Designing the Building</b>			
<b>4A Solar and Daylight Access</b>	Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter.	The ADG requires that living rooms and private open space areas for a minimum of 70%, equivalent to 14 apartments are to receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter. The development provides 3 hours of solar access to 15 of the 20 units between 9am and 3pm (equivalent to 75%). Units U-G04, UG05, U-103, U1-04 and U204 are unable to meet the 3 hours of required solar access, however, all other units within the development receive 3 hours of sunlight.	Yes
	A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter.	The ADG requires that no more than 15% of the total apartments (maximum of 3 apartments) receive no solar access. Two Apartments U-104 and U-204 receive little to no solar access to the primary living and private open space areas due to the northern orientation of the site.	Yes
<b>4B Natural Ventilation</b>	At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartment at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.	60% of the total units equates to 12 units which are required to achieve natural ventilation. In accordance with the natural ventilation diagrams submitted with the application, 12 apartments achieve natural ventilation including G01, G02, G04, G06, 102, 103, 105, 106, 202, 203, 205 and 206.	Yes

	Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	No cross through or crossover apartments proposed.	N/A								
4C Ceiling Heights	<p>Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</p> <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 main living area floor 2.4 for second floor.</td></tr></table> <p>These minimums do not preclude higher ceilings if desired.</p>	Minimum Ceiling Height for Apartment and Mixed Use Buildings		Habitable rooms	2.7m	Non-habitable	2.4m	For 2 storey apartments	2.7m main living area floor 2.4 for second floor.	The floor to ceiling heights for Ground floor and the first floor is 2.8m and the floor to ceiling height for the second floor is 2.7m. All apartments meet the minimum requirement.	Yes
Minimum Ceiling Height for Apartment and Mixed Use Buildings											
Habitable rooms	2.7m										
Non-habitable	2.4m										
For 2 storey apartments	2.7m main living area floor 2.4 for second floor.										
4D Apartment Size and Layout	<p>Apartment are required to have the following minimum internal areas:</p> <table><tr><th>Apartment Type</th><th>Minimum Internal Area</th></tr><tr><td>1 bedroom</td><td>50m<sup>2</sup></td></tr><tr><td>2 bedroom</td><td>70m<sup>2</sup></td></tr><tr><td>3 bedroom</td><td>90m<sup>2</sup></td></tr></table> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m<sup>2</sup> each.</p> <p>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m<sup>2</sup> each.</p>	Apartment Type	Minimum Internal Area	1 bedroom	50m <sup>2</sup>	2 bedroom	70m <sup>2</sup>	3 bedroom	90m <sup>2</sup>	<p>All 20 of the proposed apartments each meet the minimum internal areas required. Any apartment with a second bathroom includes additional area and maintains compliance.</p> <p>Therefore, compliance with the minimum internal area comply with the requirements.</p>	Yes
Apartment Type	Minimum Internal Area										
1 bedroom	50m <sup>2</sup>										
2 bedroom	70m <sup>2</sup>										
3 bedroom	90m <sup>2</sup>										

	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.	Achieved	Yes
	In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.	The proposed apartments provide living room depths that are a maximum 8m depth.	Yes
	Master bedrooms have a minimum area of 10m <sup>2</sup> and other bedrooms 9m <sup>2</sup> (excluding wardrobe space).	All proposed master bedrooms have a minimum dimension of 10m <sup>2</sup> . All other bedrooms are a minimum of 9m <sup>2</sup> .	Yes
	Bedrooms have a minimum dimension of 3m (excluding wardrobe space).	The proposed apartments have a minimum bedroom dimension of 3m.	Yes
	Living rooms or combined living/dining rooms have a minimum width of: <ul style="list-style-type: none"> <li>• 3.6m for studio and 1 bedroom apartments</li> <li>• 4m for 2 and 3 bedroom apartments</li> </ul>	<p>All one-bedroom apartments have a minimum living area width of 3.6m.</p> <p>All two-bedroom apartments have a minimum living area width of 4m.</p>	Yes
	The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts.	No cross-over or cross-through apartments proposed.	N/A



4E Private Open Space and Balconies	<p>All apartments are required to have primary balconies as follows:</p> <table><tr><th>Dwellin g type</th><th>Minimu m Area</th><th>Minimu m Depth</th></tr><tr><td>1 bedroo m apartm ents</td><td>8m<sup>2</sup></td><td>2m</td></tr><tr><td>2 bedroo m apartm ents</td><td>10m<sup>2</sup></td><td>2m</td></tr><tr><td>3 bedroo m apartm ents</td><td>12m<sup>2</sup></td><td>2.4m</td></tr></table> <p>The minimum balcony depth to be counted as contributing to the balcony area is 1m.</p>	Dwellin g type	Minimu m Area	Minimu m Depth	1 bedroo m apartm ents	8m <sup>2</sup>	2m	2 bedroo m apartm ents	10m <sup>2</sup>	2m	3 bedroo m apartm ents	12m <sup>2</sup>	2.4m	<p>Each of the proposed 1 bedroom apartments have a balcony with a minimum area ranging between 8.3m<sup>2</sup> and 8.5m<sup>2</sup>.</p> <p>Each of the proposed 2 bedroom apartments have a balcony with a minimum area ranging between 9.8m<sup>2</sup> and 26.6m<sup>2</sup>. Unit U-102 and U-202 do not comply all others do. A condition of consent will be imposed to increase the balcony of U-202 and U-102 by 0.2m<sup>2</sup> by reducing apartment size marginally to increase the balcony size.</p> <p>The proposed 3-bedroom apartment has a balcony with an area of ranging between 15.2m<sup>2</sup>.</p> <p>The minimum depth of the 1 and 2 bedroom balconies range between 2m and 4.6m.</p> <p>The minimum depth of the 3 bedroom balcony is 3m.</p>	Yes- by way of condition.
	Dwellin g type	Minimu m Area	Minimu m Depth												
1 bedroo m apartm ents	8m <sup>2</sup>	2m													
2 bedroo m apartm ents	10m <sup>2</sup>	2m													
3 bedroo m apartm ents	12m <sup>2</sup>	2.4m													
	<p>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<sup>2</sup> and a minimum depth of 3m.</p>	<p>All ground floor court yards provide 15m<sup>2</sup>. The POS for all apartments on ground floor have a minimum depth of 3m, except U-G04 which has a minimum depth of 2.9m. The architectural plan drawing number DA-05 shows that the depth is 3m. Nonetheless, a condition will be imposed to ensure that the POS complies with the minimum requirement.</p>	Yes- by way of condition.												

<b>4F Common Circulation and Spaces</b>	<p>The maximum number of apartments off a circulation core on a single level is eight.</p> <p>Where design criteria 1 is not achieved, no more than 12 apartments should be provided off a circulation core on a single level</p>	Each level contains a maximum of 7 apartments which will adequately service the development.	Yes															
<b>4G Storage</b>	<p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <table><tr><th>Dwelling type</th><th>Storage size volume</th><th></th></tr><tr><td>Studio apartments</td><td>4m<sup>3</sup></td><td></td></tr><tr><td>1 bedroom apartments</td><td>6m<sup>3</sup></td><td></td></tr><tr><td>2 bedroom apartments</td><td>8m<sup>3</sup></td><td></td></tr><tr><td>3+ bedroom apartments</td><td>10m<sup>3</sup></td><td></td></tr></table> <p>At least 50% of the required storage is to be located within the apartment.</p>	Dwelling type	Storage size volume		Studio apartments	4m <sup>3</sup>		1 bedroom apartments	6m <sup>3</sup>		2 bedroom apartments	8m <sup>3</sup>		3+ bedroom apartments	10m <sup>3</sup>		All apartments meet the minimum storage requirements.	Yes
Dwelling type	Storage size volume																	
Studio apartments	4m <sup>3</sup>																	
1 bedroom apartments	6m <sup>3</sup>																	
2 bedroom apartments	8m <sup>3</sup>																	
3+ bedroom apartments	10m <sup>3</sup>																	

<b>4H Acoustic Privacy</b>	<p>Adequate building separation is provided within the development and from neighbouring buildings/adjacent uses</p> <p>Noisy areas within buildings including building entries and corridors should be located next to or above each other and quieter areas next to or above quieter areas</p> <p>Rooms with similar noise requirements are grouped together</p> <p>Noise sources such as garage doors, driveways, service areas, plant rooms, building services, mechanical equipment, active communal open spaces and circulation areas should be located at least 3m away from bedrooms</p>	<p>The proposed separation from within the development and adjacent sites is acceptable. Furthermore, a condition of consent will require that an acoustic assessment be undertaken prior to the issues of a construction certificate. The recommendations contained in that acoustic report will form part of the conditions of consent.</p>	Yes
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### Canterbury Local Environmental Plan 2012

This site is zoned R4 High Density Residential under the CLEP 2012. The controls applicable to this application are discussed below.

#### Clause 1.2 Aims of Plan

The proposed development is consistent with the relevant aims of the CLEP 2012:

- (1) This Plan aims to make local environmental planning provisions for land in Canterbury in accordance with the relevant standard environmental planning instrument under section 3.20 of the Act.
- (2) The particular aims of this Plan are as follows—
  - (a) to provide for a range of development that promotes housing, employment and recreation opportunities for the existing and future residents of Canterbury,
  - (b) to promote a variety of housing types to meet population demand,
  - (c) to ensure that development is of a design and type that supports the amenity and character of an area and enhances the quality of life of the community,
  - (d) to create vibrant town centres by focusing employment and residential uses around existing centres and public transport nodes,
  - (e) to revitalise Canterbury Road by encouraging a mix of land uses that does not detract from the economic viability of existing town centres,

- (f) to retain industrial areas and promote a range of employment opportunities and services,
- (g) to promote healthy lifestyles by providing open space that supports a variety of leisure and recreational facilities and encouraging an increased use of public transport, walking and cycling,
- (h) to protect the natural environment for future generations and implement ecological sustainability in the planning and development process,
- (i) to protect and promote the environmental and cultural heritage values of Canterbury.

### Clause 2.3 Zone objectives and Land Use Table

Clause 2.3(2) of CLEP 2012 outline 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 Development 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 High Density Residential zone as it provides for a three storey in-fill affordable housing development and will deliver housing for low to moderate income households.

Provision/ Standard	Requirement	Proposal	Complies
<b>Part 2 Permitted or Prohibited Development</b>			
2.1-2.3 Zoning	R4 High Density Residential Development	Residential flat building development.	Yes
2.7 Demolition requires development consent	The demolition of a building or work may be carried out only with development consent.	The proposed development includes demolition of existing structures.	Yes

<b>Part 4 Principal Development Standards</b>			
4.3 Height of Buildings	11.5m	The proposed plans show that the development complies with the maximum 11.5m building height. Council's assessment of the Section A-A plan to the maximum RL being 35.4 (to the lift overrun) shows that the maximum building height is 11.5m. However, Council's assessment on the Section B-B plan to the maximum RL (to lift overrun) shows a building height of 11.6m. On this basis, a condition of consent will be imposed to ensure that the maximum building height does not exceed 11.5m. The floor to ceiling heights exceed the minimum requirement on ground and the first floor, so these can be reduced to drop the overall building height.	Yes- however a condition of consent will be imposed to ensure compliance.
4.4 Floor Space Ratio	0.9:1, however afforded bonus under the ARH SEPP (1.23:1).	1.23:1 – Given the maximum allowable floor space ratio within this zone is 0.9:1, but increases to 1.23:1 with the added bonus of 0.33:1 emanating from the applicants dedication of 33% of the total GFA of the proposal as affordable housing, the proposed FSR of 1.23:1 complies with the maximum allowable FSR, satisfying the requirements of this clause.	Yes
<b>Part 6 Local Provisions</b>			
6.1 Acid Sulfate Soils	Development consent must not be granted under this clause for the carrying out of works unless an acid sulfate soils management plan has been prepared for the proposed works in accordance with the Acid Sulfate Soils Manual and has been provided to the consent authority.	The site does not contain acid sulfate soils and is not in the immediate vicinity of another site with any class of acid sulfate soil. Therefore, an Acid Sulfate Soils Manual is not required for this site.	Yes

6.2 Earthworks	<p>Before granting consent to development including earthworks, the following must be considered:</p> <ul style="list-style-type: none"> <li>(a) drainage patterns and soil stability</li> <li>(b) the likely future use or redevelopment of the land,</li> <li>(c) quality of the fill or the soil to be excavated, or both,</li> <li>(d) effect of development on existing and likely amenity of adjoining properties,</li> <li>(e) the source of any fill material and the destination of any excavated material,</li> <li>(f) the likelihood of disturbing relics,</li> <li>(g) the potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,</li> <li>(h) appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</li> </ul>	<p>The proposed development seeks to demolish the existing structures on each lot.</p> <p>Any potential impacts will be controlled through the inclusion of conditions of consent to ensure the construction stage is carried out in accordance with the relevant building standards.</p>	Yes
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6.3 Flood Planning	<p>This clause applies to land at or below the flood planning level. Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:</p> <ul style="list-style-type: none"> <li>(a) is compatible with the flood hazard of the land, and</li> <li>(b) will not significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and</li> <li>(c) incorporates appropriate measures to manage risk to life from flood, and</li> <li>(d) will not significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and</li> <li>(e) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.</li> </ul>	<p>The subject site is affected by the Salt Pan Creek (Overland Flow). The plans have been referred to Council's Development Engineers who have provided conditions of consent to prevent any future issues as a consequence of flooding.</p>	Yes
6.4 Stormwater Management	<p>Consent must not be granted unless:</p> <ul style="list-style-type: none"> <li>(a) Water permeable surfaces are maximized having regard to soil characteristics affecting on-site stormwater infiltration.</li> <li>(b) Includes on-site detention if practical as an alternative means of water supply.</li> <li>(c) Avoids significant impacts of run-off on adjoining land or the environment or minimises and mitigates impacts.</li> </ul>	<p>The application was referred to Council's Development Engineer who did not raise any objections with the proposal subject to conditions of consent.</p>	Yes

6.6 Essential Services	<p>Essential services must be available or adequate arrangements have been made to make them available, including:</p> <ul style="list-style-type: none"> <li>- the supply of water;</li> <li>- the supply of electricity (substation);</li> <li>- the disposal and - management of sewage;</li> <li>- stormwater drainage or on-site conservation;</li> <li>- suitable vehicular access.</li> </ul>	<p>The proposal contains facilities and services for the function of the building.</p> <p>The applicant has not advised that a substation will be required, and a condition of consent will be included to reinforce that consent is not provided for a substation under the subject consent. Council's engineers are satisfied with vehicular access. In terms of stormwater drainage, a deferred commencement condition has been imposed to ensure that drainage is satisfied prior to CC.</p>	Yes-condition of consent.
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### **Draft environmental planning instruments [section 4.15(1)(a)(ii)]**

#### **Draft Canterbury Bankstown Consolidated Local Environmental Plan**

On 30 June 2020 the Canterbury Bankstown Local Planning Panel endorsed the Planning Proposal (PP\_2019\_CBANK\_005) to proceed to the Department of Planning, Industry and Environment for finalisation and making. The Planning Proposal seeks to produce a single set of planning rules and align the Bankstown LEP 2015 and Canterbury LEP 2012 into a consolidated Local Environmental Plan. The Planning Proposal however does not propose any change to the planning or development provisions relating to this site.

As the Planning Proposal has been exhibited it must be considered under Section 4.15 (1)(a)(ii) of the Environmental Planning and Assessment Act, 1979. The Draft CBLEP also seeks to insert a saving provision "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".

The proposed development will not impact the Draft CBLEP and are considered consistent with the CBLEP.

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

#### **Canterbury Development Control Plan 2012 (CDCP 2012)**

The proposed development has been compared to the requirements of CDCP 2012 as follows: As the application was lodged on the 20 September 2018 the application was assessed against Amendment 3 of the CDCP 2012.

#### **Part B1 – Transport and Parking**

An assessment of the proposal against the car and bicycle parking rates in Part B1 of CDCP 2012 is provided below:



Standard	Requirement	Proposal	Complies
<b>Car Parking</b>	<ul style="list-style-type: none"> <li>Studio/1 bedroom: 1 space per dwelling</li> <li>Visitor: 1 space per 5 dwellings</li> <li>Car wash bay: 1 car wash bay.</li> </ul>	<p>Noted and assessment against the relevant controls in the ARH SEPP has been provided earlier within this report.</p> <p>1 car wash bay and 18 car parking spaces have been provided in the basement level.</p>	Yes – pursuant to the ARH SEPP
<b>Bicycle Parking</b>	<ul style="list-style-type: none"> <li>Residents: 1 space per 5 dwellings</li> <li>Visitors: 1 space per 10 dwellings</li> </ul>	No bicycle spaces are required by the ARH SEPP, however A bicycle parking area has been provided in the basement of the development. There is no requirement for motorcycle spaces.	Yes – pursuant to the ARH SEPP

#### Part B2 – Landscaping and Part B3 – Tree Preservation

The application submitted a Landscape Plan prepared by a suitably qualified Landscape Architect in accordance with the requirements of Part B2 of CDCP 2012. The Landscape Plan will form part of the conditions of consent to ensure that the proposed development adequately satisfies the requirements.

#### Part B4 – Accessible and Adaptable Design

An access report formed part of the proposal's documentation. The application was referred to Council's Building Surveyor and conditions of consent have been imposed to ensure the proposal complies with the relevant standards. The development provides lift access from ground floor to the proposed roof top and 2x accessible car spaces have also been provided in accordance with the relevant requirements. Where the design includes some non-compliances, these matters can be resolved through minor design changes or BCA Performance Solutions at the relevant Construction Certificate stage. On this basis, the design is considered acceptable from an accessible and adaptable design perspective.

#### Part B5 – Stormwater and Flood Management

The application was referred to Council's Development Engineer who raised no objection with the current design, subject to conditions of consent.

#### Part B7 – Crime Prevention and Safety

An assessment of the proposed design against the relevant provisions of Part B7 is provided in the table below:

Standard	Requirement	Proposal	Complies
Crime Prevention through Environmental Design	Avoid blind corners	The proposal does not appear to present any blind corners	Yes
	Provide natural surveillance for communal and public areas.	Active uses and habitable rooms have been orientated towards main	Yes

		communal and/or public areas.	
	Provide clearly visible entries.	The communal residential entry from the Graham Road frontage is clearly identifiable.	Yes
	Design the fence to maximise natural surveillance from the street to the building	The front boundary fence does not obstruct surveillance to the street.	Yes
	Avoid landscaping that obstructs natural surveillance.	The proposed landscaping balances privacy and maintains natural surveillance.	Yes
	Entrances, exits, service areas, pathways, car parks are to be well-lit after dark	To ensure appropriate lighting is incorporated within the development and ensure there is no light spillage onto adjoining properties appropriate conditions have been imposed	Yes
	Where permitted, provide appropriate mixed uses within buildings to increase opportunities for natural surveillance	The development is a residential building and is suitable for the site.	Yes
	Ensure buildings are clearly identified by street numbers.	Achieved and will be conditioned	Yes
	Use materials that reduce the opportunity for vandalism.	The proposal incorporates a variety of materials and finishes which are acceptable.	Yes
	Provide an appropriate level of security for individual dwellings and communal areas through use of intercoms, self-closing doors and signage.	Achieved and will be conditioned to ensure ongoing safety.	Yes

#### Part B9 - Waste

The application was referred to Council's Project Officer – Resource Recovery who raised no objection with the current design, subject to conditions of consent.

#### Part C4 Residential Flat Buildings

This section of the DCP assessment provides controls for applications to which State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development (SEPP 65) applies. SEPP 65 applies to residential flat buildings three storeys or greater with four or more Dwellings.

Control	Requirement	Proposed	Complies
C4.2.1.1 Minimum Lot Sizes and frontage	Residential flat buildings must have a street frontage.	The site has a primary frontage to Graham Road	Yes
	The minimum primary street frontage width for residential flat buildings up to 3 storeys is 27m for development along major roads.	The primary street frontage is 34m.	Yes
C4.2.1.2 Isolated Sites	Isolation of sites occurs where a property that adjoins a development site would be narrower or smaller than required to be developed under Canterbury LEP. Consequently, the isolated site would be incapable of accommodating the form of redevelopment envisaged by the planning controls.	The proposal is an infill affordable housing residential flat building development and the proposal will not result in isolation of adjoining properties.	Yes
C4.2.1.3 Open Space	<u>Balconies</u> Section 6A of SEPP 65 states that a DCP cannot be inconsistent with the provisions of the ADG made under that SEPP in relation to balconies and developments to which the SEPP relates. The ADG therefore sets the objectives and controls for balconies in the LGA for residential flat buildings to which SEPP 65 relates. Refer to the objectives, design criteria and design guidance outlined in 4E Private Open Space and Balconies of the ADG.	Noted and assessment against the relevant controls in the ADG has been provided earlier within this report.	Yes
	<u>Communal open space</u> C1 Residential flat buildings must provide communal open space areas equivalent to at least 25% of the open space on a site that is created by the required setbacks and building separations. C2 Communal open space may be provided on podiums, terraces, or in any deep-soil setback or separation between buildings in residential flat buildings. C3 At least one side must have a minimum 6m length for each area of communal open space. C4 Consolidate communal open space into recognisable areas with reasonable area, facilities and landscape for the uses it will accommodate, and design to generate a variety of visible pedestrian activity. C5 Consolidate communal open space into recognisable areas with reasonable area, facilities and landscape for the uses it will accommodate, and design to generate a variety of visible pedestrian activity. C6 Provide communal open space in	The ADG provides design criteria and guidance for communal open space which requires a minimum 25% of the total site area and a minimum 3m width. Total site area is 1,233m <sup>2</sup> which requires 308.25m <sup>2</sup> .  The proposed development provides 243.7m <sup>2</sup> communal open space on ground floor and 119m <sup>2</sup> communal open space has been provided in the form of a roof top terrace, both are a minimum 3m dimension. In total, the site provides 362.7m <sup>2</sup> communal open space which is equivalent to 29.4%.  The COS on the roof and	Yes

	<p>locations that are sunny, and are adjacent to, as well as visible from, the main building lobby.</p> <p>C7 Provide windows that overlook communal open space and approaches to the building to generate a variety of visible pedestrian activity in the main building lobby.</p> <p>C8 Screen walls surrounding any communal area are no higher than 1.2m, although screens with 50% transparency may be up to 1.8m high.</p>	<p>ground floor (rear) of the development has a minimum dimension of 6m.</p> <p>The locations of the communal open space areas are suitable and will receive sunlight. Also, the COS contains appropriate amenities to encourage social interaction, including bench seating.</p> <p>Appropriate planter boxes have been proposed around the perimeter of the roof top communal open space which will provide suitable screening and reduce any possibility for overlooking and privacy impacts.</p>	
C4.2.1.4 Layout and Orientation	<p>C1 Orientate development to maximise solar access and natural lighting, without unduly increasing the building's heat load.</p> <p>C2 Site the development to avoid casting shadows onto neighbouring dwelling's primary living area, private open space and solar cells.</p> <p>C3 Coordinate design for natural ventilation with passive solar design techniques.</p> <p>C4 Site new development and private open space to avoid existing shadows cast from nearby buildings.</p> <p>C5 Site a building to take maximum benefit from cross-breezes and prevailing winds.</p> <p>C6 Do not compromise the creation of casual surveillance of the street, communal space and parking areas, through the required orientation.</p>	<p>The development faces north, to maximise solar access. It does not overshadow the adjoining properties primary living areas, POS or solar cells. Each level is capable of achieving natural ventilation to at least 4 units on that level</p> <p>The proposal allows for casual surveillance to the street, new dwellings fronting Graham Road increase passive surveillance.</p>	Yes
C4.2.2.1 Floor Space Ratio	FSR is expressed as a ratio of the permissible gross floor area to the site area, as defined under LEP. The maximum permissible FSR for any development is prescribed in the LEP.	Noted see LEP assessment table earlier in this report.	Yes
C4.2.2.2 Height	The maximum permissible height of building is prescribed in the LEP and varies across zones.	Noted see assessment earlier in this report.	Yes

	<p><u>Height</u></p> <p>C1 Development for the purposes of residential flat buildings must not exceed the following numerical requirements: (a) Maximum three storeys and 10m maximum external wall height, where the height of buildings under the LEP is 11.5m. Basement and Sub-floor Projection.</p> <p>C2 Any part of a basement or sub-floor area that projects greater than 1m above ground level comprises a storey. Attics and Roof Terraces</p> <p>C3 Attics and mezzanine floors do not comprise a storey.</p> <p>C6 Retaining walls that would be located along, or immediately adjacent to, any boundary:</p> <p>(a) Maximum 3m height for steeply sloping land, but only to accommodate a garage that would be located at street level; and</p> <p>(b) Maximum 1m height for all other land.</p> <p>Cut and fill – Development Without Basement Parking</p> <p>C7 Maximum 1m cut below ground level where it will extend beyond an exterior wall of the building.</p> <p>C8 No limit to cut below ground level where it will be contained entirely within the exterior walls of a building, however, excavated area is not to accommodate any habitable room that would be located substantially below ground level.</p> <p>C9 Maximum 600mm fill above ground level where it would extend beyond an exterior wall of a building.</p> <p>C10 If proposed cut and fill, or a retaining wall, would be deeper or higher than 1m, structural viability must be confirmed by suitably qualified engineers' reports.</p>	<p>The proposed development is a maximum of 3 storeys. The wall height is 10.2m and exceeds the maximum external wall height requirement of 10m. However, given that the site is flood affected, the finished ground floor level was required to be raised in accordance with the requirements of the SSR.</p> <p>The basement does not project over 1m above the ground level.</p> <p>An attic and mezzanine has not been proposed.</p> <p>There is not cut proposed that exceeds 1m below ground level.</p> <p>No retaining walls have been proposed as part of this application</p> <p>The basement level does not extend beyond the exterior walls of the building.</p>	Yes
C4.2.2.3 Setbacks	<p><u>Front setback</u></p> <p>C1 Development, including basement and sub-floor areas, fronting a major road must have a minimum front setback of 9m.</p> <p>C2 Development must comply with the minimum setbacks as follows:</p> <p>(a) A minimum setback of 6m from the front and rear boundary.</p>	<p>Development fronts Graham Road, which is not listed as a major road, therefore a 6m front setback is required. The development provides a setback of 6m from the front boundary.</p>	No however see note [1] below.

	<p><u>Rear setback</u> C2 Development must comply with the minimum setbacks as follows: (a) A minimum setback of 6m from the rear boundary.</p> <p><u>Side setback</u> (b) A minimum setback of 4m from the side boundaries.</p> <p>(c) All buildings shall provide a building form comprising a podium base element and an upper element which provides an additional setback in accordance with the table for 4 to 6 storey developments.</p> <p>C3 A minimum width of deep soil alongside boundaries of 2m and minimum of 5m wide along front/rear boundaries.</p>	<p>The rear setback of 6m has been provided on ground floor, however there are elements on the first and second floor which project 0.5m into the rear setback area.</p> <p>Balconies project 0.2m into the required side setback area.</p> <p>Deep soil front setback ranges between 3.375m and 5.875m. The deep soil rear setback is 4.6m.</p> <p>Deep soil side east side setback is 1.5m and deep soil west setback is 2.5m.</p>	
C4.2.2.4 Building Depth	<p>C1 Building depth must not exceed a maximum of 25m.</p> <p>C2 The building depth may be increased to 35m in the R4 Zone provided facades incorporate deep soil courtyards that are:</p> <p>(a) Parallel to front or rear boundaries (or that have an orientation which is generally parallel to those boundaries) provided that the adjacent deep soil setbacks each accommodate at least three major canopy trees; or</p> <p>(b) Parallel to side boundaries (or have an orientation that is generally parallel to side boundaries) provided that the facades will incorporate deep soil courtyards that each have a minimum area 6m by 6m and will each accommodate at least one major canopy tree.</p>	<p>The zoning of the site is R4, therefore the development would benefit from an increased building depth of 35m provided it would be capable of meeting the deep soil courtyard requirements</p> <p>The development has a maximum building depth of 24.6 which complies with this control.</p>	Yes
C4.2.2.5 Building Separation	<p>Section 6A of SEPP 65 states that a DCP cannot be inconsistent with the provisions of the ADG made under that SEPP in relation to visual privacy (building separation) to which the SEPP relates. The ADG therefore sets the objectives and controls for building separation in the LGA for residential flat buildings to which SEPP 65 relates. Refer to 3F Visual Privacy of the ADG for objectives, design criteria and design guidance.</p>	<p>Noted and assessed against the relevant controls in the ADG has been provided earlier within this report.</p>	Yes

C4.2.2.6 Floor To Ceiling Heights	Refer to 4C Ceiling Heights of the ADG made under SEPP 65 for objectives, design criteria and design guidance in relation to minimum ceiling heights.	Noted and assessment against the relevant controls in the ADG has been provided earlier within this report.	Yes
C4.2.3 Building Design	<p><u>Contemporary Built Form</u></p> <p>C1 Contemporary architectural designs may be acceptable if:</p> <p>(a) A heritage listing does not apply to the existing dwelling or to its immediate neighbours.</p> <p>(b) The proposed addition is not visually prominent from the street or from a public space.</p> <p>(c) Extensive remodelling of existing facades is proposed in accordance with controls of this DCP.</p> <p>C2 New building forms and design features shall not mimic traditional features but should reflect these in a contemporary design.</p> <p>C3 Access to upper storeys must not be via external stairs.</p> <p>C4 All dwellings must contain one kitchen and laundry facility.</p> <p>C5 Retain and extend prominent elements of the existing roof (such as gables, hips or longitudinal ridges that run parallel to a street boundary).</p> <p>C6 Contemporary roof forms may be acceptable on additions at ground floor level if concealed substantially behind the existing dwelling, and not visible from the street or other public space</p>	<p>Neither the subject site nor neighbouring properties are heritage listed.</p> <p>The use of contrast and definition is achieved using materials such as face brick, aluminium louvres, paint finish, glass balustrades, and cladding to enhance articulation to the building façade.</p> <p>Access to upper storeys is via stairs/lift located in the inner parts of the building.</p> <p>All dwellings contain their own kitchen and laundry facility.</p> <p>New roof form proposed is appropriate.</p>	Yes
	<p><u>Building Entries</u></p> <p>C7 Entries to residential buildings must be clearly identifiable.</p> <p>C8 Provide the main common entry and separate private ground floor apartment entries where it is desirable to activate the street edge or reinforce a rhythm along the street.</p> <p>C9 A minimum of one habitable room per dwelling must be oriented towards the street to promote positive social interaction and community safety.</p>	<p>The communal entry into the building from Graham Road is clearly identifiable</p> <p>U-G01 and UG06 (Adaptable units) are both accessible via their private open space as well as the main entrance to the development.</p>	Yes



	<p>C10 Sight lines to the street from habitable rooms or entrances must not be obscured by ancillary structures.</p> <p>C11 Ground level private terraces located within the front setback must be setback at least 1m from the street boundary to accommodate a landscape strip which should remain in communal ownership.</p> <p>C12 Private open spaces accessed from the street must be clearly articulated.</p>	<p>All dwellings located along the street frontage have living areas and bedroom windows oriented towards the street to promote social interaction and community safety</p> <p>Site lines to the street from habitable rooms or entrances are not obscured by ancillary structures</p> <p>POS designs for the units on ground floor along the front of the building area designed appropriately.</p>							
	<p><u>Façade Treatment</u></p> <p>C13 Development on corner lots must address both street frontages through façade treatment and articulation of elevations.</p> <p>C14 Facade design should reflect the orientation of the site using elements such as sun shading devices, light shelves and bay windows.</p> <p>C15 Facades visible from the street should be designed as a series of articulating panels.</p> <p>C16 Width of articulating panels should be consistent with the scale and rhythm characteristic of bungalows.</p> <p>C17 The width of articulating panels for RFB’s up to 3 storeys shall be in accordance with the numerical requirements below:</p> <table><tr><th>Street Elevation Facades</th><th>Side Elevation Facades</th></tr><tr><td>4m to 6m</td><td>10m to 15m</td></tr><tr><td>6m to 8m</td><td>10m to 15m</td></tr></table> <p>C18 Avoid long flat walls along street frontages - stagger the wall alignment with a step (not a fin wall or other protruding feature) of at least 0.5m for residential buildings.</p> <p>C19 Vary the height of modules so they are not read as a continuous line on any one street between 2 - 4 storeys, step-back to the middle component and again at the top.</p>	Street Elevation Facades	Side Elevation Facades	4m to 6m	10m to 15m	6m to 8m	10m to 15m	<p>The subject site is not located on a corner lot.</p> <p>The building finishes include a combination of face brick, aluminium louvres, paint finish, glass balustrades, and scyon cladding which serves as a series of articulating panels and well defines the first and second level from the ground floor.</p> <p>The use of articulation on the front elevation (Graham Road frontage) provides articulating panels with the use of different materials and finishes at intervals between 6m and 8m.</p> <p>The proposal staggers the wall alignment appropriately and incorporates different finishes into the design.</p> <p>The height of modules varies in height and are not read as one continuous line.</p>	Yes
Street Elevation Facades	Side Elevation Facades								
4m to 6m	10m to 15m								
6m to 8m	10m to 15m								



	<p>C20 Incorporate contrasting elements in the facade - use a harmonious range of high quality materials, finishes and detailing.</p> <p>C21 Screen prominent corners with awnings, balconies, terraces or verandas that project at least 1 m from the general wall alignment.</p> <p>C22 For residential flat buildings, layer and step facades in order to avoid building forms that are bland, bulky or over scaled by:</p> <p>(a) Complying with base and upper element setback controls; and</p> <p>(b) Incorporating balconies, staggered alignments for exterior walls and through contrasting design elements.</p>	<p>Contrasting elements in façade are deemed appropriate.</p> <p>Adequate screening has been provided for the development</p>	
	<p><u>Pavilions</u></p> <p>C27 Residential flat buildings up to three storeys facades that would be wider than 25m should be indented so that the new building would appear like a cluster of pavilion elements:</p> <p>(a) Width of each pavilion should be between 10-12m</p> <p>(b) Pavilion elements should be separated by courtyards that are less than 6m wide.</p>	Noted	Yes
	<p><u>Windows</u></p> <p>C30 Large windows should be screened with blinds, louvres, awnings or pergolas.</p> <p>C31 Windows must be rectangular. C32 Square, circle and semi-circle windows are acceptable in moderation.</p> <p>C33 Vertical proportioned window openings can include multi-panel windows or multi-panel doors.</p> <p>C34 Windows and openings shall be appropriately located and shaded to reduce summer heat load and maximise sunlight in winter.</p> <p>C35 Dormer windows on buildings in the residential zone do not appear as additional storey.</p>	<p>Balconies at the rear and along the side elevations of the development incorporate privacy screening, to avoid overlooking the adjoining properties POS, as well as the living space of the unit. Living windows have a sill height of at least 1.5m from FFL. Any windows that have a lower sill height belong to a bedroom or kitchen, which does not require screening</p> <p>All windows in the development are rectangular in shape.</p> <p>No dormer windows are proposed.</p>	Yes

C4.2.3.2 Roof Design and Features	<p><u>Building three storeys or less</u></p> <p>C1 Use a simple pitched roof that accentuates the shape of exterior walls and minimises bulk and scale.</p> <p>C2 Avoid complex roof forms with multiple gables, hips and valleys, or turrets.</p> <p>C3 Roof pitches are to be compatible and sympathetic to nearby buildings.</p> <p>C4 Parapet roofs that increase the height of exterior walls are to be minimised.</p> <p>C5 Use minor gables only to emphasise rooms or balconies that project from the body of a building.</p> <p>C6 Mansard roofs (or similar) are not permitted.</p> <p>C7 Pitched roofs should not exceed a pitch of 30 degrees.</p> <p>C8 Relate roof design to the desired built form and context.</p> <p>C9 Roofs with greater pitches will be considered on merit considering matters such as streetscape, heritage value and design integrity.</p> <p>C10 Relate roof design to the desired built form and context.</p>	<p>The roof form of the proposed development is a flat roof, therefore doesn't exceed a pitch of 30 degrees.</p> <p>The immediate vicinity is characterised by a combination of flat roof and pitched roof forms. Therefore, there is no predominant roof form that is characteristic of the area. On this basis, the proposed roof is compatible with the existing streetscape.</p>	Yes
C4.2.3.3 Dwelling Layout & Mix	<p>Section 6A of SEPP 65 states that a DCP cannot be inconsistent with the provisions of the ADG made under that SEPP in relation to apartment size and layout (dwelling layout) and development to which the SEPP relates. The ADG therefore sets the objectives and controls for dwelling layout in the LGA for residential flat buildings to which SEPP 65 applies. Refer to 4D Apartment Size and Layout of the ADG for objectives, design criteria and design guidance. An additional objective and control in relation to the mix of dwellings are provided below.</p>	<p>Noted and assessment against the relevant controls in the ADG has been provided earlier within this report.</p>	Yes
C4.2.4 Amenity	<p>This section of the DCP contains amenity provisions for solar access and overshadowing and acoustic privacy. Visual privacy and natural ventilation objectives and controls are discussed in section C4.2.2.5 Building Separation in this chapter of the DCP.</p>	<p>Noted and detailed assessment against all specific amenity provisions has been discussed within this report.</p>	Yes
C4.2.4.1 Solar Access and Overshadowing	<p>Section 6A of SEPP 65 states that a DCP cannot be inconsistent with the provisions of the ADG made under that SEPP in relation to solar and daylight access (solar access and overshadowing in this DCP) and</p>	<p>Noted and assessment against the relevant controls in the ADG has been provided earlier within this report.</p>	Yes

	<p>development to which the SEPP relates. The ADG therefore sets the objectives and controls for solar access and overshadowing in the LGA for residential flat buildings to which SEPP 65 relates. Refer to 4A Solar and Daylight Access of the ADG for objectives, design criteria and design guidance.</p> <p>C1 Daylight is to be provided to all common circulation areas (including lift wells) that are above ground.</p>	<p>Natural light provided to all common circulation areas the stairs to the roof top which have an open stair space</p>	
	<p><u>Solar Access to Neighbouring Development</u></p> <p>C2 Proposed development must retain a minimum of 3 hours of sunlight between 8.00am and 4.00pm on 21 June for existing primary living areas and to 50% of the principal private open space.</p> <p>C3 If a neighbouring dwelling currently receives less than 3 hours of sunlight, then the proposed development must not reduce the existing level of solar access to that property.</p> <p>C4 Sunlight to solar hot water or photovoltaic systems on adjoining properties must comply with the following:</p> <p>(a) Systems must receive at least 3 hours of direct sunlight between 8.00am and 4.00pm on 21 June.</p> <p>(b) If a system currently receives less than 3 hours sunlight, then proposed development must not reduce the existing level of sunlight.</p> <p>C5 Clothes drying areas on adjoining residential properties must receive a minimum of 3 hours of sunlight on 21 June.</p>	<p>As demonstrated in the shadow diagrams, a minimum 3 hours solar access is retained for the neighbouring developments primary living areas and private open space.</p> <p>The neighbouring residential property adjoining the site to the eastern boundary at 52 Graham Road achieves a minimum 3 hours solar access to required areas between 9am and 1pm.</p> <p>The neighbouring properties to the west of the site at 31-33 Karne Street South, maintain a minimum 3 hours solar access between 11am-3pm</p> <p>The neighbouring properties to the south of the site at 48 Nirimba Avenue, maintains a minimum 3 hours solar access between 9am-11pm. While 50 Nirimba Avenue maintains a minimum 3 hours of solar access between 1pm-3pm</p> <p>Noted and achieved.</p>	Yes
C4.2.4.2 Acoustic Privacy	<p>C1 Protect sensitive rooms, such as bedrooms, from likely sources of noise such as major roads and neighbouring living areas.</p>	<p>The site is not located on a busy road and is unlikely to be affected by acoustic impacts. The apartments</p>	Yes

	<p>C2 Above ground access to new dwellings must not include communal balconies that would be located immediately next to a bedroom window.</p> <p>C3 Bedroom windows in new dwellings that would be located at or close to ground level are to be raised above, or screened from, any shared pedestrian pathway.</p> <p>C4 Screen balconies or windows in living rooms or bedrooms that would face a driveway or basement ramp.</p> <p>C5 Address all requirements in 'Development Near Rail Corridors and Busy Roads - Interim Guideline (2008)' published by the NSW Department of Planning.</p>	<p>have appropriate setbacks and sensitive rooms such as bedrooms will not be impacted from any likely sources of noise.</p>	
C4.2.5.1 Fences	<p>C1 Provide boundary definition by construction of an open fence or low hedge to the front street boundary.</p> <p>C2 Front fences within the front boundary setback are to be no higher than 1.2m.</p> <p>C3 Side fences may be 1.8m high to the predominant building line. Forward of the building line, side fences must taper down to the height of the front fence at a height no greater than 1.2m.</p> <p>C5 Screen walls around private open spaces shall not be taller than 1.2m, although screens with 50% transparency may be up to 1.8m in height.</p>	<p>A condition of consent will be imposed to ensure that all boundary fencing is replaced and renewed in keeping with the relevant fence height requirements for each boundary.</p> <p>A 1.2m height front boundary fence is proposed to Graham Road.</p> <p>Boundary fencing has been proposed along the side and rear boundaries to a height of 1.8m</p>	Yes
C4.2.5.2 Building Services	<p>C1 All letterboxes be installed to meet Australia Post standards.</p> <p>C2 Design and provide discretely located mailboxes at the front of the property.</p> <p>C3 Integrate systems, services and utility areas (such as plant rooms, hydrants, equipment and the like) with the design of the whole development – coordinate materials with those of the building and integrate with landscaping.</p> <p>C4 The location of substations is to be shown on plans.</p> <p>C7 Facilities should not be visually obtrusive and should not detract from soft-landscaped areas that are located within the required setbacks or building separations.</p> <p>C8 Appliances that are fitted to the exterior of a building, and enclosures for service meters, do not detract from the desired</p>	<p>Mailboxes are located at the front of the development, adjacent to the footpath to enter the building.</p> <p>Service areas are contained within the building.</p> <p>The applicant has not advised that a substation will be required and a condition of consent will be included to reinforce that consent is not provided for a substation under the subject consent.</p> <p>A clothes drying area has been provided at the rear</p>	Yes

	<p>architectural quality of new building, or the desired green character of streetscapes.</p> <p>C9 Unscreened appliances and meters should not be attached to any façade that would be visible from a street or driveway within the site.</p> <p>C10 Screen or treat air conditioning units, TV antennae, satellite dishes, ventilation ducts and other like structures so they are not visible on the street elevation.</p> <p>C11 Coordinate and integrate building services, such as drainage pipes, with overall façade and balcony design.</p> <p>C12 Location and design of service areas should include:</p> <p>(a) Screening of clothes drying areas from public and semi-public places; and</p> <p>(b) Space for storage that is screened or integrated with the building design.</p> <p>C13 Minimise visual impact of solar hot water systems.</p>	<p>of the site which will not be visible from public areas.</p> <p>Plans indicate that the street elevation will not have any air conditioning units, TV antennae, satellite dishes, ventilation ducts and other like structures visible from the street.</p>	
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*The proposed development is consistent with the above objectives and numerical controls, except for the following numerical controls:*

#### [1] Setbacks

The objectives of the Setback controls in CDCP 2012 are set out below:

- O1. To establish the desired spatial proportions of the street and define the street edge.*
- O2. To limit the scale and bulk of development by retaining landscaped open space around.*
- O3. To contribute to the natural landscape by retaining adequate space for new trees and conserving existing visually prominent trees.*
- O4. To provide sufficient separation between buildings and adjacent land to limit the visual, environmental and likely potential amenity impacts of new development.*
- O5. To minimise stormwater run-off by retaining deep soil areas that facilitate rainwater infiltration*

The DCP requires 5m deep soil front and rear setbacks. The proposed development provides a deep soil front setback which ranges between 3.375m and 5.875m and a deep soil rear setback of 4.6m.

Also, the DCP requires 2m deep soil side setbacks. The proposed development shows a deep soil east side setback of 1.5m and a deep soil west side setback of 2.5m. it is noted that the total deep soil side setbacks required by the DCP would be 4m when added together. When adding the proposed deep soil setbacks together, it still equates 4m. While this arrangement is not a typical design response, it does meet the objectives in providing separation through the form of a landscape strip buffer between the subject site and neighbouring developments.

Despite not meeting the minimum setback requirements, the proposal meets the objectives for the setback controls in CDCP 2012. The bulk and scale of the development can be measured by the building's height, FSR and landscape treatment. The proposed development meets the height and FSR standard's pursuant to the LEP and ARH SEPP.

In terms of landscaping, the proposal meets the requirements of the ARH SEPP. The Applicant has provided a landscaping plan which shows planting along the front deep soil area to limit views of the bulk and scale of the development. Furthermore there is enough space in the front deep soil area to include a canopy tree. Overall, the landscaping treatment meets the objectives.

### **Canterbury Development Contributions Plan 2013 (Contributions Plan 2013)**

The Canterbury Development Contributions Plan 2013 applies to the site and requires a contribution of **\$219,819.30**. This is included as a condition of consent.

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

There are no relevant planning agreements applicable to the proposed development.

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

The proposed development is not inconsistent with the provisions of the Environmental Planning and Assessment Regulation 2000.

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

- **Sediment and Erosion Control**

The submitted development plans show details of sediment and erosion control measures to be installed as part of the construction of the development. Standard conditions will be included regarding the installation and maintenance of the sediment and erosion control measures as part of the pre and during construction phase of the development.

- **Health, Safety & Amenity during Construction Phase**

During the construction of the development, the health and amenity of workers, the public and adjoining properties alike needs consideration under Section 4.15 of the EP&A Act. Accordingly, all works associated with the development will be restricted to daytime hours to ensure the works will not be a nuisance to adjoining occupiers and property owners (by way of standard condition).

- **Referrals**

Referral	Comments Received
Development Engineer	No objections – subject to conditions of consent.
Resource Recovery	No objections – subject to conditions of consent.
Traffic Engineer	No objections – subject to conditions of consent.

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

The proposed development is permissible in the subject site's current zoning and is consistent with the objectives of the zone as it provides a residential flat building development to accommodate for the housing needs for very low to moderate income households within this local residential environment. The site is suitable for the development providing for the orderly and economic use of the land.

**Submissions [section 4.15(1)(d)]**

The subject application was advertised for a period of 21 days from 10 July 2018 to 1 August 2018. During this time, the application was notified to adjoining neighbours. Council received a total of one (1) submission which raised the following concerns:

*Concern: The proposed development is a three storey building which would tower above surrounding properties blocking any views or line of sight to the sky*

*Comment:* The subject application initially sought a Clause 4.6 variation to Council's Building Height Development Standard under Clause 4.3 of the Canterbury Local Environmental Plan (2012). Amended plans have been submitted demonstrating compliance with the maximum permitted Building Height Standard within Clause 4.3 of the CLEP (2012). It is therefore considered that the subject development will not result in any height breach or blocking of line of sight to the sky.

*Concern: The excessive building height will result in restricted solar access to adjoining dwellings, in particular, morning sun will be restricted to primary living areas of adjoining dwellings*

*Comment:* Amended plans have been submitted demonstrating compliance with Council's maximum building height permitted within Clause 4.3 of the CLEP (2012). Further, the assessment of the subject application has found the proposal will retain adequate solar access for adjoining dwellings.

*The submitted plans demonstrate a layout that has been taken from an existing plan that had neighbouring properties on the same street.*

*Comment:* Council has received amended plan which demonstrate the correct layout and orientation of the proposed development.

*Privacy impacts arise as the western elevation of the proposed development faces directly into the primary living areas and private open space areas of adjoining dwellings*

*Comment:* Along the western elevation, louvres have been provided to windows in common areas in order to minimize privacy concerns to adjoining dwellings. Further, the amended plans submitted to Council demonstrate privacy screening is provided to the balcony returns which run from the north to west elevation. Council has assessed the subject proposal against the relevant visual privacy controls and has found the application to be compliant.

**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 2000*, *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 provisions of Section 4.15 of the *Environmental Planning and Assessment Act 1979*, *Canterbury Local Environmental Plan 2012*, *Canterbury Development Control Plan 2012* and all other relevant environmental planning instruments and policies. The proposal does propose variations from the standards and controls contained within these policies, however on balance the proposal is acceptable. The site is suitable for the proposed development and consistent with the objectives of the R4 High Density Residential zone pursuant to *Canterbury LEP 2012* by virtue, the proposal is permissible within the zone. On that basis, the application is recommended for approval subject to conditions of consent.

**RECOMMENDATION**

It is recommended that the application DA-258/2018 be **APPROVED** subject to the attached conditions.



## DEFERRED COMMENCEMENT CONDITIONS

- 1) This consent is not to operate until the Applicant satisfies Council that the Deferred Commencement condition is satisfied within a period of 24 months of this consent that:
  - A. The Overland Flood Study & Flood Impact Report- rev E, dated 09 July 2020 and prepared by Alpha Engineering & Development, shall be revised to make provision for unobstructed runoff for 1% AEP overland flow through the property. Fences within the overland flow paths are to be open style that allows the passage of floodwaters. Any proposed walls or landscaping, except grass, shall be relocated outside of the overland flow path to eliminate blockages and provide a clear path for the flow. The architectural plans must be amended to satisfy this requirement prior to the issue of any Construction Certificate.
  - B. The overland flood path's (OLFP) through the site, for runoff in excess of the capacity of the pipeline, must be designed and redirected in accordance with Council's Development Engineering Standards - Section 9.5 - Overland Flow paths (OLFP) for Stormwater from Upstream Catchments. The freeboard between the 1% AEP water surface level and existing neighbouring houses floor level must be maintained in accordance with the Council's Development Engineering Standards.
  - C. Overland flood path (OLFP) through the site shall be outlined on the final Landscape plan and the flood levels for 1% AEP must be indicated at critical points but not limited to driveway ramp crest, all entries to the building, BBQ area, basement etc. The final Landscape plan shall clearly show approved levels for construction and that clearance above 1% AEP level is achieved in accordance with freeboard requirements to ensure that development is not subject to stormwater inundation or nuisance flooding.
  - D. The setback shall be clearly indicated on the ground floor plan and shall be a minimum of 1.5m along the eastern boundary and a minimum of 2.5 m along the western property boundary.
  - E. The relocated pipeline shall be designed to have the capacity as specified in Council's Development Engineering Standards for requirements of a new pipeline in same location. The alignment of the pipeline shall be between two junction pits with no sharp angle changes. The detailed design for the pipe relocation shall be in accordance with the Council DCP and the relevant Australian Standards and shall demonstrate that there are no adverse hydraulic impacts on upstream properties for all storm events up to the 1% AEP and that Council's maintenance access is not hindered by the development. The detailed pipeline design shall be supported with a hydraulic grade line of the existing and the proposed stormwater pipe, including pit loss K factors, hydraulic capacity, and long & cross sections.

- F. The pits located within the newly formed drainage easement shall be unsealed and grated to enable ease of inspection, maintenance and provide a means of draining the surrounding area. The pits shall be designed in accordance with Council's standard drawing S-105.
  - G. No structure from any private property, including pits, subsoil drainage, footings, furniture/drying equipment or vegetation, except grass, shall be placed within the newly formed drainage easement.
  - H. The detailed stormwater drainage design and redirected overland flow path design within the property shall be supported by Overland Flood Study & Flood Impact Report.
  - I. The drainage easement shall be **2.5 m** wide and in accordance with the requirements stipulated in Council's DCP and the easement shall be placed above the Council's pipe and pits within the property. The pipeline shall be centrally located within the easement and shall be constructed in accordance with Council's Development Engineering Standards, and the relevant Australian Standards.
  - J. The experienced and appropriately qualified Civil Engineer shall provide certification that detailed stormwater drainage design and redirected overland flow path design complies with the Council DCP (Canterbury Development Control Plan) 2012 - Part B5, the BASIX Certificate, conditions of this consent and the relevant Australian Standards.
  - K. The certification shall include a statement that the detailed stormwater design and redirected overland flow path (OLFP) designed for 1% AEP do not impose adverse impact on adjacent properties.
  - L. The realigned drainage easement shall be created in favour of Council and documents relative to the creation of the easement shall be lodged and registered with the Land and Property Information (LPI) prior to the issue of any Construction Certificate.
  - M. The certificate shall be submitted together with the final Landscape and Architectural plans to the Drainage Infrastructure Planning Team for review and approval of deferred commencement condition prior to the activation of the consent.
  - N. The proposed basement parking layout shall be redesigned in accordance with the latest AS2890 series, and the plan must be certified by the suitably qualified and experienced Engineer. The certification shall include statement that all parking lots have been design in accordance with the Council DCP and the requirements of AS2890 series. The plan and certification shall be submitted to the Development Engineering Team for review and approval of deferred commencement condition prior to the activation of the consent.
- 2) The following conditions of consent will be included in the development consent issue by Council after the applicant provides information sufficient to satisfy Council in relation to the Deferred Commencement Condition and any new conditions which may arise from the conditions being satisfied.

## CONDITIONS OF CONSENT

- 1) The proposal shall comply with the conditions of Development Consent. A Construction Certificate shall not be issued until the plans and specifications meet the required technical standards and the conditions of this Development Consent are satisfied.
- 2) Development shall take place in accordance with Development Application No.DA-258/2018, submitted by Design Link Australia Pty Ltd, accompanied by the drawings as listed in the table below, and affixed with Council's approval stamp, except where otherwise altered by the specific amendments listed hereunder and/or except where amended by the conditions contained in this approval.

Drawing No.	Drawing Title	Rev.	Dated	Prepared by
DA01	Site Analysis	E	9/11/2020	Design Link Australia P/L
DA02	Site Plan & BASIX Commitments	E	9/11/2020	Design Link Australia P/L
DA03	Demolition & soil & water management plan	E	9/11/2020	Design Link Australia P/L
DA04	Basement Plan	E	9/11/2020	Design Link Australia P/L
DA05	Ground Floor	E	9/11/2020	Design Link Australia P/L
DA06	First Floor	E	9/11/2020	Design Link Australia P/L
DA07	Second Floor	E	9/11/2020	Design Link Australia P/L
DA08	Roof Plan	E	9/11/2020	Design Link Australia P/L
DA09	Elevations	E	9/11/2020	Design Link Australia P/L
DA10	Building Sections	E	9/11/2020	Design Link Australia P/L
DA11	Building Sections	E	9/11/2020	Design Link Australia P/L

The development plans shall be amended as follows:

- a) The Applicant is to show the sight distance triangle as shown in Figure 3.3 from AS 2890.1:2004 to be kept clear of any obstacles. This includes removal of the bushes shown on Plan DA 02.
  - b) The developer is to fund the installation of 'No Parking Waste Night' signs, subject to consultation with Waste Services and approval from the Traffic Committee. Waste Services to advise if kerb ramp is also required.
  - c) The maximum building height is not exceed 11.5m.
- 3) No approval is granted for the siting of any substation on the site. A modification application must be lodged to Council if a substation is required. Any such application must demonstrate how the structure/ facility will be integrated into the design of the building without relying on the front setback area.

## CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

*Prior to the release of a Construction Certificate the following conditions MUST be satisfied and nominated fees/contributions/bonds paid:*

- 4) Prior to the issue of a Construction Certificate, an amended floor plan layout shall be submitted to the relevant certifying authority. The amended plan shall revise the gross floor area of apartment G01 to have a minimum floor area of 95m<sup>2</sup> to accord with the requirements of the Apartment Design Guide and State Environmental Planning Policy 65.
- 5) Prior to the issue of a Construction Certificate, an amended floor plan layout shall be submitted to the relevant certifying authority. The amended plan shall ensure that the balcony size for Unit U-102 and U-202 are increased by 0.2m<sup>2</sup> to have an overall area of 10m<sup>2</sup> to accord with the requirements of the Apartment Design Guide and State Environmental Planning Policy 65.
- 6) The Certifying Authority must ensure that any certified plans forming part of the Construction Certificate are not inconsistent with this Development Consent and accompanying plans.
- 7) A detailed landscape plan prepared by a qualified landscape architect or designer is to be approved prior to the issue of a Construction Certificate. The landscape plan is to be prepared in accordance with the relevant DCP and is to show all features, built structures including retaining walls, irrigation, mulch and natural features such as significant gardens, landscaping, trees, natural drainage lines and rock outcrops that occur within 3 metres of the site boundary. The landscape plan shall consider any stormwater, hydraulic or overland flow design issues where relevant.
- 8) All scheduled plant stock shall be **pre-ordered**, prior to issue of Construction Certificate or 3 months prior to the commencement of landscape works, whoever occurs sooner for the supply to the site on time for installation. Written confirmation of the order shall be provided to Council's Landscape Architect (Contact no: 9707 9000), prior to issue of any Construction Certificate. The order confirmation shall include name, address and contact details of supplier; and expected supply date.
- 9) An automatic watering system is to be installed in common areas at the applicant's cost. Details including backflow prevention device, location of irrigation lines and sprinklers, and control details are to be communicated to Council or certifier prior to the issue of the Construction Certificate. The system is to be installed in accordance with the manufacturer's specification and current Sydney Water guidelines.
- 10) The landscape plan shall include the provision for the replacement of all boundary fencing. A new 1.8m fence is to be erected along all side and rear boundaries of the subject allotment at full cost to the developer. The colour of the fence is to complement the development and the fence is to be constructed of lapped and capped timber paling, sheet metal or other suitable material unless the type of material is stipulated

in any flood study prepared for the site. The selection of materials and colours of the fence is to be determined in consultation with the adjoining property owners. Fencing forward of the building line shall be no higher than 1m unless otherwise approved by Council.

- 11) Approval in accordance with Council's Tree Preservation Order (TPO) is granted to lop or remove only the trees identified to be lopped or removed on the approved plans. Separate approval shall be obtained to prune or remove trees on adjoining properties or other trees located on the site. Failure to comply with Council's TPO may result in a fine of up to \$100,000.
- 12) A soil erosion and sediment control plan must be prepared by a suitably qualified professional, in accordance with Council's Demolition and Construction Guidelines and Council's Development Engineering Standards, and submitted to the certifying authority for approval prior to the issue of a construction certificate.
- 13) The Council Approved building plans, including demolition plans, must be submitted to Sydney Water for assessment. This will determine if the proposed structure(s) would affect any Sydney Water infrastructure or if there are additional requirements. Building plan approvals can be submitted online via Sydney Water Tap in™.

Please refer to [www.sydneywater.com.au/tapin](http://www.sydneywater.com.au/tapin)

For Sydney Water's Guidelines for building over or next to assets, visit [www.sydneywater.com.au](http://www.sydneywater.com.au) 'Plumbing, building & developing' then 'Building Plan Approvals' or call 13000 TAPIN.

Prior to release of a construction certificate Sydney Water must issue either a Building Plan Assessment letter which states that your application is approved, or the appropriate plans must be stamped by a Water Servicing Coordinator.

- 14) A Construction Certificate shall not be issued until written proof that all bonds, fees and/or contributions as required by this consent have been paid to the applicable authority.
- 15) A long service levy payment which is 0.35% of the total cost of the work is to be paid to the Building and Construction Industry Long Service Payments Corporation.
- 16) This condition has been levied on the development in accordance with Section 7.11 of the Environmental Planning and Assessment Act 1979 and in accordance with Canterbury Development Contributions Plan 2013, after identifying the likelihood that this development will require or increase the demand on public amenities, public services and public facilities in the area.

The amount of the contribution (as at the date of this consent) has been assessed as \$219,819.30. The amount payable is based on the following components:

Contribution Element	Contribution
2013	
• Community Facilities	\$ 19,882.86
• Open Space and Recreation	\$ 194,342.70
• Plan Administration	\$ 5,593.74

Note: The contributions payable may be adjusted, at the time of payment, to reflect Consumer Price Index increases (All Groups Index) for Sydney as published by the Australian Bureau of Statistics.

The contribution is to be paid to Council in full prior to the release of the Construction Certificate, (or for a development not involving building work, the contribution is to be paid to Council in full before the commencement of the activity on the site) in accordance with the requirements of the Contributions Plan.

- 17) Finished surface levels of all internal works and at the street boundary, including driveways, landscaping and drainage structures, must be as shown on the approved plans. The levels at the street boundary must be consistent with the Street Boundary Alignment Levels issued by Council.
- 18) Full width grated drains being provided across the vehicular entrance/exit to the site where internal areas drain towards the street and be connected to the drainage system upstream of the silt arrestor pit and in accordance with Canterbury Councils DCP 2012.
- 19) A Work Permit shall be applied for and obtained from Council for the following engineering works in front of the site, at the applicant's expense:
  - (a) A **heavy** duty VFC of maximum width of **6.0** metres at the property boundary clear of the existing power pole.
  - (b) Drainage connection to Council's system within Graham Road in a new street stormwater inlet pit constructed clear of the VFC for a minimum of 1.0 m.
  - (c) Construction of new stormwater inlet pit of the equivalent or greater capacity lintel, in accordance with Council's standard drawings S-101 and D-107B.
  - (d) Concrete footway paving along the site's entire frontage to Graham Road.
  - (e) Concrete kerb and gutter **along Graham Road in accordance with the Council's standard drawings.**
  - (f) Removal of all driveway surfaces, reinstatement of laybacks to kerb and gutter and reshaping of the footway, all associated with redundant VFCs.
  - (g) Repair of any damage to the public road including the footway occurring during development works.

- (h) Reinstatement of the footway reserve and adjustment or relocation of existing public utility services to match the footway design levels as proposed on the approved Work Permit. Adjustment or relocation to any public utility services shall be carried out to the requirements of the public utility authority.

Note: As a site survey and design is required to be prepared by Council in order to determine the necessary information, payment for the Work Permit should be made at least twenty-one (21) days prior to the information being required and must be approved prior to the issue of the Construction Certificate.

- 20) Stormwater drainage from the development shall be designed to comply with the Canterbury Development Control Plan 2012 - Part B5 Stormwater Guideline Requirements, the BASIX Certificate and the requirements of the deferred commencement condition. The proposed concept design for stormwater plan N° A8233-SW04 rev E, dated 08 July 2020, prepared by Alpha Engineering & Development, must be amended to satisfy above requirements.

The car-wash bay pavement must be isolated from the stormwater drainage system and the collected wastewater from the bay shall have pre-treatment (silt traps and oil separation system) prior to being discharged into wastewater system - Sydney Water sewer system.

The detailed stormwater drainage design shall be prepared by an experienced and appropriately qualified Civil Engineer in accordance with the above requirements. The detailed design shall be consistent with the redirected overland flow paths designed for 1% AEP through the site, and recommendations from the Overland Flood Study & Flood Impact Report, both reviewed and approved by Council as part of deferred commencement condition.

A detailed design of the proposed new stormwater works within Graham Road must be provided to Works and Projects.

The final detailed stormwater drainage design shall be certified by the design engineer and certification must include a statement that the design complies with Council's Canterbury Development Control Plan 2012 Part B5, the BASIX Certificate, conditions of this consent and the relevant Australian Standards.

The certification and detailed design shall be provided to the Principal Certifying Authority for approval prior to the issue of any Construction Certificate.



- 21) Where Council Where Council approved cut or fill exceeds 200mm and stable batter of 1 vertical to 3 horizontal maximum grades cannot be achieved, then masonry or other proprietary material retaining wall, intended and suitable for that purpose, shall be constructed within the development site. Note, filling of the site needs specific approval from Council.

The overland floodway entering the site from upstream properties must not be obstructed by retaining walls, except where the retaining walls are required by design to protect the basement and garbage bin room from the flooding.

The retaining wall adjacent to the eastern side of the internal driveway shall be designed to protect flooding of the basement parking, and the wall height shall be above the overland floodway level for 1%AEP flood. The wall must not be extended beyond the required splay corner for sight distance at the intersection of the internal driveway with the road reserve.

Retaining walls exceeding 600mm in height shall be designed by a qualified professional Civil/Structural Engineer. Plans and details prepared and signed by the Engineer are to be submitted to the Principal Certifying Authority (PCA) prior to the issue of the Construction Certificate. All works associated with the construction of the wall, including backfilling and drainage, is to be located wholly within the allotment boundaries.

- 22) If any neighbouring properties or roadway are to be utilised for support, the legal rights of any adjoining properties must be respected including for temporary supports. In this regard the written permission of the affected property owner must be obtained and a copy of the owner's consent for temporary rock anchors or other material in adjacent lands must be lodged to Canterbury Bankstown Council prior to the issue of a Construction Certificate.

Temporary rock anchors are rock anchors that will be de-stressed and removed during construction. All other rock anchors are permanent rock anchors for the purposes of this Consent.

Council will not permit permanent rock anchors in adjacent private lands unless they are specifically permitted in a Development Consent.

Where temporary anchors are proposed to be used, an Application must be made to Canterbury Bankstown Council for approval under Section 138 of the Roads Act 1993, via a Road Works Permit application. The submission would need to be supported by an engineering report prepared by a suitably qualified Structural Engineer, with supporting details addressing the following issues:



Demonstrate that any structures within the road reserve are of adequate depth to ensure no adverse impact on existing or potential future service utilities in the road reserve.

- a) All existing services must be shown on a plan and included on cross sectional details where appropriate.
  - b) Demonstrate how the temporary anchors will be removed and replaced by full support from structures within the subject site by completion of the works.
  - c) The report must be supported by suitable geotechnical investigations to demonstrate the efficacy of all design assumptions.
- 23) An all weather pavement shall be designed to withstand the anticipated wheel loads for all areas subjected to vehicular movements. Internal pavements specification prepared and certified by all qualified professional Civil Engineer to comply with the relevant Australian Standards, shall be submitted to the Principal Certifying Authority (PCA) for approval prior to the issue of a construction certificate.
- 24) For internal driveways with a gradient exceeding 10% (1 in 10), longitudinal profiles of all vehicular driveways and ramps shall be submitted for approval by the Principal Certifying Authority (PCA) prior to the issue of Any Construction Certificate. The maximum grade of the driveway/ramp shall not exceed 25% and shall comply with AS 2890.1. The profile shall be drawn at a reduction ratio of 1 to 25 vertical and horizontal and shall be related to the datum used for the issue of the footway design levels and shall also show the road centre line levels, Council issued footway design levels and gutter levels.

The internal driveway crest shall be designed in accordance with Canterbury Development Control Plan 2012 Part B5 and in consideration to the overland flow path designed level for 1% AEP flood through the site.

The retaining wall adjacent to the eastern side of the internal driveway shall be designed to protect flooding of the basement parking, and the wall height shall be above the overland floodway level for 1% AEP flood. The wall must not be extended beyond the required splay corner for sight distance at the intersection of the internal driveway with the road reserve

- 25) The layout of the proposed car parking areas associated with the subject development (including, driveways, grades, turn paths, sight distance requirements in relation to landscaping and/or fencing, aisle widths, aisle lengths, and parking bay dimensions) shall be in accordance with the Australian Standard AS 2890 parking series.
- 26) The Construction Certificate plans shall include details of the garbage receptacle area. The garbage receptacle area shall not be visible from the street. The garbage receptacle area shall be located within the building or screened from the street by dense landscaping.

- 27) Prior to the issue of any Construction Certificate for this development, the applicant must obtain approval from Council's Traffic Section for a Site, Pedestrian and Traffic Management Plan (SPTMP). This Plan must address the measures that will be implemented for pedestrian safety and traffic management as specified below.

**A PRIVATE CERTIFIER CANNOT APPROVE YOUR SITE, PEDESTRIAN & TRAFFIC MANAGEMENT PLAN**

This plan shall include details of the following:

- a) Proposed ingress and egress points for vehicles to and from the construction site;
- b) Proposed protection of pedestrians, adjacent to the construction site;
- c) Proposed hoardings, scaffolding and/or fencing to secure the construction site;
- d) Proposed pedestrian management whilst vehicles are entering/exiting the construction site;
- e) Proposed measures to be implemented for the protection of all public roads and footway areas surrounding the construction site from building activities, crossings by heavy equipment, plant and materials delivery and static load from cranes, concrete pumps and the like;
- f) Proposed method of loading and unloading excavation machines, building material, construction materials and waste containers during the construction period;
- g) Proposed traffic control measures such as advanced warning signs, barricades, warning lights, after hours contact numbers etc, are required to be displayed and shall be in accordance with Council's and the NSW Roads and Traffic Authority's requirements and AS1742.3.
- h) Proposed method of support of any excavation, adjacent to adjoining buildings or the public road. The proposed method of support is to be certified by a Civil Engineer with National Professional Engineering Registration (NPER) in the construction of civil works.
- i) Proposed measures to be implemented in order to ensure that no soil/ excavated material is transported on wheels or tracks of vehicles or plant and deposited on the public road.
- j) Proposed measures for protection of the environment including procedures to control environmental impacts of work e.g. sediment control, proper removal, disposal or recycling of waste materials, protection of vegetation and control/prevention of pollution i.e. water, air noise, land pollution.

The approved Site, Pedestrian and Traffic Management Plan is to be implemented prior to the commencement of any works on the construction site. The applicant will be required to pay for inspections by Council Officers in accordance with Council's adopted fees and charges.

- 28) Prior to the issue of any Construction Certificate for this development, the Principal Certifying Authority must approve a Site Operations Management Plan (SOMP). This Plan must address the measures that will be implemented for the ongoing management of operations on and around the construction site, the protection of adjoining properties, and other requirements as specified below.

This plan shall include details of the following:

- a) Proposed hoardings, scaffolding and/or fencing to secure the construction site;
- b) Proposed measures to be implemented, under the separately approved Works Permit issued by Council, for the protection of all public roads and footway areas surrounding the construction site from building activities, crossings by heavy equipment, plant and materials delivery and static load from cranes, concrete pumps and the like;
- c) Proposed method of support of any excavation, adjacent to adjoining buildings or the public road. The proposed method of support is to be certified by a Civil Engineer with National Professional Engineering Registration (NPER) in the construction of civil works.
- d) Proposed measures to be implemented in order to ensure that no soil/excavated material is transported on wheels or tracks of vehicles or plant and deposited on the public road.
- e) Proposed measures for protection of the environment, according to the relevant provisions of the Protection of Environment Operations (POEO) Act, 1997 including procedures to control environmental impacts of work e.g. sediment control, proper removal, disposal or recycling of waste materials, protection of vegetation and control/prevention of pollution i.e. water, air noise, land pollution.

A number of the above matters may require separate approval from Council, particularly those relating to works on or adjacent to Council property. These may be covered by separate conditions of consent contained in this Determination Notice. Appropriate approvals will need to be obtained prior to the approval of this plan.

The approved Site Operations Management Plan is to be implemented prior to the commencement of any works on the site, and an approved copy provided to Council for information. Ongoing compliance with the matters detailed in the SOMP shall be monitored by the appointed Principal Certifying Authority.

- 29) As any works within, or use of, the footway or public road for construction purposes requires separate Council approval under Section 138 of the Roads Act 1993 and/or Section 68 of the Local Government Act 1993, Council requires that prior to any Construction Certificate for this development being issued, evidence of lodgement of an application for a Works Permit and or a Roadway/Footpath Building Occupation Permit shall be obtained where one or more of the following will occur, within, on or over the public footway or public road:

## A PRIVATE CERTIFIER CANNOT ISSUE THESE PERMITS

### WORKS REQUIRING A 'WORKS PERMIT'

- a) Dig up, disturb, or clear the surface of a public footway or public road,
- b) Remove or interfere with a structure or tree (or any other vegetation) on a public footway or public road,
- c) Connect a road (whether public or private) to a classified road,
- d) Undertake footway, paving, vehicular crossing (driveway), landscaping or stormwater drainage works within a public footway or public road,
- e) Install utilities in, under or over a public road,
- f) Pump water into a public footway or public road from any land adjoining the public road,
- g) Erect a structure or carry out a work in, on or over a public road
- h) Require a work zone on the public road for the unloading and or loading of vehicles
- i) Pump concrete from within a public road,
- j) Stand a mobile crane within a public road
- k) Store waste and recycling containers, skips, bins and/or building materials on any part of the public road.
- l) The work is greater than \$25,000.
- m) Demolition is proposed.
- n) Subdivision is proposed.

Assessment of Works Permits under a) and up to e) includes the preparation of footway design levels, vehicular crossing plans, dilapidation reports and issue of a Road Opening Permit.

All proposed works within the public road and footway shall be constructed under the supervision and to the satisfaction of Council. The applicant/developer shall arrange for necessary inspections by Council whilst the work is in progress.

Footways are to be supplied and installed at full cost to the developer to specification as supplied by Council. Detailed pavement plan is to be submitted to Council for approval prior to the issue of the Works Permit.

All Council fees applicable, minimum restoration charges and inspection fees shall be paid prior to the assessment of the Work Permit in accordance with Council's adopted fees and charges. Note: Additional fees after approval will be charged where the Work Permit requires occupation of the Road or Footpath i.e. Hoardings, Work Zones etc. In determining a Works Permit, Council can impose conditions and require inspections by Council Officers.

Part of any approval will require the person or company carrying out the work to carry public liability insurance to a minimum value of ten million dollars. Proof of the policy is to be provided to Council prior to commencing any work approved by the Work Permit including the Road Opening Permit and must remain valid for the duration of the works.

The commencement of any works on public land, including the footway or public road, may incur an on the spot fine of not less than \$1100 per day that work continues without a Works Permit and/or a Roadway/Footpath Building Occupation Permit.

All conditions attached to the permit shall be strictly complied with prior to occupation of the development. Works non-conforming to Council's specification (includes quality of workmanship to Council's satisfaction) shall be rectified by the Council at the applicant's expense.

- 30) Sites located adjacent to Council's drainage easement and affected by flooding shall comply with the following:
- a) The proposed building(s) including eaves and gutters shall be located clear of existing and proposed Council easements within the site. Amended plans to this effect shall be submitted to the Principal Certifying Authority (PCA) prior to the issue of any Construction Certificate. All approved construction details shall be consistent with this requirement. Proposed buildings shall be located clear of floodway through the site.
  - b) Concrete pier and beam type footings shall be provided for all structures adjacent to Council's stormwater pipe/easement in accordance with the requirements contained in Council's Canterbury Development Control Plan 2012 Part B5. Plans and details prepared by a qualified practising Structural Engineer, with details suitable for construction in accordance with the above Policy shall be incorporated into the details for approval of the Construction Certificate. A copy of the approved details together with a report prepared by a registered surveyor showing location, size and depth of the stormwater system, shall be sent to Council for information.
  - c) The ground floor level shall be constructed to RL 24.7 m AHD as determined by the flood study including freeboard. All approved construction details shall be consistent with this requirement.
  - d) Landscaping within Council's drainage easement shall be limited to grassed surfaces only. Boundary fencing across Council's drainage easement and overland floodway shall incorporate provision for the passage of overland stormwater runoff to cater for the 1% AEP storm. All approved construction details shall be consistent with this requirement. A copy of the approved landscaping details shall be submitted to Council for information.

- e) An unobstructed overland flowpath (floodway) for excess stormwater runoff from Council's drainage system and upstream catchment shall be constructed and maintained within the property. The flowpath and piped drainage system shall be designed to carry stormwater runoff from the 1% AEP design storms for the catchment concerned. Final details suitable for construction prepared by a qualified professional Civil Engineer shall be submitted to the PCA prior to the issue of any Construction Certificate. The final detailed plan shall be in accordance with Council's Development Engineering standards – section 9.5 – Overland Flow paths (OLFP) for Stormwater from Upstream Catchments. All approved construction details shall be consistent with this requirement. A copy of the approved details shall be submitted to Council for information.
- f) Details suitable for construction prepared by a qualified professional Civil Engineer shall be submitted to the PCA prior to the issue of any Construction Certificate. A copy of the approved details shall be submitted to Council for information.

Note: Council's standard floodway sign shall be erected on the site adjoining the floodway.

- 31) The pump out drainage system for the access ramp and basement car parking area shall be provided in accordance with Council's Development Engineering Standards. Engineering details and specifications shall be submitted to the Principal Certifying Authority (PCA) for approval prior to the issue of any Construction Certificate. Engineering details and manufacturers specifications for the pumps, switching system and sump pit shall be submitted to the Principal Certifying Authority (PCA) for approval prior to issue of any Construction Certificate.
- 32) Final registration of the Easement and the Restriction of Use shall be finalised prior to the issue of any Construction Certificate.
- 33) A vacant land charge form is to accompany any Construction Certificate (CC) application for the removal of all domestic garbage and recycling bins.  
<https://www.cbcity.nsw.gov.au/council/forms/waste-recycling>
- 34) A design certificate and detailed plans are to accompany any CC application which demonstrate that the waste storage room has been designed to be constructed in accordance with the following requirements:
  - a. Floors must be constructed of concrete at least 75mm thick and graded and drained to a Sydney Water approved drainage fitting.
  - b. The floors must be finished so that is non-slip and has a smooth and even surface.
  - c. The room is to be integrated within the building, a minimum 2.1m unobstructed room height is required in accordance with the Building Code of Australia;
  - d. The walls must be constructed of solid impervious material.
  - e. The ceilings must be finished with a smooth faced non-absorbent material capable of being cleaned.
  - f. Walls, ceiling and floors must be finished in a light colour.

- g. Is to be provided with an adequate supply of hot and cold water mixed through a centralised mixing valve with hose cock.
  - h. A self-closing door openable from within the room.
  - i. Must be constructed to prevent the entry of birds and vermin.
  - j. Be provided with adequate light and ventilation. Light source must be through controlled light switches located both outside and inside the room.
  - k. Any doorways must be 1.2m wide.
  - l. Designed to fit 3 x 660L recycling bins
  - m. Designed to fit 4 x 660L garbage bins
- 35) An area sufficient to house the allocated 660L bins is to be provided at the front of the property. This area is to meet the following requirements:
- a) Be of sufficient size to house and manoeuvre 7x 660L bins. Bins are not to be stacked and must not prevent access for collection staff.
  - b) Have doorways a minimum of 1.2m wide
  - c) Floors must be constructed of concrete at least 75mm thick and graded and drained to a Sydney Water approved drainage fitting.
  - d) The floors must be finished so that is non-slip and has a smooth and even surface.
  - e) Is to be provided with an adequate supply of hot and cold water mixed through a centralised mixing valve with hose cock.
  - f) Be provided with adequate light and ventilation. Light source must be through controlled light switches located both outside and inside the room.
  - g) Meet the carting route requirements in the following condition.
- 36) A design certificate and detailed plans are to accompany any CC application which demonstrate that the bin carting route from the waste storage room to nominated collection point has been designed to be constructed in accordance with the following requirements:
- a) Direct and less than 10 metres,
  - b) Minimum 1.2m wide hard surface;
  - c) Non-slip, free from obstacles and steps;
  - d) Not within a driveway or carpark, this is considered a conflict point for vehicles and collection staff; and
  - e) A maximum grade of 1:30 (3%);
  - f) Layback installed at the nominated collection point.
- 37) A design certificate and detailed plans are to accompany any CC application which demonstrate that the bulky waste storage room has been designed to be constructed in accordance with the following requirements:
- a) Floors must be constructed of concrete at least 75mm thick and graded and drained to a Sydney Water approved drainage fitting.
  - b) The floors must be finished so that is non-slip and has a smooth and even surface.
  - c) The walls must be constructed of solid impervious material.



- d) The room is to be integrated within the building, a minimum 2.1m unobstructed room height is required in accordance with the Building Code of Australia;
  - e) The ceilings must be finished with a smooth faced non-absorbent material capable of being cleaned.
  - f) Walls, ceiling and floors must be finished in a light colour.
  - g) Is to be provided with an adequate supply of hot and cold water mixed through a centralised mixing valve with hose cock.
  - h) A self-closing door openable from within the room.
  - i) Must be constructed to prevent the entry of birds and vermin.
  - j) Be provided with adequate light and ventilation. Light source must be through controlled light switches located both outside and inside the room.
  - k) Any doorways must be 2m wide.
  - l) Designed with a minimum floor space of 4m<sup>2</sup>
- 38) A photographic survey must be prepared of the adjoining properties at 22 Graham Road Narwee, 33 Karne Street South Narwee, 58 Graham Road Narwee 48 Nirimba Avenue Narwee, 50 Nirimba Avenue Narwee detailing the physical condition of those properties, both internally and externally, including such items as walls, ceilings, roof, structural members and other similar items, shall be submitted to the Principal Certifying Authority and Canterbury Bankstown Council if Council is not the Principal Certifying Authority, prior to the issue of the relevant Construction Certificate. On completion of the excavation and building works and prior to the occupation of the building, a certificate stating to the effect that no damage has resulted to adjoining premises is to be provided to the Principal Certifying Authority and Canterbury Bankstown Council if Council is not the Principal Certifying Authority. If damage is identified which is considered to require rectification, the damage shall be rectified or a satisfactory agreement for rectification of the damage is to be made with the affected person(s) as soon as possible and prior to the occupation of the development. All costs incurred in achieving compliance with this condition shall be borne by the persons entitled to act on this Consent.
- 39) A dilapidation report prepared by an accredited engineer, detailing the structural adequacy of the adjoining properties at 22 Graham Road Narwee, 33 Karne Street South Narwee, 58 Graham Road Narwee 48 Nirimba Avenue Narwee and 50 Nirimba Avenue Narwee and their ability to withstand the proposed excavation, and any measures required to be incorporated into the work to ensure that no damage will occur during the course of the works, shall be submitted to Council, or the Principal Certifying Authority prior to the issue of a Construction Certificate. All costs to be borne by the applicant.

## **CONDITIONS TO BE SATISFIED PRIOR TO CONSTRUCTION**

- 40) The building work in accordance with the development consent must not be commenced until:



- a. a construction certificate for the building work has been issued by the council or an accredited certifier, and
  - b. the person having benefit of the development consent has:
    - i. appointed a principal certifying authority for the building work, and
    - ii. notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
  - c. the person having the benefit of the development consent, if not carrying out the building 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 certifying authority of any such appointment, and
    - iii. unless the person is the principal contractor, notified the principal contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
  - d. the person having the benefit of the development consent has given at least 2 days' notice to the council of the person's intention to commence the building work.
- 41) Existing trees within the vicinity of the construction works or paths of travel for construction vehicles accessing the development that are to be retained shall be protected with temporary fencing of a style non injurious to tree roots, placed 2m from the trunk base of the existing tree to prevent damage during construction, and retained in accordance with Council's Tree Preservation Order. There is to be no stockpiling of materials within the 2m fenced zone.
- 42) Suitable erosion and sediment control measures shall be erected in accordance with the plans accompanying the Construction Certificate prior to the commencement of construction works and shall be maintained at all times.
- 43) Council warning sign for Soil and Water Management must be displayed on the most prominent point of the site, visible to both the street and site works. The sign must be displayed throughout the construction period.
- 44) Prior to the commencement of work, the applicant must provide a temporary on-site toilet if access to existing toilets on site is not adequate.
- 45) A section 73 compliance certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation. Make early application for the certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design.

Application must be made through an authorised Water Servicing Coordinator. For help either visit [www.sydneywater.com.au](http://www.sydneywater.com.au) > Building and Developing > Developing your Land > Water Servicing Coordinator or telephone 13 20 92.

- 46) Prior to the commencement of work, a fence must be erected around the area of the works, except where an existing 1.8m high boundary fence is in good condition and is capable of securing the area. Any new fencing shall be temporary (such as cyclone wire) and at least 1.8m high. All fencing is to be maintained for the duration of construction to ensure that the work area is secured.

Where the work is located within 3.6m of a public place then a Type A or Type B hoarding must be constructed appropriate to the works proposed. An application for a Work Permit for such hoarding must be submitted to Council for approval prior to the commencement of work.

- 47) A sign shall be displayed on the site indicating the name of the person responsible for the site and a telephone number of which that person can be contacted during and outside normal working hours or when the site is unattended.
- 48) In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of the Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.
- 49) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:
- a. in the case of work for which a principal certifying is required to be appointed:
    - i. the name and licence number of the principal contractor, and
    - ii. the name of the insurer by which the work is insured under Part 6 of the Act,
  - b. in the case of work to be done by an owner-builder:
    - i. the name of the owner-builder, and
    - ii. If the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.

- 50) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
- a. showing the name, address and telephone number of the principal certifying authority 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, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

### **CONDITIONS TO BE SATISFIED DURING CONSTRUCTION**

- 51) Construction may only be carried out between 7.00 am and 5.00 pm on Monday to Saturday and no construction is to be carried out at any time on a Sunday or a public holiday.
- 52) The building work must be carried out in accordance with the requirements of the Building Code of Australia.
- 53) Prior to the ground floor slab being poured, an identification report by a Registered Surveyor must be submitted to the principal certifying authority verifying that the proposed buildings finished ground floor level and siting to the property boundaries conforms to the approved plans.
- 54) All Civil and Hydraulic engineering works on site must be carried out in accordance with Council's Canterbury Development Control Plan 2012 Part B5. All Civil and Hydraulic engineering works associated with Council's assets and infrastructure must be carried out in accordance with Council's Work Permit requirements and to Council's satisfaction.
- 55) If Groundwater is encountered, it must not be captured by the drainage system of the basement. In this regard the basement must be tanked to at least 1000 mm above measured groundwater levels.
- 56) All excavations and backfilling must be executed safely and in accordance with the relevant Australian Standards.
- 57) If soil conditions require it, retaining walls or other approved methods of preventing movement of the soil must be provided, and adequate provisions must be made for drainage. Separate approval may be required for retaining walls should they be required.

- 58) If an excavation extends below the level of the base of the footings of an adjoining building or a building on an adjoining allotment of land, the person causing the excavation to be made:
- a) if necessary, must underpin and support the building in an approved manner, and
  - b) must, at least 7 days before excavating below the level of the base of the footings of a building give notice of intention to do so to the owner of that building and furnish particulars of the excavation to the owner of the building being erected or demolished.
  - c) must take all precautions to protect all of the structures from damage.

The owner of any affected buildings is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on an adjoining allotment of land.

- 59) A suitably qualified Professional Civil or Structural Engineer shall be engaged by the developer to carry out inspections relating to construction of internal driveways and parking areas. The work shall be carried out in accordance with the approved plans and specifications and certification from the Civil or Structural Engineer is to be provided upon completion.
- 60) The stormwater drainage system shall be constructed in accordance with Council's Canterbury Development Control Plan 2012 Part B5 and the engineering plans and details approved by the Principal Certifying Authority (PCA). Should the developer encounter any existing, live, underground stormwater drainage pipes, which carry flow from upstream properties, the developer must maintain the stormwater flow and contact Council prior to making a re-route (at the developer's expense) of the stormwater pipes around the subject building or structures.

Any earthworks or alteration to existing surface levels in Council drainage easement or constructed overland flow path (OLFP), shall be carried out in accordance with the approved design of the (OLFP).

- 61) If the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
- a. protect and support the adjoining premises from possible damage from the excavation, and
  - b. where necessary, underpin the adjoining premises to prevent any such damage.

- 62) All boundary fencing behind the building line shall be replaced by a 1.8m high lapped and capped timber or sheet metal fence, or as stipulated in a flood study prepared for the site, or as determined in consultation with the adjoining property owners at the developer's expense. Fencing forward of the building line shall be no higher than 1m unless otherwise approved by Council.
- 63) The stormwater drainage system shall be constructed in accordance with Council's Development Engineering Standards and the engineering plans and details approved by the Principal Certifying Authority (PCA). Should the developer encounter any existing, live, underground stormwater drainage pipes, which carry flow from upstream properties, the developer must maintain the stormwater flow and re-route the stormwater pipes around the subject building or structures at the developer's expense.
- 64) The wastewater from the car wash bay shall be collected and disposed of, in accordance with the requirements contained in Council's Development Engineering Standards.
- 65) Prior to the commencement of work, the builder shall prepare a photographic record of the road reserve which clearly shows its condition prior to works occurring on site. For the entirety of demolition, subdivision or construction works, there shall be no stockpiling of building spoil, materials, or storage of equipment on the public road, including the footway and the road reserve shall be maintained in a safe condition at all times. No work shall be carried out on the public road, including the footway, unless a Work Permit authorised by Council has been obtained.
- 66) Requirements of the approved WMP shall be complied with during all site preparation works, demolition (if proposed) and throughout all construction works. When implementing the WMP the developer is to ensure:
- (a) The disposal of any demolition and construction waste must be undertaken in accordance with the requirements of the *Protection of Environment Operations Act 1997*
  - (b) All waste on site is to be stored, handled and disposed of in such a manner as to not create air pollution, offensive noise or pollution of land and water as defined by the *Protection of Environment Operations Act 1997*
  - (c) Generation, storage, treatment and disposal of hazardous waste is conducted in accordance with the relevant waste legislation administered by the EPA and relevant Occupational Health and Safety legislation administered by WorkCover NSW
  - (d) All waste generated (including excavated materials) which cannot be reused or recycled must be transported to a facility which can lawfully accept it
  - (e) Records are required regarding the details and location of the disposal of all demolition and construction waste (including excavated material), description of waste and are to be kept on site as evidences of lawful disposal. Records are to include receipts and weighbridge dockets which verify material types and volumes, time and date of disposal, waste vehicle rego, and confirmation of the waste disposal facility. Records/ details are also to be kept of person removing the waste.

- (f) All materials and resources that are to be stored on site during construction works are contained on the site, The provisions of the *Protection of Environment Operations Act 1997* must be complied with when placing/stock piling loose material, disposal of concrete waste or activities which have potential to pollute drains and water courses
  - (g) The storage of waste and recycling containers must be within the boundaries of the development site at all times. Public footways and roads must not be used for the storage of any waste and must be kept clear of obstructions during all construction works
- 67) Following the WMP if asbestos is found onsite a class A licenced operator is to be appointed for its removal and safe disposal.

### **CONDITIONS TO BE SATISFIED PRIOR TO OCCUPATION**

- 68) The occupation or use of the building must not be commenced unless an occupation certificate has been issued for the building.
- 69) A final Occupation Certificate shall not be issued until all conditions relating to demolition, construction and site works of this development consent are satisfied and Council has issued a Work Permit Compliance Certificate (where applicable).
- 70) Prior to the issue of any Occupation Certificate a design verification from a qualified designer shall be submitted to the Principal Certifying Authority. The design verification is a statement in which the qualified designer verifies that the development has been constructed as shown in the plans and specifications in respect of which the Construction Certificate was issued, having regard to the design quality principles set out in Schedule 1 of SEPP No. 65.
- 71) Eighteen (18) off street residential car spaces being provided in accordance with the submitted plans including the two (2) nominated accessible car spaces to be provided for people with mobility impairment in accordance with AS 2890.1 All car parking spaces shall be allocated and marked according to these requirements.
- 72) Landscaping is to be installed in accordance with the approved landscape plan. All works and methods nominated and materials and plants specified on the approved landscape plan are to be completed prior to the issue of an occupation certificate. The landscaping shall be maintained for the life of the development.
- 73) The lot 74 in DP 35912 and lot 75 in DP 35912 must be consolidated. The plan of consolidation being lodged and registered with NSW Land Registry Services prior to the release of any Occupation Certificate or occupation of the building

- 74) A suitably qualified Professional Civil Engineer shall certify that the driveways, parking bays, and service areas have been constructed in accordance with the approved plans and specifications. Such Certification shall be submitted prior to the issue of the Occupation Certificate or occupation of the site.
- 75) Sites located adjacent to Council's drainage easement and affected by flooding shall comply with the following:
- (a) A suitably qualified Civil Engineer shall certify that the completed stormwater overland flow path works, designed for 1% AEP flood, have been constructed in accordance with this consent DA 258/2020 and the approved plans for Construction Certificate. Works as Executed plan prepared by a registered surveyor, signed and dated, shall indicate in red any deviation from the approved plan for Construction Certificate, and shall include all information specified in Council's Development Engineering Standards.
  - (b) The Work as Executed plans shall be shown on a copy of the approved plans for construction and shall include construction information relating to the following:
    - (i) All relevant natural ground and finish ground levels within the floodway and relevant surrounding levels.
    - (ii) Determination and the extent of the 1% AEP water surface level in the floodway.
- The above information together with the Engineer's certification shall be submitted to Council for information prior to issue of the Occupation Certificate or any occupation of the site.
- (c) A drainage easement shall be created in favour of Council and shall be placed centrally over the newly constructed stormwater pipeline within the site. The easement shall have a minimum width of 2.5m.
  - (d) The existing drainage easement within the site shall be abolished over the existing stormwater pipe within the site and the pipe must be relocated or removed.
  - (e) A Restriction as to User under the provision of Section 88E of the Conveyancing Act shall be registered on the title of the subject property, requiring that:
    - (i) "A flow path for overland stormwater floodway for 1% AEP flood, from upstream properties shall be maintained within the designed and constructed 1% AEP floodway boundaries."
    - (ii) "No trees or shrubs shall be planted within Council's drainage easement or constructed 1 % AEP floodway boundaries."
    - (iii) "Changes to approved levels and/or the construction of walls and landscaping within Council's drainage easement and constructed 1% AEP floodway boundaries is not permitted unless approved by Council".

- (iv) “Any fencing constructed across the overland stormwater floodway shall be maintained to allow for the free passage of surface flow of stormwater to the satisfaction of Council”.

Note: The location of the “floodway” shall be shown on the plan of subdivision where subdivision is proposed. Where subdivision is not proposed the location of the “floodway” shall be included on a site plan attached to the Section 88E instrument.

- (f) Canterbury Bankstown Council shall be empowered to release, vary or modify such Restriction.

The Restriction and Positive Covenant shall be registered on the title following satisfactory construction and certification of the overland flow path for 1% AEP flood prior to issue of the Occupation Certificate or occupation of the site. Evidence of such registration shall be submitted to Council.

- 76) A registered surveyor shall prepare a Work As Executed Plan, and a suitably qualified Hydraulic Engineer shall review the plan and provide certification of the constructed on-site stormwater detention system. The plan shall be prepared at the completion of the works and shall clearly illustrate dimensions and details of the site drainage and the OSD system.

The Work As Executed information shall show all deviations from the approved design in red on a copy of the approved stormwater plan for the issue of the Construction Certificate.

The Works-as-Executed (WAE) plan and Hydraulic Engineer's Certification must be submitted to Canterbury Bankstown Council for information prior to issue of the Occupation Certificate.

- 77) Prior to the issue of an Occupation Certificate, the Principle Certifying Authority must ensure that Operation and Management Plans has been prepared and implemented for the OSD and basement pump out facilities. The Plan must set out the following at a minimum:
  - a) The proposed maintenance regime, specifying that the system is to be regularly inspected and checked by qualified practitioners.
  - b) The proposed method of management of the facility, including procedures, safety protection systems, emergency response plan in the event of mechanical failure, etc.

The Plan must be prepared by a suitably qualified professional and provided to the Principle Certifying Authority prior to the issue of the Occupation Certificate.



- 78) The developer shall register, on the title of the subject property, a Restriction on the Use of Land and Positive Covenant, in accordance with the standard terms for "Registration of OSD on title" and the appropriate provisions of the Conveyancing Act.

Note: The location of the "On-Site Stormwater Detention System" shall be shown on the plan of subdivision where subdivision is proposed. Where subdivision is not proposed the location of the "On-Site Stormwater Detention System" shall be included on an A4 size site plan attached to the Section 88E Instrument and registered on the title prior to the issue of the final occupation certificate. The developer shall submit to Council evidence of the final registration of the Restriction and Positive Covenant on the title of the property.

- 79) A Copy of the Work Permit Compliance Certificate shall be submitted to the PCA Prior to the issue of the Occupation Certificate.
- 80) Lighting must be provided to the entries of the dwellings, driveways and parking areas to promote a high level of safety and security at night and during periods of low light. Lighting provided should be hooded, shielded or directed away from neighbouring dwellings to minimise glare and associated nuisances to residents.
- 81) The premises must be readily identified from the street with the allocated house numbers. Numbering of the development without Council's written approval is not permitted. An official "house numbering" letter will be sent to the applicant indicating the proposed house numbers of the new development. Note: The house numbers of the development are subject to change depending of the type on subdivision that may occur at a later stage.
- 82) The Section 73 compliance certificate under the Sydney Water Act 1994 must be submitted to the principal certifying authority before occupation of the development.
- 83) Prior to the issue of any Occupation Certificate (OC), an authorised Council waste officer is to inspect and approve all waste management facilities to ensure they comply with the development approval, Waste Management Plan. Specifically, the path of travel for all waste, from unit to point of waste collection, waste storage room sizing, access to water and sewer connections, finished materials, access and door way dimensions, truck turntables, and that all waste facilities are fit for purpose.
- 84) Prior to the issue of any OC, the developer is to enter into a formal agreement with Council for the utilisation of Council's Domestic Waste Collection Service. This is to include Council being provided an easement for unimpeded access to and from the waste collection locations for council and its contractors to enter and exit for the purpose of waste and recycling collection. The development is also required to indemnify council and its contractors against claims for loss or damage or wear and tear of access roads or to other parts of the building. A positive covenant shall be placed on the property title, such as section 88B certificate.

Note: By entering into an agreement with Council for waste collection, the development will be required to operate in full compliance with Council's Waste Management collection requirements.

The provision of Council's waste collection service will not commence until formalisation of the agreement.

- 85) In accordance with Clause 17(1) (a) of State Environmental Planning Policy (Affordable Rental Housing) 2009, a minimum of 497.5m<sup>2</sup> (entire first floor) of the gross floor area within the approved development (identified on the development application plans as dwellings U-G01, U-G02, U-G03, U-G04, U-G05 and U-G06) must be used for the purpose of affordable housing for a tenure of 10 years from the date of the issue of the occupation certificate. All affordable rental housing at the site must be managed by a registered community housing provider.
- 86) A restriction being registered against the title of the property on which development is to be carried out, in accordance with section 88E of the [Conveyancing Act 1919](#), prior to the issue of the occupation certificate requiring that a minimum of 497.5m<sup>2</sup> (entire first floor) of the floor space (identified on the development application plans as dwellings U-G01, U-G02, U-G03, U-G04, U-G05 and U-G06) within the approved development to be used for the purposes of affordable housing for 10 years from the date of issue of the occupation certificate in accordance with Clause 17(1) (b) of State Environmental Planning Policy (Affordable Rental Housing) 2009. In this regard, the restriction shall specifically nominate those units to be allocated as affordable housing.

## CONDITIONS FOR ONGOING USE

- 87) The ongoing management section of the WMP are to be included in the by-laws of the strata property. This will ensure that the approved WMP is fully implemented and followed by residents and property managers.
- 88) The development must operate in full compliance with Council's Waste Management collection requirements
- 89) The nominated kerbside collection point is to be utilised to facilitate the collection of waste and recycling bins for the development. The on-site collection point is always to be kept clear of obstructions so not to restrict the collection of waste and recycling bins.
- 90) The nominated collect and return collection point is to be utilised to facilitate the collection of waste and recycling bins for the development.
- 91) The temporary bin holding area will be required to be of sufficient size to allow the temporary storage of all allocated bins for the development. Developments proposing a temporary holding area will require a caretaker to transfer all allocated bins from the bin storage area to the temporary holding area the day before the designated collection day and return them once emptied

- 92) Bin tug equipment is always to remain onsite to be accessed by management/ caretaker staff. In the event of equipment failure, the bin tug is to be replaced or repaired prior to the following waste collection day to ensure there is no disruption to service.
- 93) Contracts (or agreements) with cleaners, building managers and tenants must clearly outline the waste management and collection system and must clearly identify everyone's role and responsibility. This is to include:
- (a) Responsibility for cleaning and maintaining waste storage bins and containers
  - (b) Responsibility for cleaning and maintaining waste storage room
  - (c) Responsibility for the transfer of bins to the nominated collection point
  - (d) Method of communication to new tenants and residents concerning the developments waste management system.
  - (e) Cleaning up and management of bulky waste
  - (f) Responsibility for maintaining the compost bin or worm farm

Where the development incorporates strata title subdivision, the by-laws are to clearly set out the management responsibilities for the developments waste and recycling system.

- 94) No waste storage bins are to be located or placed outside the approved waste storage room at any time except for collection purposes.
- 95) Signage can be provided by Council that clearly identifies which bins (and containers) are to be used for general waste and recycling and what materials can be placed in each bin. The signs provided must be maintained by the site manager.
- 96) All acoustic attenuation measures referred to in condition 83A are to be maintained for the life of the consent.

-END-