



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

**1 May 2023 - 6.00 PM**

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

---

## ORDER OF BUSINESS

---

### APOLOGIES AND DECLARATIONS

### CONFIRMATION OF MINUTES OF PREVIOUS MEETING

### BURA / BASS HILL WARD

**1      29 & 31 Waldron Road, Sefton**

Demolition of existing structures and construction of a 4 storey residential flat building containing thirty-five (35) residential apartments, including nineteen (19) apartments for affordable rental housing, with basement level car parking

### BUDJAR / CANTERBURY WARD

3

**2      205A Homer Street, Earlwood**

Alterations and additions to existing commercial tenancy and conversion to a 34-place centre-based child care facility

### BUNYA / REVESBY WARD

65

**3      53 Alma Road, Padstow**

Demolition of existing structures and construction of a two-storey 48-place centre-based child care facility

### BUNMARRA / ROSELANDS WARD

113

**4      153 Penshurst Road, Narwee**

Demolition of existing structures and construction of an 8-storey shop top housing development comprising 3 levels of basement parking, ground floor commercial premises, and 33 residential apartments

147

---

## Canterbury Bankstown Local Planning Panel - 01 May 2023

---

<b>ITEM 1</b>	<b>29 &amp; 31 Waldron Road, Sefton</b>  <b>Demolition of existing structures and construction of a 4 storey residential flat building containing thirty-five (35) residential apartments, including nineteen (19) apartments for affordable rental housing, with basement level car parking</b>
<b>FILE</b>	<b>DA-822/2021– Bura / Bass Hill</b>
<b>ZONING</b>	<b>R4 High Density Residential</b>
<b>DATE OF LODGEMENT</b>	<b>1 October 2021</b>
<b>APPLICANT</b>	<b>Urban Link Pty Ltd</b>
<b>OWNERS</b>	<b>Hills Street Holding Pty Ltd</b>
<b>ESTIMATED VALUE</b>	<b>\$10,213,173.00</b>
<b>AUTHOR</b>	<b>PLANNING</b>

### REPORT

---

This matter is reported to Canterbury-Bankstown 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-822/2021 proposes the demolition of existing structures and construction of a 4 storey residential flat building containing thirty-five (35) residential apartments, including nineteen (19) apartments for affordable rental housing, with basement level car parking at 29-31 Waldron Road, Sefton.

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

- State Environmental Planning Policy (Resilience and Hazards) 2021;
- State Environmental Planning Policy (Transport and Infrastructure) 2021;
- State Environmental Planning Policy (Building Sustainability Index) 2004;
- State Environmental Planning Policy (Biodiversity and Conservation) 2021;
- State Environmental Planning Policy 65 – Design Quality of Residential

Apartment Development (SEPP 65);

- State Environmental Planning Policy (Affordable Rental Housing) 2009;
- Bankstown Local Environmental Plan 2015 (BLEP 2015); and
- Bankstown Development Control Plan 2015 (BDCP 2015).

The application was newspaper advertised and neighbor notified for a period of twenty-one (21) days, in accordance with the Canterbury Bankstown Community Participation Plan. The first advertising/notification period was undertaken from 27 October 2021 to 16 November 2021. No submissions were received during this period.

The application was then re-notified for period of twenty-one (21) days, from 14 October 2022 to 3 November 2022. One (1) submission was received which raised concerns relating to:

- Site isolation;
- Side setbacks;
- Retention of solar access; and
- Retention of privacy.

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

## **POLICY IMPACT**

---

This matter has no direct policy impacts.

## **FINANCIAL IMPACT**

---

This matter has no direct financial implications.

## **RECOMMENDATION**

---

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

## **ATTACHMENTS**

---

- A. Assessment Report
- B. Reasons for Refusal

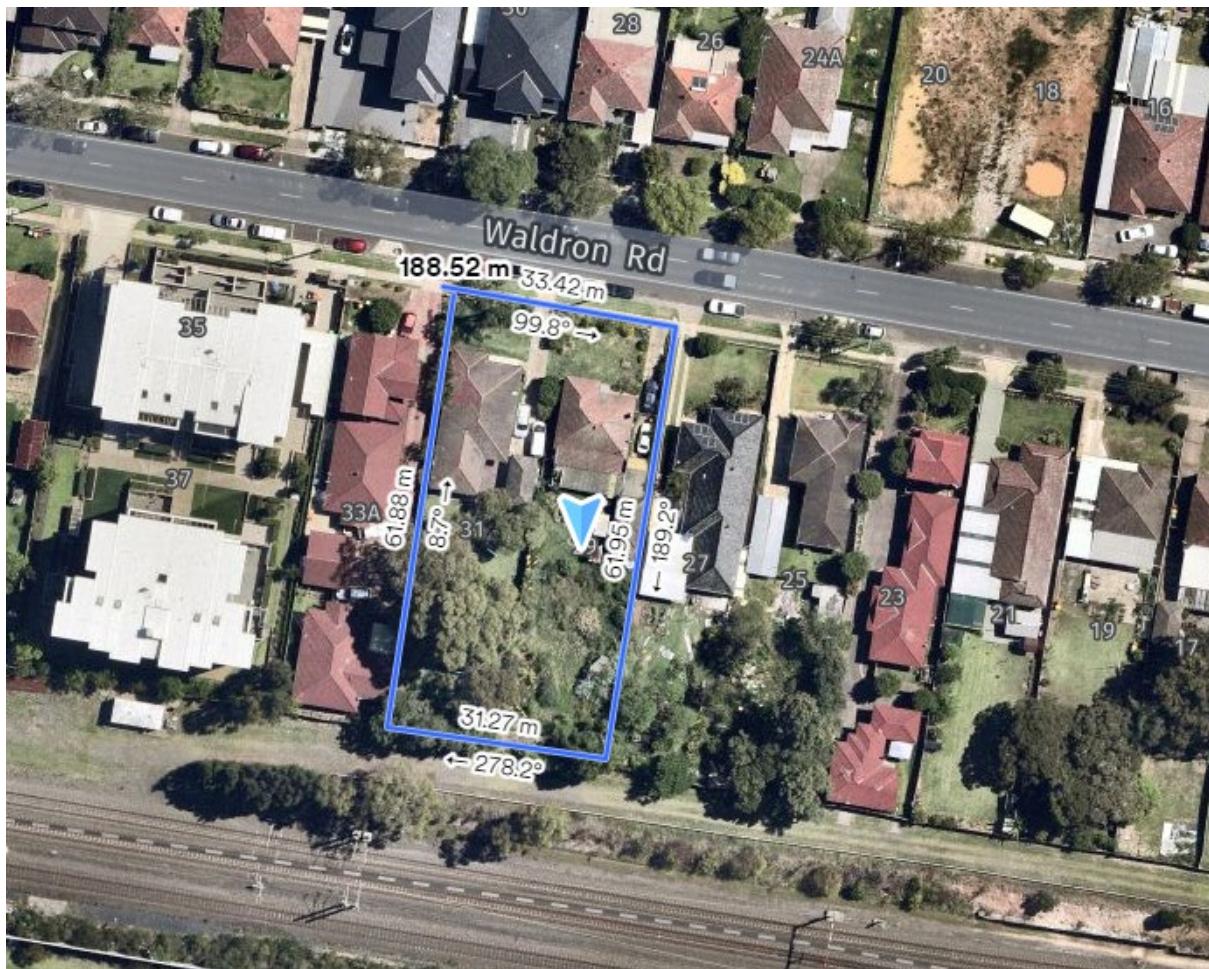
## **DA-822/2021 ASSESSMENT REPORT**

### **SITE & LOCALITY DESCRIPTION**

The subject site is known as 29 & 31 Waldron Road, Sefton (Lots 2 & 3 in DP 22196). The site is zoned R4 High Density Residential.

The subject site is regular in shape and has a total site area of 1960.2m<sup>2</sup>. The site has a northern frontage of 31.7m to Waldron Road. The southern rear boundary adjoins a passenger railway easement and the western and eastern side boundary adjoin residential development.

The subject site each contain a single storey detached dwelling with associated outbuildings. Vehicle access to each dwelling is provided from Waldron Road. There is an existing power pole in front of No. 29 Waldron Road and a small street tree in front of No. 31 Waldron Road.



**Figure 1:** Aerial of subject site in blue. **Source:** NearMaps 2023





**Figure 2:** From site inspection (5 April 2023)

## **BACKGROUND**

On 14 October 2021, the subject Development Application (DA) for 29 & 31 Waldron Road, Sefton (DA-822/2021) was lodged proposing the demolition of existing structures and construction of a part 3 part 4 storey residential flat building containing thirty-five (35) residential apartments, including nineteen (19) apartments for affordable rental housing, with basement level car parking.

An initial assessment was undertaken on 30 December 2021. A request for additional information letter (RFI) was issued to the Applicant outlining several matters that needed to be addressed. A summary of the matters raised is provided below:

- Non-compliances with the relevant requirements outlined within the Apartment Design Guide, including but not limited to:
  - insufficient information to address overshadowing;
  - transitions between the public and private domain;
  - a lack of detail with regard to substations, pump rooms and garbage storage areas;
  - communal open space;
  - deep soil zones;
  - ventilation of the basement;
  - insufficient information to permit assessment of solar access;
  - ceiling heights;

- minimum internal areas of apartments;
  - natural cross ventilation of apartments;
  - private open space;
  - the relationship between living and private open space areas of apartments;
  - location of services, quantity of units per circulation core;
  - façade design; and
  - streetscape appearance of development.
- Requirement for a Preliminary Site Investigation (PSI) to be prepared and submitted, in accordance with Clause 7 of State Environmental Planning Policy 55 – Remediation of Land.
  - Non-compliances with the relevant provisions of Bankstown Local Environmental Plan 2015 including, but not limited to, building height and stormwater management.
  - Non-compliances with the relevant provisions of Bankstown Development Control Plan 2015 including, but not limited to, site isolation; siting of development; proposed roof top terrace; and location of services and utilities.
  - Matters raised by Council's Resource Recovery Officer; Traffic Engineer, Development Engineer and Environmental Health Officers.

The requested information was to be submitted to Council by 8 February 2022.

Amended information was received from the applicant on 18 May 2022. The proposed development was revised to the demolition of existing structures and construction of a 4 storey residential flat building containing thirty-five (35) residential apartments, including nineteen (19) apartments for affordable rental housing, with basement level car parking.

An assessment of the amended information was undertaken and a further request for further information letter, notifying the applicant of outstanding issues, was sent to the applicant on 8 August 2022. 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:
  - provision of services within the front setback / streetscape appearance of development;
  - communal open space and solar access to it;
  - solar access to apartments;
  - natural cross ventilation of apartments;
  - minimum internal areas of apartments;
  - quantity of units per circulation core;
  - interface of the development with the public domain; and
  - location of services and utilities within the front setback.

- Non-compliances with the relevant provisions of Bankstown Local Environmental Plan 2015 including, but not limited to, building height and streetscape appearance.
- Non-compliances with the relevant provisions of Bankstown Development Control Plan 2015 including, but not limited to, streetscape character; location of services and utilities within the front setback; siting of the development; and proposed rooftop terrace.

The requested information was to be submitted to Council by 22 August 2022.

Amended information was received from the applicant on 6 September 2022. An assessment of the information was undertaken, it was noted that significant changes to the proposal had been made. It was noted that the rooftop communal open space was relocated to the ground floor and positioned midblock, replacing a number of private open space areas.

As a result of the changes noted, renotification of the application was undertaken for twenty-one (21) days from 14 October 2022 to 3 November 2022. One (1) submission was received which raised concerns relating to site isolation and that the Applicant had not undertaken the correct steps to acquire the site subject to isolation being no. 33 Waldron Road, Sefton.

A letter was sent to the Applicant on 4 November 2022 advising of the concerns remaining with site isolation requesting the matter be addressed as a matter of urgency. The Applicant wrote to the appropriate landowner, providing offers to purchase and was advised on 6 February 2023 that the offers were not accepted.

An amended plan was submitted to Council on Thursday, 6 April 2023. The amended plan was a revised ground floor plan. The amended plan related to removal of the access ramp to the front of the site and removal of the ground floor unit G01. These amendments have been reviewed but do not form part of the plans under consideration in this application as (1) the plans do not adequately deal with the substantial concerns raised elsewhere in the report and (2) the amended details require an amended BASIX certificate, which has not been submitted with the amended plan. Therefore, under clauses 37 and 38 of the Environmental Planning and Assessment Regulations 2021, the amendment is not considered to have been made but are mentioned here for the record.

A number of the outstanding issues have not been resolved.

### **PROPOSED DEVELOPMENT**

The Development Application proposes the demolition of existing structures and construction of a 4 storey residential flat building containing thirty-five (35) residential apartments, including nineteen (19) apartments for affordable rental housing, with basement level car parking.

The specifics of the development are as follows:



Floor	Description
Basement Level 1	41 car parking spaces (including 4 accessible spaces), 13 bicycle spaces and 3 motorcycle spaces, services & storage.
Ground Floor	7 apartments (3 x 3 bedroom units, 2 x 2 bedroom units, 2 x 1 bedroom units), & communal open space.
Level 01	10 apartments (7 x 2 bedroom units, 3 x 1 bedroom units)
Level 02	10 apartments (7 x 2 bedroom units, 3 x 1 bedroom units)
Level 03	8 apartments (8 x 2 bedroom units)

### 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 (Resilience and Hazards) 2021;
- State Environmental Planning Policy (Transport and Infrastructure) 2021;
- State Environmental Planning Policy (Building Sustainability Index) 2004;
- State Environmental Planning Policy (Biodiversity and Conservation) 2021;
- State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development (SEPP 65);
- State Environmental Planning Policy (Affordable Rental Housing) 2009;
- Bankstown Local Environmental Plan 2015 (BLEP 2015); and
- Bankstown Development Control Plan 2015 (BDGP 2015).

### **PERMISSIBILITY**

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

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

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

### **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 (SEPP) (Resilience and Hazards) 2021**

***Repealing State Environmental Planning Policy (SEPP) 55 – Remediation of Land***

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

Chapter 4 of SEPP (Resilience and Hazards) 2021 relates to Remediation of Land and requires Council, under Clause 4.6, 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 applicant has submitted a Geotechnical Investigation, contamination report and Preliminary Site Investigation (PSI). The reports contain recommendations in regard to future excavation, building foundations and contamination management. Council's Environmental Health Officer has reviewed the documents and is satisfied subject to the imposition of suitable conditions of consent. Accordingly, the submitted reports demonstrate that the site is suitable for the purpose of the proposed development in accordance with SEPP (Resilience and Hazards) 2021.

***State Environmental Planning Policy (SEPP) (Transport and Infrastructure) 2021******Repealing State Environmental Planning Policy (Infrastructure) 2007***

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

***Ausgrid***

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

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

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

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

In accordance with the SEPP, 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. The BASIX Certificate requirements have been incorporated into conditions of consent, and the proposal is consistent with the requirements of State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004.

**State Environmental Planning Policy (Biodiversity and Conservation) 2021  
*Repealing Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment***

At the time of the development application's lodgement with Council, the deemed SEPP – Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment was the relevant to the assessment of this application. However, on 1 March 2022, that SEPP was repealed by SEPP (Biodiversity and Conservation) 2021. The transitional savings provision was included within SEPP (Biodiversity and Conservation) 2021 do not relate to the relevant parts of the assessment of this application, as such the application is considered against SEPP (Biodiversity and Conservation) 2021.

The site is located within land identified as being affected by Georges River Catchment. The application has been considered against the provisions of Chapter 6 of SEPP (Biodiversity and Conservation) 2021 relating to Water Catchments and is consistent with the relevant provisions.

Note: Chapter 6 of the SEPP (Biodiversity and Conservation) 2021 has been repealed as of 21 November 2022 (after this application was lodged) with the provisions being moved to Clause 5.23 of Bankstown Local Environmental Plan (BLEP) 2015. A discussion of these provisions is found under the assessment against BLEP 2015.

**State Environmental Planning Policy (Biodiversity and Conservation) 2021  
*Repealing State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017***

At the time of the development application's lodgement with Council, State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 was the relevant to the assessment of this application. However, on 1 March 2022, that SEPP was repealed by SEPP (Biodiversity and Conservation) 2021. The transitional savings provision was included within SEPP (Biodiversity and Conservation) 2021 do not relate to the relevant parts of the assessment of this application, as such the application is considered against SEPP (Biodiversity and Conservation) 2021.

Chapter 2 Vegetation in non-rural areas of SEPP (Biodiversity and Conservation) 2021 aims to protect the biodiversity value of trees and other vegetation in non-rural areas and to preserve the amenity of non-rural areas through the preservation of trees and other vegetation.

The proposed development seeks approval for the removal of 20 trees. Council's Tree Officer has reviewed the application and raised no objection to the removal of the trees, subject to conditions. It is considered that the proposal satisfies the provisions of Chapter 2 of State Environmental Planning Policy (Biodiversity and Conservation) 2021.

### **State Environmental Planning Policy 65 - Design Quality of Residential Apartment Development 2002 (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. 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'. Part 3, Division 1, Clause 29 of the Environmental Planning and Assessment Regulation 2021 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 building works within the front setback, a lack of landscaping in the front setback and a poorly resolved entry way. Notwithstanding this, the design seeks departure from a number of development controls which do not align with the desired future character of the locality.

#### Principle 2: Built Form and Scale

The design seeks variations to a number of key development controls including, but not limited to, height, setbacks, visual privacy, solar access and façade design. 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.

#### Principle 5: Landscape

The architect's SEPP 65 statement refers to each of the units having access to outdoor balconies and/or terraces, some with various aspects. Communal open space is also incorporated into the development providing, the applicant contends, a range of recreational opportunities for future residents with generous communal and private open, spaces and large landscaped areas being provided

Upon consideration of the application, 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 the ground floor units, and under the main building. Further, the communal open space conflicts with the private open space areas of other units (see Units G01, G02 and G06), which represents a poor amenity outcome for both the residents of those units 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 to the communal open space and a poorly resolved entry way. 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 BDCP 2015 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.

However, the proposed development does not provide for good territorial reinforcement and access control of public and private spaces, particularly in the ground floor areas.

#### 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.

Given the above, the proposed development does not achieve the principles of good design.

### **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.

<b>Part 3 – Sitting of the Development</b>			
Objective	Design Guidance	Proposed	Complies (Y/N)
<u>3A-1 Site Analysis</u>  Site analysis illustrates that design decisions have been based on opportunities and constraints of the site conditions and their relationship to the surrounding context	Each element in the Site Analysis Checklist should be addressed	The submitted site analysis has taken into account and addressed each element of the Site Analysis checklist.	Yes
<u>3B-1 Orientation - Streetscape</u>  Building types and layouts respond to the streetscape and site while optimising solar access within the development	Buildings along the street frontage define the street, by facing it and incorporating direct access from the street	The proposed design addresses and faces the street and incorporates access to it.	Yes
	Where the street frontage is to the east or west, rear buildings should be orientated to the north	Achieved.	Yes
	Where the street frontage is to the north or south, overshadowing to the south should be minimised and buildings behind the street frontage should be orientated to the east and west (see figure 3B.2)	Achieved.	Yes
<u>3B-2 Orientation – Overshadowing</u>  Overshadowing of neighbouring properties is minimised during mid-winter	Living areas, private open space and communal open space should receive solar access in accordance with sections 3D Communal and public open space and 4A Solar and daylight access	Compliance achieved.	Yes
	Solar access to living rooms, balconies and private open spaces of neighbours should be considered	Achieved.	Yes
	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%	Achieved.	Yes
	If the proposal will significantly reduce the solar access of neighbours, building separation should be increased beyond minimums contained in section 3F Visual privacy	Not Applicable	Not Applicable

<b>Part 3 – Sitting of the Development</b>			
	Overshadowing should be minimised to the south or down-hill by increased upper level setbacks	The railway line is located south of the subject site.	Yes
	It is optimal to orientate buildings at 90 degrees to the boundary with neighbouring properties to minimise overshadowing and privacy impacts, particularly where minimum setbacks are used and where buildings are higher than the adjoining development	Adopted in the design.	Yes
	A minimum of 4 hours of solar access should be retained to solar collectors on neighbouring buildings	Compliance Achieved.	Yes
<u>3C-1 Transitions</u>	Terraces, balconies and courtyard apartments should have direct street entry, where appropriate	Direct access provided where appropriate.	Yes
Transition between private and public domain is achieved without compromising safety and security	Changes in level between private terraces, front gardens and dwelling entries above the street level provide surveillance and improve visual privacy for ground level dwellings	The levels of the Private Open Space (POS) to the street are considered to allow for sufficient passive surveillance.	Yes
	Upper level balconies and windows should overlook the public domain	Upper level balconies and living room windows directly overlook the public domain.	Yes
	Front fences and walls along street frontages should use visually permeable materials and treatments. The height of solid fences or walls should be limited to 1m	Shown in North Elevation.	Yes
	Length of solid walls should be limited along street frontages	Solid walls along the street frontage have been minimised.	Yes
	Opportunities should be provided for casual interaction between residents and the public domain. Design solutions may include seating at building entries, near letter boxes and in private courtyards adjacent to streets	Provided where appropriate.	Yes
	In developments with multiple buildings and/or entries, pedestrian entries and spaces associated with individual buildings/entries should be differentiated to improve legibility for residents, using a number of the following design solutions: • architectural detailing • changes in materials • plant species • colours	One building with one main entrance.	Not Applicable
	Opportunities for people to be concealed should be minimised	Achieved.	Yes
<u>3C-2 Amenity of Public Domain</u>	Planting softens the edges of any raised terraces to the street, for example above sub-basement car parking	The plantings listed on the landscape plan soften the edges of the development.	Yes

<b>Part 3 – Sitting of the Development</b>			
Amenity of the public domain is retained and enhanced	Mail boxes should be located in lobbies, perpendicular to the street alignment or integrated into front fences where individual street entries are provided	Mail boxes are located within the lobby perpendicular to the street.	Yes
	The visual prominence of underground car park vents should be minimised and located at a low level where possible	Minimised.	Yes
	Substations, pump rooms, garbage storage areas and other service requirements should be located in basement car parks or out of view	Substation is shown on ground floor plan within front setback but has been positioned to ensure that the shorter side faces the street. Appropriate screening and landscaping have been adopted to reduce visibility and integrate it with the proposed built form, however it is still visible from the street.	No
	Ramping for accessibility should be minimised by building entry location and setting ground floor levels in relation to footpath levels	Minimised.	Yes
	Durable, graffiti resistant and easily cleanable materials should be used	Reviewed by community safety, considered acceptable.	Yes
	Where development adjoins public parks, open space or bushland, the design positively addresses this interface and uses a number of the following design solutions:  <ul style="list-style-type: none"> <li>• street access, pedestrian paths and building entries which are clearly defined</li> <li>• paths, low fences and planting that clearly delineate between communal/private open space and the adjoining public open space</li> <li>• minimal use of blank walls, fences and ground level parking</li> </ul>	Not applicable	Not applicable
	On sloping sites protrusion of car parking above ground level should be minimised by using split levels to step underground car parking	Not applicable	Not applicable
<b>3-D-1</b> <u>Communal Open Space</u>  An adequate area of communal open space is provided to enhance residential amenity and to provide	<b>Design Criteria</b> 1. Communal open space has a minimum area equal to 25% of the site  2. Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid winter)	Calculated Communal Open space (COS) = 442.1m <sup>2</sup> .  Site area = 1960.2m <sup>2</sup> .  COS/site area = 23%  There is insufficient COS to meet the 25% requirement set out in the ADG. Further, a large portion of the COS	No

Part 3 – Sitting of the Development			
opportunities for landscaping		<p>is not well located within the development (see the following criteria).</p> <p>The principal usable area of COS is considered to be the western portion of the COS being 267.9m<sup>2</sup>. Of that area, 149m<sup>2</sup> (33% of the total COS) will receive 2 hours of direct sunlight between 12pm and 3pm, the portion within the side setback.</p> <p>However, no consideration has been given to the future development of the western adjoining site (No.33), which will likely overshadow the principal useable area.</p>	
	Communal open space should be consolidated into a well designed, easily identified and usable area	A poor layout of communal open space is proposed and is not supported in its current form. The space is largely situated within the side setbacks of the site and directly conflicts with the private open space areas and overlooks the living areas of a number of apartments.	No
	Communal open space should have a minimum dimension of 3m, and larger developments should consider greater dimensions	Minimum dimension of 3m for the open space has been achieved.	Yes
	Communal open space should be co-located with deep soil areas	Open space has not been co-located with the deep soil zones.	No
	Direct, equitable access should be provided to communal open space areas from common circulation areas, entries and lobbies	It is considered that there is equitable access to the open space.	Yes
	Where communal open space cannot be provided at ground level, it should be provided on a podium or roof	Communal open space is provided at ground level.	Yes

Part 3 – Sitting of the Development			
	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: <ul style="list-style-type: none"> <li>• provide communal spaces elsewhere such as a landscaped roof top terrace or a common room</li> <li>• provide larger balconies or increased private open space for apartments</li> <li>• demonstrate good proximity to public open space and facilities and/or provide contributions to public open space</li> </ul>	Not applicable	Not applicable
3D-2 <u>Communal Open Space Design</u>  Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting	Facilities are provided within communal open spaces and common spaces for a range of age groups (see also 4F Common circulation and spaces), incorporating some of the following elements: <ul style="list-style-type: none"> <li>• seating for individuals or groups</li> <li>• barbecue areas</li> <li>• play equipment or play areas</li> <li>• swimming pools, gyms, tennis courts or common rooms</li> </ul>	Plan provided and considered satisfactory.	Yes
	The location of facilities responds to microclimate and site conditions with access to sun in winter, shade in summer and shelter from strong winds and down drafts	COS is provided on the ground level and has been designed to the existing site conditions.	Yes
	Visual impacts of services should be minimised, including location of ventilation duct outlets from basement car parks, electrical substations and detention tanks	Substation and booster proposed at grade and within front setback. Substation is positioned to be perpendicular to the street and screening has been adopted to integrate it with the proposed built form.  Cumulative impact of these services plus ramp and basement driveway result in a poor presentation to the street. There is also an unacceptable reduced level of landscaping in the front setback as a result.	No
3D-3 <u>Open Space Safety</u>  Communal	Communal open space and the public domain should be readily visible from habitable rooms and private open space areas while maintaining visual privacy.	Communal open space visible from habitable rooms.	Yes



Part 3 – Sitting of the Development															
open space is designed to maximise safety	Design solutions may include: <ul style="list-style-type: none"><li>• bay windows</li><li>• corner windows</li><li>• balconies</li></ul>														
	Communal open space should be well lit	Require a lighting plan as part of the Construction Certificate drawings.	Yes												
	Where communal open space/facilities are provided for children and young people they are safe and contained	None provided.	Not applicable												
<u>3D-4 Public Open Space</u>  Public open space, where provided, is responsive to the existing pattern and uses of the neighbourhood	The public open space should be well connected with public streets along at least one edge	None provided.	Not applicable												
	The public open space should be connected with nearby parks and other landscape elements	None provided.	Not applicable												
	Public open space should be linked through view lines, pedestrian desire paths, termination points and the wider street grid	None provided.	Not applicable												
	Solar access should be provided year round along with protection from strong winds	None provided.	Not applicable												
	Opportunities for a range of recreational activities should be provided for people of all ages	None provided.	Not applicable												
	A positive address and active frontages should be provided adjacent to public open space	None provided.	Not applicable												
	Boundaries should be clearly defined between public open space and private areas	None provided.	Not applicable												
<u>3E-1 Deep Soil Zones</u>  Deep soil zones provide areas on the site that allow for and support healthy plant and tree growth. They improve residential amenity and promote management of water and air quality	<u>Design Criteria</u>  Deep soil zones are to meet the following minimum requirements: <table><tr><th>Site area</th><th>Minimum dimensions</th><th>Deep soil zone (% of site area)</th></tr><tr><td>less than 650m<sup>2</sup></td><td>-</td><td rowspan="4">7%</td></tr><tr><td>650m<sup>2</sup> - 1,500m<sup>2</sup></td><td>3m</td></tr><tr><td>greater than 1,500m<sup>2</sup></td><td>6m</td></tr><tr><td>greater than 1,500m<sup>2</sup> with significant existing tree cover</td><td>6m</td></tr></table>	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	A total of 176sqm of deep soil that is greater than 6m wide is provided.  The Site area is 1960sqm.  Deep soil area = 8.98% of site area where a minimum 7% is required.	Yes
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														
	On some sites it may be possible to provide larger deep soil zones, depending on the site area and context: <ul style="list-style-type: none"><li>• 10% of the site as deep soil on sites with an area of 650m<sup>2</sup></li></ul>	8.98% provided per the Design Criteria.	Yes												

Part 3 – Sitting of the Development															
	<ul style="list-style-type: none"><li>- 1,500m2</li><li>• 15% of the site as deep soil on sites greater than 1,500m2</li></ul>														
	<p>Deep soil zones should be located to retain existing significant trees and to allow for the development of healthy root systems, providing anchorage and stability for mature trees. Design solutions may include:</p> <ul style="list-style-type: none"><li>• basement and sub basement car park design that is consolidated beneath building footprints</li><li>• use of increased front and side setbacks</li><li>• adequate clearance around trees to ensure long term health</li><li>• co-location with other deep soil areas on adjacent sites to create larger contiguous areas of deep soil</li></ul>	<p>Significant trees are located within deep soil zone.</p>	<p>Yes</p>												
	<p>Achieving the design criteria may not be possible on some sites including where:</p> <ul style="list-style-type: none"><li>• the location and building typology have limited or no space for deep soil at ground level (e.g. central business district, constrained sites, high density areas, or in centres)</li><li>• there is 100% site coverage or non-residential uses at ground floor level</li></ul> <p>Where a proposal does not achieve deep soil requirements, acceptable stormwater management should be achieved and alternative forms of planting provided such as on structure</p>	<p>Noted</p>	<p>Not applicable</p>												
<p><u>3F-1 Building Separation</u></p> <p>Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy</p>	<p><b>Design Criteria</b></p> <p>Separation between windows and balconies is provided to ensure visual privacy is achieved.</p> <p>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 and balconies</th><th>Non-habitable rooms</th></tr><tr><td>up to 12m (4 storeys)</td><td>6m</td><td>3m</td></tr><tr><td>up to 25m (5-8 storeys)</td><td>9m</td><td>4.5m</td></tr><tr><td>over 25m (9+ storeys)</td><td>12m</td><td>6m</td></tr></table> <p>Note: Separation distances between buildings on the same site should combine required building separations depending on the type of room (see figure 3F.2)</p> <p>Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties</p>	Building height	Habitable rooms and balconies	Non-habitable rooms	up to 12m (4 storeys)	6m	3m	up to 25m (5-8 storeys)	9m	4.5m	over 25m (9+ storeys)	12m	6m	<p>Separation is achieved on all floor of the building and to the boundaries of the site.</p>	<p>Yes</p>
Building height	Habitable rooms and balconies	Non-habitable rooms													
up to 12m (4 storeys)	6m	3m													
up to 25m (5-8 storeys)	9m	4.5m													
over 25m (9+ storeys)	12m	6m													

<b>Part 3 – Sitting of the Development</b>			
	Generally one step in the built form as the height increases due to building separations is desirable. Additional steps should be careful not to cause a 'ziggurat' appearance	A step (singular) in the built form has been designed in a way to ensure that the building does not result in a ziggurat appearance.	Yes
	For residential buildings next to commercial buildings, separation distances should be measured as follows: • for retail, office spaces and commercial balconies use the habitable room distances • for service and plant areas use the non-habitable room distances	Not applicable	Not applicable
	New development should be located and oriented to maximise visual privacy between buildings on site and for neighbouring buildings. Design solutions include: • site layout and building orientation to minimise privacy impacts (see also section 3B Orientation) • on sloping sites, apartments on different levels have appropriate visual separation distances (see figure 3F.4)	Achieved.	Yes
	Apartment buildings should have an increased separation distance of 3m (in addition to the requirements set out in design criteria 1) when adjacent to a different zone that permits lower density residential development to provide for a transition in scale and increased landscaping (figure 3F.5)	Adjoining zones do not change.	Yes
	Direct lines of sight should be avoided for windows and balconies across corners	Avoided in the design.	Yes
	No separation is required between blank walls	Not applicable	Not applicable

Part 3 – Sitting of the Development			
<p><u>3F-2 Visual Privacy</u></p> <p>Site and building design elements increase privacy without compromising access to light and air and balance outlook and views from habitable rooms and private open space</p>	<p>Communal open space, common areas and access paths should be separated from private open space and windows to apartments, particularly habitable room windows. Design solutions may include:</p> <ul style="list-style-type: none"> <li>• setbacks</li> <li>• solid or partially solid balustrades to balconies at lower levels</li> <li>• fencing and/or trees and vegetation to separate spaces</li> <li>• screening devices</li> <li>• bay windows or pop out windows to provide privacy in one direction and outlook in another</li> <li>• raising apartments/private open space above the public domain or communal open space</li> <li>• planter boxes incorporated into walls and balustrades to increase visual separation</li> <li>• pergolas or shading devices to limit overlooking of lower apartments or private open space</li> <li>• on constrained sites where it can be demonstrated that building layout opportunities are limited, fixed louvres or screen panels to windows and/or balconies</li> </ul>	The proposed communal open space is poorly designed and located and is not supported in its current form. The space is largely situated within the side setbacks of the site and directly conflicts with the private open space areas and overlooks the living areas of a number of apartments.	No
	Bedrooms, living spaces and other habitable rooms should be separated from gallery access and other open circulation space by the apartment's service areas	Considered to have been achieved.	Yes
	Balconies and private terraces should be located in front of living rooms to increase internal privacy	Achieved in the design.	Yes
	Windows should be offset from the windows of adjacent buildings	Achieved.	Yes
	Recessed balconies and/or vertical fins should be used between adjacent balconies	Achieved.	Yes
<p>3G-1 Building entries</p> <p>Building entries and pedestrian access connects to</p>	<p>Multiple entries (including communal building entries and individual ground floor entries) should be provided to activate the street edge</p>	Provided where possible.	Yes
	Entry locations relate to the street and subdivision pattern and the existing pedestrian network	Entry location satisfactory.	Yes

<b>Part 3 – Sitting of the Development</b>			
and addresses the public domain	Building entries should be clearly identifiable and communal entries should be clearly distinguishable from private entries	The main pedestrian entry point from Waldron Road 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 the narrow tunnel-like presentation.	No
	Where street frontage is limited and multiple buildings are located on the site, a primary street address should be provided with clear sight lines and pathways to secondary building entries	Not applicable	Not applicable
3G-2 Entry accessibility  Access, entries and pathways are accessible and easy to identify	Building access areas including lift lobbies, stairwells and hallways should be clearly visible from the public domain and communal spaces	The proposed entrance is poorly resolved. The entrance to the development and lift lobby is substantially setback and is not clearly visible from the street. The entrance is located adjacent the rear wall of the bin room and presents as narrow and deep hole in the facade of the development.	No
	The design of ground floors and underground car parks minimise level changes along pathways and entries	Level changes minimised.	Yes
	Steps and ramps should be integrated into the overall building and landscape design	The ramp is proposed in the front setback with a small area of landscaping proposed. The landscaping within the ramp is incapable of being suitably accommodated. The space for the tree is too narrow (2m wide) and it will conflict with the proposed OSD beneath it. Further the turf within the ramp area will not be visible and this will result in no screening/softening of the ramp structure within the front setback.	No
	For large developments 'way finding' maps should be provided to assist visitors and residents (see figure 4T.3)	Not applicable	Not applicable
	For large developments electronic access and audio/video intercom should be provided to manage access	Shown on plans.	Yes
3G-3	Pedestrian links through sites facilitate	Not applicable	Not



Part 3 – Sitting of the Development			
Pedestrian Links	direct connections to open space, main streets, centres and public transport		applicable
Large sites provide pedestrian links for access to streets and connection to destinations			
	Pedestrian links should be direct, have clear sight lines, be overlooked by habitable rooms or private open spaces of dwellings, be well lit and contain active uses, where appropriate	Not applicable	Not applicable
3H-1 Vehicle Access	Car park access should be integrated with the building's overall facade. Design solutions may include:	Garage door to basement proposed (roller door).	Yes
Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes	<ul style="list-style-type: none"> <li>the materials and colour palette to minimise visibility from the street</li> <li>security doors or gates at entries that minimise voids in the facade</li> <li>where doors are not provided, the visible interior reflects the facade design and the building services, pipes and ducts are concealed</li> </ul>		
	Car park entries should be located behind the building line	Vehicle entrance behind the building line.	Yes
	Vehicle entries should be located at the lowest point of the site minimising ramp lengths, excavation and impacts on the building form and layout	Vehicle entrance located at the lowest end of the site.	Yes
	Car park entry and access should be located on secondary streets or lanes where available	Not applicable	Not applicable
	Vehicle standing areas that increase driveway width and encroach into setbacks should be avoided	Not provided.	Not applicable
	Access point locations should avoid headlight glare to habitable rooms	Headlight glare will not obtrude into habitable rooms.	Yes
	Adequate separation distances should be provided between vehicle entries and street intersections	The application was referred to Council's Development Engineers and Traffic Sections. They have considered the application and have raised no objection to the proposal subject to the application of conditions.	Yes
	The width and number of vehicle access points should be limited to the minimum	One provided.	Yes
	Visual impact of long driveways should be minimised through changing alignments and screen planting	No long driveways provided.	Yes

Part 3 – Sitting of the Development			
	The need for large vehicles to enter or turn around within the site should be avoided	Waste to be collected from the street, avoiding the need for large vehicles to enter site. Frontage allows rigid vehicles such as delivery trucks to park in front of the site to access.	Yes
	Garbage collection, loading and servicing areas are screened	Bin room integrated into ground floor of the proposed development.	Yes
	Clear sight lines should be provided at pedestrian and vehicle crossings	Provided.	Yes
	Traffic calming devices such as changes in paving material or textures should be used where appropriate	Not required.	Not applicable
	Pedestrian and vehicle access should be separated and distinguishable. Design solutions may include: <ul style="list-style-type: none"> <li>• changes in surface materials</li> <li>• level changes</li> <li>• the use of landscaping for separation</li> </ul>	Landscaping provides separation between the buildings pedestrian and vehicular entries.	Yes
3J-1 Proximity to public transport  Car parking is provided based on proximity to public transport in metropolitan Sydney and centres in regional areas	<b>Design Criteria</b> For development in the following locations: <ul style="list-style-type: none"> <li>• on sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan Area; or</li> <li>• on land zoned, and sites within 400 metres of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre the minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less</li> </ul> The car parking needs for a development must be provided off street	Canterbury-Bankstown LGA is a part of Sydney metropolitan.  Applicant has demonstrated that the site is within 800m of Sefton Train Station. Guide to Traffic Generating Developments can be relied on.  3.6 spaces required for 3 bedroom units  16.8 Spaces required for 2 Bed units  3.2 spaces required for 1 bed units  7 space required for visitors  Total of 35 car spaces required – 41 provided.	Yes
	Where a car share scheme operates locally, provide car share parking spaces within the development. Car share spaces, when provided, should be on site	Car share provider not readily available in the area.	Not applicable
	Where less car parking is provided in a development, council should not provide on street resident parking permits	Noted. Sufficient parking proposed.	Not applicable

<b>Part 3 – Sitting of the Development</b>			
3J-2 Other modes of transport parking  Parking and facilities are provided for other modes of transport	Conveniently located and sufficient numbers of parking spaces should be provided for motorbikes and scooters	Provided.	Yes
	Secure undercover bicycle parking should be provided that is easily accessible from both the public domain and common areas	Provided in the basement.	Yes
	Conveniently located charging stations are provided for electric vehicles, where desirable	None provided.	Not applicable
3J-3 Car parking design  Car park design and access is safe and secure	Supporting facilities within car parks, including garbage, plant and switch rooms, storage areas and car wash bays can be accessed without crossing car parking spaces	Achieved.	Yes
	Direct, clearly visible and well lit access should be provided into common circulation areas	Areas are direct and clear.	Yes
	A clearly defined and visible lobby or waiting area should be provided to lifts and stairs	Provided.	Yes
	For larger car parks, safe pedestrian access should be clearly defined and circulation areas have good lighting, colour, line marking and/or bollards	Not applicable	Not applicable
3J-4 Underground carparking  Visual and environmental impacts of underground car parking are minimised	Excavation should be minimised through efficient car park layouts and ramp design	Excavation has been minimised.	Yes
	Car parking layout should be well organised, using a logical, efficient structural grid and double loaded aisles	Considered acceptable.	Yes
	Protrusion of car parks should not exceed 1m above ground level. Design solutions may include stepping car park levels or using split levels on sloping sites	Basement projects no more than 1m at front of site.	Yes
	Natural ventilation should be provided to basement and sub basement car parking areas	Provided.	Yes
	Ventilation grills or screening devices for car parking openings should be integrated into the facade and landscape design	Provided.	Yes
3J-5 On-grade parking	On-grade car parking should be avoided	Not proposed.	Not Applicable

Part 3 – Sitting of the Development			
Visual and environmental impacts of on-grade car parking are minimised	<p>Where on-grade car parking is unavoidable, the following design solutions are used:</p> <ul style="list-style-type: none"> <li>• parking is located on the side or rear of the lot away from the primary street frontage</li> <li>• cars are screened from view of streets, buildings, communal and private open space areas</li> <li>• safe and direct access to building entry points is provided</li> <li>• parking is incorporated into the landscape design of the site, by extending planting and materials into the car park space</li> <li>• stormwater run-off is managed appropriately from car parking surfaces</li> <li>• bio-swales, rain gardens or on site detention tanks are provided, where appropriate</li> <li>• light coloured paving materials or permeable paving systems are used and shade trees are planted between every 4-5 parking spaces to reduce increased surface temperatures from large areas of paving</li> </ul>	Not applicable	Not applicable
3J-6 Above ground enclosed car parking  Visual and environmental impacts of above ground enclosed car parking are minimised	Exposed parking should not be located along primary street frontages	Not applicable	Not applicable
	<p>Screening, landscaping and other design elements including public art should be used to integrate the above ground car parking with the facade. Design solutions may include:</p> <ul style="list-style-type: none"> <li>• car parking that is concealed behind the facade, with windows integrated into the overall facade design (approach should be limited to developments where a larger floor plate podium is suitable at lower levels)</li> <li>• car parking that is 'wrapped' with other uses, such as retail, commercial or two storey Small Office/Home Office (SOHO) units along the street frontage (see figure 3J.9)</li> </ul>	Not applicable	Not applicable
	Positive street address and active frontages should be provided at ground level	Provided.	Yes

Part 4 – Designing the building																																																																											
4A-1 Solar access	<b>Design Criteria</b> 1. 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 in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas  2. In all other areas, living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 3 hours direct sunlight between 9 am and 3 pm at mid winter  3. A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid winter	A breakdown of the solar access for each unit is provided below: <table><tr><th>Unit</th><th>Achieved</th></tr><tr><td>G01</td><td>9-3</td></tr><tr><td>G02</td><td>1-3</td></tr><tr><td>G03</td><td>1–3</td></tr><tr><td>G04</td><td>0 – south facing</td></tr><tr><td>G05</td><td>1 hour only</td></tr><tr><td>G06</td><td>1 hour only</td></tr><tr><td>G07</td><td>9-11</td></tr><tr><td>101</td><td>9-3</td></tr><tr><td>102</td><td>9-3</td></tr><tr><td>103</td><td>12-3</td></tr><tr><td>104</td><td>1-3</td></tr><tr><td>105</td><td>1-3</td></tr><tr><td>106</td><td>1-3</td></tr><tr><td>107</td><td>1-3</td></tr><tr><td>108</td><td>0 – south facing</td></tr><tr><td>109</td><td>1 hour only</td></tr><tr><td>110</td><td>1 hour only</td></tr><tr><td>201</td><td>9-3</td></tr><tr><td>202</td><td>9-3</td></tr><tr><td>203</td><td>12-3</td></tr><tr><td>204</td><td>1-3</td></tr><tr><td>205</td><td>1-3</td></tr><tr><td>206</td><td>1-3</td></tr><tr><td>207</td><td>1-3</td></tr><tr><td>208</td><td>0 – south facing</td></tr><tr><td>209</td><td>1 hour only</td></tr><tr><td>210</td><td>9-11</td></tr><tr><td>301</td><td>1-3</td></tr><tr><td>302</td><td>1-3</td></tr><tr><td>303</td><td>1-3</td></tr><tr><td>304</td><td>1-3</td></tr><tr><td>305</td><td>1-3</td></tr><tr><td>306</td><td>0 – south facing</td></tr><tr><td>307</td><td>0 – south facing</td></tr><tr><td>308</td><td>9-11</td></tr></table> Total Units = 35. 70% = 25   25 provided. 15% = 5   5 No solar.	Unit	Achieved	G01	9-3	G02	1-3	G03	1–3	G04	0 – south facing	G05	1 hour only	G06	1 hour only	G07	9-11	101	9-3	102	9-3	103	12-3	104	1-3	105	1-3	106	1-3	107	1-3	108	0 – south facing	109	1 hour only	110	1 hour only	201	9-3	202	9-3	203	12-3	204	1-3	205	1-3	206	1-3	207	1-3	208	0 – south facing	209	1 hour only	210	9-11	301	1-3	302	1-3	303	1-3	304	1-3	305	1-3	306	0 – south facing	307	0 – south facing	308	9-11	Yes
	Unit	Achieved																																																																									
	G01	9-3																																																																									
G02	1-3																																																																										
G03	1–3																																																																										
G04	0 – south facing																																																																										
G05	1 hour only																																																																										
G06	1 hour only																																																																										
G07	9-11																																																																										
101	9-3																																																																										
102	9-3																																																																										
103	12-3																																																																										
104	1-3																																																																										
105	1-3																																																																										
106	1-3																																																																										
107	1-3																																																																										
108	0 – south facing																																																																										
109	1 hour only																																																																										
110	1 hour only																																																																										
201	9-3																																																																										
202	9-3																																																																										
203	12-3																																																																										
204	1-3																																																																										
205	1-3																																																																										
206	1-3																																																																										
207	1-3																																																																										
208	0 – south facing																																																																										
209	1 hour only																																																																										
210	9-11																																																																										
301	1-3																																																																										
302	1-3																																																																										
303	1-3																																																																										
304	1-3																																																																										
305	1-3																																																																										
306	0 – south facing																																																																										
307	0 – south facing																																																																										
308	9-11																																																																										
	The design maximises north aspect and the number of single aspect south facing apartments is minimised	Achieved.	Yes																																																																								
	Single aspect, single storey apartments should have a northerly or easterly aspect	Provided where possible.	Yes																																																																								



<b>Part 4 – Designing the building</b>			
	To optimise the direct sunlight to habitable rooms and balconies a number of the following design features are used: <ul style="list-style-type: none"> <li>• dual aspect apartments</li> <li>• shallow apartment layouts</li> <li>• two storey and mezzanine level apartments</li> <li>• bay windows</li> </ul>	Dual aspect apartments utilised.  Shallow apartment layouts utilised.	Yes
	To maximise the benefit to residents of direct sunlight within living rooms and private open spaces, a minimum of 1m <sup>2</sup> of direct sunlight, measured at 1m above floor level, is achieved for at least 15 minutes	Achieved.	Yes
	Achieving the design criteria may not be possible on some sites. This includes: <ul style="list-style-type: none"> <li>• where greater residential amenity can be achieved along a busy road or rail line by orientating the living rooms away from the noise source</li> <li>• on south facing sloping sites</li> <li>• where significant views are oriented away from the desired aspect for direct sunlight</li> </ul> Design drawings need to demonstrate how site constraints and orientation preclude meeting the design criteria and how the development meets the objective	Not applicable	Not applicable
4A-2 Daylight access  Daylight access is maximised where sunlight is limited	Courtyards, skylights and high level windows (with sills of 1,500mm or greater) are used only as a secondary light source in habitable rooms	Highlight windows and the like are only relied on as a secondary source of light and are not the primary sources of light.	Yes
	Where courtyards are used : <ul style="list-style-type: none"> <li>• use is restricted to kitchens, bathrooms and service areas</li> <li>• building services are concealed with appropriate detailing and materials to visible walls</li> <li>• courtyards are fully open to the sky</li> <li>• access is provided to the light well from a communal area for cleaning and maintenance</li> <li>• acoustic privacy, fire safety and minimum privacy separation distances (see section 3F Visual privacy) are achieved</li> </ul>	No courtyard proposed.	Not Applicable
	Opportunities for reflected light into apartments are optimised through: <ul style="list-style-type: none"> <li>• reflective exterior surfaces on buildings opposite south facing windows</li> <li>• positioning windows to face other buildings or surfaces (on neighbouring sites or within the site) that will reflect light</li> <li>• integrating light shelves into the design</li> <li>• light coloured internal finishes</li> </ul>	Windows are positioned to maximise reflective light.	Yes
4A-3 Shading	A number of the following design features	Balconies have been	Yes

Part 4 – Designing the building			
Design incorporates shading and glare control, particularly for warmer months	are used: <ul style="list-style-type: none"> <li>• balconies or sun shading that extend far enough to shade summer sun, but allow winter sun to penetrate living areas</li> <li>• shading devices such as eaves, awnings, balconies, pergolas, external louvres and planting</li> <li>• horizontal shading to north facing windows</li> <li>• vertical shading to east and particularly west facing windows</li> <li>• operable shading to allow adjustment and choice</li> <li>• high performance glass that minimises external glare off windows, with consideration given to reduced tint glass or glass with a reflectance level below 20% (reflective films are avoided)</li> </ul>	designed in a way that allows for the shadowing of windows in summer months and solar access to be achieved in winter.	
4B-1 Natural Ventilation  All habitable rooms are naturally ventilated	The building's orientation maximises capture and use of prevailing breezes for natural ventilation in habitable rooms	The buildings orientation maximises the capture and use of prevailing winds.	Yes
	Depths of habitable rooms support natural ventilation	The depth of the habitable rooms supports natural ventilation.	Yes
	The area of unobstructed window openings should be equal to at least 5% of the floor area served	Achieved.	Yes
	Light wells are not the primary air source for habitable rooms	None proposed.	Not Applicable
	Doors and openable windows maximise natural ventilation opportunities by using the following design solutions: <ul style="list-style-type: none"> <li>• adjustable windows with large effective openable areas</li> <li>• a variety of window types that provide safety and flexibility such as awnings and louvres</li> <li>• windows which the occupants can reconfigure to funnel breezes into the apartment such as vertical louvres, casement windows and externally opening doors</li> </ul>	Door and window design achieved.	Yes
4B-2 Single aspect apartment	Apartment depths are limited to maximise ventilation and airflow (see also figure 4D.3)	Apartment depths have been limited.	Yes

Part 4 – Designing the building			
ventilation  The layout and design of single aspect apartments maximises natural ventilation	Natural ventilation to single aspect apartments is achieved with the following design solutions: <ul style="list-style-type: none"> <li>• primary windows are augmented with plenums and light wells (generally not suitable for cross ventilation)</li> <li>• stack effect ventilation / solar chimneys or similar to naturally ventilate internal building areas or rooms such as bathrooms and laundries</li> <li>• 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</li> </ul>	Achieved	Yes
4B-3 Cross Ventilation  The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents	<b>Design Criteria</b> 1. At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments 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  2. Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line	Total Units = 35 60% = 21 apartments.  Compliant apartments: 21 (60%).  Cross through apartment depth less than 18m.  No cross over apartments proposed.	Yes
	The building should include dual aspect apartments, cross through apartments and corner apartments and limit apartment depths	Dual aspect and corner apartments provided.	Yes
	In cross-through apartments external window and door opening sizes/areas on one side of an apartment (inlet side) are approximately equal to the external window and door opening sizes/areas on the other side of the apartment (outlet side) (see figure 4B.4)	Window sizes are approximately equal for cross through apartments.	Yes
	Apartments are designed to minimise the number of corners, doors and rooms that might obstruct airflow	Apartments have been designed to minimise airflow obstructions.	Yes
	Apartment depths, combined with appropriate ceiling heights, maximise cross ventilation and airflow	Achieved.	Yes

Part 4 – Designing the building																
4C-1 Ceiling heights  Ceiling height achieves sufficient natural ventilation and daylight access	<b>Design Criteria</b> Measured from finished floor level to finished ceiling level, minimum ceiling heights are:	<table><tr><td>Ground</td><td>2.8m</td></tr><tr><td>Level 1</td><td>2.8m</td></tr><tr><td>Level 2</td><td>2.8m</td></tr><tr><td>Level 3</td><td>2.8m</td></tr></table>		Ground	2.8m	Level 1	2.8m	Level 2	2.8m	Level 3	2.8m	Yes				
	Ground	2.8m														
	Level 1	2.8m														
	Level 2	2.8m														
	Level 3	2.8m														
	<table><tr><td colspan="2">Minimum ceiling height for apartment and mixed use buildings</td></tr><tr><td>Habitable rooms</td><td>2.7m</td></tr><tr><td>Non-habitable</td><td>2.4m</td></tr><tr><td>For 2 storey apartments</td><td>2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area</td></tr><tr><td>Attic spaces</td><td>1.8m at edge of room with a 30 degree minimum ceiling slope</td></tr><tr><td>If located in mixed used areas</td><td>3.3m for ground and first floor to promote future flexibility of use</td></tr></table>	Minimum ceiling height for apartment and mixed use buildings		Habitable rooms	2.7m	Non-habitable	2.4m	For 2 storey apartments	2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area	Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope		If located in mixed used areas	3.3m for ground and first floor to promote future flexibility of use		
	Minimum ceiling height for apartment and mixed use buildings															
Habitable rooms	2.7m															
Non-habitable	2.4m															
For 2 storey apartments	2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area															
Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope															
If located in mixed used areas	3.3m for ground and first floor to promote future flexibility of use															
Ceiling height can accommodate use of ceiling fans for cooling and heat distribution.		Ceiling height can achieve use of ceiling fans.	Yes													
4C-2 Ceiling height  Ceiling height increases the sense of space in apartments and provides for well proportioned rooms	A number of the following design solutions can be used: • the hierarchy of rooms in an apartment is defined using changes in ceiling heights and alternatives such as raked or curved ceilings, or double height spaces • well proportioned rooms are provided, for example, smaller rooms feel larger and more spacious with higher ceilings • ceiling heights are maximised in habitable rooms by ensuring that bulkheads do not intrude. The stacking of service rooms from floor to floor and coordination of bulkhead location above non-habitable areas, such as robes or storage, can assist	Adopted in the design – considered to be acceptable.	Yes													
4C-3 Ceiling height flexibility  Ceiling heights contribute to the flexibility of building use over the life of the building	Ceiling heights of lower level apartments in centres should be greater than the minimum required by the design criteria allowing flexibility and conversion to non-residential uses (see figure 4C.1)	Residential only.	Not Applicable													

Part 4 – Designing the building													
4D-1 – Apartment size	<b>Design criteria</b> 1. Apartments are required to have the following minimum internal areas: <table><tr><th>Apartment type</th><th>Minimum internal area</th></tr><tr><td>Studio</td><td>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> <p>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.</p> <p>2. Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.</p>	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>	Minimum window areas achieved.	Yes
	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>											
Kitchens should not be located as part of the main circulation space in larger apartments (such as hallway or entry space)	Kitchens appropriately located.	Yes											
A window should be visible from any point in a habitable room	Achieved.	Yes											
Where minimum areas or room dimensions are not met, apartments need to demonstrate that they are well designed and demonstrate the usability and functionality of the space with realistically scaled furniture layouts and circulation areas. These circumstances would be assessed on their merits.	Minimum areas met.	Not Applicable											
4D-2 Environmental performance	<b>Design Criteria</b> 1. Habitable room depths are limited to a maximum of 2.5 x the ceiling height. 2. In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.	All habitable rooms have an appropriate depth and there are no rooms where the depth of the kitchen layout is more than 8m from a window source.	Yes										
	Greater than minimum ceiling heights can allow for proportional increases in room depth up to the permitted maximum depths.	Noted.	Yes										
	All living areas and bedrooms should be located on the external face of the building.	Achieved.	Yes										

Part 4 – Designing the building			
4D-3 apartment layout	<b>Design Criteria</b> 1. Master bedrooms have a minimum area of 10m <sup>2</sup> and other bedrooms 9m <sup>2</sup> (excluding wardrobe space) 2. Bedrooms have a minimum dimension of 3m (excluding wardrobe space) 3. Living rooms or combined living/dining rooms have a minimum width of: • 3.6m for studio and 1 bedroom apartments • 4m for 2 and 3 bedroom apartments 4. The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts	1. Master bedrooms achieve the dimensions. 2. Bedrooms achieve the dimensions. 3. Achieved. 4. Achieved.	Yes
	Access to bedrooms, bathrooms and laundries is separated from living areas minimising direct openings between living and service areas	Considered acceptable.	Yes
	All bedrooms allow a minimum length of 1.5m for robes	Robes comply.	Yes
	The main bedroom of an apartment or a studio apartment should be provided with a wardrobe of a minimum 1.8m long, 0.6m deep and 2.1m high	Achieved.	Yes
	Apartment layouts allow flexibility over time, design solutions may include: • dimensions that facilitate a variety of furniture arrangements and removal • spaces for a range of activities and privacy levels between different spaces within the apartment • dual master apartments • dual key apartments Note: dual key apartments which are separate but on the same title are regarded as two sole occupancy units for the purposes of the Building Code of Australia and for calculating the mix of apartments • room sizes and proportions or open plans (rectangular spaces (2:3) are more easily furnished than square spaces (1:1)) • efficient planning of circulation by stairs, corridors and through rooms to maximise the amount of usable floor space in rooms	Apartment designs are considered to be acceptable.	Yes



Part 4 – Designing the building																		
4E-1 POS  Apartments provide appropriately sized private open space and balconies to enhance residential amenity	<b>Design criteria</b>  1. All apartments are required to have primary balconies as follows: <table><tr><th>Dwelling type</th><th>Minimum area</th><th>Minimum depth</th></tr><tr><td>Studio apartments</td><td>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>  The minimum balcony depth to be counted as contributing to the balcony area is 1m  2. For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m2 and a minimum depth of 3m	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	 All balconies have been checked an found to meet the minimum area requirements. The area of the balustrade have been excluded from the calculations.  2. GF areas of POS achieve the minimum area and depth requirements.	Yes
	Dwelling type	Minimum area	Minimum depth															
	Studio apartments	4m <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																
Increased communal open space should be provided where the number or size of balconies are reduced	Not applicable	Not applicable	Not applicable															
Storage areas on balconies is additional to the minimum balcony size	None provided.	Not applicable	Not applicable															
Balcony use may be limited in some proposals by: <ul style="list-style-type: none"><li>consistently high wind speeds at 10 storeys and above</li><li>close proximity to road, rail or other noise sources</li><li>exposure to significant levels of aircraft noise</li><li>heritage and adaptive reuse of existing buildings</li></ul> In these situations, Juliet balconies, operable walls, enclosed wintergardens or bay windows may be appropriate, and other amenity benefits for occupants should also be provided in the apartments or in the development or both. Natural ventilation also needs to be demonstrated.	Not applicable	Not applicable	Not applicable															
4E-2 Location of POS  Primary private open space and balconies are appropriately located to enhance liveability for residents	Primary open space and balconies should be located adjacent to the living room, dining room or kitchen to extend the living space	POS is an extension of internal living areas.	Yes															
	Private open spaces and balconies predominantly face north, east or west	Location considered acceptable.	Yes															
	Primary open space and balconies should be orientated with the longer side facing outwards or be open to the sky to optimise daylight access into adjacent rooms	Achieved.	Yes															

Part 4 – Designing the building			
4E-3 Design of POS  Private open space and balcony design is integrated into and contributes to the overall architectural form and detail of the building	Solid, partially solid or transparent fences and balustrades are selected to respond to the location. They are designed to allow views and passive surveillance of the street while maintaining visual privacy and allowing for a range of uses on the balcony. Solid and partially solid balustrades are preferred	Use of solid balustrade considered acceptable.	Yes
	Full width full height glass balustrades alone are generally not desirable	Not provided.	Not applicable
	Projecting balconies should be integrated into the building design and the design of soffits considered	Balconies integrated into the building design.	Yes
	Operable screens, shutters, hoods and pergolas are used to control sunlight and wind	None proposed.	Not applicable
	Balustrades are set back from the building or balcony edge where overlooking or safety is an issue	Not applicable	Not applicable
	Downpipes and balcony drainage are integrated with the overall facade and building design	Addressed.	Yes
	Air-conditioning units should be located on roofs, in basements, or fully integrated into the building design	Integrated.	Yes
	Where clothes drying, storage or air conditioning units are located on balconies, they should be screened and integrated in the building design	Achieved.	Yes
	Ceilings of apartments below terraces should be insulated to avoid heat loss	Noted.	Not applicable
	Water and gas outlets should be provided for primary balconies and private open space	Noted.	Yes
4F-1 Common circulation space  Common circulation spaces achieve good amenity and properly service the number of apartments	<b>Design criteria</b> 1. The maximum number of apartments off a circulation core on a single level is eight 2. For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40	1. 1 <sup>st</sup> and 2 <sup>nd</sup> floor fail – 10 units per circulation core. 2. NA.	No
	Greater than minimum requirements for corridor widths and/ or ceiling heights allow comfortable movement and access particularly in entry lobbies, outside lifts and at apartment entry doors	Not proposed.	No
	Daylight and natural ventilation should be provided to all common circulation spaces that are above ground	Not proposed.	No
	Windows should be provided in common circulation spaces and should be adjacent to the stair or lift core or at the ends of corridors	Not proposed.	No

<b>Part 4 – Designing the building</b>			
	Longer corridors greater than 12m in length from the lift core should be articulated. Design solutions may include: <ul style="list-style-type: none"> <li>• a series of foyer areas with windows and spaces for seating</li> <li>• wider areas at apartment entry doors and varied ceiling heights</li> </ul>	Seating proposed. 1 <sup>st</sup> /2 <sup>nd</sup> corridor is 26.2m in length. 3 <sup>rd</sup> : 24.2m.	Yes
	Design common circulation spaces to maximise opportunities for dual aspect apartments, including multiple core apartment buildings and cross over apartments	Provided.	Yes
	Achieving the design criteria for the number of apartments off a circulation core may not be possible. Where a development is unable to achieve the design criteria, a high level of amenity for common lobbies, corridors and apartments should be demonstrated, including: <ul style="list-style-type: none"> <li>• sunlight and natural cross ventilation in apartments</li> <li>• access to ample daylight and natural ventilation in common circulation spaces</li> <li>• common areas for seating and gathering</li> <li>• generous corridors with greater than minimum ceiling heights</li> <li>• other innovative design solutions that provide high levels of amenity</li> </ul>	Not provided.	No
	Where design criteria 1 is not achieved, no more than 12 apartments should be provided off a circulation core on a single level	10 units proposed on 1 <sup>st</sup> & 2 <sup>nd</sup> floors.	Yes
	Primary living room or bedroom windows should not open directly onto common circulation spaces, whether open or enclosed. Visual and acoustic privacy from common circulation spaces to any other rooms should be carefully controlled	Living and bedroom windows do not open directly to common circulation spaces.	Yes
4F-2 Common circulation safety  Common circulation spaces promote safety and provide for social interaction between residents	Direct and legible access should be provided between vertical circulation points and apartment entries by minimising corridor or gallery length to give short, straight, clear sight lines	Provided.	Yes
	Tight corners and spaces are avoided	Avoided.	Yes
	Circulation spaces should be well lit at night	Noted.	Yes
	Legible signage should be provided for apartment numbers, common areas and general wayfinding	Noted.	Yes
	Incidental spaces, for example space for seating in a corridor, at a stair landing, or near a window are provided	Provided.	Yes
	In larger developments, community rooms for activities such as owners corporation meetings or resident use should be provided and are ideally co-located with communal open space	Not applicable	Not applicable

Part 4 – Designing the building													
	Where external galleries are provided, they are more open than closed above the balustrade along their length	Not applicable	Not applicable										
4G-1 Storage	<b>Design Criteria</b>  1. In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided: <table><tr><th>Dwelling type</th><th>Storage size volume</th></tr><tr><td>Studio apartments</td><td>4m³</td></tr><tr><td>1 bedroom apartments</td><td>6m³</td></tr><tr><td>2 bedroom apartments</td><td>8m³</td></tr><tr><td>3+ bedroom apartments</td><td>10m³</td></tr></table> At least 50% of the required storage is to be located within the apartment	Dwelling type	Storage size volume	Studio apartments	4m³	1 bedroom apartments	6m³	2 bedroom apartments	8m³	3+ bedroom apartments	10m³	Provided and compliant.	Yes
Dwelling type	Storage size volume												
Studio apartments	4m³												
1 bedroom apartments	6m³												
2 bedroom apartments	8m³												
3+ bedroom apartments	10m³												
Adequate, well designed storage is provided in each apartment	Storage is accessible from either circulation or living areas	Provided off circulation space.	Yes										
	Storage provided on balconies (in addition to the minimum balcony size) is integrated into the balcony design, weather proof and screened from view from the street	None provided.	Not applicable										
	Left over space such as under stairs is used for storage	Not applicable	Not applicable										
4G-2 Additional storage	Storage not located in apartments is secure and clearly allocated to specific apartments	Noted.	Yes										
Additional storage is conveniently located, accessible and nominated for individual apartments	Storage is provided for larger and less frequently accessed items	Basement storage provided for larger items (bikes etc).	Yes										
	Storage space in internal or basement car parks is provided at the rear or side of car spaces or in cages so that allocated car parking remains accessible	Storage areas are provided in cages which are located in a satisfactory location.	Yes										
	If communal storage rooms are provided they should be accessible from common circulation areas of the building	Not applicable	Not applicable										
	Storage not located in an apartment is integrated into the overall building design and is not visible from the public domain	No storage visible from the public domain.	Yes										
4H-1 Noise transfer	Adequate building separation is provided within the development and from neighbouring buildings/adjacent uses (see also section 2F Building separation and section 3F Visual privacy)	Achieved.	Yes										
Noise transfer is minimised through the siting of buildings and building layout	Window and door openings are generally orientated away from noise sources	Where possible, windows and living areas orientated away from train line.	Yes										

<b>Part 4 – Designing the building</b>			
	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	Achieved.	Yes
	Storage, circulation areas and non-habitable rooms should be located to buffer noise from external sources	Non-habitable rooms act as a buffer to noise.	Yes
	The number of party walls (walls shared with other apartments) are limited and are appropriately insulated	Number minimised insulated.	Yes
	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	Achieved.	Yes
4H-2 Acoustic treatments  Noise impacts are mitigated within apartments through layout and acoustic treatments	Internal apartment layout separates noisy spaces from quiet spaces, using a number of the following design solutions: • rooms with similar noise requirements are grouped together • doors separate different use zones • wardrobes in bedrooms are co-located to act as sound buffers	Achieved.	Yes
	Where physical separation cannot be achieved noise conflicts are resolved using the following design solutions: • double or acoustic glazing • acoustic seals • use of materials with low noise penetration properties • continuous walls to ground level courtyards where they do not conflict with streetscape or other amenity requirements	Not applicable	Not applicable

<b>Part 4 – Designing the building</b>			
<p>4J-1 Pollution</p> <p>In noisy or hostile environments the impacts of external noise and pollution are minimised through the careful siting and layout of buildings</p>	<p>To minimise impacts the following design solutions may be used:</p> <ul style="list-style-type: none"> <li>• physical separation between buildings and the noise or pollution source</li> <li>• residential uses are located perpendicular to the noise source and where possible buffered by other uses</li> <li>• non-residential buildings are sited to be parallel with the noise source to provide a continuous building that shields residential uses and communal open spaces</li> <li>• non-residential uses are located at lower levels vertically separating the residential component from the noise or pollution source. Setbacks to the underside of residential floor levels should increase relative to traffic volumes and other noise sources</li> <li>• buildings should respond to both solar access and noise. Where solar access is away from the noise source, non-habitable rooms can provide a buffer</li> <li>• where solar access is in the same direction as the noise source, dual aspect apartments with shallow building depths are preferable (see figure 4J.4)</li> <li>• landscape design reduces the perception of noise and acts as a filter for air pollution generated by traffic and industry</li> </ul>	Sufficient separation to the road and train line.	Yes
	<p>Achieving the design criteria in this Apartment Design Guide may not be possible in some situations due to noise and pollution. Where developments are unable to achieve the design criteria, alternatives may be considered in the following areas:</p> <ul style="list-style-type: none"> <li>• solar and daylight access</li> <li>• private open space and balconies</li> <li>• natural cross ventilation</li> </ul>	Design criteria achievable.	Yes
<p>4J-2 Noise attenuation</p> <p>Appropriate noise shielding or attenuation techniques for the building design, construction and choice of materials are used to mitigate noise transmission</p>	<p>Design solutions to mitigate noise include:</p> <ul style="list-style-type: none"> <li>• limiting the number and size of openings facing noise sources</li> <li>• providing seals to prevent noise transfer through gaps</li> <li>• using double or acoustic glazing, acoustic louvres or enclosed balconies (wintergardens)</li> <li>• using materials with mass and/or sound insulation or absorption properties e.g. solid balcony balustrades, external screens and soffits</li> </ul>	Noted.	Yes



Part 4 – Designing the building			
4K-1 apartment mix	A variety of apartment types is provided	A sufficient mix of three apartment types is provided.	Yes
A range of apartment types and sizes is provided to cater for different household types now and into the future	The apartment mix is appropriate, taking into consideration: <ul style="list-style-type: none"> <li>• the distance to public transport, employment and education centres</li> <li>• the current market demands and projected future demographic trends</li> <li>• the demand for social and affordable housing</li> <li>• different cultural and socioeconomic groups</li> </ul>	Appropriate.	Yes
	Flexible apartment configurations are provided to support diverse household types and stages of life including single person households, families, multi-generational families and group households	Provided.	Yes
4K-2 Apartment distribution	Different apartment types are located to achieve successful facade composition and to optimise solar access (see figure 4K.3)	Provided.	Yes
The apartment mix is distributed to suitable locations within the building	Larger apartment types are located on the ground or roof level where there is potential for more open space and on corners where more building frontage is available	Provided.	Yes
4L-1 Street frontages	Direct street access should be provided to ground floor apartments	Achieved.	Yes
Street frontage activity is maximised where ground floor apartments are located	Activity is achieved through front gardens, terraces and the facade of the building. Design solutions may include: <ul style="list-style-type: none"> <li>• both street, foyer and other common internal circulation entrances to ground floor apartments</li> <li>• private open space is next to the street</li> <li>• doors and windows face the street</li> </ul>	Achieved.	Yes
	Retail or home office spaces should be located along street frontages	Not applicable	Not applicable
	Ground floor apartment layouts support small office home office (SOHO) use to provide future opportunities for conversion into commercial or retail areas. In these cases provide higher floor to ceiling heights and ground floor amenities for easy conversion	Not applicable	Not applicable

Part 4 – Designing the building			
<p>4L-2 Ground floor design</p> <p>Design of ground floor apartments delivers amenity and safety for residents</p>	<p>Privacy and safety should be provided without obstructing casual surveillance. Design solutions may include:</p> <ul style="list-style-type: none"> <li>• elevation of private gardens and terraces above the street level by 1-1.5m (see figure 4L.4)</li> <li>• landscaping and private courtyards</li> <li>• window sill heights that minimise sight lines into apartments</li> <li>• integrating balustrades, safety bars or screens with the exterior design</li> </ul>	Considered acceptable.	Yes
	<p>Solar access should be maximised through:</p> <ul style="list-style-type: none"> <li>• high ceilings and tall windows</li> <li>• trees and shrubs that allow solar access in winter and shade in summer</li> </ul>	Achieved.	Yes
<p>4M-1 Building façade</p> <p>Building facades provide visual interest along the street while respecting the character of the local area</p>	<p>Design solutions for front building facades may include:</p> <ul style="list-style-type: none"> <li>• a composition of varied building elements</li> <li>• a defined base, middle and top of buildings</li> <li>• revealing and concealing certain elements</li> <li>• changes in texture, material, detail and colour to modify the prominence of elements</li> </ul>	Achieved.	Yes
	<p>Building services should be integrated within the overall facade</p>	<p>Not achieved.</p> <p>The services are proposed within the front setback with no landscaping used to facilitate screening.</p>	No
	<p>Building facades should be well resolved with an appropriate scale and proportion to the streetscape and human scale. Design solutions may include:</p> <ul style="list-style-type: none"> <li>• well composed horizontal and vertical elements</li> <li>• variation in floor heights to enhance the human scale</li> <li>• elements that are proportional and arranged in patterns</li> <li>• public artwork or treatments to exterior blank walls</li> <li>• grouping of floors or elements such as balconies and windows on taller buildings</li> </ul>	Achieved.	Yes
	<p>Building facades relate to key datum lines of adjacent buildings through upper level setbacks, parapets, cornices, awnings or colonnade heights</p>	Achieved.	Yes
	<p>Shadow is created on the facade throughout the day with building articulation, balconies and deeper window reveals</p>	Articulation proposed.	Yes

<b>Part 4 – Designing the building</b>			
4M-2 Expression of functions  Building functions are expressed by the facade	Building entries should be clearly defined	The building entry is not well defined. It is setback into the building footprint, adjacent the rear wall of the garbage room, resulting in a tunnel-like effect.	No
	Important corners are given visual prominence through a change in articulation, materials or colour, roof expression or changes in height	No important corners.	Not applicable
	The apartment layout should be expressed externally through facade features such as party walls and floor slabs	Achieved.	Yes
4N-1 Roof treatments  Roof treatments are integrated into the building design and positively respond to the street	Roof design relates to the street. Design solutions may include: • special roof features and strong corners • use of skillion or very low pitch hipped roofs • breaking down the massing of the roof by using smaller elements to avoid bulk • using materials or a pitched form complementary to adjacent buildings	The roof design follows the NGL by mirroring the slope of the area.	Yes
	Roof treatments should be integrated with the building design. Design solutions may include: • roof design proportionate to the overall building size, scale and form • roof materials compliment the building • service elements are integrated	Considered acceptable.	Yes
4N-2 Use of roof space  Opportunities to use roof space for residential accommodation and open space are maximised	Habitable roof space should be provided with good levels of amenity. Design solutions may include: • penthouse apartments • dormer or clerestory windows • openable skylights	Not proposed.	Not Applicable
	Open space is provided on roof tops subject to acceptable visual and acoustic privacy, comfort levels, safety and security considerations	Not proposed.	Yes
4N-3 Roof Sustainability  Roof design incorporates sustainability features	Roof design maximises solar access to apartments during winter and provides shade during summer. Design solutions may include: • the roof lifts to the north • eaves and over	Roof design considered acceptable.	Yes
	Skylights and ventilation systems should be integrated into the roof design	Proposed.	Yes

Part 4 – Designing the building			
4O-1 Landscape Design  Landscape design is viable and sustainable	Landscape design should be environmentally sustainable and can enhance environmental performance by incorporating: • diverse and appropriate planting • bio-filtration gardens • appropriately planted shading trees • areas for residents to plant vegetables and herbs • composting • green roofs or walls	Diverse plantings with a number of large shade providing trees proposed.	Yes
	Ongoing maintenance plans should be prepared	Noted.	Yes
	Microclimate is enhanced by: • appropriately scaled trees near the eastern and western elevations for shade • a balance of evergreen and deciduous trees to provide shading in summer and sunlight access in winter • shade structures such as pergolas for balconies and courtyards	Achieved.	Yes
	Tree and shrub selection considers size at maturity and the potential for roots to compete (see Table 4)	Achieved.	Yes
4O-2 Landscape and streetscape  Landscape design contributes to the streetscape and amenity	Landscape design responds to the existing site conditions including: • changes of levels • views • significant landscape features including trees and rock outcrops	Landscaping within front setback is minimal and does not contribute to streetscape. Refer to BDCP 2015 assessment for further information.	No
	Significant landscape features should be protected by: • tree protection zones (see figure 4O.5) • appropriate signage and fencing during construction	Noted.	Yes
	Plants selected should be endemic to the region and reflect the local ecology	Considered acceptable.	Yes
4P-1 Soil profiles  Appropriate soil profiles are provided	Structures are reinforced for additional saturated soil weight	Large plantings located in the deep soil zones.	Yes
	Soil volume is appropriate for plant growth, considerations include: • modifying depths and widths according to the planting mix and irrigation frequency • free draining and long soil life span • tree anchorage	Considered appropriate.	Yes
	Minimum soil standards for plant sizes should be provided in accordance with Table 5	Achieved.	Yes
4P-2 Plant selections  Plant growth is optimised with appropriate selection and maintenance	Plants are suited to site conditions, considerations include: • drought and wind tolerance • seasonal changes in solar access • modified substrate depths for a diverse range of plants • plant longevity	Noted.	Yes
	A landscape maintenance plan is prepared	Noted.	Yes

Part 4 – Designing the building			
	Irrigation and drainage systems respond to: <ul style="list-style-type: none"> <li>• changing site conditions</li> <li>• soil profile and the planting regime</li> <li>• whether rainwater, stormwater or recycled grey water is used</li> </ul>	Achieved.	Yes
4P-3 Landscape amenity  Planting on structures contributes to the quality and amenity of communal and public open spaces	Building design incorporates opportunities for planting on structures. Design solutions may include: <ul style="list-style-type: none"> <li>• green walls with specialised lighting for indoor green walls</li> <li>• wall design that incorporates planting</li> <li>• green roofs, particularly where roofs are visible from the public domain</li> <li>• planter boxes</li> </ul> Note: structures designed to accommodate green walls should be integrated into the building facade a	Planter boxes proposed throughout the COS.	Yes
4Q-1 Universal Design	Developments achieve a benchmark of 20% of the total apartments incorporating the Liveable Housing Guideline's silver level universal design features. <ol style="list-style-type: none"> <li>1. A safe continuous and step free path of travel from the street entrance and / or parking area to a dwelling entrance that is level.</li> <li>2. At least one, level (step-free) entrance into the dwelling.</li> <li>3. Internal doors and corridors that facilitate comfortable and unimpeded movement between spaces.</li> <li>4. A toilet on the ground (or entry) level that provides easy access.</li> <li>5. A bathroom that contains a hobless (step-free) shower recess.</li> <li>6. Reinforced walls around the toilet, shower and bath to support the safe installation of grabrails at a later date</li> <li>7. A continuous handrail on one side of any stairway where there is a rise of more than one metre.</li> </ol>	<ol style="list-style-type: none"> <li>1. Ramps used to ensure flat surface.</li> <li>2. Entrances to dwellings are step free.</li> <li>3. Doors facilitate unimpeded movement.</li> <li>4. Easy access to toilets.</li> <li>5. Bathrooms have step free showers.</li> <li>6. Reinforced walls located adjoining toilets and showers for hand rail installation.</li> <li>7. Hand rail provided.</li> </ol> Seven (7) apartments required to achieved the 20% - 6 provided.	No
4Q-2 adaptable designs	Adaptable housing should be provided in accordance with the relevant council policy	No such policy.	Not applicable
A variety of apartments with adaptable designs are provided	Design solutions for adaptable apartments include: <ul style="list-style-type: none"> <li>• convenient access to communal and public areas</li> <li>• high level of solar access</li> <li>• minimal structural change and residential amenity loss when adapted</li> <li>• larger car parking spaces for accessibility</li> <li>• parking titled separately from apartments or shared car parking arrangements</li> </ul>	Achieved.	Yes

Part 4 – Designing the building			
4Q-3 Flexible layouts  Apartment layouts are flexible and accommodate a range of lifestyle needs	Apartment design incorporates flexible design solutions which may include: • rooms with multiple functions • dual master bedroom apartments with separate bathrooms • larger apartments with various living space options • open plan 'loft' style apartments with only a fixed kitchen, laundry and bathroom	Achieved.	Yes
4U-1 Passive environmental design  Development incorporates passive environmental design	Adequate natural light is provided to habitable rooms (see 4A Solar and daylight access)  Well located, screened outdoor areas should be provided for clothes drying	Achieved.  Provided.	Yes  Yes
4U-2 Solar design  Development incorporates passive solar design to optimise heat storage in winter and reduce heat transfer in summer	A number of the following design solutions are used: • the use of smart glass or other technologies on north and west elevations • thermal mass in the floors and walls of north facing rooms is maximised • polished concrete floors, tiles or timber rather than carpet • insulated roofs, walls and floors and seals on window and door openings • overhangs and shading devices such as awnings, blinds and screens  Provision of consolidated heating and cooling infrastructure should be located in a centralised location (e.g. the basement)	Awnings and blinds to be utilised along with thermal insulation.       No central systems.	Yes       Not applicable
4U-3 Natural ventilation  Adequate natural ventilation minimises the need for mechanical ventilation	A number of the following design solutions are used: • rooms with similar usage are grouped together • natural cross ventilation for apartments is optimised • natural ventilation is provided to all habitable rooms and as many non-habitable rooms, common areas and circulation spaces as possible	Cross ventilation is maximised.  Habitable rooms have access to natural ventilation.	Yes
4V-1 Potable water  Potable water use is minimised	Water efficient fittings, appliances and wastewater reuse should be incorporated  Apartments should be individually metered  Rainwater should be collected, stored and reused on site  Drought tolerant, low water use plants should be used within landscaped areas	Water efficient fittings and appliances required per BASIX certificate.  Noted.  Not required by BASIX.  Plantings considered acceptable.	Yes  Yes  Not applicable  Yes



Part 4 – Designing the building			
4V-2 Stormwater  Urban stormwater is treated on site before being discharged to receiving waters	Water sensitive urban design systems are designed by a suitably qualified professional	This matter was referred to Council's Development Engineer for comment, the Development Engineer raised no objection to the proposal in relation to SUDS.	Yes
	A number of the following design solutions are used: • runoff is collected from roofs and balconies in water tanks and plumbed into toilets, laundry and irrigation • porous and open paving materials is maximised • on site stormwater and infiltration, including bio-retention systems such as rain gardens or street tree pits	Not required by BASIX.	Not applicable
4V-3 Flood  Flood management systems are integrated into site design	Detention tanks should be located under paved areas, driveways or in basement car parks	On Site Detention (OSD) provided under pavement.	Yes
	On large sites parks or open spaces are designed to provide temporary on site detention basins	Not applicable	Not applicable
4W-1 Waste storage  Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents	Adequately sized storage areas for rubbish bins should be located discreetly away from the front of the development or in the basement car park	Provided within the building.	Yes
	Waste and recycling storage areas should be well ventilated	Area is well ventilated with two openings.	Yes
	Circulation design allows bins to be easily manoeuvred between storage and collection points	This matter was subject of a referral response by Council's Resource Recovery Officer, who raised objection to the application. See below.	No.
	Temporary storage should be provided for large bulk items such as mattresses	This matter was subject of a referral response by Council's Resource Recovery Officer, who raised objection to the application. See below.	No.
	A waste management plan should be prepared	This matter was subject of a referral response by Council's Resource Recovery Officer, who raised objection to the application. See below.	No.
4W-2 Domestic waste  Domestic waste is minimised by providing safe	All dwellings should have a waste and recycling cupboard or temporary storage area of sufficient size to hold two days worth of waste and recycling	Provided.	Yes
	Communal waste and recycling rooms are in convenient and accessible locations related to each vertical core	Provided.	Yes

<b>Part 4 – Designing the building</b>			
and convenient source separation and recycling	For mixed use developments, residential waste and recycling storage areas and access should be separate and secure from other uses	Not applicable	Not applicable
	Alternative waste disposal methods such as composting should be provided	Not applicable	Not applicable
4X-1 Weathering  Building design detail provides protection from weathering	A number of the following design solutions are used: • roof overhangs to protect walls • hoods over windows and doors to protect openings • detailing horizontal edges with drip lines to avoid staining of surfaces • methods to eliminate or reduce planter box leaching • appropriate design and material selection for hostile locations	Proposed.	Yes
4X-2 Maintenance  Systems and access enable ease of maintenance	Window design enables cleaning from the inside of the building	Windows can be cleaned from within the building.	Yes
	Building maintenance systems should be incorporated and integrated into the design of the building form, roof and facade	Noted.	Yes
	Design solutions do not require external scaffolding for maintenance access	Minimised.	Yes
	Manually operated systems such as blinds, sunshades and curtains are used in preference to mechanical systems	Noted.	Not Applicable
	Centralised maintenance, services and storage should be provided for communal open space areas within the building	Provided.	Yes
4X-3 Materials  Material selection reduces ongoing maintenance costs	A number of the following design solutions are used: • sensors to control artificial lighting in common circulation and spaces • natural materials that weather well and improve with time such as face brickwork • easily cleaned surfaces that are graffiti resistant • robust and durable materials and finishes are used in locations which receive heavy wear and tear, such as common circulation areas and lift interiors	This matter could be dealt with by conditions if the application were to be approved, for example, by requiring a lighting plan prior to issue of a Construction Certificate.  Surfaces considered easy to clean.	Yes

As identified in the above table, the proposed fails to comply with a number of requirements of the ADG.

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

The application is for infill affordable housing development, lodged pursuant to the provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARH SEPP).

Whilst the ARH SEPP has been repealed by the State Environmental Planning Policy (Housing) 2021, a savings provision under Schedule 7A, Clause 2(1)(a) states that the application is still to be considered under the 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, floor space ratio bonuses.

DIVISION 1 IN-FILL AFFORDABLE HOUSING			
Clause	Requirement	Comment	Compliance
10	Development to which Division applies		
1.	<p>This Division applies to residential development if—</p> <ul style="list-style-type: none"> <li>a. the development is permitted with consent under another environmental planning instrument, and</li> <li>b. the development is on land that does not contain a heritage item that is identified in an environmental planning instrument, an interim heritage order or on the State Heritage Register under the Heritage Act 1977, and</li> <li>c. the percentage of the gross floor area of the development that is to be used for the purposes of affordable housing is at least 20%, and</li> <li>d. for development on land in the Greater Sydney region, Newcastle region or Wollongong region—all or part of the development is within an accessible area, and</li> <li>e. for development on other land—all or part of the development is within 400 metres walking distance of land within Zone B1 Neighbourhood Centre, Zone B2 Local Centre or Zone B4 Mixed Use, or within a land use zone that is equivalent to those zones.</li> </ul>	<ul style="list-style-type: none"> <li>a. The development is permitted with consent under BLEP 2015.</li> <li>b. The development is on land that does not contain a heritage item.</li> <li>c. The development comprises a GFA of in excess of 20% affordable housing.</li> <li>d. The development is on land that is accessible and within Greater Sydney and is within an accessible area.</li> <li>e. N/A.</li> </ul>	Yes
13	Floor space ratios		
2.	<p>The maximum floor space ratio for the development to which this clause applies is the existing maximum floor space ratio for any form of residential accommodation permitted on the land on which the development is to occur, plus—</p> <ul style="list-style-type: none"> <li>a. if the existing maximum floor space ratio is 2.5:1 or less</li> <li>i. 0.5:1—if the percentage of the gross floor area of the development that is used for affordable housing is 50 per cent or higher, or</li> </ul>	<p>Existing permissible FSR is 1:1.</p> <p>19 of the 35 units are proposed as affordable housing. The total GFA of these units is 1,412m<sup>2</sup> (52%).</p> <p>Bonus 0.5:1 FSR afforded to the development.</p> <p><b>1.5:1 FSR is permitted.</b></p> <p><u>PROPOSED</u> GF: 590.3 FF: 729 2F: 729</p>	Yes

**DIVISION 1 IN-FILL AFFORDABLE HOUSING**

	<p>ii. Y:1—if the percentage of the gross floor area of the development that is used for affordable housing is less than 50 per cent, where—</p> <p><b>AH</b> is the percentage of the gross floor area of the development that is used for affordable housing.</p> <p><math>Y = AH \div 100</math> Or</p> <p>b. if the existing maximum floor space ratio is greater than 2.5:1—</p> <p>i. 20 per cent of the existing maximum floor space ratio—if the percentage of the gross floor area of the development that is used for affordable housing is 50 per cent or higher, or</p> <p>ii. Z per cent of the existing maximum floor space ratio—if the percentage of the gross floor area of the development that is used for affordable housing is less than 50 per cent, where—</p> <p><b>AH</b> is the percentage of the gross floor area of the development that is used for affordable housing.</p> <p><math>Z = AH \div 2.5</math></p> <p>Note: In this clause, gross floor area does not include any car parking (including any area used for car parking).</p>	<p>3F: 658.2 TOTAL: 2706.5sqm SITE AREA: 1960.2sqm</p> <p><b>1.38:1 FSR proposed.</b></p>	
3.	In this clause, <b>gross floor area</b> does not include any car parking (including any area used for car parking).		
14	Standards that cannot be used to refuse consent		
1.	<p><b>Site and solar access requirements</b> - A consent authority must not refuse consent to development to which this Division applies on any of the following grounds—</p> <p>b. Site area - if the site area on which it is proposed to carry out the development is at least 450 square metres,</p>	<p>Site area is in excess of 450m<sup>2</sup>.</p>	Yes

**DIVISION 1 IN-FILL AFFORDABLE HOUSING**

	<p>c. Landscaped area - if—</p> <p>i. 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, or</p> <p>ii. in any other case—at least 30 per cent of the site area is to be landscaped,</p>	452.7 of 1960 = 23% landscaped area.	
	<p>d. Deep soil zones - if, in relation to that part of the site area (being the site, not only of that particular development, but also of any other associated development to which this Policy applies) that is not built on, paved or otherwise sealed—</p> <p>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 deep soil zone), and</p> <p>ii. each area forming part of the deep soil zone has a minimum dimension of 3 metres, and</p> <p>iii. if practicable, at least two-thirds of the deep soil zone is located at the rear of the site area,</p>	<p>441.6 of 1960= 23% area suitable for deep soil planting.</p> <p>Over 2/3rd of deep soil is located at the rear.</p>	
	<p>e. solar access- if living rooms and private open spaces for a minimum of 70 per cent of the dwellings of the development receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter.</p>	Achieved.	
2.	<b>General</b> - A consent authority must not refuse consent to development to which this Division applies on any of the following grounds—	Complies – must not refuse on these grounds.	Yes

**DIVISION 1 IN-FILL AFFORDABLE HOUSING**

	<p>a. Parking - if—</p> <p>i. in the case of a development application made by a social housing provider for development on land in an accessible area—at least 0.4 parking spaces are provided for each dwelling containing 1 bedroom, at least 0.5 parking spaces are provided for each dwelling containing 2 bedrooms and at least 1 parking space is provided for each dwelling containing 3 or more bedrooms, or</p> <p>ii. in any other case—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,</p>	<p>Per the ADG  3 x 3 bed units (1.5) = 4.5 spaces  24 x 2 bed units (1) = 24 spaces  8 x 1 bed units (0.5) = 8 spaces  Visitors = 7</p> <p>36.5 spaces required. (37 rounded)</p> <p>41 spaces provided.</p>	
	<p>b. Dwelling size - if each dwelling has a gross floor area of at least—</p> <p>i. 35 square metres in the case of a bedsitter or studio, or</p> <p>ii. 50 square metres in the case of a dwelling having 1 bedroom, or</p> <p>iii. 70 square metres in the case of a dwelling having 2 bedrooms, or</p> <p>iv. 95 square metres in the case of a dwelling having 3 or more bedrooms.</p>	Achieved.	
3.	A consent authority may consent to development to which this Division applies whether or not the development complies with the standards set out in subclause (1) or (2).	Noted.	Noted.
15	<b>Design Requirements</b>		
1.	<p>A consent authority must not consent to development to which this Division applies unless it has taken into consideration the following, to the extent to which they are consistent with this Policy</p> <p>a. the Seniors Living Policy: Urban Design Guidelines for Infill Development published by the Department of Infrastructure, Planning and Natural Resources in March 2004</p> <p>b. for development for the purposes of manor houses or multi dwelling housing (terraces)—the Low Rise Housing Diversity Design Guide.</p>	Not applicable	Not applicable



DIVISION 1 IN-FILL AFFORDABLE HOUSING			
2.	This clause does not apply to development to which clause 4 of State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development applies.	ADG applies.	Not applicable
16 Continued application of SEPP 65			
Nothing in this Policy affects the application of State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development to any development to which this Division applies.			
16A Character of local area			
A consent authority must not consent to development to which this Division applies unless it has taken into consideration whether the design of the development is compatible with the character of the local area.		The proposed development is considered to be inconsistent with the expected character of the area. The development proposed a highly built front setback (substation, booster, ramp and driveway) of landscaping.	No
17 Must be used for affordable housing for 10 years			
1.	A consent authority must not consent to development to which this Division applies unless conditions are imposed by the consent authority to the effect that— a. for 10 years from the date of the issue of the occupation certificate— i. the dwellings proposed to be used for the purposes of affordable housing will be used for the purposes of affordable housing, and ii. all accommodation that is used for affordable housing will be managed by a registered community housing provider, and b. a restriction will be registered, before the date of the issue of the occupation certificate, against the title of the property on which development is to be carried out, in accordance with section 88E of the Conveyancing Act 1919, that will ensure that the requirements of paragraph (a) are met.	Noted.	Noted
2.	Subclause (1) does not apply to development on land owned by the Land and Housing Corporation or to a development application made by, or on behalf of, a public authority.	Not applicable	Not applicable

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

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

Provision/ Standard	Requirement	Proposal	Complies																
Part 2 Permitted or Prohibited Development																			
2.1-2.3 Zoning	R4 High Density Residential	Residential Flat Building (permitted in the zone with consent).	Yes																
2.7 Demolition requires development consent	The demolition of a building or work may be carried out only with development consent.	Consent sought for demolition.	Yes																
Part 4 Principal Development Standards																			
4.1B Minimum lot sizes and special provisions for certain dwellings	1500sqm site area 30 metre frontage	1960m2. 31.70m frontage	Yes																
4.3 Height of Buildings	13m	13.3m – a revised Clause 4.6 has not been submitted.	No																
4.4 Floor Space Ratio	1:1	<table><tr><td colspan="2"></td></tr><tr><td>GF</td><td>766</td></tr><tr><td>1<sup>st</sup></td><td>780</td></tr><tr><td>2nd</td><td>780</td></tr><tr><td>3rd</td><td>540</td></tr><tr><td>Total</td><td>2866</td></tr><tr><td>Site</td><td>1960</td></tr><tr><td>FSR</td><td>1:1.36</td></tr></table>			GF	766	1 <sup>st</sup>	780	2nd	780	3rd	540	Total	2866	Site	1960	FSR	1:1.36	Yes.  See ARH SEPP.
GF	766																		
1 <sup>st</sup>	780																		
2nd	780																		
3rd	540																		
Total	2866																		
Site	1960																		
FSR	1:1.36																		
5.6 Architectural roof features		None proposed	Not applicable																
5.23 Public Bushland	The objective of this clause is to protect and ensure the ecological viability of bushland, including rehabilitated areas in urban areas	The proposed development has been considered against the provisions Part 5.23 of the BLEP 2015 and the former provisions of Chapter 6 of the SEPP (Biodiversity and Conservation) 2021. The proposed development is unlikely to have any impact on public bushland and has been considered by Council's Tree Officer who raised no objection to the proposal, subject to suitable conditions	Yes																

Provision/ Standard	Requirement	Proposal	Complies
<b>Part 6 Local Provisions</b>			
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.	Earthworks is consistent with this clause.	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.	This application was referred to Council's Development Engineer who raised no objection subject to the imposition of suitable conditions. On this basis, the proposal is considered acceptable.	Yes

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

The Draft Canterbury Bankstown Local Environmental Plan (CBLEP) applies to the subject site. The Draft CBLEP has been publicly exhibited and was adopted by the Canterbury Bankstown Local Planning Panel on 30 June 2020. While the draft instrument proposes the introduction of some additional provisions, for the most part, the Draft CBLEP 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 is inconsistent with the draft instrument based on the assessment above.

**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 B1, Section 9 of *Bankstown Development Control Plan 2015*.

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

<b>Standard</b>	<b>Requirement</b>	<b>Proposal</b>	<b>Complies</b>
<b>9.4 Fill</b>	Any reconstituted ground level on the allotment must not exceed a height of 600mm above the natural ground level of an adjoining property except where: (a) the residential flat building, serviced apartments or shop top housing is required to be raised to achieve a suitable freeboard in accordance with Part B12 of this DCP; or (b) the fill is contained within the ground floor perimeter of the residential flat building, serviced apartments or shop top housing to a height no greater than 1 metre above the natural ground level of the allotment.	No fill proposed as part of application.	Yes
<b>9.5 Primary Setback</b>	The minimum setback for a building wall to the primary frontage is:  (b) 6 metres for all other allotments.	6m setback proposed from the primary frontage to the building wall.	Yes
<b>6.8 Side &amp; Rear Setbacks</b>	For a building with 3 or more storeys, the minimum setback to the side and rear boundaries of the allotment is 4.5 metres provided the average setback is 0.6 multiplied by the wall height.	Setbacks prescribed by the ADG prevail from those contained within the BDCP 2015.	Not Applicable
<b>9.10 Basement Setbacks</b>	The minimum setback for a basement level to the side and rear boundaries of the allotment is 2 metres.	2m setback achieved throughout.	Yes
<b>9.11 Driveway Setbacks</b>	The minimum setback for a driveway to the side and rear boundaries of the allotment is 1 metre.	1m provided.	Yes
<b>9.12 Private Open Space</b>	Development must locate the private open space behind the front building line. This clause does not apply to any balconies where it is used to provide articulation to the street facade.	All POS provided behind the front building line.	Yes
<b>9.13 Building</b>	Council applies the design quality principles of State	As above, SEPP 65 and the Apartment Design Guide have been	Yes

Standard	Requirement	Proposal	Complies
<b>Design</b>	Environment Planning Policy No. 65–Design Quality of Residential Apartment Development and the Apartment Design Guide to residential flat buildings, serviced apartments and shop top housing. This includes buildings that are two storeys or less, or contain less than four dwellings.	considered.	
<b>9.14 Demolition</b>	Development for the purpose of residential flat buildings, serviced apartments and shop top housing must demolish all existing dwellings (not including any heritage items) on the allotment.	All dwellings and associated ancillary structures proposed to be demolished.	Yes
<b>9.15 Adaptable Dwellings</b>	Residential flat buildings, serviced apartments and shop top housing with 10 or more dwellings must provide at least one adaptable dwelling plus an adaptable dwelling for every 50 dwellings in accordance with AS 4299–Adaptable Housing.  (1 required)	6 provided.	Yes
<b>9.16 Roof Pitch</b>	The maximum roof pitch for residential flat buildings, serviced apartments and shop top housing is 35 degrees.	Flat roof proposed.	Yes
<b>9.20 Roof top terrace</b>	Council does not allow residential flat buildings, serviced apartments and shop top housing to have roof-top balconies and the like.	Not proposed.	Yes
<b>9.21 Plant Sitting</b>	The siting of a plant room, lift motor room, mechanical ventilation stack, exhaust stack, and the like must:  (a) integrate with the architectural features of the building to which it is attached; or (b) be sufficiently screened when viewed from the street and neighbouring properties.	Plant / pump room is located in basement.	Yes
<b>9.22 Car Parking</b>	Development must locate the car parking spaces behind the front building line	Located within the basement.	Yes
<b>9.23 Substations</b>	The location and design of substations must be shown on the plans.	Shown	Yes
<b>9.24 Substations</b>	Substations should locate underground. Where not possible, substations are to be integrated into the building	Located on GF within front setback and integrated into the façade of the development.	Yes

Standard	Requirement	Proposal	Complies
	design and concealed from public view.		
<b>9.25 Substations</b>	Substations must not locate forward of the front building line.	Substation is located within the front setback, forward of the front building line.	No
<b>9.26 Utilities</b>	The location and design of utilities and building services (such as plant rooms, hydrants, equipment and the like) must be shown on the plans.	Details of utilities provided.	Yes
<b>9.27 Utilities</b>	Utilities and building services are to be integrated into the building design and concealed from public view.	Details of utilities provided.	Yes
<b>9.29 Landscaping</b>	<p>Development must landscape the following areas on the allotment by way of trees and shrubs with preference given to native vegetation endemic to the City of Bankstown (refer to Appendix 4 and Appendix 5 for a list of suitable species):</p> <p>(a) a minimum 45% of the area between the building and the primary frontage; and  (b) a minimum 45% of the area between the building and the secondary frontage; and  (c) plant more than one 75 litre tree between the building and the primary frontage (refer to Appendix 5 for a list of suitable trees in the City of Bankstown)</p>	<p>(a) Front setback = 208.1m<sup>2</sup>.  Landscaped area = 83.6m<sup>2</sup>.</p> <p>40% of the area between the building and the primary frontage has been provided as landscaping.</p> <p>(b) NA.</p> <p>(c) Two (2) x 75L tree proposed within front setback.</p>	No
<b>Part B5 Car Parking</b>			
<b>2.1 Number of car parking spaces</b>	<p>R4 zone:</p> <ul style="list-style-type: none"> <li>1 Space per 1 bed dwelling (9 spaces)</li> <li>1.2 car spaces per 2 bed dwelling (28.8 spaces);</li> <li>1.5 car spaces per 3 or more bed dwelling (3 spaces); and</li> <li>1 Visitor space per 5 dwellings (7 spaces)</li> <li>Total 48 spaces</li> </ul>	41 spaces provided. 36.5 (37) required in accordance with the RMS guidelines detailed in the Apartment Design Guide	Not applicable as the ADG overrides

The proposed development is not consistent with the above numerical controls.

### **Additional considerations:**

### **Resource Recovery**

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

Waste Management Plan

A Waste Management Plan has been submitted, however it is not satisfactory.

Areas to address:

- The bin carting route must be less than 10m. Section 4.2 (Assumptions) within Part 4 (Ongoing Use of the Building) refers to 14m being within Council's requirements.

Residential Waste and Recycling Requirements:

This development, containing 35 residential units, requires allocation of waste and recycling bins

- 8 x 660L bulk garbage bins (collected weekly)
- 7 x 660L bulk recycling bins (collected fortnightly)
- 2 x 240L garden organics bins (collected fortnightly)

Bin Type	Height	Width	Depth
240 Litres	1080mm	580mm	735mm
660 Litres	1250mm	1370mm	850mm

All waste and recycling bulk bins are collected by Council from the communal bin storage area as a collect and return service.

It is the responsibility of the property manager or residents to present any provided garden waste bins to the kerbside for collection by Council the evening before the designated collection day. An area of at least 5m (l) x 1m (w) needs to be provided for this purpose.

Residential Bin Storage Area:

It is noted that the residential communal bin storage area has been moved to the ground floor, to allow for the removal of the bin presentation area.

Areas to address:

- Be of sufficient size to accommodate 15 x 660L and 2 x 240L bins with additional room for manoeuvring (minimum aisle space of 1.5m and 15cm between bins);
- Bins must not be stacked, with all bins able to be accessed by residents and collection crews at all times;
- The garden organic bins are not to be stored within the bin carting route used by collection crews. This route must be a minimum 1.5m; and
- The residential access doorway is to open outwards, so not to block the collection crew access doorway.

Residential Bin Carting Route

Areas to address:

- To be direct and less than 10 metres,
- Include a kerb ramp at the nominated collection point;
- Minimum 2m wide hard surface;
- Non-slip, free from obstacles and steps. There appears to be step/s along the bin carting route; and
- A maximum grade of 1:30 (3%).

Residential Bulky Waste

The current dimensions of the bulky waste area do not allow for a 2m doorway.



Areas to address:

- *Doorways must be at least 2m wide*
- *It will be the responsibility of the property manager and/or residents to move the items to the presentation areas for collection at the appropriate time.*
- *Consideration should be given to where bulky waste items can be presented for collection that does not impact on the visual amenity of any neighbouring properties.*

### **Canterbury Bankstown Local Infrastructure Contributions Plan 2022**

Should the application be supported, the proposed development would attract a contribution under the Canterbury Bankstown Local Infrastructure Contributions Plan 2022. However, as the application is recommended for refusal no contributions are sought at this stage.

#### **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, 2021.

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

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

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

The application has been assessed under Section 4.15 of the Act, and as demonstrated throughout the body of this report, the application is poorly resolved in a number of areas to enable approval. It is acknowledged that there has been some attempt by the Applicant to address some concerns raised by Council. However, those efforts have resulted in additional non-compliances that have not been considered and the amended design still results in a number of variations to the relevant planning controls, which cannot be supported.

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

The application was advertised/notified for a period of twenty-one (21) days from 27 October 2021 to 16 November 2021. No submissions were received during this period.

The application was then re-notified for period of twenty-one (21) days, from 14 October 2022 to 3 November 2022. One (1) submission was received which raised concerns relating to the following matters.

### Site isolation

Evidence has been submitted by the Applicant to demonstrate the efforts to made to acquire the site that is subject to isolation and they were unsuccessful. In that respect, the Applicant has undertaken all measures to address the site isolation and this will not form a reason of refusal for this application.

### Retention of solar access

The proposed development was assessed against the solar access criteria detailed in 3B-2 Orientation – Overshadowing of the Apartment Design Guide and is found to comply. In that respect concerns in relation to solar access do not form a reason of refusal for this application.

### Side setbacks and retention of privacy

The proposed development was assessed against the visual privacy criteria detailed in 3F – Building Separation in the Apartment Design Guide and is found to comply. In that respect concerns in relation to setbacks and privacy do not form a reason of refusal for this application.

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

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

## **CONCLUSION**

The Development Application has been assessed in accordance with the provisions of Section 4.15 of the Environmental Planning and Assessment Act 1979, Bankstown Local Environmental Plan 2015 and Bankstown Development Control Plan 2015. As outlined in the report, the proposed development fails to comply with a number of standards and controls including those relating to common open space, solar access, visual privacy, landscaping, streetscape and building within the front setback. Given the consideration above, the development application is not worthy of support.

## **RECOMMENDATION**

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



## REASONS FOR REFUSAL

Canterbury-Bankstown Council, as consent authority under the provisions of the *Environmental Planning and Assessment Act 1979*, gives notice under Section 4.16 of the Act, that the Development Application, described above, was refused for the following reasons:

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. 3D-1 Communal Open Space in that the proposed areas of Communal Open Space are poorly resolved, fail to achieve minimum solar access requirements, are in conflict with the private open spaces of the ground floor units, conflict with resident thoroughfares, are separated from the deep soil zones and located within side setbacks;
  - b. 3D-2 Communal Open Space Design in that the visual impact of the proposed services and substations have not been considered;
  - c. 3F-2 Visual Privacy in that the communal open space directly conflicts with the private open space areas and overlooks the living areas of a number of apartments;
  - d. 3G-1 Building Entries in that the pedestrian entry point from Waldron Road is substantially setback within the building envelope which does not facilitate a clear and safe entry point;
  - e. 3G-2 Entry Accessibility in that the entry point is not clearly visible from Waldron Road, due to it being setback so far into the ground floor and the ramp being provided in the front setback and not integrated into the building;
  - f. 4F-1 Common Circulation Space in that there are more than 8 units per circulation core on Levels 1 & 2 and no additional measures taken to improve upon the amenity of the spaces;
  - g. 4M-1 Building Façade in that the services provided at the front of the building are not appropriately integrated and detract from the streetscape;
  - h. 4M-2 Expression of Functions in that the building entry is not clearly defined;
  - i. 4O-2 Landscape and Streetscape in that the proposed front landscaping does not contribute to the desired streetscape character of the area;
  - j. 4Q-1 Universal Design in that an insufficient number of apartments are proposed to incorporate the Liveable Housing Guideline's silver level universal design features; and
  - k. 4W-1 Waste Storage in that the minimum waste storage requirements have not been provided.

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 16A of State Environmental Planning (Affordable Rental Housing) 2009 as the development is not consistent with the expected built character of the area.
3. The proposed development pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979] is not consistent with Clause 4.3 of Bankstown Local Environmental Plan 2015 with respect to Height of buildings.
4. The proposed development pursuant to the provisions Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, as it does not comply with the controls of the Bankstown Development Control Plan 2015, including:
  - a. Clause 9.25 Substations in that the substation is located forward of the front building line; and
  - b. Clause 9.29 Landscaping in that insufficient area between the building and the primary frontage has been provided as landscaping.
5. For the reasons stated above, it is considered that the development is not in the public interest [Pursuant to S4.15(1)(e) of the *Environmental Planning & Assessment Act 1979*].

-END-

---

## Canterbury Bankstown Local Planning Panel - 01 May 2023

---

<b>ITEM 2</b>	<b>205A Homer Street, Earlwood</b>  <b>Alterations and additions to existing commercial tenancy and conversion to a 34-place centre-based child care facility</b>
<b>FILE</b>	<b>DA-604/2022 – Budjar / Canterbury Ward</b>
<b>ZONING</b>	<b>B2 Local Centre</b>
<b>DATE OF LODGEMENT</b>	<b>25 August 2022</b>
<b>APPLICANT</b>	<b>The Trustee for MKD Architects Trust</b>
<b>OWNERS</b>	<b>Novarum Living Pty Ltd</b>
<b>ESTIMATED VALUE</b>	<b>\$596,193</b>
<b>AUTHOR</b>	<b>Planning</b>

### REPORT

---

In accordance with the Local Planning Panels made by the Minister for Planning and Public Spaces, the Canterbury-Bankstown Local Planning Panel is required to determine applications involving development to which ten or more unique submissions against the development have been received. The development proposed under DA-604/2022 meets this criteria, with 16 submissions being received and is therefore reported to the Canterbury-Bankstown Local Planning Panel for determination.

Development Application No. 604/2022 proposes alterations and additions to an existing commercial tenancy and conversion to a 34-place centre child care facility.

The Development Application has been assessed in accordance with the matters for consideration contained in Section 4.15(1) of the *Environmental Planning and Assessment Act 1979*, requiring, amongst other things, and assessment against the provisions contained in Education and Care Services National Regulations, State Environmental Planning Policy (Resilience and Hazards) 2021, State Environmental Planning Policy (Biodiversity and Conversation) 2021, State Environmental Planning Policy (Transport and Infrastructure) 2021, Canterbury Local Environmental Plan 2012, Draft Consolidated Canterbury Bankstown Local Environmental Plan and Canterbury Development Control Plan 2012.

The application was advertised for a period of 21 days. Fifteen (15) submissions in objection and one (1) submission in favour to the development were received for the subject Development Application.

The assessment of the subject Development Application against the matters for consideration contained in Section 4.15(a) of the *Environmental Planning and Assessment Act 1979*, found that the proposed development is worthy of support.

## **POLICY IMPACT**

---

This matter has no direct policy implications.

## **FINANCIAL IMPACT**

---

The proposed matter being reported has no direct financial implications.

## **RECOMMENDATION**

---

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

## **ATTACHMENTS**

---

- A. Assessment Report
- B. Conditions of Consent



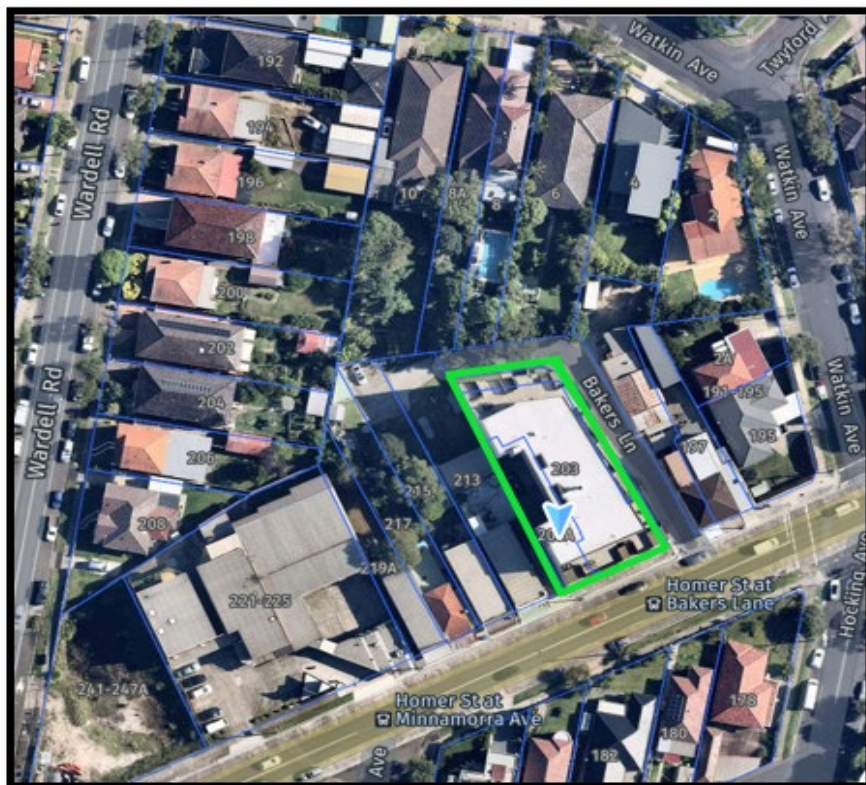
## **DA-604/2022 ASSESSMENT REPORT**

### **SITE & LOCALITY DESCRIPTION**

The subject site is known as No. 205 and 205A Homer Street, Earlwood, which has been stratum subdivided. The part of the site the subject of the proposed development consists of one allotment known as Lot 2 DP 1224188, 205A Homer St, Earlwood. The overall site is a corner allotment with a frontage of 22m to Homer Street and combined frontage of 65m to Bakers Lane. The site has an area of 1146m<sup>2</sup> and is located within the Earlwood Local Centre.

The site is zoned B2 Local Centre under the Canterbury Local Environmental Plan 2012 (LEP 2012) and is located on the northern side of Homer Street. The site currently contains a 5-storey mixed commercial and residential development, consisting of 26 apartments, 1 commercial tenancy on the ground floor with 2 levels of basement car parking. The part of the site being developed is a stratum lot, and consists of the ground floor commercial tenancy, as well part of the basement for car parking. The remainder of the basement car park and the 5 levels of residential form a separate stratum lot (known as Strata Plan 94176).

The surrounding development consists of smaller-scale mixed commercial and residential developments to the east and west; and single and double storey dwelling houses to the north. On the opposite side of the street, the southern side of Homer Street, are single- and two-storey dwelling houses. The commercial tenancy on the subject site has previously been approved for, and operated as, a gym and a café. The context of the subject site is illustrated in the aerial photo below:



**Figure 1:** Aerial of subject site in green. **Source:** NearMap 2023

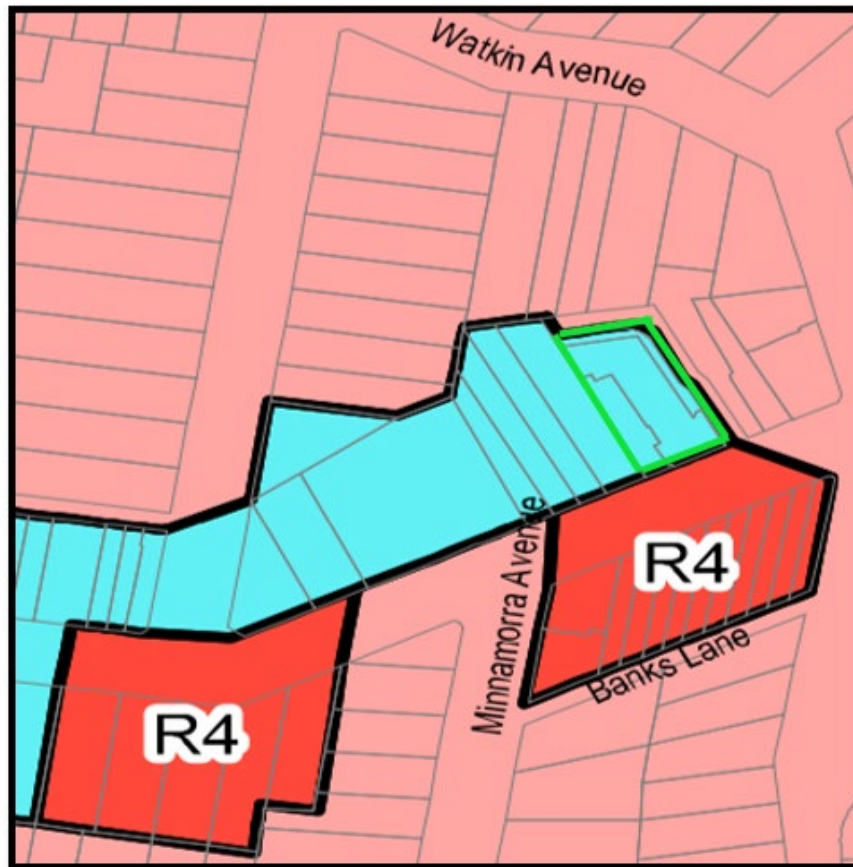


Figure 2: Zoning Map Excerpt CLEP 2012

### **PROPOSED DEVELOPMENT**

The development application proposes the alterations and additions to an existing commercial tenancy and conversion to a 34-place centre-based child care facility.

The specifics of the development are as follows:

Level	Description
Existing Upper Basement Level	Eight (8) car spaces, bicycle rack, waste storage, lift & services.
Ground Floor	Indoor and outdoor play area, toilet facilities, kitchen, laundry, administration rooms and lift.

The operational details for the proposed centre-based child care facility are as follows:

Number of children:

- Thirty-four (34) x 3-6 year olds

Number of employees:

- Five (5)

Hours of operation:

- Monday to Friday – 7.00am to 7.00pm

- Closed public holidays and weekends.



**Figure 3:** Street view of subject site. **Source:** Google Maps 2023

### Statutory Considerations

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

- Education and Care Services National Regulations
- State Environmental Planning Policy (Biodiversity and Conservation) 2021
- State Environmental Planning Policy (Resilience and Hazards) 2021
- State Environmental Planning Policy (Transport and Infrastructure) 2021
- Draft Canterbury Bankstown Local Environmental Plan 2020
- Canterbury Local Environmental Plan 2012 (CLEP 2012)
- Canterbury Development Control Plan 2012 (CDCP 2012)
- Child Care Planning Guideline

### **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 (Biodiversity and Conservation) 2021**

##### **Chapter 2 - Vegetation in non-rural areas**

The aims of Chapter 2 of State Environmental Planning Policy (Biodiversity and Conservation) 2021 are to protect the biodiversity value of trees and other vegetation in non-rural areas and to preserve the amenity of non-rural areas through the



preservation of trees and other vegetation. The SEPP applies to the development site, but the application does not propose demolition or the removal of any non-exempt vegetation. It is considered that the proposal satisfies the provisions of Chapter 2 of State Environmental Planning Policy (Biodiversity and Conservation) 2021.

#### Chapter 6 - Bushland in urban areas

Note: this Chapter of the SEPP has been removed as of 21 November 2022 (after this application was lodged) with the provisions being moved to Clause 5.23 of Canterbury Local Environmental Plan 2012. A discussion of these provisions follows within this report.

#### **State Environmental Planning Policy (Resilience and Hazards) 2021**

Chapter 4 of State Environmental Planning Policy (Resilience and Hazards) 2021 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, the consent authority 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 development site comprises of alterations and additions to the existing mixed commercial residential building and conversion of the ground floor level for the purpose of a new centre-based child care facility. The proposed development does not involve any physical works that would disturb any potentially contaminated land. There is no evidence of fill onsite or any indicators of potential contamination. As such, the site is considered to be consistent with State Environmental Planning Policy (Resilience and Hazards) 2021.

#### **State Environmental Planning Policy (Transport and Infrastructure) 2021**

Chapter 3 of the SEPP applies to the development, as it is for the purpose of an early education and care facility. The development is consistent with the aims and standards of the SEPP, with particular regard to Part 3.3 Early education and care facilities—specific development controls, which is demonstrated within this report through the provision of adequate indoor and outdoor play areas, consistency with the *Child Care Planning Guideline* and compliance with non-discretionary development standards.

The table below provides a summary of the assessment of the proposed development against the applicable requirements of Part 3.3 Early education and care facilities—specific development controls:

Standard	Requirement	Comment	Complies
3.22 – Concurrence of Regulatory Authority required	(1) This section applies to development for the purpose of a centre-based child care facility if:		
	The floor area of the building or place does not	The proposed facility has 133m <sup>2</sup> of indoor	Yes

Standard	Requirement	Comment	Complies
for certain development	comply with regulation 107 (indoor unencumbered space requirements) of the Education and Care Services National Regulations,	unencumbered space which complies with the 111m <sup>2</sup> required by the Regulations. This application does not require concurrence.	
	The outdoor space requirements for the building or place do not comply with regulation 108 (outdoor unencumbered space requirements) of those Regulations.	The proposed facility has 334m <sup>2</sup> of outdoor space which complies with the 238m <sup>2</sup> required by the Regulations. This application does not require concurrence.	Yes – see below.
3.23 - Matters for consideration by consent authorities	Before determining a development application for development for the purpose of a centre-based child care facility, the consent authority must take into consideration any applicable provisions of the <i>Child Care Planning Guideline</i> , in relation to the proposed development.	As outlined below, the proposed facility has been assessed against this Guideline and complies.	Yes
3.24 – Centre based child care facilities in certain zones – additional matters for consideration by consent authorities	The consent authority must consider the following matters before determining a development application for development for the purpose of a centre-based child care facility on land in a prescribed zone—	The stated objective of this clause is to consider: <i>land use conflicts with existing developments on surrounding land and to ensure the safety and health of people using or visiting a centre-based child care facility</i>	
	a) whether the proposed development is compatible with neighbouring land uses, including its proximity to restricted premises, sex services premises or hazardous land uses,	The proposed facility does not adjoin nor is it in proximity to restricted premises	Yes
	b) whether the proposed development has the potential to restrict the operation of existing industrial land uses,	No adjoining land is zoned Industrial and the childcare facility will not restrict development of any industrial uses within the vicinity.	Yes
3.25 – Floor space ratio	Development consent must not be granted for the purposes of a centre-based child care facility in Zone R2 Low Density	The subject site is zoned B2 Local Centre, for which there is no FSR under the CLEP 2012	N/A

Standard	Requirement	Comment	Complies
	Residential if the floor space ratio for the building on the site of the facility exceeds 0.5:1		
3.26 – Non-discretionary development services	a) location—the development may be located at any distance from an existing or proposed early education and care facility,	The proposed facility is not located near another existing or approved facility.	Yes
	b) for development to which regulation 107 (indoor unencumbered space requirements) or 108 (outdoor unencumbered space requirements) of the Education and Care Services National Regulations applies—the unencumbered area of indoor space and the unencumbered area of outdoor space for the development complies with the requirements of those regulations,	<u>Indoor unencumbered area</u> Required: 34 x 3.25sqm = 111sqm Proposed: = 133sqm <u>Outdoor unencumbered area</u> Required: 34 x 7.0sqm = 238sqm Proposed: = 334sqm Sufficient indoor and outdoor unencumbered area to accommodate 34 places	Yes
	c) site area and site dimensions—the development may be located on a site of any size and have any length of street frontage or any allotment depth,	The subject site has a frontage of 22m to Homer Street and an overall site area of 1146m <sup>2</sup> .	Yes
	d) colour of building materials or shade structures—the development may be of any colour or colour scheme unless it is a State or local heritage item or in a heritage conservation area.	No change proposed to the existing external colours and finishes	Yes
3.27 – Development control plans	This clause stipulates that the development controls in Councils DCP cannot override the stated provisions in the SEPP, except for building height, setbacks and parking.	An assessment against the DCP controls which relate to building height, setbacks and parking follows below.	Yes

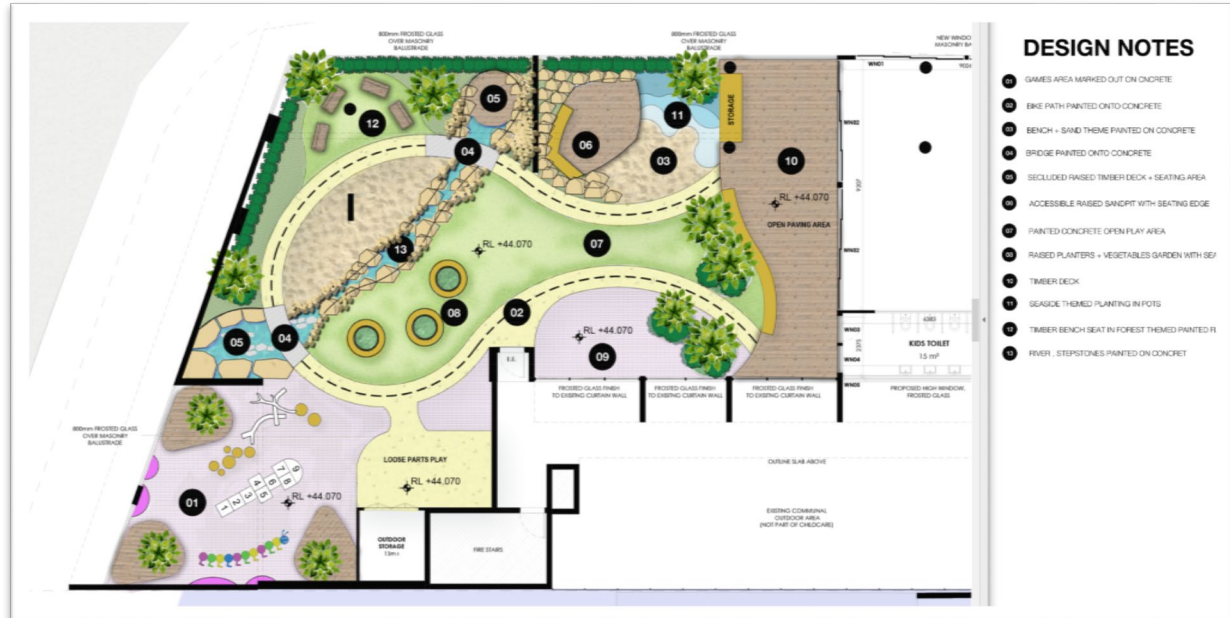
The proposed centre-based child care facility is compliant with the relevant controls found in the SEPP. Further detail is provided below regarding the arrangement of outdoor play space

### Outdoor Play Space

The arrangement of outdoor space is understandably problematic when converting an existing commercial tenancy to a child care centre. However, the proposed development addresses this problem appropriately, and the outdoor play space can be considered to comply with the requirements of the Child care Planning Guideline.

As designed, the outdoor play space is along the full extent of its eastern elevation, with an existing 1m high masonry balustrade to be topped by an 800mm high fixed frosted glass screen. The remaining 1.8m of height to the floor above will be open. This has been addressed by the acoustic engineer and found to be acceptable in terms of acoustic impacts from the outdoor play space. The outdoor play space is similar open along part of the northern elevation, and is enclosed along the western elevation, which adjoins the neighbouring property to the west. The space has access to natural light and ventilation, despite the existing development continuing above, sufficient to be considered 'outdoors'.

The space will be landscaped to simulate outdoor textures and can incorporate soft fall areas consistent with the outdoor play areas provided in child care centres in residential zones. The landscape plan (see excerpt below) currently shows some areas as concrete – conditions can be imposed to ensure these areas are soft fall.



Overall, the outdoor play area is considered to be suitably open to natural light and ventilation and will be an appropriate environment for outdoor play.

### **NSW Child Care Planning Guideline**

As outlined above, Clause 3.23 of State Environmental Planning Policy (Transport



and Infrastructure) 2021 requires a consent authority to take into consideration the 'Child Care Planning Guideline' when assessing a development application for a centre-based child care facility.

Accordingly, an assessment of the proposed development against Parts 2, 3 and 4 of the Guideline has been undertaken with compliance being achieved with the relevant provisions.

Child Care Planning Guideline					
Clause	Objective	Proposed	Complies?		
			Y	N	N/A
The planning objectives of this Guideline are to:					
<ul style="list-style-type: none"><li>• promote high quality planning and design of child care facilities in accordance with the physical requirements of the National Regulations</li><li>• ensure that child care facilities are compatible with the existing streetscape, context and neighbouring land uses</li><li>• minimise any adverse impacts of development on adjoining properties and the neighbourhood, including the natural and built environment</li><li>• deliver greater certainty to applicants, operators and the community by embedding the physical requirements for service approval into the planning requirements for child care facilities</li></ul>					
2. Design Quality Principles					
Principle 1 – Context		Based on the assessment below, it is considered that the proposed development meets the design quality principles set out in Part 2 of the Guideline	Y		
Principle 2 – Built form			Y		
Principle 3 – Adaptive learning spaces			Y		
Principle 4 – Sustainability			Y		
Principle 5 – Landscape			Y		
Principle 6 – Amenity			Y		
Principle 7 – Safety			Y		
3. Matters for Consideration					
3.1 Site selection and location					
Objective: To ensure that appropriate zone considerations are assessed when selecting a site			Y		
C1	Special consideration for low density residential, commercial, industrial, public / private recreation zones and sites on school sites	The conversion of an existing ground floor commercial tenancy into a child care centre within a mixed use area in the B2 zone is considered to be appropriate.	Y		
Objective: To ensure that the site selected for a proposed child care facility is suitable for the use			Y		
C2	Site is environmentally safe from risk and contaminants.	The site is environmentally safe from risk and contaminants	Y		
Objective: To ensure that sites for child care facilities are appropriately located			Y		
C3	Site is near compatible land uses	The subject site is within a mixed use area.	Y		
Objective: To ensure that sites for child care facilities do not incur risks			Y		

Child Care Planning Guideline					
Clause	Objective	Proposed	Complies?		
			Y	N	N/A
from environmental, health or safety hazards					
C4	Avoidance of hazardous industry, petrol stations, etc.	The subject site is not near any industrial or hazardous use areas.	Y		
3.2 Local character, streetscape and the public domain interface					
Objective: To ensure that the child care facility is compatible with the local character and surrounding streetscape			Y		
C5	Responds to character of area and reflects surrounding land uses.	The proposal seeks to convert an existing ground floor commercial tenancy to a child care centre with parking provided in the basement accessed via a rear lane.	Y		
Objective: To ensure clear delineation between the child care facility and public spaces			Y		
C6	Achieves well designed fencing with passive surveillance.	The proposed development achieves this requirement.	Y		
C7	Achieves legibility via design	The proposed development achieves this requirement.	Y		
C8	Development fronting parks, open spaces or bushland must respond to the site	Does not adjoin parks or bushland.			N/A
Objective: To ensure that front fences and retaining walls respond to and complement the context and character of the area and do not dominate the public domain.			Y		
C9	Front fences and retaining walls must respond to and complement the context and character of the area and do not dominate the public domain	The proposed development achieves this requirement.	Y		
C10	Consideration for adequate fencing or acoustic walls when facing a classified road	Subject site does not propose or require acoustic walls.	Y		
3.3 Building orientation, envelope and design					
Objective: To respond to the streetscape and site, while optimising solar access and opportunities for shade			Y		
C11	Minimisation of privacy impacts, optimisation of solar access, avoidance of shadowing, minimisation of cut and fill and protection	Privacy impacts onto adjoining properties are limited, given the design of the existing tenancy being converted.	Y		

Child Care Planning Guideline					
Clause	Objective	Proposed	Complies?		
			Y	N	N/A
	from wind	The indoor play areas and facilities optimise solar access given the constraints.  No cut and fill is proposed.			
Objective: To ensure that the scale of the child care facility is compatible with adjoining development and the impact on adjoining buildings is minimised			Y		
C12	Height and setbacks are consistent with locality  0.5:1 FSR applies in R2 zone where an LEP does not specify	Conversion of existing ground floor tenancy in an existing multi-storey development:  - Height and setbacks comply. - Zone B2, so FSR does not apply	Y		
Objective: To ensure that setbacks from the boundary of a child care facility are consistent with the predominant development within the immediate context			Y		
C13	10m setback to classified roads for sites with no prevailing setback controls	Conversion of an existing tenancy	Y		
C14	Consideration for prevailing side and rear setbacks on residential land	Not in a residential zone			N/A
Objective: To ensure that buildings are designed to create safe environments for all users.			Y		
C15	Entry should be limited to one secure access point clearly visible from the street and clearly defined	The proposed development achieves this requirement.	Y		
Objective: To ensure that child care facilities are designed to be accessible by all potential users.			Y		
C16	Accessible design outside the development can be achieved.  The National Construction Code, the Discrimination Disability Act 1992 and the Disability (Access to Premises – Buildings) Standards 2010 set out the requirements for access to buildings for people with	The proposed development achieves this requirement.	Y		

Child Care Planning Guideline					
Clause	Objective	Proposed	Complies?		
			Y	N	N/A
	disabilities.				
<b>3.4 Landscaping</b>					
Objective: To provide landscape design that contributes to the streetscape and amenity.			Y		
C17	Provide appropriate planting and landscaping around the development	Conversion of an exiting tenancy	Y		
C18	Parking areas should be incorporated into the landscape design	Parking in basement access via rear lane	Y		
<b>3.5 Visual and acoustic privacy</b>					
Objective: To protect the privacy and security of children attending the facility.			Y		
C19	Open balconies in mixed use developments should not overlook facilities nor overhang outdoor play areas	No open balconies proposed			N/A
C20	Minimise direct overlooking from public areas	Avoids overlooking from public areas.	Y		
Objective: To minimise impacts on privacy of adjoining properties.			Y		
C21	Minimise direct looking into adjoining neighbour areas	Proposed development does not overlook into neighbouring dwellings	Y		
Objective: To minimise the impact of child care facilities on the acoustic privacy of neighbouring residential developments.			Y		
C22	New developments should provide acoustic privacy to adjacent residential dwellings	Submitted acoustic report demonstrates compliance with acoustic privacy is achieved.	Y		
C23	Acoustic report should be prepared by a suitably qualified acoustic professional	Submitted acoustic report has been prepared by a suitably qualified acoustic professional	Y		
<b>3.6 Noise and air pollution</b>					
Objective: To ensure that outside noise levels on the facility are minimised to acceptable levels.			Y		
C24	Adopt acoustic design solutions to minimise noise impacts.	Submitted acoustic report demonstrates compliance with acoustic privacy is achieved.	Y		
C25	An acoustic report should identify appropriate noise levels for sleeping areas and other non-play areas and examine impacts and noise attenuation measures from	Submitted acoustic report demonstrates compliance with acoustic privacy is achieved.	Y		

Child Care Planning Guideline					
Clause	Objective	Proposed	Complies?		
			Y	N	N/A
	high acoustic impact areas.				
Objective: To ensure air quality is acceptable where child care facilities are proposed close to external sources of air pollution such as major roads and industrial development.			Y		
C26	Location of child care facilities should minimise external potential impacts e.g. major roads or industrial development.	The proposed development achieves this requirement.	Y		
C27	A suitably qualified air quality professional should prepare an air quality assessment report to demonstrate that proposed child care facilities close to major roads or industrial developments can meet air quality standards in accordance with relevant legislation and guidelines.	The proposed development achieves this requirement.	Y		
<b>3.7 Hours of operation</b>					
Objective: To minimise the impact of the child care facility on the amenity of neighbouring residential developments.			Y		
C28	Hours of operation where the predominant land use is residential should be confined to the core hours of 7.00am to 7.00pm weekdays.	Proposed 7:00am to 7:00pm weekdays	Y		
C29	Within mixed use areas or predominantly commercial areas, the hours of operation for each child care facility should be assessed with respect to its compatibility with adjoining and co-located land uses	The proposed hours of operation are considered to be compatible in the mixed use area	Y		
<b>3.8 Traffic, parking and pedestrian circulation</b>					
Objective: To provide parking that satisfies the needs of users and demand generated by the centre.			Y		
C30	Off street car parking should be provided at the rates for child care facilities specified in a Development Control Plan that applies to the land.	Total of 8 spaces provided (6 required)  - Staff – 1 per 2 staff = 5 staff, 3 spaces req'd – 3 provided.	Y		

Child Care Planning Guideline					
Clause	Objective	Proposed	Complies?		
			Y	N	N/A
		<ul style="list-style-type: none"> <li>- Drop off spaces – 31-40 places = 3 spaces req'd, 3 spaces provided (in basement).</li> <li>- 1 of the above spaces for disabled persons</li> </ul>			
C31	In commercial or industrial zones and mixed-use developments, on street parking may only be considered where there are no conflicts with adjoining uses, that is, no high levels of vehicle movement or potential conflicts with trucks and large vehicles.	No on street parking is relied upon. Parking provided within basement.			N/A
C32	A Traffic and Parking Study should be prepared to support the proposal to quantify potential impacts on the surrounding land uses, to optimise the safety and convenience of the parking area(s) and demonstrate how impacts on amenity will be minimised.	The traffic report has been reviewed and is considered to demonstrate compliance can be achieved by the development	Y		
Objective: To provide vehicle access from the street in a safe environment that does not disrupt traffic flow.			Y		
C33	Alternate vehicular access for sites front classified or heavy industrial use roads.	Access provided from Bakers Lane, not Homer Street	Y		
C34	Child care facilities in cul-de-sacs or narrow roads should ensure safe access to the site.	The proposed development achieves this requirement.	Y		
Objective: To provide a safe and connected environment for pedestrians both on and around the site.			Y		
C35	Safe pedestrian access and design	The proposed development achieves this requirement.	Y		
C36	Mixed development should consider adequate driveway access, manoeuvrability, and	The proposed development achieves this requirement.	Y		

Child Care Planning Guideline					
Clause	Objective	Proposed	Complies?		
			Y	N	N/A
	drop off and pick up zones designs.				
C37	Car parking design should consider accessibility and safety.	The proposed development achieves this requirement.	Y		
<b>4. Applying the National Regulations to Development Proposals</b> – see separate table below					

The development complies with all applicable standards and controls of the Guidelines, with particular regard to the suitability of the design within the B2 Local Centre zone. The assessment has considered the suitability of the proposed acoustic barriers, the consistency of the design with the character of the area, the bulk and scale of the development, setbacks, accessibility, landscaping, visual and acoustic privacy of residents on adjoining/nearby sites, hours of operation, traffic and parking, indoor and outdoor play spaces, fencing and shading.

### Education and Care Services National Regulations

The Education and Care Services National Regulations sit under the Children (Education and Care Services) National Law (NSW), which aims to establish care service quality frameworks for childcare centres within NSW. Specifically, the Act seeks to ensure the safety, health and wellbeing of children attending services, improve educational and development outcomes and promote continuous improvement of service providers. The Regulations assist in establishing a set of standards to be met by individual child care facilities.

The following table demonstrates compliance with the 'National Quality Framework Assessment Checklist' contained in Part 4, Section D of the Child Care Planning Guideline.

Part 4 – Applying the National Regulations		
Regulation	Proposed	Compliance
104. Fencing or barrier that encloses outdoor spaces  Outdoor space that will be used by children will be enclosed by a fence or barrier that is of a height and design that children preschool age or under cannot go through, over or under it.	The outdoor space is located within the ground floor level of the existing building. Adequate barriers / screenings are provided to the perimeter of the outdoor space area.	Yes
106. Laundry and hygiene facilities  The proposed development includes laundry facilities or access to laundry facilities OR explain the other	The proposed development incorporates a laundry and hygiene facility on the ground floor level of the building in an enclosed and secure room. It	Yes



<b>Part 4 – Applying the National Regulations</b>		
<b>Regulation</b>	<b>Proposed</b>	<b>Compliance</b>
<p>arrangements for dealing with soiled clothing, nappies and linen, including hygienic facilities for storage of soiled clothing, nappies and linen prior to their disposal or laundering.</p> <p>Laundry/hygienic facilities are located where they do not pose a risk to children.</p>	is considered this location does not pose a risk to children.	
<p>107. Unencumbered indoor space</p> <p>The proposed development includes at least 3.25 square metres of unencumbered indoor space for each child.</p>	<p>The application seeks approval for a maximum capacity of thirty-four (34) children.</p> <p>Required: 111 sqm Proposed: 133 sqm</p>	Yes
<p>108. Unencumbered outdoor space</p> <p>The proposed development includes at least 7.0 square metres of unencumbered outdoor space for each child.</p>	<p>The application seeks approval for a maximum capacity of thirty-four (34) children.</p> <p>Required: 238 sqm Proposed: 334 sqm</p>	Yes
<p>109. Toilet and hygiene facilities</p> <p>The proposed development includes adequate, developmentally, and age-appropriate toilet, washing and drying facilities for use by children being educated and cared for by the service.</p> <p>The location and design of the toilet, washing and drying facilities enable safe and convenient use by the children.</p>	<p>The proposed toilet and hygiene facilities are considered adequate in terms of size and location. The proposed fixtures are suitable for the use of children. These facilities have a high level of surveillance and are assigned purely for the use of the children.</p>	Yes
<p>110. Ventilation and natural light</p> <p>The proposed development includes indoor spaces to be used by children that —</p> <ul style="list-style-type: none"> <li>• will be well ventilated; and</li> <li>• will have adequate natural light; and</li> <li>• can be maintained at a temperature that ensures the safety and well-being of children.</li> </ul>	<p>The indoor play area contains multiple windows. The northern section of the centre benefits from direct solar access to assist in natural ventilation. The building is considered capable of facilitating an appropriate degree of natural ventilation.</p>	Yes
<p>111. Administrative space</p> <p>The proposed development includes an adequate area or areas for the purposes</p>	<p>The proposed child care facility incorporates an entry / foyer area, office, staff and meeting rooms These rooms</p>	Yes

<b>Part 4 – Applying the National Regulations</b>		
<b>Regulation</b>	<b>Proposed</b>	<b>Compliance</b>
of conducting the administrative functions of the service; and consulting with parents of children; and conducting private conversations.	are considered suitable for the uses outlined in this guide.	
<p>112. Nappy change facilities</p> <p>The proposed development includes an adequate area for construction of appropriate hygienic facilities for nappy changing including at least one properly constructed nappy changing bench and hand cleansing facilities for adults in the immediate vicinity of the nappy change area.</p> <p>The proposed nappy change facilities can be designed and located in a way that prevents unsupervised access by children.</p>	<p>The proposed child care facility caters for pre-schoolers (3-6-year olds).</p> <p>Nappy change facilities are not required.</p>	N/A
<p>113. Outdoor space—natural environment</p> <p>The proposed development includes outdoor spaces that will allow children to explore and experience the natural environment.</p>	The outdoor space is proposed to provide multiple design features such as a sandpit, bike path, mount, foot bridge, seating area, vegetable garden.	Yes
<p>114. Outdoor space—shade</p> <p>The proposed development includes adequate shaded areas to protect children from overexposure to ultraviolet radiation from the sun.</p>	The outdoor play area is located within the existing mixed commercial residential building on the ground floor and provides an existing ceiling over the outdoor space. The proposed development is considered to provide adequate shade for children.	Yes
<p>115. Premises designed to facilitate supervision</p> <p>The proposed development (including toilets and nappy change facilities) are designed in a way that facilitates supervision of children at all times, having regard to the need to maintain the rights and dignity of the children.</p>	The child care facility incorporates multiple windows and sliding doors between children's play areas and toilet facility. The toilet facility provides a safe space with supervision but also maintains dignity and autonomy for the children.	Yes

Further to the above, the following is relevant in relation to staffing:

**Part 4 – Applying the National Regulations**

Regulation	Proposed	Compliance																								
123. Educator to child ratios - The minimum number of educators required to educate and care for children at a centre-based service is to be calculated in accordance with the following ratios— a. for children from birth to 24 months of age—1 educator to 4 children; b. for children over 24 months and less than 36 months of age—1 educator to 5 children; c. for children aged 36 months of age or over (not including children over preschool age)—1 educator to 11 children; d. for children over preschool age, 1 educator to 15 children.	Proposal	Y																								
	<table><tr><th>Age</th><th>Ratio</th><th>No.</th><th>Staff</th></tr><tr><td>0 – 24</td><td>1:4</td><td>0</td><td>2</td></tr><tr><td>24 – 36</td><td>1:5</td><td>0</td><td>4</td></tr><tr><td>36 – presc hool</td><td>1:11</td><td>34</td><td>3.1</td></tr><tr><td>presc hool - over</td><td>1:15</td><td>0</td><td>0</td></tr><tr><td colspan="3">Required</td><td>3.1</td></tr></table>		Age	Ratio	No.	Staff	0 – 24	1:4	0	2	24 – 36	1:5	0	4	36 – presc hool	1:11	34	3.1	presc hool - over	1:15	0	0	Required			3.1
	Age		Ratio	No.	Staff																					
	0 – 24		1:4	0	2																					
	24 – 36		1:5	0	4																					
	36 – presc hool		1:11	34	3.1																					
	presc hool - over		1:15	0	0																					
	Required			3.1																						
4 staff required																										
4 staff proposed																										

The development complies with all applicable standards and controls of the National Regulations.

As outlined above, the proposed development satisfies the relevant provisions of State Environmental Planning (Transport and Infrastructure) 2021, the National Regulations and the Child Care Planning Guideline.

**Canterbury Local Environmental Plan 2012**

The following relevant clauses of Canterbury Local Environmental Plan 2012 (CLEP 2012) were taken into consideration:

Clause 1.2 – Aims of Plan  
 Clause 2.1 – Land use zones  
 Clause 2.2 – Zoning of land to which Plan applies  
 Clause 2.3 – Zone objectives and Land Use Table  
 Clause 4.4 – Floor Space Ratio  
 Clause 5.3 – Development near zone boundaries  
 Clause 5.23 – Public Bushland

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

Standard	Required	Proposed	Compliance
Clauses 2.1-2.3 – Zoning	The site is zoned B2 Local Centre	Childcare centres are permitted with consent in the B2 Local Centre zone.	Yes
Clause 4.4 –	No FSR applies	No FSR controls apply	Yes

Standard	Required	Proposed	Compliance
Floor Space Ratio		to the B2 zone under CLEP 2012	
Clause 5.3 - Development near zone boundaries	Applies to land that is within the relevant distance of a boundary between any 2 zones. The relevant distance is 5 metres.	The development site is located within a transition area on the boundary of the B2 Local Centre and R2 Low-density residential zones.  The development is not inconsistent with the objectives for development in both zones.	Yes
Clause 5.23 Public Bushland	Consent is required to disturb public bushland	No public bushland is affected	Yes

It is considered that the proposed development satisfies the applicable aims, objectives and development standards of CLEP 2012.

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

##### **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. 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 relevant controls contained in Canterbury Development Control Plan 2012, when considering Clause 3.27 of State Environmental Planning Policy (Transport and Infrastructure) 2021

##### **Part B – General Controls**

An assessment against the relevant provisions of Part B is provided below.

Requirements	Comment	Complies
<b>Part B1.3 – Parking Provision Rates</b>		
1 space per 2 staff  Min 2 spaces per child care centre  Bicycle Spaces: Min 1 space per 4 staff (see also Part F2.6 below)	Proposed: 5 Staff Parking Required: 3 Spaces Parking Proposed: 3 Spaces for staff Total of 6 car spaces required & provided (see also Part F2.6 below)  1 bicycle space provided for staff	Yes

### Part F2 – Childcare Centres

An assessment against the relevant provisions of Part F2 is provided below.

Requirements	Comment	Complies
<b>Part F2.6 – Car Parking</b>		
Drop off / pick up Required: Up to 31-40 children = 3 spaces	Proposed: 34 children = 3 spaces provided for drop off / pick up	Yes
All parking is to be behind the front building line.	Existing parking within basement level	Yes
All parking and maneuvering areas are to be suitably sign posted, drained and line marked.	Existing basement car park	Yes

As demonstrated above, the only requirements of the DCP that are relevant (in accordance with Clause 3.27 of the Transport and Infrastructure SEPP) relate to car parking, and the proposed development meets the requirements of car parking set out in the DCP.

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

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

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

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

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

The proposed development is not likely to result in any significant adverse environmental, social or economic impacts on the locality. As detailed in this report, the proposed development addresses all applicable development standards and controls. As such, it is considered that the impact of the proposed development on

the locality is acceptable.

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

The subject site is considered suitable for the proposed development.

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

The application was advertised for a period of twenty-one (21) days between 7 September 2022 and 27 September 2022 as required by the Canterbury Bankstown Community Participation Plan. Fifteen (15) submissions in objection and one (1) submission in favour to the development were received. These are addressed below:

*Submission: Traffic impacts*

Response: The applicant prepared a Traffic Impact Assessment Report for the proposed development. This report was reviewed by Council's Traffic and Transport Services unit who were satisfied with the methodology of the report, and the recommendations. It is considered that the impact on traffic is consistent with the requirements of the Canterbury Development Control Plan 2012.

*Submission: Acoustic impacts*

Response: The acoustic impacts of the proposed development were assessed in an Acoustic Report prepared by Acoustic Logic. This report was reviewed by Council's Environmental Health unit, who determined that the methodology and the recommendations of the report were worthy of support. Further, the applicant has considered the issue of noise generation by proposing an appropriate design, which provides minimal noise impacts on the amenity of neighbouring properties. Noise emanating from the development would be typical of that provided in a local commercial centre. Appropriate conditions to protect amenity have been recommended.

*Submission: Impacts on sleep for shift workers*

Response: The application was submitted with an acoustic report which has been reviewed by Council's Environmental Health unit as being consistent with relevant Australian Standards with regard to the protection of acoustic amenity for residents on adjoining properties. Appropriate conditions to protect amenity have been recommended.

*Submission: Permissibility*

Response: The proposed development is permitted with consent in the B2 Local Centre zone under the Canterbury Local Environmental Plan 2012.

*Submission: Car parking*

Response: In accordance with Council's Canterbury Development Control Plan 2012, the proposed development is required to provide the following:

1 car space per 2 staff; minimum 2 spaces per child care centre; and 3 drop off / pick up car spaces for 34 children.

The proposed child care facility proposes 5 staff, therefore requires 3 spaces for

staff. In addition, the DCP requires 3 drop off / pick up spaces for children. This represents a total of 8 spaces. The development provides a total of 6 car spaces which satisfies the parking rate requirements under the Canterbury Development Control Plan 2012. The car spaces have been provided within the basement car park and as such, the development provides the required car parking.

*Submission: Safety of pedestrians.*

*Response:* All drivers are required to adhere to NSW road rules with regard to pedestrian safety. The development has been designed to allow for adequate provision of pedestrian sight lines at the intersection of the footpath and driveway to allow drivers to see approaching pedestrians. The existing basement is designed to allow for forward entry and exit to reduce the risk of pedestrian conflicts with vehicles as they enter or leave the facility.

*Submission: Access via Bakers Lane*

*Response:* The application has been reviewed by Council's Traffic & Transport Services unit confirming access into and out of the site via the existing entry / exit driveway off Bakers Lane is considered acceptable subject to the widening of the existing VFC width to a maximum 5.5 metres for the first 6 metres of the access driveway. The applicant has amended the architectural plans accordingly to demonstrate all vehicles associated with the development can enter and exit the site in a forward direction. The amended plans have been reviewed by Council's Traffic & Transport unit who are satisfied with the amended design being compliant with their requirements.

Further, the application has been reviewed by Council's Resource Recovery unit who recommend that a condition of consent is imposed to widen the footpath on Bakers Lane (by placing additional concrete adjacent to the existing footpath, as opposed to reducing the width of the Bakers Lane roadway) to allow for pedestrian access for when the waste bins are presented at the kerb for collection.

*Submission: Illegal parking*

*Response:* The potential for illegal parking is not a matter that would warrant refusal of the Development Application.

*Submission: Waste services*

*Response:* The applicant prepared a Waste Management Plan for the proposed development. This report was reviewed by Council's Resource Recovery unit who were satisfied with the methodology of the report, and the recommendations. Further, the following condition of consent shall be imposed:

*"The existing 'No Stopping' sign is to be changed to 'No Stopping Waste Vehicles Excepted' signage for the length of 15m on the western side of Bakers Lane, subject to obtaining approval from the Traffic Committee, three months prior to the occupation of the site".*

It is considered that the impact on waste collection is consistent with the requirements of the Canterbury Development Control Plan 2012.

*Submission: Safety of residents.*



Response: There are no particular design aspects of this development that would suggest that following the building works and ground floor level being occupied, that the development will diminish the safety and security of residents. Further, the existing mixed commercial residential building is to comply with the 'crime prevention' conditions of consent issued under Determination Notice No. DA-437/2013 at all times.

*Submission: Access to side courtyard area*

Response: The existing common courtyard area to the south east of the site does not form part of the proposed development. The child care facility proposes its own separate outdoor space designated for the children on the ground floor level.

*Submission: Reduction in property values*

Response: No evidence substantiating the claim that the development will devalue the adjoining properties has been submitted to Council.

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

The proposed development would not contravene the public interest. The proposed development responds appropriately to the development standards and controls contained in Education and Care Services National Regulations, State Environmental Planning Policy (Transport and Infrastructure) 2021, State Environmental Planning Policy (Biodiversity and Conservation) 2021, State Environmental Planning Policy (Resilience and Hazards) 2021, the Child Care Planning Guideline, Canterbury Local Environmental Plan 2012, Draft Canterbury Bankstown Local Environmental Plan 2020 and Canterbury Development Control Plan 2012. As such, approval of the development would be consistent with the wider public interest.

**CONCLUSION**

The Development Application has been assessed against the matters for consideration contained within Section 4.15(1) of the *Environmental Planning and Assessment Act, 1979*, requiring an assessment against, amongst other things, the provisions contained within Education and Care Services National Regulations, State Environmental Planning Policy (Transport and Infrastructure) 2021, State Environmental Planning Policy (Biodiversity and Conservation) 2021, State Environmental Planning Policy (Resilience and Hazards) 2021, the Child Care Planning Guideline, Canterbury Local Environmental Plan 2012, Draft Canterbury Bankstown Local Environmental Plan 2020 and Canterbury Development Control Plan 2012.

In this regard, the proposal is generally consistent with the various layers of legislation that applies to the development. The development results in an appropriate land use for the site which is consistent with the longer-term desired character illustrated in Council's Local Environmental Plan and draft Consolidated Local Environmental Plan.

**RECOMMENDATION**

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



## CONDITIONS OF CONSENT

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

### 1. Approved Development.

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

Plan Number	Plan Name	Dated	Revision	Prepared By
DA-3.03	Demolition Works	22/06/2022	A	Mkd Architects
DA-4.01	Upper Basement Level Plan	16/11/2022	B	Mkd Architects
DA-4.02	Ground Floor Level Plan	16/11/2022	B	Mkd Architects
DA-4.03	Level 1 Plan – Covered Area	20/06/2022	A	Mkd Architects
DA-5.01	Elevations & Sections	16/11/2022	B	Mkd Architects
DA-9.03	Upper Basement Level Plan – WMP	16/11/2022	B	Mkd Architects

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

- 1.2. Before the issue of a construction certificate, the certifier must ensure the approved construction certificate plans (and specifications) detail the following required amendments to the approved plans (stamped by Council) and supporting documentation:
- a) In accordance with the NSW Child Care Planning Guideline (Section 3.8 - Traffic, parking and pedestrian circulation, Clause C36), states that, in part, the following design solutions may be incorporated into a development to help provide a safe pedestrian environment:
    - i) Separate pedestrian access from the car park to the facility.
  - b) The provision of car parking spaces and line marking for the child Care centre use should be in accordance with the architectural drawings, prepared by Mkd Architects, dated 16/11/2022, Revision – B.
- 1.3. A separate application shall be submitted to Council before the erection of any additional signage unless the proposed signage is "exempt development" in accordance with relevant legislation.

- 1.4. The hours of operation being confined to 7.00am to 7.00pm on Monday, Tuesday, Wednesday, Thursday and Friday. No operation on Saturdays, Sundays and Public Holidays.
- 1.5. The child care centre is restricted to a maximum of 34 children at any one time as follows:
  - 3-6 years: 34 places.
- 1.6. The acoustic report submitted in support of this application prepared by Acoustic Logic Pty Ltd, titled '*205 Homer Street, Earwood DA Acoustic Assessment*', Project ID 20220493.1, dated 6 June 2022 and all the recommendations stated within the report, form part of the development consent.
- 1.7. Following occupation of the building/premises, should it be found that the measures recommended in the acoustic assessment are not sufficient, or have been incorrectly installed or a noise issue (relating to the development) not previously identified arises (through complaint or otherwise), the owner/ occupier must, upon request by Council, employ the services of a qualified acoustic consultant who has not previously been involved with the development to undertake a post-occupation assessment of the development and complete an acoustic report with recommendations to rectify the situation. A copy of this acoustic assessment report must be submitted to Council for approval and from there noise attenuation works must be implemented. Submission of the acoustic report must be within 30 days from the date requested by Council.
- 1.8. The use of the premises shall comply with the requirements of the Environmental Protection Authority's Noise Policy for Industry (2017) and shall not give rise to the transmission of offensive noise as defined in the *Protection of the Environment Operation Act 1997 (NSW)*.
- 1.9. Children must not be allowed to use the outdoor play area between 6.00pm and 7.00pm on any day.
- 1.10. No music systems are to be used in the outdoor play areas at any time.
- 1.11. The plan of management submitted in support of this application prepared by Ology Pty Ltd, dated, June 2022, forms part of the development consent. In the event of any inconsistency, the conditions of this consent will prevail over the plan of management.
- 1.12. All parts of the premises used for the storage, preparation and handling of food must be designed, constructed and operated in accordance with the requirements of:
  - a) The Food Act 2003 and Food Regulation 2015;

- b) Australia New Zealand Food Standards Code;
- c) AS 4674-2004, 'Design, construction and fit-out of food premises';
- d) AS 1668.2 – 'The Use of Ventilation and Air-Conditioning in Buildings – Mechanical Ventilation in Buildings'

1.13. All waste generated on the site is to be stored, handled and disposed of in such a manner as to not create offensive odour, offensive noise or pollution of land and/or water as defined under the *Protection of the Environment Operations Act 1997*. All waste generated shall be removed and disposed of by an authorised waste removal contractor. A copy of the waste removal agreement and receipts shall be made available to Council on request.

1.14. The operation of the development must not adversely affect the amenity of the neighbourhood or interfere unreasonably with the comfort or repose of a person who is outside the premises by reason of the emission or discharge of noise, fumes, vapour, odour, steam, soot, ash, dust, wastewater, waste products, grit, oil or other harmful products.

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

2.1. Development Contributions of \$5,961.93 must be paid for this development before the issue of any construction certificate. The contributions are levied and applied under the Canterbury Bankstown Local Infrastructure Contributions Plan 2022 and Section 7.12 of the *Environmental Planning and Assessment Act 1979*. The contributions will be used to provide, extend or augment public amenities or public services.

Indexing of the contribution amount to be paid: The development contribution payable will be adjusted, at the time of payment, to reflect Consumer Price Index increases which have occurred since the "Consent to operate from date" which appears on the front page of this Determination Notice.

No construction certificate is to be issued and no construction is to commence until payment of development contributions. The contribution must be paid to Council before the issue of any construction certificate. Construction of the development may NOT commence until the development contributions are paid.

A copy of the development contributions plan is available for inspection on Council's website and at Council's Administration offices in Bankstown and Campsie.

NOTE: Development contribution amounts are non-refundable if you don't proceed with your development.

2.2. All fees, levies, bonds and/or contributions as required by this Determination Notice must be paid to the relevant authority/entity before the issue of a construction certificate.

- 2.3. A detailed landscape plan prepared by a qualified landscape architect or qualified landscape designer must be approved by the certifier before the issue of a construction certificate. The landscape plan must be prepared in accordance with Canterbury DCP 2012 and must include the following features, notations and specifications, generally in accordance with Drawing No. LA03 & LA04, prepared by Taylor Brammer, dated 18.11.2022, Revision B:
- a. The outdoor play area must include 'softfall' in place of concrete.
  - b. Where indication has been made of aspects of the outdoor play area being "painted on concrete", every effort shall be made to provide an actual physical solution (e.g. 'stepstones' at 13, Astroturf or equivalent at 07).
  - c. The location of existing and proposed structures on the subject property/properties, including existing and proposed trees, impermeable areas, landscaped areas, deep soil zones, fixed furniture, shade structures, lighting, and other features,
  - d. Details of earthworks and soil depths, including mounding and retaining walls and planted boxes,
  - e. The location, number, pot size and type of chosen plant species. Details of planting procedures and long-term maintenance (if any),
  - f. Details of drainage and watering systems (if any),
  - g. A Landscape maintenance schedule period of 12 months is to be applied to this development. During this maintenance period, the landscaping must be maintained in accordance with the details specified on the submitted landscape plan,
  - h. All the tree supply stocks shall comply with the guidance given in the publication *Specifying Trees: a guide to assessment of tree quality* by Ross Clark (NATSPEC, 2003),
  - i. All scheduled plant stock shall be pre-ordered, before issue of construction certificate or 3 months before the commencement of landscape works, whichever occurs sooner, for the supply to the site on time for installation. Written confirmation of the order shall be provided to Council before issue of any construction certificate. The order confirmation shall include name, address and contact details of supplier; and expected supply date, and
- 2.4. Before the issue of the relevant construction certificate, payment of the long service levy is required, under the *Building and Construction industry Long Service Payments Act 1986*, section 34. Evidence of the payment is to be provided to the Certifier. Payment can be calculated using the Levy Portal Calculator at <https://longservice.force.com/bci/s/levy-calculator>. Payment must be made via the Long Service Levy Portal at <https://www.longservice.nsw.gov.au>.
- 2.5. Before the issue of the relevant construction certificate, a suitably qualified engineer must review the plans which relate to parking facilities and provide written evidence, to the certifier's satisfaction, that it complies



with the relevant parts of AS 2890 – ‘Parking Facilities - Off-Street Carparking’ and Council’s development control plan.

- 2.6. Provide details demonstrating compliance with the requirements of the National Construction Code Report prepared by Design Right Consulting dated 14 November 2022, and the requirements of the Access Report no. 22122-DA prepared by Access-i Pty Ltd dated 3 June 2022.
- 2.7. The development is to be carried out in accordance with the Deemed-To-Satisfy (DTS) requirements of Section J of the Building Code of Australia BCA, Energy efficiency. A report covering compliance of the development with the relevant provisions contained in Section J must be provided in full for approval with the Construction Certificate, and to be reflected in the construction certificate plans and specifications.
- 2.8. The building must comply with the Category 1 fire safety provisions as are applicable to the building's proposed use.

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

- 2.9. The consent holder shall apply for a Work Permit and obtain approval from Council, for any of the following applicable engineering works in front of the site, at their own expense:
  - a) A heavy Duty VFC of maximum width of 5.5metres at the property boundary for the basement access modification.,
  - b) Removal of all driveway surfaces, reinstatement of laybacks to kerb and gutter and reshaping of the footway, all associated with redundant VFCs,
  - c) Repair of any damage to the public road including the footway occurring during building works, and
  - d) 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:** Council is required to prepare a site survey and design in order to determine the necessary information. The consent holder should make application and payment for the Work Permit at least twenty-one (21) days before the information being required and before the issue of the construction certificate. The Work Permit must be approved before any works commencing within the Council Road Reserve or on Council’s assets.

- 2.10. 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 the consent holder to obtain a Works Permit and or a Roadway / Footpath Building Occupation Permit before the issue of any construction certificate for this development being issued 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, and
- m) Demolition is proposed.

The consent holder shall construct all works approved within the public road and footway under the supervision and to the satisfaction of Council and shall arrange for necessary inspections by Council whilst the work is in progress.

The consent holder shall ensure that the person or company carrying out the work will carry public liability insurance to a minimum value of twenty million dollars and shall provide proof of the policy to Council, before commencing any work approved by the Work Permit including the Road Opening Permit. The policy must remain valid for the duration of the works.

2.11. Finished surface levels of all internal works and at the street boundary, including driveways, landscaping and drainage structures, must be as shown on relevant construction certificate plans. The levels at the street boundary must be consistent with the Street Boundary Alignment Levels issued by Council.

2.12. The design and layout of all off-street small car parking spaces must comply with the minimum requirements of Australian Standard AS/NZS

2890.1 - Parking facilities Part 1: Off-street car parking. The details must be submitted to and approved by the certifier before a construction certificate being issued.

- 2.13. The design, layout, signage, line marking, lighting and physical controls of all off-street parking facilities must comply with the minimum requirements of Australian Standard AS/NZS 2890.1 Parking facilities Part 1: Off-street car parking, AS/NZS 2890.2 Parking facilities Part 2: Off-street commercial vehicle facilities and AS/NZS 2890.6 Parking facilities Part 6: Off-street parking for people with disabilities. The details must be submitted to and approved by the certifier before a construction certificate being issued.

Furthermore, 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 certifier before the issue of the construction certificate. The maximum grade of the driveway/ramp shall not exceed 25% and shall comply with AS 2890 parking series.

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.

- 2.14. Before the commencement of any works, all domestic waste bins servicing the site are to be returned to Council.
- 2.15. Before the issue of a construction certificate, the consent holder is to ensure that a waste management plan is prepared in accordance with the EPA's Waste Classification Guidelines and the following requirements before it is provided to and approved by the certifier:

a. Council's Waste Management Development Control Plan

- 2.16. The construction certificate plans shall include details of the waste bin storage area. The bin storage area shall not be visible from the street. The bin storage area shall be located within the building or screened from the street by dense landscaping.
- 2.17. The use and operation of the premises must be designed so as to not cause the emission of any odours that, by reason of its level, nature, character or quality is likely to be harmful to or interfere unreasonably with the comfort or repose of person who is outside the premises.

There are to be no emissions or discharges from the premises which will give rise to an offence under the *Protection of the Environment Operations Act 1997* and Regulations.

Emission control equipment must be provided in the mechanical exhaust system serving the appliances, to effectively minimise the emission of odours, vapours and oils. Details of the proposed emission control equipment must be provided in the relevant plans and specifications for the construction certificate for the subject works.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the certifier before the issue of any construction certificate.

- 2.18. A 'Parking Management Plan for the Drop Off and Pick Up' arrangement is to be provided to Council, prior to the issue of a Construction Certificate.
- 2.19. A Construction Traffic Management Plan (CTMP) shall be required to be submitted six months prior to the commencement of works on the site, for both demolition and construction phases of the development / project.
- 2.20. If required, a Works Zone may not be able to be considered in Homer Street as this will impact on the bus zone and a short section of timed parking restriction fronting the development site. Accordingly, all works associated with the proposed development shall be undertaken on-site.
- 2.21. 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 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 1 x 1,100L recycling bins
  - m) Designed to fit 1 x 1,100L garbage bins

2.22. A design certificate and detailed plans are to accompany any Construction Certificate 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) Minimum 2m wide hard surface;
- b) Direct, Non-slip, free from obstacles and steps;
- c) Not involving carting of bins on Bakers Laneway, this is considered a conflict point for vehicles and collection staff; and
- d) Layback(kerb ramp) installed at the nominated collection point.

2.23. A design certificate and detailed plans are to accompany any Construction Certificate application which demonstrate that the waste collection point has been designed to be constructed in accordance with the following requirements:

- a) Of a sufficient size to present 2 x 1100L Mobile Garbage Bins
- b) Located so as not to impede pedestrian access along Bakers Lane
- c) Constructed of concrete at least 75mm thick in keeping with the existing footpath.

### **3. Conditions to be Satisfied Before Construction.**

3.1. The demolition of structures in accordance with Drawing No. DA-3.03, prepared by Mkd Architects, dated 22/06/2022, Revision A must be undertaken in accordance with all the following:

- a. Written notice must be issued to adjoining residents a minimum of seven (7) days before the commencement of demolition advising of the commencement date,
- b. Written notice must be issued to Council for inspection a minimum of (7) days before the commencement of demolition. Written notice must include the date when demolition work will commence and details of the name, address, contact telephone number and licence number of the demolition contractor,
- c. Inspections being undertaken by Council including:
  - i. A pre-commencement demolition inspection when all site works required as part of this Determination Notice are installed on the site and before demolition work commencing, and
  - ii. A final demolition inspection when the demolition work has been completed to ensure that the site is left in a satisfactory manner, in accordance with the conditions of this Determination Notice,
- d. Payment of an inspection fee at Council's current rate must be paid before inspection. Council requires 48 hours' notice to carry out an inspection,
- e. A sign must be erected at the front of the property showing the name of the licenced demolition contractor, the licence number and a telephone number on which that person can be contact outside of working hours,

- f. All demolition work must be carried out in accordance with Australian Standard 2601 – ‘The Demolition of Structures’,
- g. Where asbestos containing materials are to be removed, demolition must be carried out by contractors who have a current SafeWork NSW licence in asbestos removal,
- h. An asbestos clearance certificate issued under the *Work Health and Safety Act 2011* must be submitted to Council after the completion of demolition work,
- i. Hazardous and intractable wastes arising from the demolition process must be removed and disposed of in accordance with the requirements of SafeWork NSW and the NSW Environment Protection Authority,
- j. Demolition procedures must maximise the reuse and recycling of demolished materials to reduce the environmental impacts of waste disposal,
- k. Adhere to the requirements stipulated in the approved Waste Management Plan, and
- l. Demolition may only be carried out between 7.00 am and 5.00 pm on Monday to Saturday and no building work/s is to be carried out at any time on a Sunday or a public holiday.

A copy of the final demolition inspection report must be submitted to the principal certifier before the commencement of any building work.

- 3.2. A construction certificate is required for the erection of a building in accordance with this Determination Notice.

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

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

- a) the principal certifier has, no later than two (2) days before the building work commences, notified the Consent Authority and the Council (if the council is not the Consent Authority) of their appointment as the principal certifier,
- b) the principal certifier has, no later than two (2) days before the building work commences, notified the consent holder of any inspections that are required to be carried out in respect of the building work,
- c) the person carrying out the building work has notified the principal certifier that the person will carry out the building work as an owner-builder, if that is the case,
- d) the consent holder, if not carrying out the work as an owner-builder, has:
  - i. appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential building work is involved, and



- ii. notified the principal certifier of the appointment, and
  - iii. unless that person is the principal contractor, notified the principal contractor of any inspections that are required to be carried out in respect of the building work,
- e) the consent holder has given at least a 2-day notice to the Council, and the principal certifier if not the Council, of the person's intention to commence the erection of the building.

- 3.3. A fence must be erected around the area of the development site, except where an existing 1.8 metres high boundary fence is in good condition and can secure the area. Any new fencing must be temporary and at least 1.8 metres high. All fencing must be maintained throughout the construction period 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 work proposed. An application for a Work Permit for such hoarding must be submitted to Council for approval before the commencement of building work/s.

- 3.4. Before the commencement of any site or building work, the principal certifier must ensure the adjoining building owner(s) is provided with a copy of the dilapidation report for their property(ies) no less than 14 days before the commencement of any site or building works.
- 3.5. Before the commencement of work, the consent holder must provide a temporary on-site toilet if access to existing toilets on site is not adequate/available. Temporary on-site toilet facilities must be installed and be adequately maintained throughout the construction period.
- 3.6. Council's warning sign for Soil and Water Management must be displayed throughout the construction period at the most prominent point of the site, visible to both the street and site.
- 3.7. A sign must be erected in a prominent position on any site on which building work or demolition work is being carried out:
- a. showing the name, address and telephone number of the principal certifier for the work, and
  - b. showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
  - c. stating that unauthorised entry to the work site is prohibited.

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

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



- 3.8. Before demolition, the entire site (including any structures) is to be assessed for hazardous materials, especially asbestos. A Hazardous Materials (HAZMAT) Report is to be prepared by a Type "A" inspection body accredited by NATA.

All recommendations in the above-mentioned report are to be implemented and a clearance certificate issued by an appropriately qualified occupational hygienist is to be submitted to Council before the commencement of demolition works.

#### **4. Conditions to be Satisfied During Construction.**

- 4.1. While building work is being carried out, any such work must not continue after each critical stage inspection unless the principal certifier is satisfied the work may proceed in accordance with this consent and the relevant construction certificate.
- 4.2. Building work must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- 4.3. The construction and fixing of the signage is to be carried out in accordance with details prepared by a suitably qualified practising structural engineer, in accordance with the structural provisions of the Building Code of Australia (BCA).
- 4.4. Building work or demolition work may only be carried out between 7.00 am and 6.00 pm on Monday to Friday, or between 8.00 am and 1.00 pm on Saturdays, and no construction is to be carried out at any time on a Sunday or a public holiday.
- 4.5. While building work is being carried out and where no noise and vibration management plan is approved under this consent, the consent holder is to ensure that any noise caused by demolition, vegetation removal or construction does not exceed an LAeq (15 min) of 5dB(A) above background noise, when measured at any lot boundary of the property where the construction is being carried out.
- 4.6. While building work is being carried out, a registered surveyor is to measure and mark the positions of the following and provide them to the principal certifier —
- a. All footings/ foundations
  - b. At other stages of construction – any marks that are required by the principal certifier.
- 4.7. 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.

- 4.8. 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.
- 4.9. While building work is being carried out, the consent holder must pay any costs incurred as a result of the approved removal, relocation or reconstruction of infrastructure (including ramps, footpaths, kerb and gutter, light poles, kerb inlet pits, service provider pits, street trees or any other infrastructure in the street footpath area).
- 4.10. While building work, demolition or vegetation removal is being carried out, the principal certifier must be satisfied all waste management is undertaken in accordance with the approved waste management plan.

Upon disposal of waste, the consent holder is to compile and provide records of the disposal to the principal certifier, detailing the following:

- a) The contact details of the person(s) who removed the waste
- b) The waste carrier vehicle registration
- c) The date and time of waste collection
- d) A description of the waste (type of waste and estimated quantity) and whether the waste is expected to be reused, recycled or go to landfill
- e) The address of the disposal location(s) where the waste was taken
- f) The corresponding tip docket/receipt from the site(s) to which the waste is transferred, noting date and time of delivery, description (type and quantity) of waste.

**Note:** If waste has been removed from the site under an EPA Resource Recovery Order or Exemption, the consent holder is to maintain all records in relation to that Order or Exemption and provide the records to the principal certifier and Council.

- 4.11. The requirements of the submitted Waste Management Plan shall be complied with at all times that work is being carried out. Without limiting the foregoing, compliance shall include the following:
  - 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*; and
  - 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*; and

- 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; and
- d. All waste generated (including excavated materials) which cannot be reused or recycled must be transported to a facility which can lawfully accept it; and
- 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; and
- f. All materials and resources that are to be stored on site during construction works are contained on the site; and
- g. 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; and
- h. 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.

4.12. There must not be any stockpiling of building spoil, materials, or storage of equipment on the public road during the construction period. The footway and the road reserve must always be maintained in a safe condition. No work can be carried out on the public road, including the footway, unless a Work Permit authorised by Council has been obtained.

4.13. While vegetation removal, demolition and/or building work is being carried out, the consent holder must ensure the measures required by the approved construction site management plan and the erosion and sediment control plan are implemented at all times.

The consent holder must ensure a copy of these approved plans is kept on site at all times and made available to Council officers upon request.

4.14. While demolition or building work is being carried out, all such works must cease immediately if a relic or Aboriginal object is unexpectedly discovered. The consent holder must notify the Heritage Council of NSW in respect of a relic and notify the Secretary of the Department of Planning, Industry and Environment and the Heritage Council of NSW in respect of an Aboriginal object. Building work may recommence at a time confirmed by either the Heritage Council of NSW or the Secretary of the Department of Planning, Industry and Environment.

In this condition:

- a) “relic” means any deposit, artefact, object or material evidence that:
  - a. relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement, and
  - b. is of State or local heritage significance; and
- b) “Aboriginal object” means any deposit, object or material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of the area that comprises New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction and includes Aboriginal remains.

4.15. Requirements of the approved Waste Management Plan (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

4.16. A grease trap, if required by Sydney Water must be installed in accordance with Sydney Water requirements and:

- a) Must be installed by a suitably qualified and licensed plumber in accordance with the Plumbing Code of Australia;
- b) The grease trap must not be in any kitchen, food preparation or food storage area;
- c) Be suitably constructed and installed in a location which allows it to be easily and effectively cleaned and emptied; and
- d) Be suitably constructed and located as not to encourage the harbourage of pests and be effectively pest proofed.

4.17. Where cooking by oil occurs, the premise shall contain adequate holding facilities for the reception of waste food oil. Waste food oil must be stored in a covered and bunded area and regularly removed by a waste oil recycler.

## **5. Conditions to be Satisfied Before Occupation.**

5.1. An occupation certificate must not be issued until all conditions relating to demolition, building and subdivision works have been satisfied and Council has issued a Work Permit Compliance Certificate (where applicable).

5.2. Eight (8) off-street car parking spaces shall be provided and maintained for the use of visitor and employees to the premises in accordance with the submitted plans. Such spaces are to be sealed and line marked and maintained for the lifetime of the development.

5.3. A registered surveyor shall prepare a Work As Executed Plan, and a suitably qualified Hydraulic Engineer shall provide certification of the constructed stormwater management 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 Canterbury Development Control Plan 2012 Part B5. The Work As Executed plan shall be submitted to the Hydraulic Engineer prior to certification of the stormwater management system.

The principal certifier must provide a copy of the Work As Executed Plan and Hydraulic Engineer's Certification to Council with the occupation certificate.

5.4. 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 before the issue of the occupation certificate or occupation of the site.

- 5.5. Before the issue of the relevant occupation certificate, the principal certifier must ensure any adjustment or augmentation of any public utility services including gas, water, sewer, electricity, street lighting and telecommunications, required as a result of the development, is completed to the satisfaction of the relevant authority.

Before the issue of the occupation certificate, the principal certifier must request written confirmation from the relevant authority that the relevant services have been completed.

- 5.6. Before the issue of an occupation certificate, the consent holder must ensure any public infrastructure damaged as a result of the carrying out of building works (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concreting vehicles) is fully repaired to the written satisfaction of Council, and at no cost to Council.

**Note:** If the council is not satisfied, the whole or part of the bond submitted will be used to cover the rectification work.

- 5.7. The following signs must be provided and maintained within the site at the point(s) of vehicle egress:
- a) Compelling drivers to stop before proceeding onto the public way
  - b) Compelling drivers to "*Give Way to Pedestrians*" before crossing the footway; or compelling drivers to "*Give Way to Pedestrians and Bicycles*" before crossing a footway on an existing or identified shared path route.

- 5.8. Before the issue of any occupation certificate, an agreement must be entered into with Council on terms satisfactory to Council for the collection of waste.

- 5.9. Before the issue of an occupation certificate, the principal certifier must ensure all refuse, spoil and material unsuitable for use on-site is removed from the site and disposed of in accordance with the approved waste management plan. Written evidence of the removal must be supplied to the satisfaction of the principal certifier.

Before the issue of a final occupation certificate, the consent holder must ensure the temporary storage of any waste is carried out in accordance with the approved waste management plan to the principal certifier's satisfaction.

- 5.10. Before the issue of an occupation certificate, the principal certifier must be satisfied that all landscape and tree-works, including pruning in accordance with AS 4373 – 'Pruning of amenity trees and the removal of



all noxious weed species', have been completed in accordance with the approved plans and any relevant conditions of this consent.

- 5.11. Any lighting on the site shall be designed so as not to cause nuisance to other residences in the area or to motorists on nearby public roads and to ensure no adverse impact on the amenity of the surrounding area by light overspill. All lighting shall comply with the Interim Australian Standard AS 4282 – 'The Control of the Obtrusive Effects of Outdoor Lighting'.
- 5.12. Prior to the issue of an occupation certificate, a Business Registration Form must be completed and submitted to Council. This form is available online at [www.cbccity.nsw.gov.au](http://www.cbccity.nsw.gov.au). In the instance details on the original registration form change, Council is to be notified of the change within seven (7) days of the change occurring.
- 5.13. Prior to the issue of an occupation certificate, a pre-occupation premises inspection report is to be undertaken by Council's Environmental Health Officer.
- 5.14. A Commercial Trade Waste Agreement must be obtained from Sydney Water prior to the discharge of trade wastewater to the sewer system and a copy provided to the principal certifier with the application for the occupation certificate.
- 5.15. 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.
- 5.16. 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.



- 5.17. The existing 'No Stopping' signage is to be changed to 'No Stopping - Waste Vehicles Excepted' signage for the length of 15m on the western side of Bakers Lane, subject to obtaining approval from the Traffic Committee, three months prior to the occupation of the site.

The Applicant shall submit a written application to Council – [council@cbc.city.nsw.gov.au](mailto:council@cbc.city.nsw.gov.au) (Attention: Traffic and Transport Services) three months prior to the issue of the occupation certificate, so that a report can be prepared and referred to the Traffic Committee for consideration at its next available meeting.

All costs associated with the supply and installation of the stems and appropriate signs are to be paid for by the Applicant prior to Traffic Committee consideration.

- 5.18. The development must operate in full compliance with Council's Waste Management collection requirements.

- 5.19. The nominated collection point is to be utilised to facilitate the collection of waste and recycling 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 in keeping with Council's Waste in Public Spaces Policy.

All mobile garbage bins are to be presented in such a way as to not impede pedestrian movements along Bakers Lane, prevent egress from the Bakers Lane fire escape or to hinder the collection of the residential waste.

- 5.20. The temporary bin presentation area will be required to be of sufficient size to allow the temporary storage of all allocated bins for the development. This development 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.

- 5.21. 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 and be able to show the waste collection contract if it is requested by a Council Enforcement Officer.

- 5.22. 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.

- 5.23. No waste storage bins are to be located or placed outside the approved waste storage room at any time except for collection purposes.
- 5.24. 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.
- 5.25. Any lighting of the premises must be installed in accordance with AS/NZS 4282-2019, 'Control of the obtrusive effects of outdoor lighting', to avoid annoyance to the occupants of adjoining premises or glare to motorists on nearby roads. Flashing, moving or intermittent lights or signs are prohibited. The intensity, colour or hours of illumination of the lights must be varied at Council's discretion if Council considers there to be adverse effects on the amenity of the area.

## **6. Conditions of Use.**

- 6.1. All loading and unloading operations associated with servicing the site must be carried out within the confines of the site, at all times and must not obstruct other properties/units or the public way.

At all times the service vehicle docks, car parking spaces and access driveways must be kept clear of goods and must not be used for storage purposes, including garbage storage.

- 6.2. The approved car parking spaces, driveways and manoeuvring areas are to be used for employees and visitors' vehicles only and not for the storage of new or used materials, finished goods or commercial vehicles.
- 6.3. During occupation and ongoing use of the building, the consent holder must ensure all wastewater and stormwater treatment devices (including drainage systems, sumps and traps, and on-site detention) are regularly maintained, to remain effective and in accordance with any positive covenant (if applicable).
- 6.4. All vehicles associated with the development are to enter and exit the site in a forward direction.

- 6.5. The requirements of the submitted Waste Management Plan shall be complied with at all times that the approved development is being carried out.
- 6.6. The consent holder shall enter into a commercial contract for the collection of wastes and recycling. A copy of the commercial waste and recycling contract shall be lodged with Council and invoices should be available for inspection at any time.
- 6.7. All commercial uses must engage and utilise the services of a private waste collection service and must have written evidence on site of a valid and current contract with a licenced waste collector for waste and recycling collection disposal.
- 6.8. All waste generated on the site is to be stored, handled and disposed of in such a manner as to not create offensive odour, offensive noise or pollution of land and/or water as defined under the *Protection of the Environment Operations Act 1997*. All waste generated shall be removed and disposed of by an authorised waste removal contractor. A copy of the waste removal agreement and receipts shall be made available to Council on request.
- 6.9. No waste storage containers are to be located or placed outside the approved waste storage area at any time except for collection purposes.
- 6.10. The consent holder shall ensure that all activities within the premises comply with the relevant sections of the *Protection of the Environment Operations Act 1997* and Regulations and the NSW Environment Protection Authority Industrial Noise Policy (2000).
- 6.11. The approved landscaping and external work must be maintained post occupation and must not be altered or changed without Council approval or unless the altered work is carried out in accordance with the relevant provisions of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.
- 6.12. Instructions concerning procedures to be adopted in the event of an emergency are to be clearly displayed on the premises for both public and staff information at all times.

-END-



---

## Canterbury Bankstown Local Planning Panel - 01 May 2023

---

<b>ITEM 3</b>	<b>53 Alma Road, Padstow</b>  <b>Demolition of existing structures and construction of a two-storey 48-place centre-based child care facility</b>
<b>FILE</b>	<b>DA-35/2022– Bunya / Revesby</b>
<b>ZONING</b>	<b>R2 Low Density Residential</b>
<b>DATE OF LODGEMENT</b>	<b>21 January 2022</b>
<b>APPLICANT</b>	<b>FLDC PTY LTD</b>
<b>OWNERS</b>	<b>All Saints Group Pty Ltd</b>
<b>ESTIMATED VALUE</b>	<b>\$2,276,274</b>
<b>AUTHOR</b>	<b>PLANNING</b>

### REPORT

---

This matter is reported to the Canterbury-Bankstown Local Planning Panel as the application received more than 10 unique submissions during Council's assessment.

Development Application No. DA-35/2022 proposes demolition of existing structures and construction of a two-storey 48-place centre-based child care facility.

DA-35/2022 has been assessed against the matters for consideration contained in Section 4.15 of the *Environmental Planning and Assessment Act, 1979* and assessed against *State Environmental Planning Policy (Biodiversity and Conservation) 2021*, *State Environmental Planning Policy (Industry and Employment) 2021*, *State Environmental Planning Policy (Resilience and Hazards) 2021*, *State Environmental Planning Policy (Transport and Infrastructure) 2021*, *NSW Child Care Planning Guideline*, *Bankstown Local Environmental Plan 2015*, *Draft Canterbury-Bankstown Local Environmental Plan 2020* and *Bankstown Development Control Plan 2015*.

The application was notified on lodgement for a period of twenty-one (21) days between 16 March 2022 to 5 April 2022 and renotified on the submission of amended plans for a period of fourteen (14) days between 31 March 2023 to 13 April 2023. A total of 22 submissions across at least 16 properties, including a number of pro-forma letters, were made in relation to traffic impact and safety, parking, noise pollution,

visual privacy, property value, overshadowing, accessibility, and insufficient information.

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

## **POLICY IMPACT**

---

This matter has no direct policy implications.

## **FINANCIAL IMPACT**

---

This matter has no direct financial implications.

## **RECOMMENDATION**

---

It is recommended that the application be refused for the reasons contained in Attachment B – Reasons for Refusal.

## **ATTACHMENTS**

---

- A. Assessment Report
- B. Reasons for Refusal

## **DA-35/2022 ASSESSMENT REPORT**

### **SITE & LOCALITY DESCRIPTION**

The subject site is 53 Alma Road, Padstow NSW at Lot 1 in Deposited Plan 20798. It is zoned R2 Low Density Residential under the Bankstown Local Environmental Plan 2015.

It is a corner allotment with primary frontage to Alma Road of 17.72m and secondary frontage to Yates Crescent which is a cul-de-sac of 41.3m and has an area of 948.5m<sup>2</sup>. The subject site has a fall of 3.01m from the primary frontage at RL 35.52 to the rear at RL 32.51. The subject site is affected by Class 5 Acid Sulfates Soils.

The subject site is currently occupied by a two-storey dwelling with three trees within the primary frontage and various smaller trees and shrubs at the rear of the site. It adjoins directly to the west with an existing single-storey dwelling with associated carport and rear outbuilding and to the south a two-storey dwelling. Across from Yates Crescent, approximately 45m, is Davies Road which is classified as a State Road.

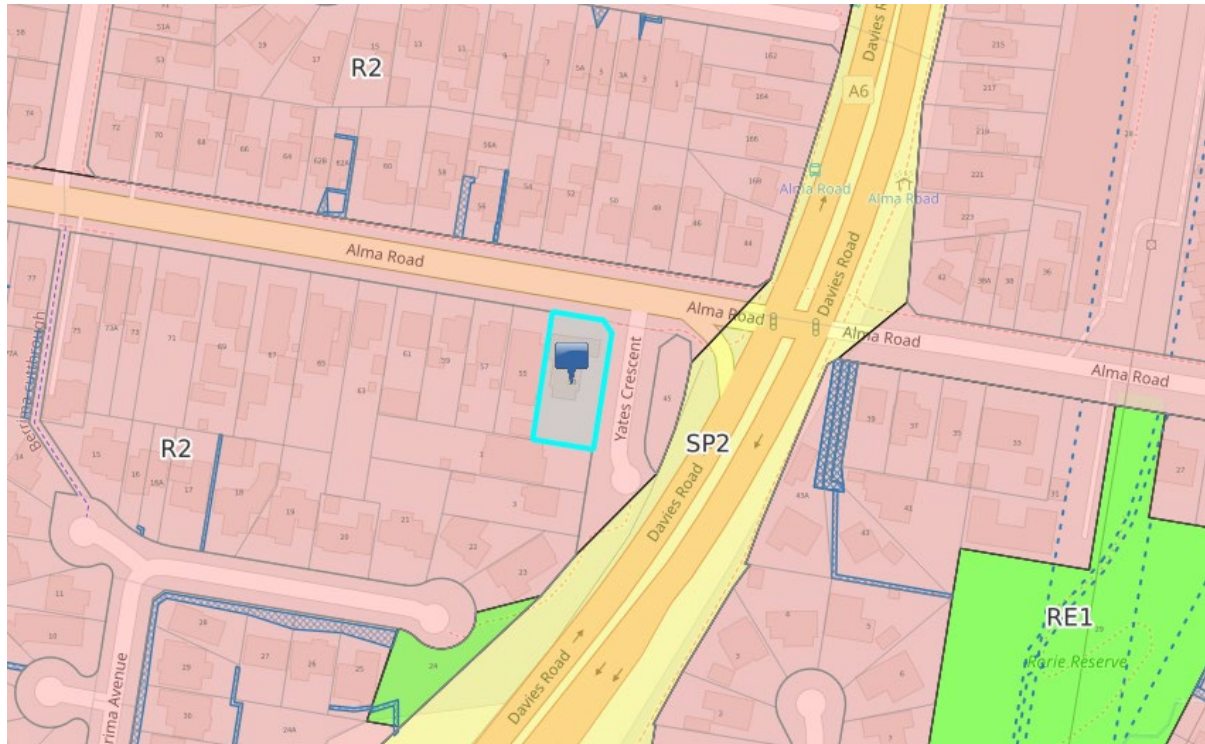
The subject site is predominantly surrounded by R2 – Low Density Residential zoning which comprises mainly of dwellings and dual occupancies and secondary dwellings.



**Figure 1:** Aerial photo of the subject site

**Source:** NearMaps 2021





**Figure 2:** Land Zoning of subject site **Source:** BLEP 2015 Land Use Maps

## Background

- On 21 January 2022, DA-35/2022 was submitted to Council for the demolition of existing structures and construction of a 52-place centre-based child care facility.
- On 21 January 2022, the development application was referred to Council's Environmental Health Officer, Building Surveyor, Development Engineering Officer, Traffic Engineer and Waste Management Officer. Matters were raised, and further information was requested.
- On 2 March 2022, the development application fees were made by the applicant and the development application was formally lodged to Council.
- On 8 March 2022, the development application was referred to TfNSW for assessment. Conditions of consent were provided.
- On 16 March 2022, the development application was notified for a period of 21 days. 19 submissions including a number of pro-forma letters were made.
- On 13 April 2022, a major deficiency letter was issued to the applicant outlining an extensive list of matters identified in Council's assessment of the development application. A copy of this letter is included in the supplementary pack.

- On 14 March 2023, the applicant submitted amended architectural plans and reduced the number of proposed children to 48. No other supporting documentation was submitted.
- On 3 March 2023, the applicant was provided the opportunity to withdraw the application or have the matter reported to the Local Planning Panel for determination as more than 10 unique submissions were made during the assessment of the application.
- On 31 March 2023, the application was renotified for a period 14 days, no submissions were made during this notification.

### **PROPOSED DEVELOPMENT**

The Development Application proposes the demolition of existing structures and construction of a two-storey, 48-place, centre-based child care facility. More specifically, the proposal involves the following works as summarised in the table below:

Floor	Proposed
Ground Floor	<ul style="list-style-type: none"> <li>• 12 on-site parking spaces (including one accessible parking space) with entry from Alma Road and exit onto Yates Crescent.</li> <li>• Foyer and Reception/Office room</li> <li>• Kitchen</li> <li>• Accessible bathroom</li> <li>• Elevator and staircase</li> <li>• 8 spaces indoor play area (Ages 0-2)</li> <li>• 20 spaces indoor play area (Ages 2-3)</li> <li>• 28 spaces outdoor play area (Ages 0-3)</li> </ul>
First Floor	<ul style="list-style-type: none"> <li>• Staff and office rooms</li> <li>• Accessible bathroom</li> <li>• Laundry room</li> <li>• Elevator and staircase</li> <li>• 20 spaces indoor play area (Ages 3-6)</li> <li>• 20 spaces outdoor play area (Ages 3-6)</li> </ul>

The proposed hours of operation are 7:00am – 7:00pm on Monday to Friday.

### **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 (Biodiversity and Conservation) 2021
- State Environmental Planning Policy (Industry and Employment) 2021
- State Environmental Planning Policy (Resilience and Hazards) 2021
- State Environmental Planning Policy (Transport and Infrastructure) 2021
- NSW Child Care Planning Guideline
- Bankstown Local Environmental Plan 2015

- Draft Canterbury-Bankstown Local Environmental Plan (BLEP) 2020
- Bankstown Development Control Plan (BDCP) 2015.
- Bankstown Section 94A Development Contributions Plan

## **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 (Biodiversity and Conservation) 2021**

##### **Chapter 2 Vegetation in non-rural areas**

The proposal has been assessed against the relevant aims and objectives of this State Environmental Planning Policy which seeks to protect remaining native vegetation within urban areas. It is considered that the site does not contain remnant native vegetation and is consistent with the aims of the instrument.

In addition, the proposed development was referred to Council's Tree Management Officer for assessment and was supportable. As such, the development is generally consistent with the aims and objectives of Chapter 2.

##### **Chapter 11 Georges Rivers Catchment**

The site is located within the catchment area of the Georges River. Chapter 11 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 Chapter 11, as well as the Planning Principles as set out in Part 11.2.

#### **State Environmental Planning Policy (Resilience and Hazards) 2021**

Chapter 4, section 4.6 requires a consent authority 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, the consent authority 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, the consent authority must be satisfied that the land will be remediated before the land is used for that purpose.

The proposed development was referred to Council's Environmental Health Officer for assessment. A Preliminary Site Investigation was requested in accordance with the NSW EPA Guidelines, sub clause (d) of regulation 25 of the Education and Care Service National Regulation, which has not been submitted. In this regard, the subject site is not considered suitable for the proposed development as no information has been submitted to adequately demonstrate compliance with the

provisions of Chapter 4, Section 4.6.

## **State Environmental Planning Policy (Transport and Infrastructure) 2021**

### **Chapter 3 Educational Establishments and Child Care Facilities**

Chapter 3 of State Environmental Planning Policy (Transport and Infrastructure) 2021 applies to educational establishments and child care facilities and aims to facilitate the effective delivery of educational establishments and early education and care facilities across the State.

<b>State Environmental Planning Policy (Transport and Infrastructure) 2021   Chapter 3 Educational Establishments and Child Care Facilities</b>					
<b>Clause</b>	<b>Requirement</b>	<b>Proposed</b>	<b>Y</b>	<b>N</b>	<b>NA</b>
<b>Part 3.1 - Preliminary</b>					
Cl. 3.1	Aims of Policy		✓		
<b>Part 3.2 – General</b>					
Cl 3.8	Consultation with councils - development with impacts on council-related infrastructure or services		✓		
Cl 3.9	Consultation with councils - development with impacts on council-related infrastructure or services				✓
Cl 3.10	Notification of councils and State Emergency Service—development on flood liable land				✓
<b>Part 3.3 - Early education and care facilities—specific development controls</b>					
Cl. 3.22	Centre-based child care facility—concurrence of Regulatory Authority required for certain development		✓		
Cl. 3.23	Centre-based child care facility—matters for consideration by consent authorities – <i>childcare planning guideline</i>			✓	
Cl. 3.24	Centre-based child care facility in Zone IN1 or IN2—additional matters for consideration by consent authorities				✓
Cl. 3.25	Centre-based child care facility – floor space ratio  Must not exceed 0.5:1 for R2 Low Density Residential Areas.	<p>Clause 3.25(2) of the SEPP states that:</p> <p><i>(2) This section does not apply if another environmental planning instrument or a development control plan sets a maximum floor space ratio for the centre-based child care facility.</i></p> <p>The Bankstown LEP 2015 prescribes a maximum FSR of 0.4:1 for non-residential development in the R2 zone, hence the 0.5:1 FSR contemplated by the SEPP does not apply.</p> <p>The proposed development exceeds an FSR is 0.519:1. Please refer to the Bankstown LEP section of this report for further discussion.</p>		✓	

<b>State Environmental Planning Policy (Transport and Infrastructure) 2021   Chapter 3 Educational Establishments and Child Care Facilities</b>				
Cl. 3.26	Centre-based child care facility—non-discretionary development standards	✓		
Cl. 3.27	Centre-based child care facility—development control plans	✓		
Cl. 3.28	Mobile child care—exempt development			✓
Cl. 3.29	Temporary emergency relocation of early education and child care facility—exempt development			✓
<b>Part 3.7 – General development controls</b>				
Cl. 3.58	Traffic-generating development	✓		

The proposed development fails to comply with the requirements of the SEPP, specifically with respect to the maximum permitted floor space ratio. As noted, the Bankstown Local Environmental Plan 2015 limits the floor space ratio of non-residential development in the R2 zone to a maximum 0.4:1. This LEP standard applies by virtue of clause 3.25(2) of the SEPP (which allows the FSR prescribed in another environmental planning instrument to prevail).

### Education and Care Services National Regulations

The Education and Care Services National Regulations sit under the Children (Education and Care Services) National Law (NSW), which aims to establish care service quality frameworks for childcare centres within NSW. Specifically, the Act seeks to ensure the safety, health and wellbeing of children attending services, improve educational and development outcomes and promote continuous improvement of service providers. The Regulations assist in establishing a set of standards to be met by individual child care facilities.

<b>Education and Care Services National Regulations</b>					
<b>Clause</b>	<b>Requirement / Design Criteria</b>	<b>Proposed</b>	<b>Y</b>	<b>N</b>	<b>NA</b>
<b>Part 4.3 Physical Environment</b>					
<b>Division 1 Centre-based services and family day care services</b>					
Cl. 104	Fencing				
	The approved provider of an education and care service must ensure that any outdoor space used by children at the education and care service premises is enclosed by a fence or barrier that is of a height and design that children preschool age or under cannot go through, over or under it.	Ground floor and first floor outdoor play areas are enclosed by fencing as well as acoustic screening.	✓		
	This regulation does not apply to a centre-based service that primarily provides education and care to children over preschool age.	No proposed children over preschool age			✓
	This regulation does not apply in respect of a family day care residence or a family day care venue if all the children being educated and cared for at that residence or venue as	No proposed children over preschool age			✓

Education and Care Services National Regulations					
Clause	Requirement / Design Criteria	Proposed	Y	N	NA
	part of a family day care service are over preschool age.				
Cl. 106	Laundry and hygiene facilities				
	The approved provider of an education and care service must ensure that the service has— a. laundry facilities or access to laundry facilities; or b. other arrangements for dealing with soiled clothing, nappies and linen, including hygienic facilities for storage prior to their disposal or laundering—	Nappy and linen change room, children bathroom, washing and accessible toilet proposed on ground floor.  Laundry, children and accessible bathrooms proposed on first floor.	✓		
	The approved provider of the service must ensure that laundry and hygienic facilities are located and maintained in a way that does not pose a risk to children.	Not considered to pose a risk to children	✓		
Cl. 107	Space Requirements – indoor space				
	This regulation does not apply in respect of a family day care residence.	Not a family day care			✓
	The approved provider of an education and care service must ensure that, for each child being educated and cared for by the service, the education and care service premises has at least 3.25 square metres of unencumbered indoor space.	Area Provided 164.98m <sup>2</sup> Divide by 3.25 50.76m <sup>2</sup> Places Permitted 50  Proposed 48 place childcare centre.	✓		
	In calculating the area of unencumbered indoor space— a. the following areas are to be excluded— i. any passageway or thoroughfare (including door swings); ii. any toilet and hygiene facilities; iii. any nappy changing area or area for preparing bottles; iv. any area permanently set aside for the use or storage of cots; v. any area permanently set aside for storage; vi. any area or room for staff or administration; vii. any other space that is not suitable for children; b. the area of a kitchen is to be excluded, unless the kitchen is primarily to be used by children as part of an educational program provided by the service.	Noted	✓		
	The area of a verandah may be included in calculating the area of indoor space only	Not proposed			✓



Education and Care Services National Regulations					
Clause	Requirement / Design Criteria	Proposed	Y	N	NA
	with the written approval of the Regulatory Authority.				
	A verandah that is included in calculating the area of outdoor space cannot be included in calculating the area of indoor space.	Noted			✓
	In this regulation a reference to a child does not include— a. a child being educated or cared for in an emergency in the circumstances set out in regulation 123(5); or b. an additional child being educated or cared for in exceptional circumstances as set out in regulation 124(5) and (6).	Noted	✓		
Cl. 108	Space Requirements – outdoor space				
	This regulation does not apply in respect of a family day care residence.		✓		
	The approved provider of an education and care service must ensure that, for each child being educated and cared for by the service, the education and care service premises has at least 7 square metres of unencumbered outdoor space.	Area Provided 363.43m <sup>2</sup> Divide by 7.0 51.9m <sup>2</sup> Places Permitted 51  Proposed 48 place childcare centre.	✓		
	In calculating the area of unencumbered outdoor space required, the following areas are to be excluded— a. any pathway or thoroughfare, except where used by children as part of the education and care program; b. any car parking area; c. any storage shed or other storage area; d. any other space that is not suitable for children.	Noted	✓		
	A verandah that is included in calculating the area of indoor space cannot be included in calculating the area of outdoor space.	Not proposed			✓
	An area of unencumbered indoor space may be included in calculating the outdoor space of a service that provides education and care to children over preschool age if— a. the Regulatory Authority has given written approval; and b. that indoor space has not been included in calculating the indoor space under regulation 107.	No proposed children over preschool age			✓
Cl. 109	Toilet and hygiene facilities				
	The approved provider of an education and care service must ensure that— a. adequate, developmentally and age-appropriate toilet, washing and drying facilities are provided for use by	Accessible bathroom proposed on first floor  Children bathrooms direct access	✓		



Education and Care Services National Regulations					
Clause	Requirement / Design Criteria	Proposed	Y	N	NA
	children being educated and cared for by the service; and b. the location and design of the toilet, washing and drying facilities enable safe use and convenient access by the children.	to indoor and outdoor play areas.			
Cl. 110	Ventilation and natural light				
	The approved provider of an education and care service must ensure that the indoor spaces used by children at the education and care service premises— a. are well ventilated; and b. have adequate natural light; and c. are maintained at a temperature that ensures the safety and wellbeing of children.	Considered to be well ventilated  Sufficient natural light due to numerous windows along northern, south, and eastern elevation	✓		
Cl. 111	Administrative space				
	The approved provider of a centre-based service must ensure that an adequate area or areas are available at the education and care service premises for the purposes of— a. conducting the administrative functions of the service; and b. consulting with parents of children; and c. conducting private conversations.	Reception/Office room proposed on ground floor.  Staff and office rooms proposed on first floor.	✓		
Cl. 112	Nappy change facilities				
	This regulation applies if a centre-based service educates and cares for children who wear nappies.	Noted	✓		
	The approved provider of the service must ensure that adequate and appropriate hygienic facilities are provided for nappy changing.	Children bathrooms adjacent indoor and outdoor play areas.  Nappy and linen change room adjacent 0-2 play area.  Laundry room proposed on first floor.	✓		
	Without limiting subregulation (2), the approved provider of the service must ensure that the following are provided— a. if any of the children are under 3 years of age, at least 1 properly constructed nappy changing bench; and b. hand cleansing facilities for adults in the immediate vicinity of the nappy change area.	The proposed development achieves the design requirements	✓		
	The approved provider of the service must ensure that nappy change facilities are designed, located and maintained in a way that prevents unsupervised access by children.	Noted	✓		

Education and Care Services National Regulations					
Clause	Requirement / Design Criteria	Proposed	Y	N	NA
Cl. 113	Outdoor space—natural environment				
The approved provider of a centre-based service must ensure that the outdoor spaces provided at the education and care service premises allow children to explore and experience the natural environment.		The proposed outdoor play areas achieves this design requirement.	✓		
Cl. 114	Outdoor space—shade				
The approved provider of a centre-based service must ensure that outdoor spaces provided at the education and care service premises include adequate shaded areas to protect children from overexposure to ultraviolet radiation from the sun.		The proposed outdoor play areas achieves this design requirement.	✓		
Cl. 115	Premises designed to facilitate supervision				
The approved provider of a centre-based service must ensure that the education and care service premises (including toilets and nappy change facilities) are designed and maintained in a way that facilitates supervision of children at all times that they are being educated and cared for by the service, having regard to the need to maintain the rights and dignity of the children.		The proposed accessible bathrooms / toilets and children toilets achieve the design requirements.	✓		
<b>Part 4.4 Staffing Arrangements</b>					
<b>Division 3 Minimum number of educators and family day care co-ordinators required</b>					
Cl. 123	Educator to child ratios—centre-based services				
The minimum number of educators required to educate and care for children at a centre-based service is to be calculated in accordance with the following ratios— a. for children from birth to 24 months of age—1 educator to 4 children; b. for children over 24 months and less than 36 months of age—1 educator to 5 children; c. for children aged 36 months of age or over (not including children over preschool age)—1 educator to 11 children; d. for children over preschool age, 1 educator to 15 children.		Age	Ratio	No.	Staff
		0 – 24	1:4	8	2
		24 – 36	1:5	20	4
		36 – preschool	1:11	20	1.81
		preschool - over	1:15	0	0
		Required		7.81	
		8 staff required			
		9 staff proposed			
If children being educated and cared for at a centre-based service are of mixed ages the minimum number of educators for the children must meet the requirements of subregulation (1) at all times.		Noted	✓		

## **NSW Child Care Planning Guideline**

The considerations contained in the NSW Child Care Planning Guideline give guidance to applicants on how to design a high-quality proposal that takes account of its surroundings and any potential environmental impacts the development may cause. They also encourage applicants to be mindful of potential impacts that may arise from existing uses and conditions within a locality.

The Guideline must be considered by a consent authority when assessing a development application for a child care facility. The following table provides an assessment of the proposed development against the applicable objectives and considerations and sets out the provisions with which the proposal fails to comply.

<b>Child Care Planning Guideline</b>					
<b>Clause</b>	<b>Objective</b>	<b>Proposed</b>	<b>Y</b>	<b>N</b>	<b>NA</b>
The planning objectives of this Guideline are to: <ul style="list-style-type: none"> <li>• promote high quality planning and design of child care facilities in accordance with the physical requirements of the National Regulations</li> <li>• ensure that child care facilities are compatible with the existing streetscape, context and neighbouring land uses</li> <li>• minimise any adverse impacts of development on adjoining properties and the neighbourhood, including the natural and built environment</li> <li>• deliver greater certainty to applicants, operators and the community by embedding the physical requirements for service approval into the planning requirements for child care facilities</li> </ul>					
<b>3. Matters for Consideration</b>					
<b>3.1 Site selection and location</b>					
Objective: To ensure that appropriate zone considerations are assessed when selecting a site				✓	
C1	Special consideration for low density residential, commercial, industrial, public / private recreation zones and sites on school sites	An amended traffic and acoustic report per the amended design has not been submitted for review. In this regard, the proposed development as amended can not adequately demonstrate acoustic and traffic impacts on the immediate residential amenity.		✓	
Objective: To ensure that the site selected for a proposed child care facility is suitable for the use				✓	
C2	Site is environmentally safe from risk and contaminants.	The applicant has failed to provide a preliminary site investigation and preliminary acid sulfate soil assessment.		✓	
Objective: To ensure that sites for child care facilities are appropriately located			✓		
C3	Site is near compatible land uses	The subject site is within a predominantly residential area.	✓		
Objective: To ensure that sites for child care facilities do not incur risks from environmental, health or safety hazards			✓		
C4	Avoidance of hazardous industry,	The subject site is not near any	✓		

Child Care Planning Guideline					
Clause	Objective	Proposed	Y	N	NA
	petrol stations, etc.	industrial or hazardous use areas.			
<b>3.2 Local character, streetscape and the public domain interface</b>					
Objective: To ensure that the child care facility is compatible with the local character and surrounding streetscape				✓	
C5	Responds to character of area and reflects surrounding land uses.	The design as amended includes a first floor outdoor balcony play area which does not respond to the existing residential streetscape. The proposed parking areas are within the front and side setbacks and does not incorporate good landscape design.		✓	
Objective: To ensure clear delineation between the child care facility and public spaces			✓		
C6	Achieves well designed fencing with passive surveillance.	The proposed development achieves this requirement.	✓		
C7	Achieves legibility via design	The proposed development achieves this requirement.	✓		
C8	Development fronting parks, open spaces or bushland must respond to the site	Does not adjoin parks or bushland.			✓
Objective: To ensure that front fences and retaining walls respond to and complement the context and character of the area and do not dominate the public domain.			✓		
C9	Front fences and retaining walls must respond to and complement the context and character of the area and do not dominate the public domain	The proposed development achieves this requirement.	✓		
C10	Consideration for adequate fencing or acoustic walls when facing a classified road	Subject site does not face classified road.			✓
<b>3.3 Building orientation, envelope and design</b>					
Objective: To respond to the streetscape and site, while optimising solar access and opportunities for shade				✓	
C11	Minimisation of privacy impacts, optimisation of solar access, avoidance of shadowing, minimisation of cut and fill and protection from wind	<p>The windows on the western elevation do not directly overlook into the windows of the western adjoining property.</p> <p>The indoor play areas and facilities fail to optimise solar access due to extensive shading areas.</p> <p>Furthermore, amended shadow</p>		✓	

Child Care Planning Guideline					
Clause	Objective	Proposed	Y	N	NA
		diagrams have not been submitted to demonstrate minimal overshadowing to neighbouring properties.  Minimal fill and cut proposed.			
Objective: To ensure that the scale of the child care facility is compatible with adjoining development and the impact on adjoining buildings is minimised				✓	
C12	Height and setbacks are consistent with locality  0.5:1 FSR applies where an LEP does not specify	Building height = 8.784m FSR = 0.519:1 Primary setback to parking = 4m  Design is not compatible with the adjoining height, FSR and setback.		✓	
Objective: To ensure that setbacks from the boundary of a child care facility are consistent with the predominant development within the immediate context				✓	
C13	10m setback to classified roads for sites with no prevailing setback controls	Does not adjoin a classified road. Setback to parking is not consistent with the setback controls of the BDCP 2015.		✓	
C14	Consideration for prevailing side and rear setbacks on residential land	The proposed development achieves this requirement.	✓		
Objective: To ensure that buildings are designed to create safe environments for all users.			✓		
C15	The built form of the development should contribute to the character of the local area	The proposed development achieves this requirement.	✓		
C16	Visible from the street with easy pedestrian access	The proposed development achieves this requirement.	✓		
Objective: To ensure that child care facilities are designed to be accessible by all potential users.			✓		
C17	Accessible design outside the development can be achieved.  The National Construction Code, the Discrimination Disability Act 1992 and the Disability (Access to Premises – Buildings) Standards 2010 set out the requirements for access to buildings for people with disabilities.	The proposed development achieves this requirement.	✓		
3.4 Landscaping					
Objective: To provide landscape design that contributes to the streetscape and amenity.				✓	
C18	Provide appropriate planting and	Amended landscape plan has not		✓	

Child Care Planning Guideline					
Clause	Objective	Proposed	Y	N	NA
	landscaping around the development	been submitted for assessment			
C19	Parking areas should be incorporated into the landscape design	Insufficient information has been submitted to demonstrate compliance.		✓	
<b>3.5 Visual and acoustic privacy</b>					
Objective: To protect the privacy and security of children attending the facility.			✓		
C20	Open balconies should not overlook facilities nor overhang outdoor play areas	First floor balcony is enclosed, and overhangs proposed car park area.	✓		
C21	Minimise direct overlooking into public areas	Avoids overlooking into public areas.	✓		
Objective: To minimise impacts on privacy of adjoining properties.			✓		
C22	Minimise direct looking into adjoining neighbour areas	Proposed development does not overlook into the windows of the adjoining western dwelling.	✓		
Objective: To minimise the impact of child care facilities on the acoustic privacy of neighbouring residential developments.				✓	
C23	New developments should provide acoustic privacy to adjacent residential dwellings	Insufficient information has been submitted to demonstrate compliance.		✓	
C24	Acoustic report should be prepared by a suitably qualified acoustic professional	Insufficient information has been submitted to demonstrate compliance.		✓	
<b>3.6 Noise and air pollution</b>					
Objective: To ensure that outside noise levels on the facility are minimised to acceptable levels.				✓	
C25	Adopt acoustic design solutions to minimise noise impacts.	Insufficient information has been submitted to demonstrate compliance.		✓	
C26	An acoustic report should identify appropriate noise levels for sleeping areas and other non-play areas and examine impacts and noise attenuation measures from high acoustic impact areas.	Amended acoustic report has not been submitted in relation to the amended first floor play area.		✓	
Objective: To ensure air quality is acceptable where child care facilities are proposed close to external sources of air pollution such as major roads and industrial development.				✓	
C27	Location of child care facilities should minimise external potential impacts e.g. major roads or industrial development.	Insufficient information has been submitted to demonstrate compliance.		✓	
C28	A suitably qualified air quality professional should prepare an air quality assessment report to demonstrate that proposed child	The requested air quality assessment report has not been submitted. As such, insufficient information has been submitted		✓	

Child Care Planning Guideline					
Clause	Objective	Proposed	Y	N	NA
	care facilities close to major roads or industrial developments can meet air quality standards in accordance with relevant legislation and guidelines.	to demonstrate compliance.			
<b>3.7 Hours of operation</b>					
Objective: To minimise the impact of the child care facility on the amenity of neighbouring residential developments.				✓	
C29	Hours of operation where the predominant land use is residential should be confined to the core hours of 7.00am to 7.00pm weekdays.	Proposed 7:00am to 7:00pm weekdays	✓		
C30	Within mixed use areas or predominantly commercial areas, the hours of operation for each child care facility should be assessed with respect to its compatibility with adjoining and co-located land uses	Not within mixed use areas or predominantly commercial areas.			✓
<b>3.8 Traffic, parking and pedestrian circulation</b>					
Objective: To provide parking that satisfies the needs of users and demand generated by the centre.				✓	
C31	Off street car parking should be provided at the rates for child care facilities specified in a Development Control Plan that applies to the land.	1 space per 4 children parking rate.  48 children / 4 = 12 parking spaces required.  12 parking spaces (one accessible) proposed.	✓		
C32	In commercial or industrial zones and mixed-use developments, on street parking may only be considered where there are no conflicts with adjoining uses, that is, no high levels of vehicle movement or potential conflicts with trucks and large vehicles.	Not within commercial or industrial zones.			✓
C33	A Traffic and Parking Study should be prepared to support the proposal to quantify potential impacts on the surrounding land uses, to optimise the safety and convenience of the parking area(s) and demonstrate how impacts on amenity will be minimised.	An amended traffic report has not been submitted to demonstrate compliance		✓	



Child Care Planning Guideline					
Clause	Objective	Proposed	Y	N	NA
Objective: To provide vehicle access from the street in a safe environment that does not disrupt traffic flow.				✓	
C34	Alternate vehicular access for sites front classified or heavy industrial use roads.	Not applicable			✓
C35	Child care facilities in cul-de-sacs or narrow roads should ensure safe access to the site.	It is noted that Clause 6.8 of the BLEP 2015 prohibits vehicular access to Yates Crescent as it is a cul-de-sac. Notwithstanding, an amended traffic report has not been submitted to demonstrate safe access to the site. In addition, the carriageway between the kerbs of Yates Crescent does not achieve 10 metres.		✓	
Objective: To provide a safe and connected environment for pedestrians both on and around the site.				✓	
C36	Safe pedestrian access and design	Insufficient information has been submitted to demonstrate compliance.		✓	
C37	Mixed development should consider adequate driveway access, manoeuvrability, and drop off and pick up zones designs.	Insufficient information has been submitted to demonstrate compliance.		✓	
C38	Car parking design should consider accessibility and safety.	Insufficient information has been submitted to demonstrate compliance.		✓	
<b>4. Applying the National Regulations to Development Proposals</b>					
<b>4.1 Indoor space requirements</b>					
<p>Regulation 107:</p> <p>The proposed development includes at least 3.25m<sup>2</sup> of unencumbered indoor space for each child. Refer to regulation 107 of the Education and Care Services National Regulation for further information on calculating indoor space.</p> <p><b>Storage</b></p> <p>Storage areas including joinery units are not to be included in the calculation of indoor space. To achieve a functional unencumbered area free of clutter, storage areas need to be considered when designing and calculating the spatial requirements of the facility. It is recommended that a child care facility</p>		<p>Area Provided            164.98m<sup>2</sup></p> <p>Divide by 3.25            50.76m<sup>2</sup></p> <p>Places Permitted        50</p> <p>48 children x 0.3m<sup>3</sup> = 14.4m<sup>3</sup> indoor storage space required.</p> <p>Proposed 16m<sup>3</sup> indoor storage space.</p> <p>48 children x 0.3m<sup>3</sup> = 14.4m<sup>3</sup> outdoor storage space required.</p>	✓		

Child Care Planning Guideline					
Clause	Objective	Proposed	Y	N	NA
provide: <ul style="list-style-type: none"> <li>a minimum of 0.3m<sup>3</sup> per child of external storage space</li> <li>a minimum of 0.2m<sup>3</sup> per child of internal storage space.</li> </ul>					
<b>4.2 Laundry and hygiene facilities</b>					
Regulation 106: The proposed development includes laundry facilities or access to laundry facilities OR explain the other arrangements for dealing with soiled clothing, nappies and linen, including hygienic facilities for storage of soiled clothing, nappies and linen prior to their disposal or laundering. Laundry/hygienic facilities are located where they do not pose a risk to children		Laundry facility proposed on first floor. Nappy and linen change rooms proposed on ground floor adjacent 0-2 aged play area.	✓		
<b>4.3 Toilet and hygiene facilities</b>					
Regulation 109: The proposed development includes adequate, developmentally and age appropriate toilet, washing and drying facilities for use by children being educated and cared for by the service. The location and design of the toilet, washing and drying facilities enable safe and convenient use by the children.		Accessible bathrooms and children bathrooms proposed adjacent play areas.	✓		
<b>4.4 Ventilation and natural light</b>					
Regulation 110: The proposed development includes indoor spaces to be used by children that <ul style="list-style-type: none"> <li>will be well ventilated; and</li> <li>will have adequate natural light; and</li> <li>can be maintained at a temperature that ensures the safety and well-being of children.</li> </ul>		The indoor play areas do not achieve sufficient natural light due to orientation of windows, layout and excessive roof/shading.		✓	
<b>4.5 Administrative space</b>					
Regulation 111: The proposed development includes an adequate area or areas for the purposes of conducting the administrative functions of the service; and consulting with parents of children; and conducting private conversations. Note: This space cannot be included in the calculation of unencumbered indoor space – see regulation 107		Office reception area proposed on ground floor, office and staff room proposed on first floor	✓		
<b>4.6 Nappy change facilities</b>					
Regulation 112: Child care facilities must provide for children		The proposed development achieves this design	✓		

Child Care Planning Guideline					
Clause	Objective	Proposed	Y	N	NA
	who wear nappies, including appropriate hygienic facilities for nappy changing and bathing. All nappy changing facilities should be designed and located in an area that prevents unsupervised access by children.	requirement.			
<b>4.7 Premises designed to facilitate supervision</b>					
	Regulation 115: A centre-based service must ensure that the rooms and facilities within the premises (including toilets, nappy change facilities, indoor and outdoor activity rooms and play spaces) are designed to facilitate adequate supervision of children at all times, having regard to the need to maintain their rights and dignity	The proposed development achieves this design requirement.	✓		
<b>4.8 Emergency and evacuation procedures</b>					
	Regulations 97 & 168: Emergency procedures and evacuation  Risks associated with multi-storey buildings, including the appropriate child-to-staff ratios and emergency and evacuation plans, need to be assessed in the context of the service approval.  Facility design and features should provide for the safe and managed evacuation of children and staff from the facility in the event of a fire or other emergency.  This should take into consideration the number and age of the occupants, emergency and evacuation plans, the location of the facility and the relevant fire safety measures within the building	Insufficient information has been submitted to demonstrate compliance.		✓	
<b>4.9 Outdoor space requirements</b>					
	Regulation 108: The proposed development includes at least 7.0m <sup>2</sup> of unencumbered outdoor space for each child. Refer to regulation 108 of the Education and Care Services National Regulation for further information on calculating outdoor space, and for different requirements for out-of-school-hours care services.	Area Provided 363.43m <sup>2</sup> Divide by 7.0 51.9m <sup>2</sup> Places Permitted 51  Proposed 48 place childcare centre.	✓		
<b>4.10 Natural environment</b>					
	Regulation 113:	The proposed development	✓		

Child Care Planning Guideline					
Clause	Objective	Proposed	Y	N	NA
	The proposed development includes outdoor spaces that will allow children to explore and experience the natural environment.	achieves this requirement.			
<b>4.11 Shade</b>					
	<p>Regulation 114: The approved provider of a centre-based service must ensure that outdoor spaces include adequate shaded areas to protect children from overexposure to ultraviolet radiation from the sun.</p> <p>Outdoor play areas should:</p> <ul style="list-style-type: none"> <li>have a minimum of 2 hours of solar access between 8.00am and 4.00pm during winter months, for at least 30% (or 2.1m<sup>2</sup>) of the 7.0m<sup>2</sup> of outdoor space per child required.</li> <li>adequate shade for outdoor play areas is to be provided in the form of natural shade such as trees or built shade structures giving protection from ultraviolet radiation to at least 30 per cent of the outdoor play area</li> <li>have evenly distributed shade structures over different activity spaces.</li> </ul>	<p>Shade structures provided.</p> <p>The outdoor play areas achieve minimum 2 hours of solar access.</p> <p>Adequate natural light areas provided.</p>	✓		
<b>4.12 Fencing</b>					
	<p>Regulation 104: Any outdoor space used by children must be enclosed by a fence or barrier that is of a height and design that children preschool age or under cannot go through, over or under it.</p>	Outdoor areas enclosed with fences.	✓		
<b>4.13 Soil assessment</b>					
	<p>Regulation 25: Subclause (d) of Regulation 25 requires an assessment of soil at a proposed site, and in some cases, sites already in use for such purposes as part of an application for service approval.</p> <p>With every service application one of the following is required:</p> <ul style="list-style-type: none"> <li>a soil assessment for the site of the proposed education and care service premises</li> <li>if a soil assessment for the site of the proposed child care facility has previously been undertaken, a statement to that effect specifying</li> </ul>	Insufficient information has been submitted to demonstrate compliance.		✓	

Child Care Planning Guideline					
Clause	Objective	Proposed	Y	N	NA
	<p>when the soil assessment was undertaken</p> <ul style="list-style-type: none"> <li>a statement made by the applicant that states, to the best of the applicant's knowledge, the site history does not indicate that the site is likely to be contaminated in a way that poses an unacceptable risk to the health of children.</li> </ul>				

### **Bankstown Local Environmental Plan 2015 (BLEP2015)**

The following table sets out the development standards and provisions of the Bankstown Local Environmental Plan 2015 that were taken into consideration in the assessment of the development application.

Bankstown Local Environmental Plan 2015																			
Clause	Standard / Requirement	Proposed	Y	N	NA														
Part 1 Preliminary																			
1.2	Aim of Plans		✓																
Part 2 Permitted or prohibited development																			
2.1	Land use zones		✓																
2.2	Zoning of land to which Plan applies - Land Zoning Map		✓																
2.3	Zone objectives and Land Use Table		✓																
2.6	Demolition requires development consent		✓																
Part 4 Principal development standards																			
4.3	Height of buildings  Max 9m Building Height	42.844 – 34.06 = 8.784m	✓																
4.4(2A)	Floor Space Ratio for non-residential development on R2 Low Density Residential.  Max 0.4:1	<table><tr><td><b>Floor</b></td><td><b>Area</b></td></tr><tr><td>GF</td><td>210.6m<sup>2</sup></td></tr><tr><td>FF</td><td>147m<sup>2</sup></td></tr><tr><td>FF play area</td><td>134.3m<sup>2</sup></td></tr><tr><td>Total</td><td>491.9m<sup>2</sup></td></tr><tr><td>Site</td><td>948.5m<sup>2</sup></td></tr><tr><td>FSR</td><td>0.519:1</td></tr></table> <p>The first floor play area is enclosed with walls &gt; 1.4m on all sites and roof above. In this regard, the proposed first floor outdoor area is considered to be gross floor area, per the definition prescribed in the BLEP 2015. Furthermore, it is noted that the applicant has not</p>	<b>Floor</b>	<b>Area</b>	GF	210.6m <sup>2</sup>	FF	147m <sup>2</sup>	FF play area	134.3m <sup>2</sup>	Total	491.9m <sup>2</sup>	Site	948.5m <sup>2</sup>	FSR	0.519:1		✓	
<b>Floor</b>	<b>Area</b>																		
GF	210.6m <sup>2</sup>																		
FF	147m <sup>2</sup>																		
FF play area	134.3m <sup>2</sup>																		
Total	491.9m <sup>2</sup>																		
Site	948.5m <sup>2</sup>																		
FSR	0.519:1																		

Bankstown Local Environmental Plan 2015					
Clause	Standard / Requirement	Proposed	Y	N	NA
		submitted a formal Clause 4.6 variation request.			
4.5	Calculation of floor space ratio and site area		✓		
Part 6 Additional local provisions					
6.1	Acid sulfate soils	The subject site is affected by Class 5 Acid Sulfate Soils. The development application was referred to Council's Environmental Health Officer for assessment and they requested a Preliminary Investigation and Preliminary Acid Sulfate Soil Assessment for assessment. Insufficient information was submitted to demonstrate compliance with this requirement.	✓		
6.2	Earthworks		✓		
6.8	Development consent must not be granted for centre-based child care facilities if the vehicular access to the land is from a cul-de-sac	The amended design proposes two vehicular access on site. The entry access via Alma Road and exit access via Yates Crescent. which is a cul-de-sac.		✓	

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

#### **Draft Canterbury Bankstown 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.

The proposed development is considered to be inconsistent with the aims, objectives and provisions of the draft LEP.

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

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

The following development controls and objectives of the Bankstown Development Control Plan 2015 were taken into consideration. Note that the NSW Child Care Planning Guideline sets aside the provisions of a DCP except for those that relate to building height, rear and side setbacks, and car parking rates.

## Part B5 - Parking

Bankstown Development Control Plan 2015   Part B5 - Parking						
Clause	Development Control	Proposed	Y	N	NA	
<b>Section 1–Introduction</b>						
(a)	To have car parking meet the demands of new development.		✓			
(b)	To have the layout and design of car parks function efficiently and safely.			✓		
(c)	To have development achieve the parking requirements.		✓			
(d)	To have the design of open–air car parks incorporate landscaping areas to minimise the visual impact.			✓		
(e)	To have a balance between parking requirements, visual aesthetics and pedestrian safety, which includes access for people with disabilities and convenience for drivers.		✓			
<b>Section 2–Off Street Parking</b>						
2.1	Development must calculate the amount of parking required using the schedule of off–street parking requirements.		✓			
<b>Schedule: Off-street parking requirements</b>						
Childcare Centre	1 car space per 4 children and 2 additional car spaces for the exclusive use of any associated dwelling.					
Calculation: 48 Children / 4 = 12 required parking spaces. 12 parking spaces provided including 1 accessible space.			✓			
<b>Section 3–Off Street Parking Design and Layouts</b>						
3.1	Refer to Part B1 of this DCP for information on the location of garages and carports in the residential areas.		✓			
3.2	Parking areas for people with disabilities should be close to an entrance to development. Access from the parking area to the development should be by ramps or lifts where there are separate levels.		✓			
3.3	The following minimum dimensions are generally required for each parking space.		✓			
Parking type	L (m)	W (m)	Aisle Width			
			90°	60°	45°	30°
Open Parking	5.4	2.5	6.2	4.6	3.7	3

The proposed development is inconsistent with the controls above.

## Part B6 - Child Care Centres

Bankstown Development Control Plan 2015   Part B6 - Child Care Centres						
Clause	Development Control	Proposed	Y	N	NA	
<b>Section 3–Site Layout and Building Envelopes</b>						
3.3	Maximum two storey Limit	Proposed two storeys	✓			
3.6(a)	R2, R3, R4 primary setback of 5.5m	21.65m primary setback to GF 6.616m primary setback to FF	✓			



3.6(b)	R2, R3, R4 secondary setback of 3.0m	3m secondary setback to GF and FF	✓		
3.6(c)	R2, R3, R4 side setback of 1.5m	1.5m side setback to GF 3m setback to FF	✓		
3.10(a)	R2, R3, R4 2.0 metre deep landscaped front setback	4.012m deep soil front setback to parking areas.	✓		
3.10(b)	R2, R3, R4 1.5 metre deep landscaped side setback	1.5m deep soil side setback	✓		

The proposed development is consistent with the development controls above.

**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 provisions of the Environmental Planning and Assessment Regulation, 2021.

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

The key potential impacts of the development are considered in BDCP 2015 Considerations (in supplementary pack). Apart from the key matters raised throughout this report, the following likely impacts are considered:

- **National Construction Code**  
An amended BCA Design Assessment report that reflects the amended architectural design has not been submitted to ensure full compliance with the National Construction Code.
- **Stormwater Management**  
An amended stormwater management plan that reflects the amended architectural design has not been submitted to ensure compliance with the stormwater management controls prescribed in Council's Development Engineering Standards.
- **Acoustic Impacts**  
An amended acoustic report that reflects the amended architectural design has not been submitted to fully investigate the noise attenuation impacts of the proposed development, particularly the first-floor outdoor play area on the immediate locality and adjoining neighbouring properties.
- **Traffic and Safety Impacts**  
Notwithstanding Clause 6.8 of the BLEP 2015 which relates to prohibited vehicular access to cul-de-sacs and minimum 10 metres carriageway requirement, an amended traffic impact statement that reflects the amended architectural design has not been submitted to investigate the on-street parking, accessibility, safety and manoeuvrability of vehicles on Alma Road

and Yates Crescent. In addition, a singular driveway design to Alma Road with both entering and exiting of vehicles would likely create further traffic impacts to Alma Road.

- **Capacity of Site**

The proposed capacity of the site as amended is likely to be greater than what the site can encompass when considering on-site parking, increased traffic movement, pedestrian access, landscaping and parking layout.

- **Urban Design and Landscape**

The proposed development as amended is not consistent with the prevailing suburban character and would create unreasonable impacts on the streetscape of the neighbouring dwellings and surrounding area. In particular, the proposed parking layout within the primary frontage and the large first floor play area that overhangs the parking area. In addition, the proposed parking layout would reduce appropriate landscaping areas and detracts from the streetscape, in particular the front setback requirements.

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

The application has been assessed under section 4.15 of the Act, and as demonstrated through this report, the application is generally deficient of information and fails to comply with key planning controls. Further information requested in–Major Deficiency Letter has not been submitted and no attempts have been made to address the key concerns raised by Council. The lack of supporting documentation and requested information, particularly around contamination, acid sulfate soils, and traffic management of the site, does not demonstrate that the subject site is suitable for the proposed development.

Furthermore, the amended design does not adequately address the concerns raised by Council and result in additional non-compliances with key planning controls.

As a result, the proposed development as amended is unsuitable for the site.

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

The application was notified on lodgement for a period of twenty-one (21) days between 16 March 2022 to 5 April 2022 and renotified following the submission of amended plans for a period of fourteen (14) days between 31 March 2023 to 13 April 2022. A total of 22 submissions across at least 16 properties, including a number of pro-forma letters, were made in relation to traffic impact and safety, parking, noise pollution, visual privacy, property value, overshadowing, accessibility, and insufficient information.

### **Traffic Impact and Safety**

- *Low visibility / restricted view due to the acoustic wall and trees.*
- *High speed traffic is coming from Davies Rd. / Alfords Point Rd.*

- A lot of traffic is entering Yates Cres. to make a U-Turn since no U-turn allowed at Davies Rd.
- No footpath is present on South side of Alma Rd., increasing the amount of crossing pedestrians.
- Restricted view corner at Alfords Point Rd turning left into Alma Rd and is a considered a dangerous corner due to the following points:
  - Speed of cars coming off Alfords Point Road onto Alma Rd which is signed at 70km/h just prior to the turn and signed at 60km/h just after Yates Crescent means drivers are travelling at a relatively fast speed when approaching and taking the corner.
  - In the Traffic Report at point 3.5.1 “It is noted however that drivers leaving the slip lane onto Alma Road are expected to do so at a relatively low speed, with the interface of the slip lane and Alma Road controlled by a give-way line.”
  - The give-way line noted above, and crossing does little too slow drivers when they have right of way.
- The distance of Yates Crescent from the corner is between 12 and 15 metres
  - In the Traffic Report at point 3.5.1 it states “20m to the east of yates crescent” which is quoting generously.
- The nature of the vegetation makes visibility of the corner and foot path leading to the crossing low.
  - In the Traffic Report at point 3.5.1 it is noted that “Under the existing conditions of the road layout, sightlines from Yates Crescent to vehicles accessing Alma Road from the slip lane are restricted, with foliage and the acoustic wall obstructing the view.”
- Right turns into Yates crescent from Alma Road westbound are allowed which would be a hazard during peak times.
  - There is no mention in the Traffic Report of the impact of vehicles attempting to turn right from Alma Road into Yates Crescent.
  - Right turns from Alma Rd into Yates Crescent would cause delays of traffic attempting to turn right at the lights onto Alfords Point Road.
  - Right turns from Alma Rd into Yates Crescent would increase the likelihood of an accident with a vehicle turning left on the slip lane (northbound) from Alfords point Road onto Alma Road during peak times.
- Yates Crescent is a cul-de-sac meaning one way in and one way out.
  - Parents dropping kids off at peak times will create a bottle neck of cars trying to get in and out of the street.
- The street named Yates Crescent is small and to turn around in it you have to either do a three-point turn or go to the bottom to turn around which could be dangerous for small children
- The safety risk is an issue that cannot be rectified due to the close proximity to the intersection at Alma Road and Davies Road, Padstow.
- There is already traffic queue’s along Alma Road in an easterly direction due to the traffic lights with Davies Road. This already causes safety issues with entering and leaving our driveway.
- There is also safety issues with the amount of traffic turning left onto Alma Road travelling in a westerly direction coming from Davies Road. There is no

*time to anticipate traffic coming out of Yates Crescent, adjacent to the proposed development site let alone entering and leaving our driveway at 55 Alma Road. This also causes regular safety issues with this direction of traffic.*

Comment:

Insufficient information was submitted to determine whether the revised design is considered acceptable with respect to traffic management controls, sight triangles for pedestrian safety, sight distance to motorists, vehicle accessibility, and parking rates. The applicant has not submitted an amended traffic report that reflects the amended design. In this regard, the subject site is not considered suitable for the proposed development as insufficient information has been submitted to adequately demonstrate compliance with parking of the NSW Child Care Planning Guideline and Bankstown Development Control Plan 2015.

In addition, the proposed vehicular access to Yates Crescent is not supported per the requirements of Clause 6.8 of the Bankstown Local Environmental Plan 2015, where vehicular access to a cul-de-sac is prohibited and that Yates Crescent does not achieve minimum 10 metres carriageway between kerbs.

Notwithstanding the above, insufficient information has been submitted to Council's Traffic Engineer to assess any vehicular access to Yates Crescent. Particularly, consideration around vehicles exiting, on-street parking, and manoeuvrability on Yates Crescent.

**Parking**

- *Double parking when dropping kids off.*
  - *Due to limited parking spots in the centre, parents will be forced to park on Yates Road and for convenience will be tempted to pull up and park on Alma Road. During the most recent auction of 53 Alma Road in which approximately 30-40 people attended we experienced cars parked across driveways at 55, 57 and 59 Alma Road.*
- *On the side of Alma Rd that I reside (the even number side) parking is restricted between 6.30 to 9.30 am and 3.30 to 6.30pm. For people to park on this side of Alma Rd in these hours you have to nearly go up to Adelaide St, the parking on the other side of Alma is taken up with people that live on that side of Alma Rd.*

Comment:

The proposed vehicular access to Yates Crescent for the purpose of vehicles exiting the site is not supported, per Clause 6.8 of the Bankstown Local Environmental Plan 2015. In addition, Yates Crescent does not achieve minimum 10 metres carriageway between kerbs.

Notwithstanding, the amended design has been assessed and found to be compliant with minimum on-site parking requirements in Part B5 – Parking of the Bankstown Development Control Plan 2015. It is noted that the maximum capacity of children

has been reduced from 52 to 48. In accordance with the Schedule: Off-street parking requirements in Part B5 – Parking, the required on-site parking spaces is 12 i.e. 1 parking space per 4 children. The proposed development as amended provides 12 on-site parking spaces on the ground floor. In this regard, minimum on-site parking requirement are not a matter for refusal of this application.

However, insufficient information has been submitted with the development application to demonstrate adequate car parking layout, off-street parking, parking design, accessibility and manoeuvring of vehicles. Furthermore, the applicant has not removed the vehicular access to Yates Crescent. In this regard, the proposed development does not adequately demonstrate compliance with the parking requirements of the NSW Child Care Planning Guideline and Part B5 – Parking of the Bankstown Development Control Plan 2015.

### Noise Pollution

- *The area is already considered as a heavily noise polluted area.*
- *Within the “redacted\_Acoustic\_Report” in Appendix C: Noise Survey Result Graphs shows the noise levels already exceed those of an acceptable standard for a residential. The graphs show that the average noise levels currently are over 60dBA. The proposed development will add even more noise to the homes surrounding the proposed development.*
- *There is no mention in the plans submitted that the recommendations in section 8 of the acoustic report will be implemented.*
- *It should also be noted that at time of writing there was no mechanical equipment specified. In section 8.1.2 this is a requirement to control noise. There is no indication on the plans of the placement of this equipment.*
- *It should also be note that in section 8.1.3 in the acoustic report that “Prior to a construction certificate being issued, the mechanical equipment should be reviewed by a suitably experienced and qualified acoustic consultant.”*
- *The mechanical equipment will have an effect on noise levels to the adjoining properties to the proposed development.*

### Comment:

Insufficient information was submitted to determine whether the revised design is considered acceptable with respects to acoustic impacts of the outdoor first floor play area. The applicant has not submitted an amended acoustic report that reflects the amended design. In this regard, the subject site is not considered suitable for the proposed development as insufficient information has been submitted to adequately demonstrate compliance with acoustic requirements of the NSW Child Care Planning Guideline and Bankstown Development Control Plan 2015.

### Visual Privacy

- The proposed development results in a substantial impact on the privacy of the adjoining residents at 55 Alma Rd and myself (1 Yates Cres.).

Comment:

The amended design has been assessed and found to be compliant with the visual privacy requirements of the NSW Child Care Planning Guideline. The proposed first floor west elevation windows do not directly overlook the bedroom or living room windows of the adjacent property of No. 55 Alma Road and are setback at least 1.5m from the property boundary. In addition, there are no west elevation windows proposed on the ground floor. The proposed first floor rear window to the indoor play room overlooks the frontage of No. 1A Yates Crescent and in this regard no visual privacy impacts would be anticipated. In this regard, visual privacy concerns are not a matter for refusal of this application.

**Property Value**

- *The proposed building will have a negative impact on financial position of surrounding properties*
- *We are concerned that many of the above points mentioned will deter potential buyers and renters to the properties surrounding the proposed development.*
- *If a valuer were to assess any of the surrounding properties for any financial reason, they would consider the impacts of the proposed development on the affected properties. This would include noise pollution and increased traffic. This in turn would impact the homeowner's financial position.*

Comment:

There is no evidence that has been submitted to support the contention that approval of this development application would negatively affect the value of the surrounding properties.

**Overshadowing**

- *I intend to install solar panels on the roof of our house due to my mother being a pensioner and the height of the proposed building will impact this from happening.*

Comment:

The applicant has not submitted amended shadow diagrams to demonstrate minimal overshadowing impacts to adjoining residential properties. In this regard, insufficient information has been submitted with the development application to demonstrate compliance with C11 in section 3.3 – Building orientation, envelope and design of the NSW Child Care Planning Guideline.

**Accessibility**

- *Access to footpaths on the south side of Alma Road and Yates Crescent.*
  - *The footpath on the south side of Alma Road stops at no. 77 Alma Road which is ~170 metres from the proposed development. This*



*would mean poor access for parents with prams and Wheelchairs. Being the residents of the area, we have noted people walking on the road due to there not being a footpath.*

- *It is already difficult enough as it is to cross Alma road for footpath access. This is due to the amount of traffic, as well as parked cars on Alma road making it hard to see cars turning onto Alma road from Davies Road. The increased traffic that will be associated with the development of the proposed Childcare centre will be more dangerous and a risk to parents and children crossing for footpath access.*

**Comment:**

The amended design fails to comply with the accessible design requirements of the NSW Child Care Planning Guideline, as accessibility for child care facilities in cul-de-sacs or narrow roads have not been adequately demonstrated.

**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, the applicable Environmental Planning Instruments, Development Control Plans and policies. Based on the above assessment, the development application does not demonstrate compliance with controls relating to traffic management, bulk and scale, visual and acoustic privacy impacts and overshadowing impacts. The proposed development will result in a design that is not in keeping with the current and future desired character of the immediate locality. In this regard, the approval of the proposed development in its current form 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*, *State Environmental Planning Policy (Biodiversity and Conservation) 2021*, *State Environmental Planning Policy (Industry and Employment) 2021*, *State Environmental Planning Policy (Resilience and Hazards) 2021*, *State Environmental Planning Policy (Transport and Infrastructure) 2021*, *NSW Child Care Planning Guideline*, *Bankstown Local Environmental Plan 2015*, *Draft Canterbury-Bankstown Local Environmental Plan 2020* and *Bankstown Development Control Plan 2015*, and is not consistent with the relevant aims, objectives, development standards and controls.

In addition, the matters raised in the Major Deficiency Letter have not been adequately addressed as the applicant has only submitted amended architectural plans. Further information requested by Council's Traffic Management Engineer, Development Engineering Officer, Environmental Health Officer, and Building Surveyor, have also not been sufficiently provided.

In this regard, the proposed development as amended does not demonstrate compliance with several key issues including traffic and safety, accessibility, acoustic



and visual privacy and overshadowing, engineering, waste management, contamination, and acid sulfate soils.

Furthermore, the amended design has not been reflected in several key documents such as amended landscape plan, waste management plan, traffic report, acoustic report, stormwater management plan and report, and statement of environmental effects. As such, a full assessment of the amended design was unable to be completed.

For the reasons outlined above, the development application has not provided the relevant information to demonstrate that it is worthy of support.

### **REASONS FOR REFUSAL**

Local Planning Panel, as consent authority under the provisions of the Environmental Planning and Assessment Act 1979, gives notice under Section 4.16 of the Act, that the Development Application, described above, was refused for the following reasons:

1. The proposed development does not demonstrate compliance with provision 4.6 in Chapter 4 Remediation of land of *State Environmental Planning Policy (Resilience and Hazards) 2021* with regards to contaminated land [Pursuant to Section 4.15(1)(a)(i) and (b) of the *Environmental Planning and Assessment Act, 1979*];
2. The proposed development fails to comply with clause 3.25 in Part 3.3 Early education and care facilities - specific development controls of *State Environmental Planning Policy (Transport and Infrastructure) 2021* with regards to the maximum floor space ratio for child care facilities in the R2 Low Density Residential zone [Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act, 1979*];
3. The proposed development does not demonstrate compliance with the requirements of the *NSW Child Care Planning Guideline* with regards to acoustic privacy to neighbouring properties, traffic impacts, streetscape and landscaping, visual privacy and overshadowing impacts, setbacks in a predominantly residential context, air quality assessment, outdoor storage areas, adequate natural light, emergency and evacuation procedures and soil assessment [Pursuant to Section 4.15(1)(a)(i) and (b) of the *Environmental Planning and Assessment Act, 1979*];
4. The proposed development does not demonstrate compliance with the *Bankstown Local Environmental Plan 2015* with regards to floor space ratio, acid sulfate soils and special provisions applying to child care centres adjoining cul-de-sacs [Pursuant to Section 4.15(1)(a)(i) and (b) of the *Environmental Planning and Assessment Act, 1979*];
5. The proposed development is not consistent with the objectives of Part B5 – Parking of the *Bankstown Development Control Plan 2015* with regards to efficient and safe parking designs, incorporating landscaping, and minimising visual impacts [Pursuant to Section 4.15(1)(a)(iii) and (b) of the *Environmental Planning and Assessment Act, 1979*];
6. The proposed development does not demonstrate compliance with the Development Engineering Standards as insufficient information has been submitted [Pursuant to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act, 1979*];
7. The proposed development fails to demonstrate an acceptable level of impact to the locality [Pursuant to Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979*];

8. The site is considered unsuitable for the proposed development due to the reasons outlined above. [Pursuant to Section 4.15(1)(c) of the *Environmental Planning and Assessment Act, 1979*];
9. For the reasons stated above, it is considered that the development is not in the public interest [Pursuant to S4.15(1)(e) of the *Environmental Planning & Assessment Act 1979*].

-END-

---

## Canterbury Bankstown Local Planning Panel - 01 May 2023

---

<b>ITEM 4</b>	<b>153 Penshurst Road, Narwee</b>  <b>Demolition of existing structures and construction of an 8-storey shop top housing development comprising 3 levels of basement parking, ground floor commercial premises, and 33 residential apartments</b>
<b>FILE</b>	<b>DA-157/2022 – Bunmarra / Roselands</b>
<b>ZONING</b>	<b>B2 Local Centre</b>
<b>DATE OF LODGEMENT</b>	<b>16 March 2022</b>
<b>APPLICANT</b>	<b>Mirwan Hanna</b>
<b>OWNERS</b>	<b>Lin's Aust Holdings Pty Ltd</b>
<b>ESTIMATED VALUE</b>	<b>\$11,792,335</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 to which State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development applies and is four or more storeys in height.

Development Application No. DA-157/2022 proposes the demolition of existing structures and construction of an 8-storey shop top housing development comprising 3 levels of basement parking, ground floor commercial premises, and 33 residential apartments

DA-157/2022 has been assessed against the matters for consideration contained in section 4.15 of the *Environmental Planning and Assessment Act, 1979* and assessed against the *Water Management Act 2000*, *State Environmental Planning Policy (Biodiversity and Conservation) 2021*, *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*, *State Environmental Planning Policy (Resilience and Hazards) 2021*, *State Environmental Planning Policy (Resources and Energy) 2021*, *State Environmental Planning Policy (Transport and Infrastructure) 2021*, *State Environmental Planning Policy 65 – Design Quality for Residential Apartment Development*, *Canterbury Local Environmental Plan 2012 (CLEP 2012)*, *Draft*

*Canterbury-Bankstown Local Environmental Plan 2020 and the Canterbury Development Control Plan 2012 (CDCP 2012).*

The application was advertised and notified for a period of twenty-seven (27) days between 13 April 2022 to 10 May 2022. No objections were received during this period.

## **POLICY IMPACT**

---

This matter has no direct policy implications.

## **FINANCIAL IMPACT**

---

This matter has no direct financial implications.

## **RECOMMENDATION**

---

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

## **ATTACHMENTS**

---

- A. Assessment Report
- B. Conditions of Consent

## **DA-157/2022 ASSESSMENT REPORT**

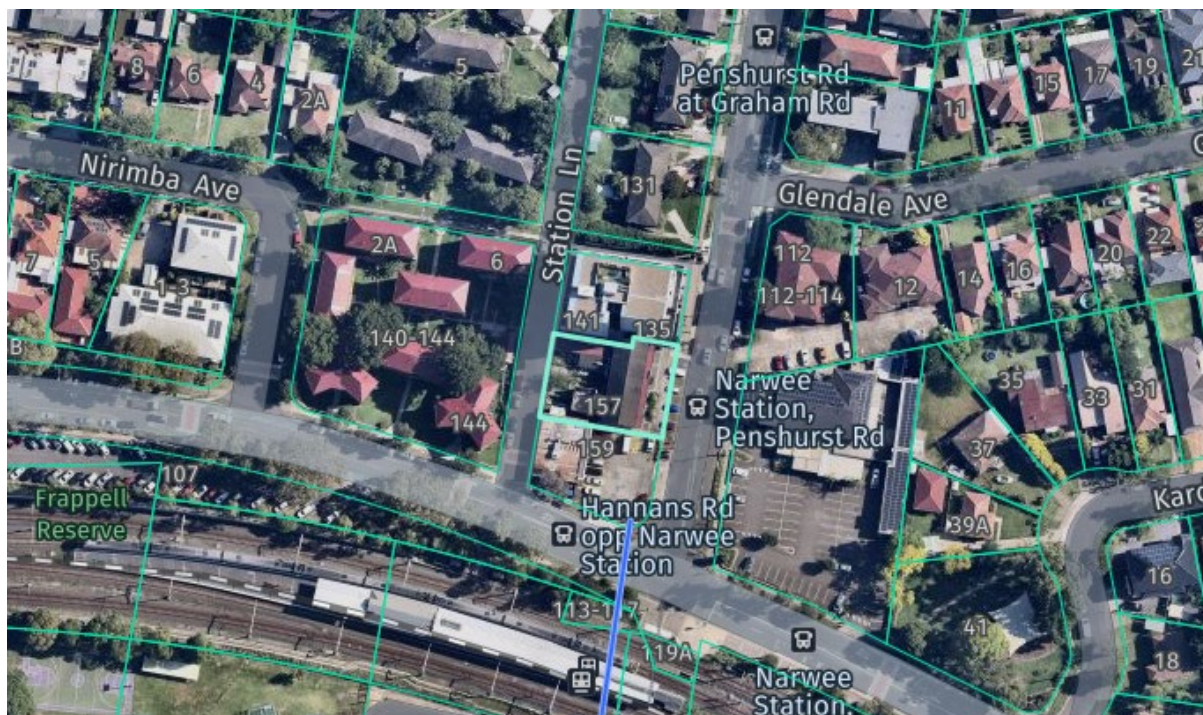
### **SITE & LOCALITY DESCRIPTION**

The subject site is known 153 Penshurst Road, Narwee as Lot V in Deposited Plan 36397. It is is zoned B2 Local Centre under the Canterbury Local Environmental Plan 2012 (CLEP 2012.)

The subject site is an irregular shaped allotment due to the northern subdivision line that kicks 2.545m perpendicular into the site. The subject site has an area of 864.6m<sup>2</sup>, primary frontage of 26.3m to Penshurst Road, and a secondary rear frontage of 23.665m to Station Lane. The subject site has a fall of 1.83m from the rear at RL 37.90 to the primary frontage at RL 36.07.

The site contains an existing two-storey brick shop top housing development with retail premises on the ground floor and residential dwellings on the first floor. The subject site has a primary frontage to Penshurst Road on the eastern boundary and secondary frontage to Station Lane on the western boundary. At the front of the site exists 8 car parking spaces accessible via Penshurst Road with minor landscaping. At the rear of the site exists two detached single-storey brick garages / outbuildings.

The surrounding developments consist of various residential flat buildings, villas, single and two-storey dwellings, secondary dwellings and commercial premises within the immediate locality of Narwee. To the south of the subject site is Narwee Train Station. Directly north of the site, at 135-141 Penshurst Road, exists an 8-storey shop-top housing development with 44 residential units.



**Figure 1:** Aerial of subject site. **Source:** NearMaps 2019

## **PROPOSED DEVELOPMENT**

The Development Application proposes the demolition of existing structures and construction of an 8-storey shop top housing development with 3 levels of basement parking levels (comprising of 39 x residential, 5 x visitor and 7 x retail car parking spaces), 2 x ground floor commercial premises, and 33 x residential apartments (comprising of 4 x three-bedroom, 22 x two-bedroom and 7 x one-bedroom units).

The specifics of the development are as follows:

<b>Floor</b>	<b>Description</b>
Basement Level 3	<ul style="list-style-type: none"> <li>• 18 x residential car parking spaces (including 2 accessible spaces)</li> <li>• Storage areas</li> <li>• Lift and staircases</li> </ul>
Basement Level 2	<ul style="list-style-type: none"> <li>• 17 x residential car parking spaces (including 2 accessible spaces)</li> <li>• Storage areas</li> <li>• Lift and staircases</li> </ul>
Basement Level 1	<ul style="list-style-type: none"> <li>• 4 x residential car parking spaces</li> <li>• 5 x visitor car parking spaces (including 1 accessible spaces)</li> <li>• 7 x retail car parking spaces (including 1 accessible spaces)</li> <li>• Car wash bay</li> <li>• Storage areas</li> <li>• Lift and staircases</li> <li>• 10 x bicycle spaces</li> <li>• Service areas/rooms</li> </ul>
Ground Floor	<ul style="list-style-type: none"> <li>• 2 x retail premises</li> <li>• Accessible bathroom</li> <li>• Access to basement parking and residential units from Penshurst Road</li> <li>• Access to basement parking and residential units from Station Lane</li> <li>• Residential waste and recycling room, and bulky collection area</li> <li>• Commercial waste and recycling room</li> <li>• Bulk storage room</li> <li>• Substation</li> <li>• Service areas</li> <li>• SRV loading area</li> <li>• Lift and staircase</li> </ul>
Level 1	<ul style="list-style-type: none"> <li>• 2 x three-bedroom units</li> <li>• 2 x two-bedroom units</li> <li>• 1 x one-bedroom unit</li> <li>• Lift and staircase</li> <li>• Service and waste/recycling room</li> </ul>
Level 2	<ul style="list-style-type: none"> <li>• 2 x three-bedroom units</li> <li>• 2 x two-bedroom units</li> <li>• 1 x one-bedroom unit</li> <li>• Lift and staircase</li> <li>• Service and waste/recycling room</li> </ul>
Level 3	<ul style="list-style-type: none"> <li>• 4 x two-bedroom units</li> <li>• 1 x one-bedroom unit</li> <li>• Lift and staircase</li> <li>• Service and waste/recycling room</li> </ul>



Floor	Description
Level 4	<ul style="list-style-type: none"> <li>• 4 x two-bedroom units</li> <li>• 1 x one-bedroom unit</li> <li>• Lift and staircase</li> <li>• Service and waste/recycling room</li> </ul>
Level 5	<ul style="list-style-type: none"> <li>• 4 x two-bedroom units</li> <li>• 1 x one-bedroom unit</li> <li>• Lift and staircase</li> <li>• Service and waste/recycling room</li> </ul>
Level 6	<ul style="list-style-type: none"> <li>• 4 x two-bedroom units</li> <li>• 1 x one-bedroom unit</li> <li>• Lift and staircase</li> <li>• Service and waste/recycling room</li> </ul>
Level 7	<ul style="list-style-type: none"> <li>• 2 x two-bedroom units</li> <li>• 1 x one-bedroom unit</li> <li>• Communal open space</li> <li>• Lift and staircase</li> <li>• Service and waste/recycling room</li> </ul>

### 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 (Biodiversity and Conservation) 2021
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy (Resilience and Hazards) 2021
- State Environmental Planning Policy (Resources and Energy) 2021
- State Environmental Planning Policy (Transport and Infrastructure) 2021
- State Environmental Planning Policy 65 – Design Quality for Residential Apartment Development
- Canterbury Local Environmental Plan 2012 (CLEP 2012)
- Draft Canterbury-Bankstown Local Environmental Plan 2020
- Canterbury Development Control Plan 2012 (CDCP 2012)
- Canterbury Development Contributions Plan 2013 (Contributions Plan 2013)

### **SECTION 4.46 ASSESSMENT**

The proposed development has been assessed pursuant to section 4.46 of the *Environmental Planning and Assessment Act, 1979*.

#### **Integrated development [section 4.46(1)]**

In accordance with Section 4.46(1), the proposed development is considered to be integrated development.

## **Water Management Act 2000**

### **WaterNSW**

In accordance with clause 90(2) – Water management work approvals, a referral to the water supply work authority for the area was required, as water seepage has been observed from monitoring wells and basement levels are proposed as part of the development.

WaterNSW have assessed the plans lodged in support of the application and advise that they consent to the proposed development subject to general terms of approval relating to water supply work.

The full set of conditions contained in WaterNSW's advice is included in the recommended conditions of consent at Attachment B to this report.

## **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 (Biodiversity and Conservation) 2021**

The proposal has been assessed against the relevant aims and objectives of this State Environmental Planning Policy which seeks to protect remaining native vegetation within urban areas. It is considered that the site does not contain remnant native vegetation and is consistent with the aims of the instrument.

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

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

#### **State Environmental Planning Policy (Resilience and Hazards) 2021**

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

In addition, the applicant has submitted a Remedial Action Plan, Detailed Site Investigation Report and Hazardous Materials Survey which have been referred to Council's Environmental Health Officer for assessment. The following documentations have been reviewed and are generally supported, subject to the recommended conditions of consent. As such the proposed development is consistent with this SEPP.

### **State Environmental Planning Policy (Transport and Infrastructure) 2021**

#### **Ausgrid**

In accordance with Division 5 in the SEPP, a referral to the electricity supply authority for the area was required.

Ausgrid have assessed the plans lodged in support of the application and advise that they consent to the proposed development subject to recommended conditions of consent relating to minimum safety clearance and relocation costs.

The full set of conditions contained in Ausgrid's advice is included in the recommended conditions of consent at Attachment B to this report.

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

SEPP 65 aims to improve the design quality of residential apartment development across NSW and provides an assessment framework, the Apartment Design Guide (ADG), for assessing 'good design'. 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 generally 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.

#### **Principle 2: Built Form and Scale**

The development is generally 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.

The range of materials significantly contributes to the articulation of the building and reducing the overall bulk and mass of the building.

### 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.

### Principle 5: Landscape

The proposed communal open space has been designed to optimises useability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity and provides for practical establishment and long-term management. As such, the communal open space will satisfactorily contribute, in the context of a shop-top development, to the landscaping character of the streetscape. The proposal achieves suitable landscaping and as such is supportable.

### Principle 6: Amenity

The proposed development has been designed to maximise solar access. The proposed units will have considerable internal amenity. Their size and 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 sufficient 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.

### 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.

Apartment Design Guide   Part 3 – Siting the Development					
Objectives					Compliance
Design Criteria	Proposed	Y	N	NA	
<b>3C Public Domain Interface</b>					
<b>3C-1</b>	Transition between private and public domain is achieved without compromising safety and security.	✓			
<b>3C-2</b>	Amenity to the public domain is retained and enhanced.	✓			
<b>3D Communal and Public Open Space</b>					
<b>3D-1</b>	An adequate area of communal open space is provided to enhance residential amenity and to provide opportunities for landscaping.		✓		
An adequate area of communal open space is provided to enhance residential amenity and to provide opportunities for landscaping 1. Communal open space has a minimum area equal to 25% of the site area. 2. Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9am and 3pm on 21 June (mid winter).		Communal open space = 208.4sqm Site area = 864.6sqm 24%  A minimum 50% of the communal open space receives a minimum 5 hours of sunlight between 9am – 2pm as it is not overshadowed by adjacent developments.		✓	
<b>3D-2</b>	Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting.	✓			
<b>3D-3</b>	Communal open space is designed to maximise safety.	✓			
<b>3D-4</b>	Public open space, where provided, is responsive to the existing pattern and uses of the neighbourhood.	✓			
<b>3E Deep Soil Zones</b>					
<b>3E-1</b>	Deep soil zones provide areas on the site that allow for and support healthy plant and tree growth. They improve residential amenity and promote management of water and air quality.	✓			
Deep soil zones are to meet the following minimum requirements:		No deep soil area proposed. Considered to be acceptable as there are no existing deep soil areas.			
<b>Site Area</b>	<b>Minimum Dimension</b>				
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 existing tree cover	6m				
<b>Note:</b> 10% deep soil for sites 650-1,500m <sup>2</sup> and 15% deep soil for sites greater than 1,500m <sup>2</sup> .		✓			

Apartment Design Guide   Part 3 – Siting the Development							
Objectives					Compliance		
Design Criteria			Proposed		Y	N	NA
3F Visual Privacy							
3F-1	Adequate building separation distances are shared equitably between neighbouring sites, to achieve seasonable levels of external and internal 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:			BH = 27m 8 Storeys		✓		
Building Height	Habitable Rooms / Balconies	Non-Habitable Rooms	No separation is required between blank walls. This directly adjoins the wall of the existing northern development. Separation is provided and are as follows:				
12m (4 storeys)	6m	3m					
25m (5-8 storeys)	9m	4.5m	Nil separation for ground floor level.				
25m+ (9+ storeys)	12m	6m	6m separation between northern balconies to existing north development.				
Note: Separation distances between buildings on the same site should combine required building separations depending on the type of room.			3m separation between southern habitable / balconies to southern boundary.				
Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties.			It is considered that the proposed separations are acceptable given that the balconies and habitable rooms have been designed with non-habitable like features / treatments.				
3F-2	Sites and building design elements increase privacy without compromising access to light and air and balance outlook and views from habitable rooms and private open spaces.			✓			
3G Pedestrian Access and Entries							
3G-1	Building entries and pedestrian access connects to and addresses the public domain.			✓			
3G-2	Access, entries and pathways are accessible and easy to identify.			✓			
3H Vehicle Access							
3H-1	Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes.			✓			
3J Bicycle and Car Parking							
3J-1	Car parking is provided based on proximity to public transport in Metropolitan Sydney and centres in regional areas.			✓			
For development in the following locations: ○ on sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan Area; or			Parking rates prescribed in Part B – General Controls of the BDCP 2015.	✓			

Apartment Design Guide   Part 3 – Siting the Development					
Objectives			Compliance		
	Design Criteria	Proposed	Y	N	NA
	<ul style="list-style-type: none"> <li>on land zoned, and sites within 400 metres of land zoned, 83 Commercial Core, 84 Mixed Use or</li> <li>equivalent in a nominated regional centre</li> </ul> <p>The minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less</p> <p>The car parking needs for a development must be provided off street</p>	<p>Site is B2 Zones – Accessible Local Centres.</p> <p><b>Residential Parking</b> 33 spaces required – Total 39 residential parking spaces provided</p> <p><b>Visitor Parking</b> 5 spaces required – Total 5 visitor parking spaces provided.</p> <p><b>Washing Bay</b> 1 car wash bay required – 1 car wash bay provided</p> <p><b>Bicycle Spaces</b> 10 spaces required – Total 10 bicycle spaces provided.</p> <p><b>Proposed Retail Parking</b> 6 spaces – Total 7 retail parking spaces provided.</p>			
<b>3J-2</b>	Parking and facilities are provided for other modes of transport.		✓		
<b>3J-3</b>	Car park design and access is safe and secure.		✓		
<b>3J-4</b>	Visual and environmental impacts of underground car parking are minimised.		✓		
<b>3J-5</b>	Visual and environmental impacts of on-grade car parking are minimised.		✓		
<b>3J-6</b>	Visual and environmental impacts of above ground enclosed car parking are minimised.		✓		

As identified in the above table, the proposed development is generally compliant with the Apartment Design Guidelines of Part 3, except for the design criteria of Objective 3D-1 and Objective 3F-1.

Apartment Design Guide   Part 4 – Designing the Building					
Objectives			Compliance		
	Design Criteria	Proposed	Y	N	NA
<b>4A Solar and Daylight Access</b>					
<b>4A-1</b>	To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space.		✓		
	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 in the Sydney	6 Units (102, 202, 302, 402, 502 and 602) do not receive sunlight to the living areas but achieve at least 3 hours of	✓		



Apartment Design Guide   Part 4 – Designing the Building					
Objectives				Compliance	
Design Criteria	Proposed	Y	N	NA	
Metropolitan Area and in the Newcastle and Wollongong local government areas	<p>sunlight to private open spaces.</p> <p>3 Units (303, 304 and 305) receive maximum two hours of sunlight to living areas and private open spaces.</p> <p>The remaining 24 Units receive more than two hours of sunlight to living areas and private open spaces.</p> <p>27 apartment units achieve a minimum 2 hours of sunlight between 9am – 3pm to living areas and private open spaces.</p> <p>33 total apartment units.</p> <p>27 / 33 = 81.8%</p>				
In all other areas, living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 3 hours direct sunlight between 9 am and 3 pm at mid winter	All apartment units receive a minimum 3 hours of sunlight to private open spaces i.e. 100%	✓			
A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid winter	All apartment units receive direct sunlight to at least the private open spaces i.e. 0%	✓			
<b>4A-2</b>	Daylight access is maximised where sunlight is limited.	✓			
<b>4A-3</b>	Apartment layouts are designed to accommodate a variety of household activities and needs.	✓			
<b>4B Natural Ventilation</b>					
<b>4B-1</b>	Habitable rooms are naturally ventilated	✓			
<b>4B-2</b>	The layout and design of single aspect apartments maximises natural ventilation	✓			
<b>4B-3</b>	The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents	✓			
At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments 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>26 apartments units achieve cross ventilation.</p> <p>26 / 33 = 78.8%</p>	✓			
Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line	No apartment depths exceed 18m from glass line to glass line.	✓			

Apartment Design Guide   Part 4 – Designing the Building						
Objectives				Compliance		
Design Criteria		Proposed		Y	N	NA
4C Ceiling Heights						
4C-1	Ceiling height achieves sufficient natural ventilation and daylight access			✓		
Measured from finished floor level to finish ceiling level, minimum ceiling heights are:		4.86m on GF  2.7m on all upper levels.  No attic spaces or two storey apartments.		✓		
Minimum ceiling height for apartment and mixed-use buildings						
Habitable rooms	2.7 metres					
Non-habitable	2.4 metres					
For 2 storey apartments	2.7 metres for main living area					
Attic spaces	1.8m at edge of room with a 30-degree minimum ceiling slope					
If located in mixed use areas	3.3 metres for ground and first floor to promote future flexibility of use					
These minimums do not preclude higher ceilings if desired						
4C-2	Ceiling height increases the sense of space in apartments and provides for well proportioned rooms			✓		
4C-3	Ceiling heights contribute to the flexibility of building use over the life of the building			✓		
4D Apartment Size and Layout						
4D-1	The layout of rooms within an apartment is functional, well organised and provides a high standard of amenity			✓		
1. Apartments are required to have the following minimum internal areas:		All apartment units achieve the minimum internal area per apartment type.		✓		
Apartment Type	Minimum Internal Area					
Studio	35m <sup>2</sup>					
1 bedroom	50m <sup>2</sup>					
2 bedrooms	70m <sup>2</sup>					
3 bedrooms	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.						
4D-2	Environmental performance of the apartment is maximised.			✓		
Habitable room depths are limited to a maximum of 2.5 x the ceiling height.		Ceiling height = 2.7m 2.7m x 2.5 = 6.75m  Maximum habitable room depths at 3m.  Refer to below with open plan layout.		✓		
In open plan layouts (where the living, dining		Combine kitchen and living		✓		

Apartment Design Guide   Part 4 – Designing the Building					
Objectives		Compliance			
Design Criteria		Proposed	Y	N	NA
and kitchen are combined) the maximum habitable room depth is 8m from a window		area does not exceed the maximum depth of 8m.			
<b>4D-3</b>	Apartment layouts are designed to accommodate a variety of household activities and needs.		✓		
Master bedrooms have a minimum area of 10m <sup>2</sup> and other bedrooms 9m <sup>2</sup> (excluding wardrobe space)		Minimum master bedroom = 12.96m <sup>2</sup> Minimum bedroom = 9m <sup>2</sup>	✓		
Bedrooms have a minimum dimension of 3m (excluding wardrobe space)		Minimum dimensions of 3m throughout.	✓		
Living rooms or combined living/dining rooms have a minimum width of: o 3.6m for studio and 1 bedroom apartments o 4m for 2 and 3 bedroom apartments		Minimum living room width for 1-bedroom apartments = 4.65m <sup>2</sup> Minimum living room width for 2 and 3-bedrooms apartments = 4m <sup>2</sup>	✓		
The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts		Minimum 4m width.	✓		
4E Private Open Space and Balconies					
<b>4E-1</b>	Apartments provide appropriately sized private open space and balconies to enhance residential amenity.		✓		
All apartments are required to have primary balconies as follows:		Minimum 10m <sup>2</sup> and 2m depth for 1 bedroom apartments.	✓		
Dwelling Type	Minimum Area	Minimum Depth			
Studio	4m <sup>2</sup>	-			
1 bedroom	8m <sup>2</sup>	2m			
2 bedrooms	10m <sup>2</sup>	2m			
3 bedrooms	12m <sup>2</sup>	2.4m			
The minimum balcony depth to be counted as contributing to the balcony area is 1m.		Minimum 10m <sup>2</sup> and 3.3m depth for 2 bedroom apartments.			
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.		Minimum 12.5m <sup>2</sup> and 3m depth for 3 bedroom apartments.			✓
<b>4E-2</b>	Primary private open space and balconies are appropriately located to enhance liveability for residents.		✓		
<b>4E-3</b>	Private open space and balcony design is integrated into and contributes to the overall architectural form and detail of the building.		✓		
<b>4E-4</b>	Private open space and balcony design maximises safety		✓		
4F Common Circulation and Spaces					
<b>4F-1</b>	Common circulation spaces achieve good amenity and properly service the number of apartments.		✓		
The maximum number of apartments off a circulation core on a single level is eight.		Five apartment units off common circulation core.	✓		
For buildings of 10 storey and over, the maximum number of apartments sharing a single lift is 40.		8 storeys and one lift provided.	✓		

Apartment Design Guide   Part 4 – Designing the Building						
Objectives				Compliance		
Design Criteria		Proposed		Y	N	NA
4F-2	Common circulation spaces promote safety and provide for social interactions between residents.			✓		
4G Storage						
4G-1	Adequate, well designed storage is provided in each apartment			✓		
1. In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:		Minimum 3m³ storage for within 1 bedroom apartment units and minimum total storage (including basement) of 11. 3m³.  Minimum 4.3m³ storage for within 2 bedroom apartment units and minimum total storage (including basement) of 9.3m³.  Minimum 10m³ storage within 3 bedroom apartment units and minimum total storage (including basement) of 15.3m³.		✓		
Dwelling Type	Storage size volume					
Studio	4m³					
1 bedroom	6m³					
2 bedroom	8m³					
3+ bedroom	10m³					
At least 50% of the required storage is to be located within the apartment.						
4G-2	Additional storage is conveniently located, accessible and nominated for individual apartments			✓		
4H Acoustic Privacy						
4H-1	Noise transfer is minimised through the siting of buildings and building layout			✓		
4H-2	Noise impacts are mitigated within apartments through layout and acoustic treatments			✓		
4J Noise and Pollution						
4J-1	In noisy or hostile environments the impacts of external noise and pollution are minimised through the careful siting and layouts of buildings			✓		
4J-2	Appropriate noise shielding or attenuation techniques for the building design, construction and choice of materials are used to mitigate noise transfer			✓		
4K Apartment Mix						
4K-1	A range of apartment types and sizes is provided to cater for different household types now and into the future			✓		
4K-2	The apartment mix is distributed to suitable locations within the building			✓		
4L Ground Floor Apartments						
4L-1	Street frontage activity is maximised where ground floor apartments are located					✓
4M Facades						
4M-1	Building facades provide visual interest along the street while respecting the character of the local area			✓		
4M-2	Building functions are expressed by the facade			✓		

Apartment Design Guide   Part 4 – Designing the Building					
Objectives				Compliance	
Design Criteria		Proposed	Y	N	NA
<b>4N Roof Design</b>					
<b>4N-1</b>	Roof treatments are integrated into the building design and positively respond to the street		✓		
<b>4N-2</b>	Opportunities to use roof space for residential accommodation and open space are maximised		✓		
<b>4N-3</b>	Roof design incorporates sustainability features		✓		
<b>4O Landscape Design</b>					
<b>4O-1</b>	Landscape design is viable and sustainable		✓		
<b>4O-2</b>	Landscape design contributes to the streetscape and amenity				✓
<b>4P Planting on Structures</b>					
<b>4P-1</b>	Appropriate soil profiles are provided				✓
<b>4P-2</b>	Plant growth is optimised with appropriate selection and maintenance		✓		
<b>4P-3</b>	Planting on structures contributes to the quality and amenity of communal and public open spaces		✓		

As identified in the above table, the proposed development is generally compliant with the Apartment Design Guidelines of Part 4.

### Communal Open Space

The design criteria of Objective 3D-1 reads as follows:

*Communal open space has a minimum area equal to 25% of the site area.*

In this regard, the minimum area for communal open space is calculated to be 216.15m<sup>2</sup> i.e. 25% of 864.6m<sup>2</sup>.

The proposed communal open space is located on Level 7 adjacent the hallway and Units 701, 702 and 703, and has a total area of 200.7m<sup>2</sup> (i.e. 23.2% of the subject site) and represents a shortfall of 15.45m<sup>2</sup>. As such the proposed development does not meet the design criteria of Objective 3D-1.

Furthermore, the following design guidance of Objective 3D-1 reads as follows:

*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*

It is noted that the proposed development complies with the design criteria of Objective 4E-1, in where the proposed private open spaces for the residential units achieve in excess of the minimum area and depth requirements for balconies. Seven of the thirty-three apartment units achieve more than twice the minimum area, representing an excess of 196m<sup>2</sup> of private open space for the seven units. In total, the proposed development is 273.5m<sup>2</sup> in excess of the total private open space requirement for all residential apartment units. As such, the shortfall of 15.45m<sup>2</sup> for the communal open space is sufficiently compensated by the larger private open spaces / balconies. Furthermore, the subject site is no more than 650m walking distance (i.e. 5 minutes' walk) to Narwee Park, Rasdall Park and John Mountford Reserve.

As the subject site is on a comparatively small business-zoned lot, the proposed communal open space shortfall is considered to be acceptable in this instance as there are larger private open spaces / balconies and that the subject site is within good proximity to public open spaces.

### **Building Separation**

The design guidance of Objective 3F-1 reads as follows:

*Adequate building separation is provided within the development and from neighbouring buildings / adjacent uses (see also section 2F Building separation and section 3F Visual privacy)*

Under the considerations of 2F Building Separation, the minimum separation distances for buildings are summarised as follows:

*Up to four storeys (approximately 12m):*

- *12m between habitable rooms/balconies*
- *9m between habitable and non-habitable rooms*
- *6m between non-habitable rooms*

*Five to eight storeys (approximately 25m):*

- *18m between habitable rooms/balconies*
- *12m between habitable and non-habitable rooms*
- *9m between non-habitable rooms*

*Nine storeys and above (over 25m):*

- *24m between habitable rooms/balconies*
- *18m between habitable and non-habitable rooms*
- *12m between non-habitable rooms*

It is noted that the proposed development achieves 6m building separation throughout the first to seventh floors and provides adequate separation for the first four storeys. The upper floors remain at 6m building separation and are therefore non-compliant with 2F Building Separation.

Furthermore, the design criteria of Objective 3F-1 read as follows:

*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:*

<b>Building Height</b>	<b>Habitable Rooms / Balconies</b>	<b>Non-Habitable Rooms</b>
<i>up to 12m (4 storeys)</i>	<i>6m</i>	<i>3m</i>
<i>up to 25m (5-8 storeys)</i>	<i>9m</i>	<i>4.5m</i>
<i>over 25m (9+ storeys)</i>	<i>12m</i>	<i>6m</i>

*Note: Separation distances between buildings on the same site should combine required building separations depending on the type of room (see figure 3F.2)*

*Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties*

The proposed building separations are summarised as follows:

Proposed separation	Habitable Rooms / Balconies	Non-Habitable Rooms
Northern 8 storeys shop-top housing	6m	6m
Southern boundary line	3m	3m

As seen above, the proposed development does not meet the design criteria of Objective 3F-1.

The development located immediately to the north of the subject site was approved with a u-shaped opening design and a nil setback to the blank walls facing the subject site's northern boundary. Consequently, the redevelopment of the subject site must consider appropriate building separation designs to the existing northern development and the irregular northern boundary line that kicks in 2.545m into the site.

Strict compliance with the 2F Building Separations for the upper floors (4<sup>th</sup> – 7<sup>th</sup>) would require the proposed development to provide 18m between habitable rooms/balconies. Such design would result in the bulk of any similar development to be concentrated to the southern portion of the subject site. In addition, an 18m separation represents roughly 68.4% of the primary frontage. Strict compliance in this instance would result in a poor amenity and design outcome. Furthermore, the design would result in a ziggurat appearance and would not be appropriate to the established streetscape of Penshurst Road, particularly the adjacent northern shop-top housing development. It is considered in this instance that the proposed building separation and building envelope would remain consistent with recent developments in the immediate neighbourhood.

In this regard, there is heavy emphasis on achieving acceptable levels of the building separation when regarding acoustic and visual privacy impacts. The applicant has



provided 6m separation between the proposed northern balconies to the neighbouring blank wall of the northern habitable rooms. The proposed 6m separation is considered acceptable in this instance given that the blank wall of the northern property does not have any windows. In addition, the applicant has implemented blade walls and architectural features to the northern units that present as non-habitable spaces. This design does not compromise any solar access or cross ventilation requirements as outlined in the ADG and CDCP 2012. Furthermore, the proposed northern building separations are generally consistent with the separations to non-habitable rooms as required in Objective 3F-1.

Given that there are unlikely impacts to the neighbouring property and amenity of the future occupants regarding visual and acoustic privacy, solar access, and cross ventilation requirements, the proposed northern building separations are considered acceptable in this instance.

The proposed treatment of the southern units, incorporating blank wall features, are such that it presents as non-habitable areas. Unlike the nil-separation of the existing development on the northern property, the proposed 3m separation allows flexibility to any future redevelopment of the southern adjoining property. It is likely that any such future redevelopment would adopt a similar design approach, and the proposed development would not place an unreasonable burden on the neighbouring property with regard to setbacks and building separation.

Overall, it is considered that the design of the proposal adopts appropriate separation to the northern and southern boundaries, and would allow for sufficient privacy between the existing, proposed, and future developments.

### **Canterbury Local Environmental Plan 2012**

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

Canterbury Local Environmental Plan 2012					
Clause	Standard / Requirement	Comment	Compliance		
			Y	N	NA
Part 1 Preliminary					
1.2	Aim of Plans		✓		
Part 2 Permitted or prohibited development					
2.3	Zone objectives and Land Use Table		✓		
2.7	Demolition requires development consent		✓		
Part 4 Principal development standards					
4.3(1)	Height of buildings	The proposed development is consistent with the objectives of the development standard, in particular objective (b) which reads:  <i>to minimise overshadowing and ensure there is a desired level of solar access and public open space.</i>	✓		

Canterbury Local Environmental Plan 2012																									
Clause	Standard / Requirement	Comment	Compliance																						
			Y	N	NA																				
4.3(2)	Height of buildings 27m max building height	Building height is measured at maximum of 27m to the top of the lift shaft. The bulk of the roof and building is measured at 26.05m above the natural ground	✓																						
4.4	Floor space ratio  No FSR prescribed to the site under the FSR map.	<div>No FSR prescribed for the site under the FSR Map. GFA calculations provided for consideration.</div> <table><tr><td>GF</td><td>569.7m<sup>2</sup></td></tr><tr><td>Level 1</td><td>525.5m<sup>2</sup></td></tr><tr><td>Level 2</td><td>525.5m<sup>2</sup></td></tr><tr><td>Level 3</td><td>442.3m<sup>2</sup></td></tr><tr><td>Level 4</td><td>442.3m<sup>2</sup></td></tr><tr><td>Level 5</td><td>442.3m<sup>2</sup></td></tr><tr><td>Level 6</td><td>442.3m<sup>2</sup></td></tr><tr><td>Level 7</td><td>442.3m<sup>2</sup></td></tr><tr><td>Total GFA</td><td>8561.7m<sup>2</sup></td></tr><tr><td>Site</td><td>864.4m<sup>2</sup></td></tr></table>	GF	569.7m <sup>2</sup>	Level 1	525.5m <sup>2</sup>	Level 2	525.5m <sup>2</sup>	Level 3	442.3m <sup>2</sup>	Level 4	442.3m <sup>2</sup>	Level 5	442.3m <sup>2</sup>	Level 6	442.3m <sup>2</sup>	Level 7	442.3m <sup>2</sup>	Total GFA	8561.7m <sup>2</sup>	Site	864.4m <sup>2</sup>	✓		
GF	569.7m <sup>2</sup>																								
Level 1	525.5m <sup>2</sup>																								
Level 2	525.5m <sup>2</sup>																								
Level 3	442.3m <sup>2</sup>																								
Level 4	442.3m <sup>2</sup>																								
Level 5	442.3m <sup>2</sup>																								
Level 6	442.3m <sup>2</sup>																								
Level 7	442.3m <sup>2</sup>																								
Total GFA	8561.7m <sup>2</sup>																								
Site	864.4m <sup>2</sup>																								
4.5	Calculation of floor space ratio and site area		✓																						
Part 6 Additional local provisions																									
6.2	Earthworks		✓																						
6.4	Stormwater management		✓																						

As summarised in the table above, the proposed development is consistent with the aims, objectives and development standards set out in the CLEP 2012.

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

#### **Draft Canterbury Bankstown 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 currently being 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.

The proposed development is considered to be consistent with the aims of the draft instrument (being identical to the provisions contained in the current applicable local environmental plan).

**Development control plans [section 4.15(1)(a)(iii)]****Canterbury Development Control Plan 2012**

The following clauses of the Canterbury Development Control Plan 2012 were taken into consideration:

Canterbury Development Control Plan 2012   Part B General Controls					
Clause	Standard / Requirement	Comment	Compliance		
			Y	N	NA
B1 Transport and Parking					
B.1.2.2 General Parking Provisions					
C1	Development must provide the number of car spaces, bicycle spaces and car wash bays as required by the rates in section B1.3.1 below.	Refer to parking calculations below – traffic impact assessment not required.	✓		
C5	Developments comprising more than one (1) land use must provide the combined parking requirement based on the individual rates of parking for each land use.	Shop Top Housing and Retail premises permissible in B2 – Local Centres zone.	✓		
C10	Car parking (and associated space such as access aisles) in excess of the requirements under the parking rates table in section B1.3.1 will be counted as gross floor area.	Proposed garage space is larger than the minimum parking requirement (i.e. 4m x 6m) and storage area to be included in gross floor area calculation.	✓		
B1.2.3 Traffic Impact Assessment					
C1	A traffic impact assessment report, prepared by appropriately qualified transport consultants, is required: a) For the development listed in Table B1.1; b) For any development that would have a significant impact on the surrounding road, parking and/or the public transport system; and c) For any development where the site work will interrupt or have a significant impact on road and footpath activities.	Traffic Statement submitted as retail premises and 10 or more dwellings are proposed. The development application was referred to Council's Traffic Management Officer for assessment. The proposed development has been found to be compliant, subject to recommended conditions.	✓		
B1.3.1 General Parking Rates					
C1	Parking and other vehicle	Site is B2 Zones – Accessible Local	✓		

Canterbury Development Control Plan 2012   Part B General Controls						
Clause	Standard / Requirement	Comment		Compliance		
	facilities required for each type of development are detailed in the table below.  Note: Refer to Section B1.3.2 for accessible parking rates.	<p>Centres.</p> <p><b>Residential Parking</b> Dwelling parking = 33 spaces Total 39 residential parking spaces provided</p> <p><b>Visitor Parking</b> Visitor parking = 33 x 0.15 = 4.95 spaces Total 5 visitor parking spaces provided.</p> <p><b>Washing Bay</b> Total 1 car wash bay required and provided for 33 dwellings.</p> <p><b>Bicycle Spaces</b> Bicycle residents = 33 / 5 = 6.6 spaces  Bicycle visitors = 33 / 10 = 3.3 spaces. Total Bicycle = 3.3 + 6.6 = 9.9 i.e. 10 spaces Total 10 bicycle spaces provided.</p> <p><b>Proposed Retail Parking</b> Total retail = 272.5sqm / 50sqm = 5.45 spaces i.e. 6 spaces. Total 7 retail parking spaces provided.</p>				
Land Use	Car Spaces	Servicing and Delivery	Bicycle Spaces			
Shop Top Housing	<p>The same rate for Residential Flat Buildings except in the following locations:</p> <p>B2 Zones – Large Local Centres Studio: 0.25 spaces per dwelling 1 bedroom: 0.8 spaces per dwelling 2 bedrooms: 1 space per dwelling 3 bedrooms or more: 1 space per dwelling</p> <p>Visitor Parking: Not required</p> <p>B2 Zones – Accessible Local Centres Studio: 0.5 spaces per dwelling 1 bedroom: 1 space per dwelling 2 bedrooms: 1 space per dwelling 3 bedroom or more: 1 space per dwelling Visitor Parking: 0.15 spaces per dwelling</p> <p>B2 Zones – Other Local Centres</p>	Any development comprising 10 or more dwellings must provide a minimum of one (1) car wash bay	Residents: Minimum 1 space per 5 dwellings.  Visitors: Minimum 1 space per 10 dwellings.			

Canterbury Development Control Plan 2012   Part B General Controls					
Clause	Standard / Requirement	Comment	Compliance		
	Studio: 0.67 spaces per dwelling 1 bedroom: 1 space per dwelling 2 bedrooms: 1.2 space per dwelling (the 0.2 space to remain as common property) 3 bedroom or more: 2 spaces per dwelling Visitor Parking: 0.2 spaces per dwelling.				
Shops, Business and Retail Premises	B2 Zones – Large Local Centres 1 space per 66.7m <sup>2</sup> GFA (< 120m <sup>2</sup> ). 1 space per 33m <sup>2</sup> GFA (120m <sup>2</sup> – 1,000m <sup>2</sup> ). 1 space per 27m <sup>2</sup> GFA (> 1,000m <sup>2</sup> ).  B2 Zones – Accessible Centres 1 space per 50m <sup>2</sup> GFA (< 120m <sup>2</sup> ) 1 space per 40m <sup>2</sup> GFA (120m <sup>2</sup> – 1,000m <sup>2</sup> ). 1 space per 27m <sup>2</sup> GFA (> 1,000m <sup>2</sup> ).  Other Locations 1 space per 40m <sup>2</sup> GFA (< 120m <sup>2</sup> ). 1 space per 30m <sup>2</sup> GFA (120m <sup>2</sup> – 1,000m <sup>2</sup> ). 1 space per 22m <sup>2</sup> GFA (> 1,000m <sup>2</sup> ).			Staff: Minimum 1 space per 300m <sup>2</sup> GFA.  Patrons: Minimum 1 space per 500m <sup>2</sup> GFA over 1,000m <sup>2</sup> .	
<b>B1.3.2 Accessible Parking Rates</b>					
<u>Residential Development</u>					
C1	Provide 1 (one) accessible parking space per required adaptable dwelling designed and constructed in accordance with AS 2890.1.	4 adaptable dwellings = 4 accessible residential parking spaces required.  Total 4 accessible residential parking spaces provided.  Accessible parking complies with AS 2890.1	✓		
<b>B1.3.3 Loading &amp; Service Bay Provision</b>					
C1	The number of service bays required will be determined based on the merits of individual proposals.	One loading bay on ground floor accessed via Station Lane	✓		
<b>B1.4 Design of Parking Facilities</b>					
<b>B1.4.1 General Design Requirements</b>					
<u>Location of Entries</u>					
C2	Do not locate entries to car parking or delivery areas: a) Close to intersections and signalised junctions; b) On crests or curves; c) Where adequate sight distance is not available; d) Opposite parking entries of other buildings that generate a large amount of	Entrance to basement car parking and loading bay via Station Lane at least 19.3m from the junction of Hannans Road  Station Lane is flat and has a gradual slope  Entrance to basement car parking and loading not opposite parking	✓		

Canterbury Development Control Plan 2012   Part B General Controls					
Clause	Standard / Requirement	Comment	Compliance		
	traffic (unless separated by a median); e) Where right turning traffic entering may obstruct through traffic; f) Where vehicles entering might interfere with operations of bus stops, taxi ranks, loading zones or pedestrian crossings; or g) Where there are obstructions which may prevent drivers from having a clear view of pedestrians and vehicles.	entries of other buildings and does not obstruct traffic			
<b>B2 Landscaping</b>					
The proposed development is consistent with the relevant controls and objectives found in Chapter B2 – Landscaping in Part B of the CDCP 2012.			✓		
<b>B5 Stormwater and Flood Management</b>					
The development application was referred to Council's Development Engineer for assessment in relation to Chapter B5 – Stormwater and Flood Management in Part B of the CDCP 2012. The proposed development has been found to be compliant, subject to recommended conditions included at Attachment B			✓		
<b>B7 Crime Prevention and Safety</b>					
The development application was referred to Council's Community Safety Officer for assessment in relation to Part B7 of the CDCP 2012. The proposed development has been found to be compliant, subject to recommended conditions included at Attachment B			✓		
<b>B9 Waste Management</b>					
The development application was referred to Council's Waste Management Officer for assessment in relation to Chapter B9 – Waste Management in Part B of the CDCP 2012. The proposed development has been found to be compliant, subject to recommended conditions included at Attachment B			✓		

As summarised in the table above, the proposed development is consistent with the aims, objectives and development controls set out in Part B General Controls of the CDCP 2012.

Canterbury Development Control Plan 2012   Part C5 Shop Top Housing					
Clause	Standard / Requirement	Comment	Compliance		
			Y	N	NA
C5.2.1.4 Layout and Orientation					
C1	Provide a minimum of 15% of the site area for the purposes of communal open space on redevelopment sites larger than 500m.	Site area = 864.6sqm Required 15% = 129.7sqm Communal Open Space = 208.4sqm	✓		
C2	Communal open space may be provided on podiums terraces,	Communal open space located at roof top terrace.	✓		

Canterbury Development Control Plan 2012   Part C5 Shop Top Housing					
Clause	Standard / Requirement	Comment	Compliance		
	or in any deep-soil setback or separation between buildings. Roof top terraces will only be permitted in circumstances where there will be no adverse impacts to adjoining properties in terms of visual and acoustic privacy.	<p>Visual privacy impacts are kept to a minimal. There is no direct viewing into the living areas and balconies of the adjacent the northern residential shop top housing development.</p> <p>The application was referred to Council's Environmental Health Officer regarding acoustic impact. The submitted acoustic report has been reviewed and the Environmental Health Officer has recommended conditions of consent. to be placed on the determination notice, if the application is supported. The acoustic report will also form part of the development consent.</p>			
C3	Each area of communal open space must have a minimum dimension of 6m and larger developments should consider greater dimensions.	Minimum 9m width	✓		
C4	Provide consolidated areas of communal open space with reasonable area, facilities and landscape for the uses it will accommodate and design to generate a variety of visible pedestrian activity.	The proposed development achieves this requirement.	✓		
C5	Provide communal open space in locations that are sunny, and are adjacent to, as well as visible from, the main building lobby.	Communal open space benefits from the north and east aspect and has plenty of sunlight in the mornings	✓		
C6	Provide windows that overlook communal open space and the approaches to the main building lobby to generate a variety of visible pedestrian activity.	Window adjacent the elevator in the common circulation area of Level 7	✓		
C7	Screen walls surrounding any communal area are to be no higher than 1.2m, although screens with 50% transparency may be up to 1.8m high.	1m high screen wall	✓		



Canterbury Development Control Plan 2012   Part C5 Shop Top Housing					
Clause	Standard / Requirement	Comment	Compliance		
C5.2.1.4 Layout and Orientation					
C1	Orientate development to maximise solar access and natural lighting, without unduly increasing the building's heat load.	The proposed development benefits from the north, west and east aspects	✓		
C2	Site the development to avoid casting shadows onto neighbouring dwelling's primary living area, private open space and solar cells.	Avoids overshadowing southern living areas, solar cells or open spaces.  Avoids overshadowing living areas, solar cells or open spaces of the western residential apartment buildings across Station Lane.	✓		
C4	Site new development and private open space to avoid existing shadows cast from nearby buildings.	Communal open space is not overshadowed by the adjacent shop top housing to the north	✓		
C5	Site a building to take maximum benefit from cross-breezes and prevailing winds.	The proposed development achieves this requirement.	✓		
C6	Do not compromise the creation of active street frontage or casual surveillance of the street, communal space and parking areas, through the required orientation.	The proposed development, when viewed from Station Lane and Penshurst Road does not compromise the existing casual surveillance and active street frontage. It is considered that the design will further improve the streetscape	✓		
C5.2.2.1 Floor Space Ratio					
The maximum permissible FSR for any development is prescribed in the LEP.		No maximum FSR prescribed for the subject site in the CLEP	✓		
C5.2.2.3 Setbacks					
C1	A minimum side boundary setback of 4.5m is required in the B5 zone. SEPP 65 separation requirements will apply for buildings with height of 4 storeys and above.  Note: Refer to Part D1 – Commercial Development for all objectives and controls relating to setbacks for shop top housing development.	Setbacks comply - Refer to setback assessment below	✓		

Canterbury Development Control Plan 2012   Part C5 Shop Top Housing					
Clause	Standard / Requirement	Comment	Compliance		
C5.2.3.1 Built Form					
C1	Provide accessible entries for all potential use such as the transporting of furniture.	Provided via loading bay and platform lift	✓		
C2	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.	Proposed development is orientated to Penshurst Road and Station Lane	✓		
C3	Refer to Part D1 – Commercial Development of this DCP for objectives and controls relating to façade treatment for shop top housing development.	Refer to assessment below	✓		
C5.2.3.2 Roof Design and Features					
C3	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.	Communal open space is shaded during the midday and afternoon sun and integrates landscaping, general planting area, kitchenette, community gardening areas and disability bathroom	✓		
C4	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.	The planter box surrounding the balustrade limits potential overlooking into other properties from the communal open space.	✓		
C5	Allow for views and passive surveillance of streets and public open space from roof terraces.	The proposed development achieves this requirement.	✓		
C5.2.3.3 Dwelling Layout & Mix					
C1	10% of dwellings in any development must be accessible or adaptable to suit current or future residents with special needs.	4 of 33 apartments are adaptable (i.e. 12.1%)	✓		

Canterbury Development Control Plan 2012   Part C5 Shop Top Housing					
Clause	Standard / Requirement	Comment	Compliance		
C5.2.3.4 Building Services					
C2	Design and provide discretely located mailboxes at the front of the property.	Located in front entrance	✓		
C3	Integrate systems, services and utility areas (such as plant rooms, hydrants, equipment's and the like) with the design of the whole development – coordinate materials with those of the building and integrate with landscaping.	The proposed plant rooms, rubbish collection, loading docks and service systems are integrated to the design of the ground floor. The design does not detract from the existing landscape and streetscape of Station Lane.	✓		
C4	The location and design of substations must be shown on the plans.	Shown on ground floor plan	✓		
C5	Substations should be located underground. Where not possible, substations are to be integrated into the building design and concealed from public view.	Substation integrated with building design and is concealed from public view along the Station Lane frontage.	✓		
C6	Substations must not be located forward of the front building line.	Located at rear of proposed development	✓		
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.	Air conditioning units are sufficiently screened by blade walls, planter box, building elements and architectural features	✓		
C5.2.4.1 Solar Access and Overshadowing					
C1	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.	The south-west residential flat building on the adjacent western property across Station Lane is not overshadowed from 10am – 1pm and retains a minimum three hours of sunlight to the living areas of each apartment-	✓		
C3	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	Avoids overshadowing adjoining solar, thermal or electrical systems (i.e. retains at least three hours)	✓		

Canterbury Development Control Plan 2012   Part C5 Shop Top Housing					
Clause	Standard / Requirement	Comment	Compliance		
	sunlight, then proposed development must not reduce the existing level of sunlight.				
C4	Clothes drying areas on adjoining residential properties must receive a minimum of 3 hours of sunlight on 21 June.	3 hours retained as not overshadowed by proposed development	✓		
<b>C5.2.4.2 Acoustic Privacy</b>					
C1	Locate sensitive rooms, such as bedrooms, from likely sources of noise such as major roads and neighbouring living areas.	Bedrooms are located away from the street frontages	✓		
C4	Screen balconies or windows in living rooms or bedrooms that would face a driveway or basement ramp.	Screened with planter boxes on the lower residential floors	✓		
C5	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.	Site is not directly adjoining Narwee Train Station and not fronting busy roads	✓		
C6	Design the layout of lower levels facing the road or rail to: (a) The position of windows facing the noise source and ensure that total unprotected window area is minimal so as to limit the amount of airborne noise entering the built fabric; (b) Ensure that the detailing of the window types addressing the corridors are designed and constructed to attenuate excessive noise - (double and triple glazing and insulated to manufacturers standards); and (c) Ensure that balcony parapet walls are constructed of solid masonry or materials of similar sound attenuating qualities.	The proposed development achieves this requirement.	✓		

As summarised in the table above, the proposed development is generally consistent with the aims, objectives and development controls set out in Part C5 Shop Top Housing of the CDCP 2012.

Canterbury Development Control Plan 2012   Part D Business Local Centres					
Clause	Standard / Requirement	Comment	Compliance		
			Y	N	NA
D1.2.1 Minimum Frontage					
C1	Where redevelopment is proposed in a B1 or B2 Zone of the LEP a minimum frontage of at least 18m shall be provided.	26.3m primary frontage	✓		
D1.2.2 Isolated Sites					
C1	Neighbouring properties are not to be isolated so that the property will be unable to reasonably accommodate redevelopment.	Neighbouring properties are not isolated	✓		
D1.3.1 Floor Space Ratio					
Most land zoned for business purposes within the LGA does not have an FSR.		A maximum FSR for the subject site is not prescribed by the CLEP	✓		
D1.3.2 Height					
The maximum permissible height of building is prescribed in the LEP and varies across zones		BH = 27m 8 Storeys	✓		
D1.3.3 Floor to Ceiling Height					
C1	Floor to ceiling heights must: (a) Provide a minimum 3.3m floor to ceiling height for the ground floor. (b) Provide a minimum 3m floor to ceiling height per storey for development in the B6 Enterprise Corridor Zone. (c) Car parking is required to have a floor to ceiling height in accordance to Australian Standard AS 2890.1. (d) 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.	Podium / ground floor level have 4.3m floor to ceiling height.  B2 Local Centres – 2.7m floor to ceiling height per upper storeys.	✓		

Canterbury Development Control Plan 2012   Part D Business Local Centres					
Clause	Standard / Requirement	Comment		Compliance	
	Note: Developments with shop top housing must comply with the objectives and controls outlined in Chapter C5 Shop Top Housing of this DCP for ceiling heights.				
D1.3.4 Setbacks					
C1	Where a setback applies, buildings are to provide articulated and varied facades (Refer to D1.4.3 for façade design) that do not result in a ziggurat appearance (i.e. do not have the form of a terraced structure with successive receding storeys).	Does not result in ziggurat appearance.		✓	
C2	Development must comply with the minimum front setbacks as follows:  <i>Table D1.1: Minimum Front Setbacks In Business Zones</i>	Level	Setback	✓	
		GF	0m		
		1	0m		
		2	0m		
		3	5m		
		4	5m		
		5	5m		
		6	5m		
		7	5m		
Location		Number of Storeys at the Street and Setback		Upper Level (Podium) Setback	
B2 Zone (except Campsie Civic Centre Precinct, Canterbury Town Centre and Roselands Shopping Centre and Roselands Shopping Centre and where existing facade is to be retained)		1-3 storeys Build to front boundary		Fourth storey – 3m Greater than four storeys – 5m (all storeys to be set back this distance including the fourth storey)	
C7	Establish a 45° height plane projected at 6 m from the residential zone boundary.	A variation to the development control has been sought. See discussion below for consideration.			✓
C8	Provide minimum 6m setback to the residential zone boundary.	10m setback to adjacent residential zone		✓	
C10	A setback to a rear lane is not required.  <i>Figure D1.2: Building height plane rear</i>	Zero setback to rear lane		✓	
D1.3.5 Building Depth					
C1	Building depth for commercial premises must be in accordance with the following requirements: (a) Minimum depth of 10m; and	Retail space minimum depth of 10.7m  Maximum wall length < 50m		✓	

Canterbury Development Control Plan 2012   Part D Business Local Centres					
Clause	Standard / Requirement	Comment	Compliance		
	(b) Maximum street frontage wall length of 50m.				
<b>D1.4 Building Design</b>					
<b>D1.4.1 Orientation and Layout</b>					
C1	Design and orient development to maximise solar access and natural light, without unduly increasing the building's heat load.	Living areas and open spaces are orientated to the east and west aspects. Side setbacks and building separations of the building allows for some northern sunlight.	✓		
C2	Design and site development to avoid casting shadows onto neighbouring dwelling's primary living area, private open space and solar cells.	Partially overshadows one of the residential flat buildings on the western adjoining properties.  Proposed shadows would not impact POS, solar cells or living areas and retains at least three hours of sunlight to these areas	✓		
<b>D1.4.2 Ground Level Interface</b>					
C1	Locate entries so they relate to the existing street, subdivision pattern, street tree planting and pedestrian access network and are clearly visible.	No available street planting.  Main entrance accessible via primary street frontage.	✓		
C4	Provide an awning over the entry to contribute to the legibility of the development and the public domain.	Awning in front of main entrance and accessibility ramp	✓		
C5	The façade of the building shall be built to the front street boundary;	Front façade orientated to primary street frontage	✓		
<b>D1.4.3 Façade Treatment</b>					
C1	Façade Design: (a) New building forms and design features shall not mimic traditional features but should reflect these in a contemporary design. (b) Avoid long spans of blank walls along street frontages and address both street frontages with façade treatment, and articulation of elevations on corner sites. (c) Incorporate contrasting elements in façades. (e) Use a harmonious range of high quality materials, finishes and detailing: i. Define a base, middle and top related to the overall proportion of the building; ii. Express key datum lines using cornices, change in materials or change in setback; iii. Express the variation in floor to floor height, particularly at lower levels; iv. Articulate building entries with awnings, porticos, recesses,		✓		



Canterbury Development Control Plan 2012   Part D Business Local Centres					
Clause	Standard / Requirement	Comment	Compliance		
	<p>blade walls and projecting bays;</p> <p>v. 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;</p> <p>vi. Detail balustrades to reflect the type and location of the balcony and its relationship to the façade;</p> <p>vii. Incorporate architectural features which give human scale at street level, including entrances, awnings, colonnades, pergolas and fences;</p> <p>viii. 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; and</p> <p>ix. Incorporate horizontal and/or vertical elements, such as indentations in the façade plane, string courses and bandings, window openings and building entrances.</p> <p>(f) Consideration in the design of commercial premises is to be made for mechanical ventilation required by potential future food shops and restaurants. Mechanical ventilation is to be located behind the building facade. Alternatively, ventilation for future uses must be considered in the facade design.</p> <p>(g) Design facades to reflect the orientation of the site using elements such as sun shading devices, light shelves and bay windows.</p> <p>(h) Modulate the wall alignment with a step in of at least 1m.</p> <p>(i) Refer to existing datum lines for any new developments integrated to heritage and/or existing buildings, such as eave and parapet line, as a guide to aligning the height to levels of adjoining development.</p> <p>(j) Use a solid to void ratio of 50%, with each facade measured independently. Disharmony arises when the range of solid to void is extreme. Do not include shopfronts in the 50% solid to void ratio calculation.</p> <p>(k) Locate and proportion windows to minimise scale and bulk of new building.</p>				
C8	Design upper levels so they do not compete with the aesthetic character and dominance of the street level façade.	Upper levels do not dominate street level façade and remains consistent with the contemporary / future aesthetic streetscape	✓		
C10	<p>Balconies:</p> <p>(a) Do not allow balconies and voids to dominate publicly visible facades (excluding glass shop fronts and colonnades in business centres).</p> <p>(b) Use balconies in moderation and integrate them into the overall composition of the façade - do not use a monotonous or repetitive configuration of balconies.</p>		✓		

Canterbury Development Control Plan 2012   Part D Business Local Centres					
Clause	Standard / Requirement	Comment	Compliance		
	(c) Where possible place balconies facing an internal courtyard and do not place all balconies on an external façade. (d) Use balcony types that respond to the street context, building orientation and residential amenity. (e) Use lightweight materials and construction for balconies. (f) Support verandas and balconies with slender metal or timber frames, rather than concrete columns or masonry piers. (g) Construct balcony balustrades with glass panels, open metal framing, board or sheet cladding, rather than entirely of masonry, or break up significantly blank walls of masonry with panels.				
<b>D1.4.4 Roof Design</b>					
C1	Roofs must not exceed a pitch of 10 degrees	Flat roof pitch and does not exceed 10 degrees	✓		
C2	Maintain the existing parapet line where it contributes to the early to midtwentieth century character of the traditional main streets.	Limited parapet features – roof remains flat	✓		
C3	Emphasise building articulation with the shape and alignment of the roof.	Upper residential levels are consistent with the shape and alignment of the roof	✓		
C5	Respond to the orientation of the site, for example, by using eaves and skillion roofs to maximise solar access.	Proposed development maximises north, east and west for solar access	✓		
C7	Integrate service elements into the design of the roof - including lift over-runs, fire hydrants, service plant, chimneys, vent stacks, telecommunication infrastructure, gutters, downpipes and signage.	Services integrate with the design of the roof and not viewable from the public domain	✓		
C8	The location of ventilation that may be required for potential future food shops and restaurants in commercial premises must be considered in the roof design.	Ventilation provided on the basement and ground floor levels in the north-west corner of the proposed building	✓		
<b>D1.4.7 Building Services</b>					
C1	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.	Service areas and integrated systems located within the proposed development and not viewable from the public domain	✓		

Canterbury Development Control Plan 2012   Part D Business Local Centres					
Clause	Standard / Requirement	Comment	Compliance		
C2	Facilities should not be visually obtrusive.	Not visually obtrusive	✓		
C3	The location of substations is to be shown on plans.	Substation shown on ground floor plan	✓		
C4	Substations should be provided underground where possible. Where not possible, substations are to be concealed and incorporated into the overall building design.	Substation integrates with proposed development	✓		
C5	Substations located at ground level must be setback as far from the street frontage as possible, not be located in between the building form and the street frontage, and must be screened with landscaping.	Substation located at the rear of the proposed development and accessible from Station Lane	✓		
C8	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.	Air condition units are sufficiently screened by blade walls, planter box, building elements and architectural features	✓		
D7.1 General Objective					
O1	To improve the structure and function of local centres.		✓		
D7.6 Narwee					
C1	Development in the Narwee Local Centre is to be in accordance to the structure plan shown in Figure D7.5.	Proposed retail spaces are orientated to Penshurst Road and remains consistent with the retail/commercial street activation highlighted in Figure D7.5	✓		

As summarised in the table above, the proposed development is generally consistent with the aims, objectives and development controls set out in Part D Business Local Centres of the CDCP 2012. There is an exception with respect to the height plane required toward the rear of the site, which is discussed in detail below.

### Setbacks on Boundary with Residential Zoned Areas (side and rear setbacks)

D1.3.4 Setbacks in the CDCP 2012 reads as follows:

*C4 Establish 45° height plane projected at 1.5m from the residential boundary.*

In accordance to the above, the development control requires a 45 degree height plane to be measured at 6m from the western (rear) boundary. The site is separated by Station Lane, measured at 9.145m wide, from the residential boundary of 140-144

Hannans Road, Narwee. It is noted that the proposed development does not require a rear setback as the subject site adjoins a lane.



**Figure 2:** Building Height Plane. **Source:** Architectural Plans Revision DA.C

As seen above, the proposed development does not comply with the height plane development control, with the upper 3 levels of the building encroaching the requirement. Despite this encroachment, the design would not significantly reduce solar access and visual privacy impacts to the residential apartment dwellings and living areas of no. 140-144 Hannans Road. The upper floors of the proposed building are also set back from the western property boundary to ensure that the appearance and bulk, when viewed from Station Lane, is reduced and minimised.

In addition, a similar design approach was supported by Council under DA-200/2015 for the adjoining shop-top housing to the north. The proposed development would remain consistent with the depth and bulk of the existing development to the north and, accordingly, would maintain a consistent form and streetscape to Station Lane. Strict compliance with the development control would result in a heavily staggered design that would suffer a loss of solar access for proposed apartments facing west due to overshadowing from the existing non-conforming development immediately to the north. In addition, a strict design would not be consistent with C1 of D.1.3.4 – Setbacks, where buildings are to provide articulated and varied facades that do not result in a ziggurat like appearance.

In this regard, the proposed height plane encroachment is considered to be acceptable in this instance as it would not create any adverse or unreasonable overshadowing and visual privacy impacts of the neighbouring residential development, nor would it be inconsistent with what has been approved on the northern adjoining property by way of design, streetscape and façade treatments.

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

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

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

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

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

The proposed development is not likely to result in any significant adverse environmental, social or economic impacts on the locality. As detailed in this report, where non-compliances with the relevant development standards or controls occur, these are sufficiently justified. As such, it is considered that the impact of the proposed development on the surrounding locality is acceptable.

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

The site is considered suitable for the proposed development. The development results in an appropriate built form for the site, which is consistent with the existing and desired future character of the locality as reflected in assessment presented above. In addition, the proposed design is not considered to impact the bulk and scale of the streetscape, rather it would remain sympathetic to the existing streetscape of the immediate locality, particularly with the existing northern shop-top housing development.

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

The application was advertised and notified for a period of twenty-seven (27) days between 13 April 2022 to 10 May 2022. No objections were received during this period.

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

The proposed development would not contravene the public interest. It responds appropriately to the objectives and provisions set out in the applicable environmental planning instruments, as well as the objectives and development standards contained in the Canterbury Local Environmental Plan 2012 and the development controls contained in the Canterbury Development Control Plan 2012.

## **CONCLUSION**

The Development Application has been assessed in accordance with the provisions of Section 4.15 of the *Environmental Planning and Assessment Act 1979*, *Water Management Act 2000*, *State Environmental Planning Policy (Biodiversity and Conservation) 2021*, *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*, *State Environmental Planning Policy (Resilience and Hazards) 2021*, *State Environmental Planning Policy (Resources and Energy) 2021*, *State Environmental Planning Policy (Transport and Infrastructure) 2021*, *State Environmental Planning Policy 65 – Design Quality for Residential Apartment Development*, *Canterbury Local Environmental Plan 2012 (CLEP 2012)*, *Draft Canterbury-Bankstown Local Environmental Plan 2020*, and the *Canterbury Development Control Plan 2012 (CDCP 2012)*, and is consistent with the with the relevant aims, objectives and provisions.

In particular, the shortfall in private open space is sufficiently compensated with generous private open spaces provided throughout all apartments and would not result in undue amenity impacts. Furthermore, the proposed building separation does not compromise the visual and acoustic privacy impacts to the adjoining properties. Rather, it would allow for sufficient privacy between the existing, proposed, and future developments.

Approval of the height plane variation would not be inconsistent to what Council has recently approved on the adjoining northern shop-top housing development, rather it would remain consistent with the precedent Council has already set. The height plane non-compliance to Station Lane would not result in undue solar and visual privacy impacts to the neighbouring residential apartments. In this regard, it is considered that approval of this application would remain consistent with the existing and emerging streetscape of Station Lane and Penshurst Road.

For the reasons outlined above, the development application has sufficiently demonstrated that it is worthy of support.

## **RECOMMENDATION**

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

## CONDITIONS OF CONSENT

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

### 1. Approved Development.

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

Plan No.	Plan Name	Dated	Revision	Prepared By
201	Basement B3 Plan	22.02.2023	DA-C	Ross Howieson Architects
202	Basement B2 Plan	22.02.2023	DA-C	Ross Howieson Architects
203	Basement B1 Plan	22.02.2023	DA-C	Ross Howieson Architects
204	Ground Floor Plan	22.02.2023	DA-C	Ross Howieson Architects
205	Level 1 Plan	22.02.2023	DA-C	Ross Howieson Architects
206	Level 2 Plan	22.02.2023	DA-C	Ross Howieson Architects
207	Level 3 Plan	22.02.2023	DA-C	Ross Howieson Architects
208	Level 4 – 6 Plan	22.02.2023	DA-C	Ross Howieson Architects
209	Level 7 Plan	22.02.2023	DA-C	Ross Howieson Architects
210	Roof Plan	22.02.2023	DA-C	Ross Howieson Architects
301	East Elevation	22.02.2023	DA-C	Ross Howieson Architects
302	North Elevation	22.02.2023	DA-C	Ross Howieson Architects
303	West Elevation	22.02.2023	DA-C	Ross Howieson Architects
304	South Elevation	22.02.2023	DA-C	Ross Howieson Architects
401	Section AA	22.02.2023	DA-C	Ross Howieson Architects
402	Section BB	22.02.2023	DA-C	Ross Howieson Architects
404	Detail Section 01	22.02.2023	DA-C	Ross Howieson Architects
405	Detail Section 02	22.02.2023	DA-C	Ross Howieson Architects
406	Detail Section 03	22.02.2023	DA-C	Ross Howieson Architects
1	Car Swept Turning	30/3/2023	-	Traffic Solutions



Plan No.	Plan Name	Dated	Revision	Prepared By
	Path			
2	Car Swept Turning Path	30/3/2023	-	Traffic Solutions

The recommendations contained within the following supporting documentation are to form part of this determination notice except where the conditions of this consent expressly require otherwise.

- a. All recommendations contained within Section 6 the Hazardous Materials Survey, prepared by eiaustralia, dated 14 February 2022, Report No. E23123.E10.Rev1 are to form conditions of consent.
- b. All recommendations contained within Section 4 the Geotechnical Investigation Report – 153-159 Penshurst Road, Narwee NSW, prepared by eiaustralia, dated 11 February 2022, Report No. E23123 GA\_Rev3 are to form conditions of consent.
- c. All recommendations contained within the Remediation Action Plan – 153-159 Penshurst Road, Narwee NSW, prepared by eiaustralia, dated 9 February 2022, Report No. E23123.E06\_Rev1 are to form conditions of consent.
- d. All recommendations contained within Section 11 the Detailed Site Investigation Report – 153-159 Penshurst Road, Narwee NSW, prepared by eiaustralia, dated 9 February 2022, Report No. E23123 E02\_Rev2 are to form conditions of consent.
- e. All recommendations contained within the DA Acoustic Assessment - 153-159 Penshurst Road, Narwee NSW, prepared by Pulse White Noise Acoustic, dated 10 February 2022, Report No. 220041 are to form conditions of consent.

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

- 1.2. No approval is granted or implied for the use of the retail and commercial tenancies.

Separate development consent is to be obtained for the use of these premises, unless the use qualifies as 'exempt development'.

- 1.3. The acoustic report submitted in support of this application prepared by Pulse White Noise Acoustic Pty Ltd, titled 153-159 Penshurst Road, Narwee DA Acoustic Assessment, dated 10 February 2022, Report No. 220041, and include all Sections including the recommendations stated within the report, to form part of the development consent.

The Principal Certifying Authority shall obtain a report from an appropriately qualified acoustic consultant, not previously involved with the development, stating that the recommendations outlined in the above stated report have been completed and that relevant noise criteria have been satisfied prior to the issue of any Occupation Certificate. A copy of the report is to be submitted to Council prior to the issue of any Occupation Certificate.

- 1.4. The validation report must verify that the land is suitable for the proposed use(s), and that the remediation and validation of the site has been undertaken in accordance with the Remedial Action Plan Prepared for 153-157 Penshurst Road, Narwee, NSW 2209, , reference no. E23123.E06\_Rev1., prepared by EI Australia, dated 9 February 2022.
- 1.5. If the Duty to Report contamination to the NSW EPA under Section 60 of the Contaminated Land Management Act 1997 is triggered, Council must be notified within seven (7) days of the notification to the NSW EPA.
- 1.6. Where required, any request for “No Stopping” Signs to be implemented on Station Lane at the adjacent western property during any construction or building works, the Applicant must seek consultation with the neighbouring property owner and Council.
- 1.7. The proposed development must comply with AS/NZS 2890.1:2004 Figure 3.3 ‘Minimum sight lines for pedestrian safety’ and Council’s standard design drawing S-004.

## **2. Conditions Imposed by Transport for New South Wales (TfNSW).**

- 2.1. Groundwater must only be pumped or extracted for the purpose of temporary construction dewatering at the site identified in the development application. For clarity, the purpose for which this approval is granted is only for dewatering that is required for the construction phase of the development and not for any dewatering that is required once construction is completed.
- 2.2. Before any construction certificate is issued for any excavation under the development consent, the applicant must: 1. apply to WaterNSW for, and obtain, an approval under the Water Management Act 2000 or Water Act 1912, for any water supply works required by the development; and 2. notify WaterNSW of the programme for the dewatering activity to include the commencement and proposed completion date of the dewatering activity Advisory Note: 3. An approval under the Water Management Act 2000 is required to construct and/or install the water supply works. For the avoidance of doubt, these General Terms of Approval do not represent any authorisation for the take of groundwater, nor do they constitute the grant or the indication of an intention to grant, any required Water Access Licence (WAL). A WAL is required to lawfully take more than 3ML of water per water year as part of the dewatering activity. 4. A water use approval

may also be required, unless the use of the water is for a purpose for which a development consent is in force.

- 2.3. A water access licence, for the relevant water source, must be obtained prior to extracting more than 3ML per water year of water as part of the construction dewatering activity. Advisory Notes: 1. This approval is not a water access licence. 2. A water year commences on 1 July each year. 3. This approval may contain an extraction limit which may also restrict the ability to take more than 3ML per water year without further information being provided to WaterNSW. 4. Note that certain water sources may be exempted from this requirement - see paragraph 17A, Schedule 4 of the Water Management (General) Regulation 2018.
- 2.4. If no water access licence is obtained for the first 3ML / year (or less) of water extracted, then, in accordance with clause 21(6), Water Management (General) Regulation 2018, the applicant must: (a) record water taken for which the exemption is claimed, and (b) record the take of water not later than 24 hours after water is taken, and (c) make the record on WAL exemption form located on WaterNSW website "Record of groundwater take under exemption", and (d) keep the record for a period of 5 years, and (e) give the record to WaterNSW either via email to Customer.Helpdesk@waterNSW.com.au or post completed forms to - PO Box 398 Parramatta NSW 2124 (i) not later than 28 days after the end of the water year (being 30 June) in which the water was taken, or (ii) if WaterNSW directs the person in writing to give the record to WaterNSW on an earlier date, by that date.
- 2.5. All extracted groundwater must be discharged from the site in accordance with Council requirements for stormwater drainage or in accordance with any applicable trade waste agreement.
- 2.6. The design and construction of the building must prevent: (a) any take of groundwater, following the grant of an occupation certificate (and completion of construction of development), by making any below-ground levels that may be impacted by any water table fully watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for unforeseen high water table elevations to prevent potential future inundation; (b) obstruction to groundwater flow, by using sufficient permanent drainage beneath and around the outside of the watertight structure to ensure that any groundwater mounding shall not be greater than 10 % above the pre-development level; and (c) any elevated water table from rising to within 1.0 m below the natural ground surface.
- 2.7. Construction phase monitoring bore requirements GTA: a) A minimum of three monitoring bore locations are required at or around the subject property, unless otherwise agreed by WaterNSW. b) The location and number of proposed monitoring bores must be submitted for approval, to WaterNSW with the water supply work application. c) The monitoring bores must be installed and maintained as required by the water supply

work approval. d) The monitoring bores must be protected from construction damage.

- 2.8. Construction Phase Monitoring programme and content: a) A monitoring programme must be submitted, for approval, to WaterNSW with the water supply work application. The monitoring programme must, unless agreed otherwise in writing by WaterNSW, include matters set out in any Guide published by the NSW Department of Planning Industry and Environment in relation to groundwater investigations and monitoring. Where no Guide is current or published, the monitoring programme must include the following (unless otherwise agreed in writing by WaterNSW): i. Pre-application measurement requirements: The results of groundwater measurements on or around the site, with a minimum of 3 bore locations, over a minimum period of 3 months in the six months prior to the submission of the approval to WaterNSW. ii. Field measurements: Include provision for testing electrical conductivity; temperature; pH; redox potential and standing water level of the groundwater; iii. Water quality: Include a programme for water quality testing which includes testing for those analytes as required by WaterNSW; iv. QA: Include details of quality assurance and control v. Lab assurance: Include a requirement for the testing by National Association of Testing Authorities accredited laboratories. b) The applicant must comply with the monitoring programme as approved by WaterNSW for the duration of the water supply work approval (Approved Monitoring Programme).
- 2.9. (a) Prior to the issuing of the occupation certificate, and following the completion of the dewatering activity, and any monitoring required under the Approved Monitoring Programme, the applicant must submit a completion report to WaterNSW. (b) The completion report must, unless agreed otherwise in writing by WaterNSW, include matters set out in any guideline published by the NSW Department of Planning Industry and Environment in relation to groundwater investigations and monitoring. Where no guideline is current or published, the completion report must include the following (unless otherwise agreed in writing by WaterNSW): 1) All results from the Approved Monitoring Programme; and 2) Any other information required on the WaterNSW completion report form as updated from time to time on the WaterNSW website. c) The completion report must be submitted using "Completion Report for Dewatering work form" located on WaterNSW website [www.waternsw.com.au/customer-service/water-licensing/dewatering](http://www.waternsw.com.au/customer-service/water-licensing/dewatering).
- 2.10. The extraction limit shall be set at a total of 3ML per water year (being from 1 July to 30 June). The applicant may apply to WaterNSW to increase the extraction limit under this condition. Any application to increase the extraction limit must be in writing and provide all information required for a hydrogeological assessment. Advisory note: Any application to increase the extraction limit should include the following: - Groundwater investigation report describing the groundwater conditions beneath and around the site and subsurface conceptualisation - Survey plan showing ground surface elevation across the site - Architectural drawings showing

basement dimensions - Environmental site assessment report for any sites containing contaminated soil or groundwater (apart from acid sulphate soils (ASS)) - Laboratory test results for soil sampling testing for ASS - If ASS, details of proposed management and treatment of soil and groundwater. Testing and management should align with the NSW Acid Sulphate Soil Manual.

- 2.11. Any dewatering activity approved under this approval shall cease after a period of two (2) years from the date of this approval, unless otherwise agreed in writing by WaterNSW (Term of the dewatering approval). Advisory note: an extension of this approval may be applied for within 6 months of the expiry of Term.
- 2.12. This approval must be surrendered after compliance with all conditions of this approval, and prior to the expiry of the Term of the dewatering approval, in the condition above. Advisory note: an extension of this approval may be applied for within 6 months of the expiry of Term.
- 2.13. The following construction phase monitoring requirements apply (Works Approval): a. The monitoring bores must be installed in accordance with the number and location shown, as modified by this approval, unless otherwise agreed in writing with WaterNSW. b. The applicant must comply with the monitoring programme as amended by this approval (Approved Monitoring Programme). c. The applicant must submit all results from the Approved Monitoring Programme, to WaterNSW, as part of the Completion Report.

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

- 3.1. Development Contributions of \$476,311.00 must be paid for this development before the issue of any construction certificate. The contributions are levied under Canterbury Bankstown Local Infrastructure Contributions Plan 2022 and Section 7.11 of the *Environmental Planning and Assessment Act 1979*. The contributions will be used to provide, extend or augment public amenities or public services required due to additional demand for these facilities created by the new development. The development contribution will be allocated to the following purposes under the contributions plan:

LGA Open space and recreation facilities	\$301,698.00
LGA Access and public domain facilities	\$84,983.00
LGA Community and cultural facilities	\$82,593.00
Plan management and administration	\$7,037.00

Indexing of the contribution amount to be paid: The development contribution payable will be adjusted, at the time of payment, to reflect Consumer Price Index increases which have occurred since the "Consent to operate from date" which appears on the front page of this Determination Notice.

No construction certificate is to be issued and no construction is to commence until payment of development contributions. The contribution must be paid to Council before the issue of any construction certificate. Construction of the development may NOT commence until the development contributions are paid.

A copy of the development contributions plan is available for inspection on Council's website and at Council's Administration offices in Bankstown and Campsie.

NOTE: Development contribution amounts are non-refundable if you do not proceed with your development.

- 3.2. All fees, levies, bonds and/or contributions as required by this Determination Notice must be paid to the relevant authority/entity before the issue of a construction certificate.
- 3.3. Before the issue of the relevant construction certificate, payment of the long service levy is required, under the *Building and Construction industry Long Service Payments Act 1986*, section 34. Evidence of the payment is to be provided to the Certifier. The long Service levy is calculated to be 0.35% of the total cost of the building and construction work. Payment is not required where the value of works is less than \$25,000. Payment can be calculated using the Levy Portal Calculator at <https://longservice.force.com/bci/s/levy-calculator>. Payment must be made via the Long Service Levy Portal at <https://www.longservice.nsw.gov.au>.
- 3.4. Separate approval must be sought (where required) under the relevant Regulations for any equipment (i.e. cranes) required to construct the building. Construction cranes may be required to operate at a height above the proposed development and consequently, may require separate approval under the Regulations. It is advisable that approval to operate equipment (i.e. cranes) be obtained before the issue of any construction certificate.
- 3.5. Prior to the issue of a Construction Certificate, the site is to be remediated in accordance with the approved Remedial Action Plan, prepared by EI Australia, titled *Remedial Action Plan*, 153-157 Penshurst Road, Narwee, NSW 2209, dated 9 February 2022, reference no. E23123.E06\_Rev1.
  - a) State Environmental Planning Policy No. 55 - Remediation of Land;
  - b) The guidelines in force under the Contamination Land Management Act 1997;

The applicant must engage an appropriately qualified and experienced environmental consultant to supervise all aspects of site remediation and validation.



Any variations to the approved Remediation Action Plan must be submitted to Council prior to the continuing of such work.

- 3.6. Prior to issue of the Construction Certificate, the proponent must submit a detailed validation report to Council and the principal certifying authority.

The validation report must be prepared in accordance with:

- i. 'State Environmental Planning Guideline (SEPP) 55 – Remediation of Land' (Department of Urban Affairs and Planning and NSW EPA, 1998);
- ii. Relevant EPA Guidelines, noting the 'Guidelines for Consultants Reporting of Contaminated Land 2020 and
- iii. National Environmental Protection (Assessment of Site Contamination) Measure 1999 (as amended 2013).

The validation report must be prepared or reviewed and approved by an appropriately qualified environmental consultant.

- 3.7. Before the issue of the relevant construction certificate, a suitably qualified engineer must review the plans which relate to parking facilities and provide written evidence, to the certifier's satisfaction, that it complies with the relevant parts of AS 2890 – 'Parking Facilities - Off-Street Carparking' and Council's development control plan.

- 3.8. The Council approved plans, including demolition plans, must be submitted to Sydney Water for assessment. This will determine if the proposed structure(s) will affect any Sydney Water infrastructure or if there are additional requirements. Building plan approvals can be submitted online via Sydney Water Tap in™.

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™.

Sydney Water must issue either a Building Plan Assessment letter which states that the application is approved, or the appropriate plans must be stamped by a Water Servicing Coordinator.

- 3.9. The development must be carried out in accordance with the commitments shown on the submitted BASIX Certificate. The BASIX commitments must 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.

- 3.10. Before the issue of the relevant construction certificate, the consent holder must submit the following written evidence of service provider requirements to the certifier:



- a. a letter of consent from the relevant electricity provider demonstrating that satisfactory arrangements can be made for the installation and supply of electricity; and
- b. a response from the relevant water authority, as to whether the plans proposed to accompany the application for a construction certificate would affect any of the relevant water authority infrastructure, and whether further requirements need to be met; and
- c. a letter of consent from the relevant telephone and broadband authority demonstrating that satisfactory arrangements can be made for the installation and supply of telephone and internet; and
- d. other relevant utilities or services - that the development as proposed to be carried out is satisfactory to those other service providers, or if it is not, what changes are required to make the development satisfactory to them.

3.11. The building must be designed and constructed to provide access and facilities for people with a physical disability in accordance with the Building Code of Australia.

If, in complying with this condition, amendments to the development are required, the design changes must be submitted to and approved by Council through a modification application before a construction certificate being issued.

3.12. Before the issue of a construction certificate, the consent holder is to ensure that an erosion and sediment control plan is prepared in accordance with the following documents before it is provided to and approved by the certifier:

- a. Council's development control plan,
- b. the guidelines set out in the NSW Department of Housing manual 'Managing Urban Stormwater: Soils and Construction Certificate' (the Blue Book), and
- c. the 'Do it Right On-Site, Soil and Water Management for the Construction Industry' (Southern Sydney Regional Organisation of Councils and the Natural Heritage Trust).

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

3.13. The external walls of the building including attachments must comply with the relevant requirements of the National Construction Code (NCC). Before the issue of a construction certificate and occupation certificate the certifier must:

- a. Be satisfied that suitable evidence is provided to demonstrate that the products and systems proposed for use or used in the construction of external walls including finishes and claddings such

as synthetic or aluminium composite panels comply with the relevant requirements of the NCC; and

- b. Ensure that the documentation relied upon in the approval processes include an appropriate level of detail to demonstrate compliance with the NCC as proposed and as built.

3.14. 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.

- a. 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 an appropriately qualified person as defined in the Building and Development Certifiers Regulation 2020. Plans and details prepared and signed by an appropriately qualified person as defined in the Building and Development Certifiers Regulation 2020 are to be submitted to the certifier before the issue of the construction certificate.
- b. All works associated with the construction of the wall, including backfilling and drainage, is to be located wholly within the allotment boundaries.

3.15. The consent holder shall apply for a Work Permit and obtain approval from Council, for any of the following applicable engineering works in front of the site, at their own expense:

- a. 1 x Medium Duty VFC at the property boundary within Station Lane.
- b. 2 x stormwater connections to Council's kerb and gutter within Penhurst Road,
- c. A new concrete footway paving along the site's entire frontage to Penshurst Road,
- d. Removal of all driveway surfaces, reinstatement of laybacks to kerb and gutter and reshaping of the footway, all associated with redundant VFCs,
- e. Repair of any damage to the public road including the footway occurring during building works, and
- f. 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:** Council is required to prepare a site survey and design in order to determine the necessary information. The consent holder should make application and payment for the Work Permit at least twenty-one (21) days before the information being required and before the issue of the construction certificate. The Work Permit must be approved before any

works commencing within the Council Road Reserve or on Council's assets.

- 3.16. 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.
- 3.17. 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 the consent holder to obtain a Works Permit and or a Roadway / Footpath Building Occupation Permit before the issue of any construction certificate for this development being issued 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, and
- m. Demolition is proposed.

The consent holder shall construct all works approved within the public road and footway under the supervision and to the satisfaction of Council and shall arrange for necessary inspections by Council whilst the work is in progress.

The consent holder shall ensure that the person or company carrying out the work will carry public liability insurance to a minimum value of twenty million dollars and shall provide proof of the policy to Council, before commencing any work approved by the Work Permit including the Road

Opening Permit. The policy must remain valid for the duration of the works.

- 3.18. Finished surface levels of all internal works and at the street boundary, including driveways, landscaping and drainage structures, must be as shown on relevant construction certificate plans. The levels at the street boundary must be consistent with the Street Boundary Alignment Levels issued by Council.
- 3.19. Stormwater drainage from the development shall be designed so as to comply with Council's Canterbury Development Control Plan 2012 Part B5 and the requirements of the BASIX Certificate. A final detailed stormwater drainage design shall be prepared by an appropriately qualified person as defined in the Building and Development Certifiers Regulation 2020 in accordance with the above requirements and shall generally be in accordance with the approved concept stormwater plan as shown in the table below. The final plan shall be certified by the an appropriately qualified person as defined in the Building and Development Certifiers Regulation 2020 that it complies with Council's Canterbury Development Control Plan 2012 Part B5, the BASIX Certificate and the relevant Australian Standards.
- 3.20. The pump out drainage system for the driveway/access ramp and car parking area/open space area shall be provided in accordance with Council's Canterbury Development Control Plan 2012 Part B5. The Engineer must design the Pump out drainage system to be in accordance with the Australian Standards AS 3500. Engineering details and manufacturers specifications for the pumps, switching system and sump pit shall be submitted to the certifier for approval before the issue of any construction certificate. The engineer must certify that the hydraulic design complies with the above relevant standards.
- 3.21. Engineering details and manufacturers specifications for the pumps, switching system and sump pit shall be submitted to the certifier for approval before the issue of any construction certificate.
- 3.22. For this development, Council requires that the stormwater runoff from within the development site shall be collected and controlled by means of an on-site stormwater detention system, in accordance with Council's Canterbury Development Control Plan 2012 Part B5. The developer shall engage a suitably qualified engineer to prepare a final stormwater drainage and on-site detention system plan to be generally in accordance with the concept plan in the table below and in accordance with the requirements contained in Council's Canterbury Development Control Plan 2012 Part B5. The Engineer shall certify that the design and plans comply with Council's Canterbury Development Control Plan 2012 Part B5 and the relevant Australian Standards.

<b>Plan Name</b>	<b>Number</b>	<b>Date</b>	<b>Prepared By</b>
Stormwater Drainage / Sediment Control Details	2296-S1/6_D	24/08/22	John Romanous & Associates
Stormwater Drainage / Sediment Control Details	2296-S2/6_D	24/08/22	John Romanous & Associates
Stormwater Drainage / Sediment Control Details	2296-S3/6_D	24/08/22	John Romanous & Associates
Stormwater Drainage / Sediment Control Details	2296-S4/6_D	24/08/22	John Romanous & Associates
Stormwater Drainage / Sediment Control Details	2296-S5/6_D	24/08/22	John Romanous & Associates
Stormwater Drainage / Sediment Control Details	2296-S6/6_D	24/08/22	John Romanous & Associates
Civil Works Details	2296-CW1/1_A	27/02/23	John Romanous & Associates

- 3.23. The design, layout, signage, line marking, lighting and physical controls of all off-street parking facilities must comply with the minimum requirements of Australian Standard AS/NZS 2890.1 Parking facilities Part 1: Off-street car parking, AS/NZS 2890.2 Parking facilities Part 2: Off-street commercial vehicle facilities and AS/NZS 2890.6 Parking facilities Part 6: Off-street parking for people with disabilities. The details must be submitted to and approved by the certifier before a construction certificate being issued.

Furthermore, 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 certifier before the issue of the construction certificate. The maximum grade of the driveway/ramp shall not exceed 25% and shall comply with AS 2890 parking series. 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.

- 3.24. 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 a qualified professional Civil Engineer to comply with the relevant Australian Standards, shall be submitted to the certifier for approval before the issue of a construction certificate.
- 3.25. Where a car park is accessed by a security gate, that gate must be located at least 6 metres within the site from the property boundary with the street.
- 3.26. Before the issue of any construction certificate for this development, the consent holder 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 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 construction and excavation materials shall be by the shortest practical route to the nearest "State Road", 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.** The consent holder shall nominate the routes for approval by Council before commencement of any work on the site. All vehicles are to enter the on-street Works Zone



adjacent to the site in a forward direction. U-turn and right-turn movements into the site, are generally not permitted.

An Agreement to Council's satisfaction, signed by the consent holder/owner specifying the approved route and acknowledging responsibility to pay Council for damages to public property adjacent to the site and for local roads along the transportation routes shall be lodged with Council before release of any Construction Certificate. All damage must be rectified upon completion of work.

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 before the commencement of any works on the construction site.

In addition, a TfNSW (formerly 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.

Note: Approval by Council of a SPTMP may take up to six (6) months. Accordingly, it is recommended the application to Council be submitted well in advance of the need for a construction certificate.

3.27. Before the issue of a construction certificate, the consent holder must ensure a Construction Site Management Plan (CSMP) is prepared before it is provided to and approved by the Certifier. The plan must include the following matters:

- a. location and materials for protective fencing and hoardings to the perimeter on the site;
- b. provisions for public safety;
- c. pedestrian and vehicular site access points and construction activity zones;
- d. details of construction traffic management, including proposed truck movements to and from the site and estimated frequency of those movements, and measures to preserve pedestrian safety in the vicinity of the site;
- e. protective measures for on-site tree preservation (including in accordance with AS 4970 Protection of trees on development sites and Council's DCP, if applicable) and trees in adjoining public domain (if applicable);
- f. details of any bulk earthworks to be carried out;
- g. location of site storage areas and sheds;
- h. equipment used to carry out all works;
- i. a garbage container with a tight-fitting lid;



- j. dust, noise and vibration control measures; and
- k. location of temporary toilets.

The consent holder must ensure a copy of the approved construction site management plan is kept on-site at all times during construction.

- 3.28. 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 "regional road", with every effort to avoid school zones on public roads. The consent holder shall nominate the route for approval by Council before commencement of any work on the site. An "Agreement" to Council's satisfaction, signed by consent holder specifying the approved route and acknowledging responsibility to pay Council for damages to public property adjacent to the site shall be lodged with Council before release of any construction certificate. All damage must be rectified before the issue of any occupation certificate.
- 3.29. Where required, the consent holder is required to submit to Council the manufacturer's specifications, design and operation of the 'traffic signal' facility to be installed along the driveway access ramp to the basement level. These details shall be illustrated on the plans to be submitted with the construction certificate application. The consent holder shall be responsible for the installation, operation and maintenance of the 'traffic signal' facility at no cost to Council.
- 3.30. Sight triangles are to be marked on relevant plans, being provided at the intersection of the driveway and the property boundary in accordance with AS 2890.1: 'Figure 3.3 – Minimum Sight Lines for Pedestrian Safety'. A splay extending 2 metres from the driveway edge along the front boundary and 2.5 metres from the boundary along the driveway shall be provided to give clear sight lines of pedestrians from vehicles exiting the site and is to be kept clear of any obstacles. Any structures, plantings or fencing within these triangles is to be a maximum height of 600mm to ensure sight lines are kept clear of any obstacles. This shall be illustrated on plans submitted with the construction certificate.
- 3.31. Before the commencement of any works, all domestic waste bins servicing the site are to be returned to Council.
- 3.32. Before the issue of a construction certificate, the consent holder is to ensure that a waste management plan is prepared in accordance with the EPA's Waste Classification Guidelines and the following requirements before it is provided to and approved by the certifier:
- a. Council's Waste Management Development Control Plan
- 3.33. The construction certificate plans shall include details of the waste bin storage area. The bin storage area shall not be visible from the street. The bin storage area shall be located within the building or screened from the street by dense landscaping.

3.34. The certifier must not issue a construction certificate unless provided with detailed plans that form part of the construction certificate which identify that the bin carting route from the communal bin storage room to the waste collection point identified on stamped plans complies with the following requirements as well as the following requirements:

- a. Is direct and less than 10.0 / 15.0 metres in length,
- b. Has a minimum width of 2.0 metres of hard surface;
- c. Is of non-slip material and free from obstacles and steps;
- d. Is not located within a driveway or carpark;
- e. Has a maximum grade of 1:30 (3%); and
- f. Has a layback installed at the collection point.

3.35. The certifier must not issue a construction certificate unless provided with detailed plans that form part of the construction certificate for the communal bin storage room that comply 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. Floors must be finished so as to be non-slip with a smooth and even surface;
- c. The room is to be integrated within the design and built-form of the development with a minimum 2.1m unobstructed room height in accordance with the Building Code of Australia;
- d. Walls must be constructed of solid impervious material;
- e. 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. An adequate supply of hot and cold water mixed through a centralised mixing valve with hose cock is to service the room;
- 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 2 metres wide and open outwards; and
- l. Designed to fit the following bin allocations:

Number	Bin Size	Bin Type
	660L	Garbage (Red)
	660L	Recycling (Yellow)
	240L	Garden (Green)

3.36. The certifier must not issue a construction certificate unless provided with detailed plans that form part of the construction certificate for the supplementary recycling rooms that comply 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 2.1 metres 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 2 metres wide.
- l. Designed to a minimum size of 9m<sup>2</sup>.

3.37. The certifier must not issue a construction certificate unless provided with detailed plans that form part of the construction certificate for the bulky waste storage room that comply 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. Floors must be finished so as to be non-slip with a smooth and even surface;
- c. The room is to be integrated within the design and built-form of the development with a minimum 2.1m unobstructed room height in accordance with the Building Code of Australia;
- d. Walls must be constructed of solid impervious material;
- e. 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. An adequate supply of hot and cold water mixed through a centralised mixing valve with hose cock is to service the room;
- 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 2 metres wide and open outwards; and
- l. Designed to a minimum size of 4m<sup>2</sup>.

3.38. The certifier must not issue a construction certificate unless provided with detailed plans that form part of the construction certificate for the temporary bin collection area that comply with the following requirements:

3.39. The certifier must not issue a construction certificate unless provided with detailed plans that form part of the construction certificate for the recycling cupboards that comply with the following requirements as well as the requirements of Council's "Waste Management Guide for New Developments":

- a. Maximum distance of 30 metres from all dwellings;
- b. Access is to be in accordance with AS 1428 (Set): 'Design for access and mobility';
- c. Located directly adjacent to the chute hopper and contain only recycling bins;
- d. Must be of adequate size to accommodate enough recycling bins, which allows for three days of recycling generated by the number of dwellings on that floor;
- e. Designed to fit 240L bins facing forward;
- f. Designed so the doors are of sufficient width to allow the transfer/rotation of 240L bins; and
- g. The floor is to be constructed of a durable and impervious material with a smooth finish

3.40. The certifier must not issue a construction certificate unless provided with detailed plans that form part of the construction certificate for the waste chutes that comply with the following requirements as well as the requirements of Council's "Waste Management Guide for New Developments":

- a. Chutes, service openings and charging devices are constructed of metal or a smooth faced surface which is fire resistant and of impervious material
- b. Chute is cylindrical in section, vertical and without bends as it passes through the floors
- c. Chutes must terminate in the waste storage room and discharge into a waste bin
- d. Comply with manufactures technical specifications and operational limitations.

3.41. Before the issue of any construction certificate, the certifier must receive written confirmation from Council, that Council has been provided to its satisfaction with the following:

- a. Detailed plans showing that the waste storage rooms identified on stamped plans will be capable of being accessed from the designed access roadway by a Heavy Rigid Vehicle (HRV) in accordance with AS2890.2, and that a loading area is available for the vehicle when collecting waste that meets the following requirements:
  - i. Within 5 metres of the all waste storage rooms or temporary holding area;
  - ii. A separate parking area for the collection vehicle; and
  - iii. Include an extra 2 metres at the rear of the vehicle loading area.

- b. Certification from a suitably qualified engineer that the route of travel, loading area and entry and exit points will be constructed so as to support the following loading requirements:
  - i. Heavy Rigid Vehicle can enter and exit the site in a forward position;
  - ii. 30 tonne waste collection vehicles;
  - iii. Turning circle of 25 metres;
  - iv. Length of 12 metres;
  - v. Clearance height of 4.5 metres / 6 metres
  - vi. Waste collection vehicle can access the basement, adequately manoeuvre into position, load bins and exit the basement in a forward position;
  - vii. The collection vehicle must be able to manoeuvre in the basement with limited need for reversing;
  - viii. The floor of the basement has been designed to carry the 30-tonne waste collection vehicle; and
  - ix. The gradient is to be suitable for a Heavy Rigid Vehicle as per AS2890.2.
- c. Detailed plans, specifications and other relevant information showing that the turntable identified on stamped plans:
  - i. Complies with required dimensions for an HRV as per AS2890.2, including the diameter for the turntable and required clearance heights;
  - ii. Will always be available to waste collection vehicles; and
  - iii. Will be installed, operated and serviced on an ongoing basis, at no cost to Council.

3.42. Before the issue of a construction certificate, the certifier is to ensure that all carpark exhaust does not directly vent into private or communal open space.

3.43. A detailed landscape plan prepared by a qualified landscape architect or qualified landscape designer must be approved by the certifier before the issue of a construction certificate. The landscape plan must be prepared in accordance with Canterbury DCP 2012 and must include the following features, notations and specifications:

- a. The location of existing and proposed structures on the subject property/properties, including existing and proposed trees, impermeable areas, landscaped areas, deep soil zones, fixed furniture, shade structures, lighting, and other features,
- b. Details of earthworks and soil depths, including mounding and retaining walls and planted boxes,
- c. The location, number, pot size and type of chosen plant species. Details of planting procedures and long-term maintenance (if any),
- d. Details of drainage and watering systems (if any),
- e. A Landscape maintenance schedule period of 12 months is to be applied to this development. During this maintenance period, the landscaping must be maintained in accordance with the details specified on the submitted landscape plan,

- f. All the tree supply stocks shall comply with the guidance given in the publication *Specifying Trees: a guide to assessment of tree quality* by Ross Clark (NATSPEC, 2003),
- g. All scheduled plant stock shall be pre-ordered, before issue of construction certificate or 3 months before the commencement of landscape works, whichever occurs sooner, for the supply to the site on time for installation. Written confirmation of the order shall be provided to Council before issue of any construction certificate. The order confirmation shall include name, address and contact details of supplier; and expected supply date, and
- h. One 75ltr (minimum) major canopy tree shall be planted within the front and rear setback to each dwelling.

3.44. A site wide landscape management plan is to be submitted to and approved by the certifier before the issue of a construction certificate. The plan is to address the communal open space and any site-wide maintenance requirements. The plan is to demonstrate who is responsible for and how the landscape features will be installed and detail the responsibility of ongoing maintenance of the landscaping.

3.45. Approval in accordance with Council's Tree Management Order (TMO) is granted to lop or remove only those trees identified to be lopped or removed on the approved plans. If not indicated on the approved plans, separate approval must be obtained to prune or remove trees on adjoining properties or other trees located on the site. A person(s) who contravenes or causes or permits the TMO to be breached shall be guilty of an offence and liable for prosecution.

3.46. 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.

3.47. No air-conditioning equipment is to be visible from the public domain. Equipment and associated wiring shall:

- a. Not be located on awnings or attached to the face of the building,
- b. Not be located on roofs in such a way that it is visible from any street, footpath or park,
- c. Be visually screened if located 1.8 metres above ground level in other locations, and
- d. Wiring shall be fully concealed.

All construction certificate documentation is to demonstrate compliance with these requirements.

3.48. The location of any 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 to the certifier before the issue of a construction certificate.

3.49. All hydrant boosters and associated services and shield walls are to be contained within cabinets and / or designed to match the appearance of the main structure of the development.

3.50. All roof-top plant and associated equipment must be located within the approved building envelope and must not be visible from the public domain.

#### **4. Conditions to be Satisfied Before Construction.**

4.1. Prior to demolition, a Hazardous Material Management Plan is to be developed by a Type "A" inspection body accredited by NATA. This Plan shall incorporate all recommendations in the report titled 'Hazardous Materials Survey, 153-157 Penshurst Road, Narwee, NSW 2209' prepared by EI Australia, dated 14 February 2022, reference no. E23123.E10.Rev1.

All recommendations contained within this Hazardous Material Management Plan are to be implemented and a clearance certificate issued by an appropriately qualified Occupational Hygienist is to be submitted to Council prior to the issue of a Construction Certificate.

4.2. The demolition of all structures on the property must be undertaken in accordance with all the following:

- a. Written notice must be issued to adjoining residents a minimum of seven (7) days before the commencement of demolition advising of the commencement date,
- b. Written notice must be issued to Council for inspection a minimum of (7) days before the commencement of demolition. Written notice must include the date when demolition work will commence and details of the name, address, contact telephone number and licence number of the demolition contractor,
- c. Inspections being undertaken by Council including:
  - i. A pre-commencement demolition inspection when all site works required as part of this Determination Notice are installed on the site and before demolition work commencing, and
  - ii. A final demolition inspection when the demolition work has been completed to ensure that the site is left in a satisfactory manner, in accordance with the conditions of this Determination Notice,



- d. Payment of an inspection fee at Council's current rate must be paid before inspection. Council requires 48 hours' notice to carry out an inspection,
- e. A sign must be erected at the front of the property showing the name of the licenced demolition contractor, the licence number and a telephone number on which that person can be contact outside of working hours,
- f. All demolition work must be carried out in accordance with Australian Standard 2601 – 'The Demolition of Structures',
- g. Where asbestos containing materials are to be removed, demolition must be carried out by contractors who have a current SafeWork NSW licence in asbestos removal,
- h. An asbestos clearance certificate issued under the *Work Health and Safety Act 2011* must be submitted to Council after the completion of demolition work,
- i. Hazardous and intractable wastes arising from the demolition process must be removed and disposed of in accordance with the requirements of SafeWork NSW and the NSW Environment Protection Authority,
- j. Demolition procedures must maximise the reuse and recycling of demolished materials to reduce the environmental impacts of waste disposal,
- k. Adhere to the requirements stipulated in the approved Waste Management Plan, and
- l. Demolition may only be carried out between 7.00 am and 5.00 pm on Monday to Saturday and no building work/s is to be carried out at any time on a Sunday or a public holiday.

A copy of the final demolition inspection report must be submitted to the principal certifier before the commencement of any building work.

- 4.3. A construction certificate is required for the erection of a building in accordance with this Determination Notice.

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

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

- a. the principal certifier has, no later than two (2) days before the building work commences, notified the Consent Authority and the Council (if the council is not the Consent Authority) of their appointment as the principal certifier,
- b. the principal certifier has, no later than two (2) days before the building work commences, notified the consent holder of any inspections that are required to be carried out in respect of the building work,

- c. the person carrying out the building work has notified the principal certifier that the person will carry out the building work as an owner-builder, if that is the case,
  - d. the consent holder, if not carrying out the work as an owner-builder, has:
    - i. appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential building work is involved, and
    - ii. notified the principal certifier of the appointment, and
    - iii. unless that person is the principal contractor, notified the principal contractor of any inspections that are required to be carried out in respect of the building work,
  - e. the consent holder has given at least a 2-day notice to the Council, and the principal certifier if not the Council, of the person's intention to commence the erection of the building.
- 4.4. A Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be obtained from Sydney Water. It is recommended that the consent holder apply early 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 can be made through an authorised Water Servicing Coordinator. For help either visit [www.sydneywater.com.au](http://www.sydneywater.com.au) > Plumbing, building and developing > Developing > Section 73 Compliance Certificates, or telephone 13 20 92.
- 4.5. A fence must be erected around the area of the development site, except where an existing 1.8 metres high boundary fence is in good condition and can secure the area. Any new fencing must be temporary and at least 1.8 metres high. All fencing must be maintained throughout the construction period 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 work proposed. An application for a Work Permit for such hoarding must be submitted to Council for approval before the commencement of building work/s.
- 4.6. Before the commencement of any site or building work, the principal certifier must ensure the adjoining building owner(s) is provided with a copy of the dilapidation report for their property(ies) no less than 14 days before the commencement of any site or building works.
- 4.7. Before the issue of a construction certificate, a suitably qualified engineer must prepare a dilapidation report detailing the structural condition of adjoining buildings, structures or works, and public land, to the satisfaction of the certifier. If the engineer is denied access to any adjoining properties to prepare the dilapidation report, the report must be based on a survey of what can be observed externally and demonstrate, in writing, to the certifier's satisfaction that all reasonable steps were taken to obtain access to the following adjoining property:

- 135 – 141 Penshurst Road, Narwee
  - 159 Penhurst Road, Narwee
- 4.8. Before the commencement of work, the consent holder must provide a temporary on-site toilet if access to existing toilets on site is not adequate/available. Temporary on-site toilet facilities must be installed and be adequately maintained throughout the construction period.
- 4.9. Before the commencement of any site or building work, the principal certifier must be satisfied the erosion and sediment controls in the erosion and sediment control plan, (as approved by the principal certifier) are in place until the site is rectified (at least 70% ground cover achieved over any bare ground on site).
- 4.10. Council's warning sign for Soil and Water Management must be displayed throughout the construction period at the most prominent point of the site, visible to both the street and site.
- 4.11. A sign must be erected in a prominent position on any site on which building work or demolition work is being carried out:
- a. showing the name, address and telephone number of the principal certifier for the work, and
  - b. showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
  - c. stating that unauthorised entry to the work site is prohibited.
- Any such sign is to be maintained while the building work or demolition work is being carried out and must be removed when the work has been completed.
- Note:** This does not apply in relation to building work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.
- 4.12. 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 that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.
- 4.13. Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the principal certifier 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 contractor 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 that 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 certifier for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

- 4.14. Before the commencement of any site or building work, the principal certifier must ensure the measures for tree protection detailed in the construction site management plan are in place.

## **5. Conditions to be Satisfied During Construction.**

- 5.1. In the instance works cause the generation of odours or uncovering of unexpected contaminants works are to immediately cease, Council is to be notified and a suitably qualified environmental consultant appointed to further assess the site. The exposed material/excavation is to be evaluated by the supervising environmental consultant and an appropriate response determined in consultation with the applicant, which is agreed to by Council.
- 5.2. All excavations must be kept free from the accumulation of water.
- 5.3. Council may also request that an NSW EPA Accredited Site Auditor is involved to assist with the assessment of any unexpected finds, review any contamination information and prepare a Site Audit Report and Site Audit Statement. The applicant must adhere to any additional conditions which may be imposed by the NSW EPA Accredited Site Auditor.
- 5.4. All soils and material(s), liquid and solid, to be removed from the site must be analysed and classified by an appropriately qualified and experienced environmental consultant, in accordance with the Protection of the Environment Operations (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 and certified consultant, and must be submitted to and approved by the Principal Certifying Authority before off-site disposal. A copy of the waste classification report must be submitted to Council prior to issuing of an Occupation Certificate.

All waste material(s) must be disposed of at an appropriately licensed waste facility for the specific waste. Receipts for the disposal of the waste must be submitted to Council prior to issuing of an Occupation Certificate.

All waste must be transported by a contractor licenced to transport the specific waste, and in vehicles capable of carting the waste without spillage and meeting relevant requirements and standards. All loads must be covered prior to vehicles leaving the site.

- 5.5. Any fill imported onto the site must be virgin excavated natural material or excavated natural material, classified as such in accordance the 'Waste Classification Guidelines' (NSW EPA, 2014) or excavated natural material meeting the requirements of the Excavated Natural Material Exemption (NSW EPA, 2014).

Certificates verifying that imported fill is virgin excavated natural material or excavated natural material must be provided to Council prior to the issue of an Occupation Certificate.

All imported fill must be compatible with the existing soil characteristics of the site.

- 5.6. While building work is being carried out, any such work must not continue after each critical stage inspection unless the principal certifier is satisfied the work may proceed in accordance with this consent and the relevant construction certificate.
- 5.7. Building work must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- 5.8. While building work is being carried out, the consent holder must undertake the development strictly in accordance with the commitments listed in the BASIX certificate(s) approved by this consent, for the development to which the consent applies.
- 5.9. The principal certifier must ensure that building work, demolition or vegetation removal is only carried out between:
- a. 7.00 am and 6.00 pm on Monday.
  - b. 8:00am and 1:00pm on Saturdays
  - c. No construction is to be carried out at any time on a Sunday or a public holiday.

The principal certifier must ensure building work, demolition or vegetation removal is not carried out on Sundays and public holidays, except where there is an emergency.

Unless otherwise approved within a construction site management plan, construction vehicles, machinery, goods or materials must not be delivered to the site outside the approved hours of site works.

**Note:** Any variation to the hours of work requires Council's approval.

- 5.10. While building work is being carried out and where no noise and vibration management plan is approved under this consent, the consent holder is to ensure that any noise caused by demolition, vegetation removal or construction does not exceed an LAeq (15 min) of 5dB(A) above background noise, when measured at any lot boundary of the property where the construction is being carried out.
- 5.11. While building work is being carried out, a registered surveyor is to measure and mark the positions of the following and provide them to the principal certifier —
- a. All footings/ foundations
  - b. At other stages of construction – any marks that are required by the principal certifier.
- 5.12. 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.
- 5.13. 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 certifier. Should the consent holder encounter any existing, live, underground stormwater drainage pipes, which carry flow from upstream properties, then they must maintain the stormwater flow and re-route the stormwater pipes around the subject building or structures at their own expense.
- 5.14. 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.
- 5.15. While building work is being carried out, the consent holder must pay any costs incurred as a result of the approved removal, relocation or reconstruction of infrastructure (including ramps, footpaths, kerb and gutter, light poles, kerb inlet pits, service provider pits, street trees or any other infrastructure in the street footpath area).
- 5.16. All excavations and backfilling must be executed safely and in accordance with the relevant Australian Standards.

If the development involves an excavation that extends below the level of the base of the footings of a building, structure or work (including any structure or work within a road or rail corridor) on adjoining land, the consent holder must, at their own expense:

- a. Protect and support the building, structure or work from possible damage from the excavation, and
- b. Where necessary, underpin the building, structure or work to prevent any such damage.

This consent condition does not apply if the consent holder owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

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.

5.17. If the development involves an excavation that extends below the level of the base of the footings of a building, structure or work on adjoining land (including any structure or work within a road or rail corridor), the consent holder must, at their own expense —

- a. Protect and support the building, structure or work from possible damage from the excavation, and
- b. Where necessary, underpin the building, structure or work to prevent any such damage.

This condition does not apply if the consent holder owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

5.18. 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. Should it be required, separate approval must be obtained for retaining walls.

5.19. No work may be carried out to construct the ground floor slab unless the principal certifier is satisfied and provides evidence to Council of that satisfaction that the waste facilities within the basement comply with the specifications of the stamped plans. Council can be contacted on 9707 9000.

5.20. While building work, demolition or vegetation removal is being carried out, the principal certifier must be satisfied all waste management is undertaken in accordance with the approved waste management plan.

Upon disposal of waste, the consent holder is to compile and provide records of the disposal to the principal certifier, detailing the following:



- The contact details of the person(s) who removed the waste
- The waste carrier vehicle registration
- The date and time of waste collection
- A description of the waste (type of waste and estimated quantity) and whether the waste is expected to be reused, recycled or go to landfill
- The address of the disposal location(s) where the waste was taken
- The corresponding tip docket/receipt from the site(s) to which the waste is transferred, noting date and time of delivery, description (type and quantity) of waste.

**Note:** If waste has been removed from the site under an EPA Resource Recovery Order or Exemption, the consent holder is to maintain all records in relation to that Order or Exemption and provide the records to the principal certifier and Council.

5.21. The requirements of the submitted Waste Management Plan shall be complied with at all times that work is being carried out. Without limiting the foregoing, compliance shall include the following:

- 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*; and
- 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*; and
- 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; and
- d. All waste generated (including excavated materials) which cannot be reused or recycled must be transported to a facility which can lawfully accept it; and
- 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; and
- f. All materials and resources that are to be stored on site during construction works are contained on the site; and
- g. 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; and
- h. 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.

- 5.22. Any new information revealed during building work/s that has the potential to alter previous conclusions about site contamination or hazardous materials shall be immediately notified to the Council and the principal certifier. Works are to cease until the new information is evaluated by an appropriately qualified and experienced environmental consultant and an appropriate response determined by the consent holder and/or owner which is agreed to by Council. Council may also request that a NSW EPA accredited site auditor is involved to assist with the assessment of the new contamination information.
- 5.23. There must not be any stockpiling of building spoil, materials, or storage of equipment on the public road during the construction period. The footway and the road reserve must always be maintained in a safe condition. No work can be carried out on the public road, including the footway, unless a Work Permit authorised by Council has been obtained.
- 5.24. All excavations must be kept free from the accumulation of water. Before approval must be sought from Council to discharge any water into the Council's stormwater drainage system. Other options for the disposal of water include disposal to sewer with before approval from Sydney Water, or off-site disposal by a liquid waste transporter for treatment/disposal to an appropriate waste treatment/processing facility.
- 5.25. The carwash bay is to be bunded and connected to the sewer system to dispose of wastewater in accordance with the requirements contained in Canterbury Development Control Plan 2012 Part B5.
- 5.26. While vegetation removal, demolition and/or building work is being carried out, the consent holder must ensure the measures required by the approved construction site management plan and the erosion and sediment control plan are implemented at all times.
- The consent holder must ensure a copy of these approved plans is kept on site at all times and made available to Council officers upon request.
- 5.27. While site or building work is being carried out, the consent holder must maintain all required tree protection measures in good condition in accordance with the construction site management plan required under this consent, the relevant requirements of AS 4970 – 'Protection of trees on development sites' and any arborist's report approved under this consent. This includes maintaining adequate soil grades and ensuring all machinery, builders refuse, spoil and materials remain outside tree protection zones.
- 5.28. All work carried out on or around protected trees during demolition, clearing and construction shall comply with Australian Standard AS 4373 – 'Pruning of amenity trees' and Australian Standard AS 4970 –

‘Protection of trees on development sites’. Site specific conditions relating to tree protection shall take precedence over this requirement.

- 5.29. If any trees to be retained and protected are threatened by demolition, building or other site works through accidental omission or unforeseen circumstances, the approving authority is to be notified immediately in writing before such work is continued so that this issue can be resolved.
- 5.30. While demolition or building work is being carried out, all such works must cease immediately if a relic or Aboriginal object is unexpectedly discovered. The consent holder must notify the Heritage Council of NSW in respect of a relic and notify the Secretary of the Department of Planning, Industry and Environment and the Heritage Council of NSW in respect of an Aboriginal object. Building work may recommence at a time confirmed by either the Heritage Council of NSW or the Secretary of the Department of Planning, Industry and Environment.

In this condition:

- “relic” means any deposit, artefact, object or material evidence that:
  - a. relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement, and
  - b. is of State or local heritage significance; and
- “Aboriginal object” means any deposit, object or material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of the area that comprises New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction and includes Aboriginal remains.

## **6. Conditions to be Satisfied Before Occupation.**

- 6.1. The Principal Certifying Authority shall obtain an acoustic validation report from an appropriately qualified acoustic consultant, not previously involved in the development, stating that the recommendations outlined in the acoustic report prepared by Pulse White Noise Acoustic Pty Ltd, titled 153-159 Penshurst Road, Narwee DA Acoustic Assessment, dated 10 February 2022, Report No. 220041, have been implemented and that relevant noise criteria as well as the recommendations has been satisfied, prior to the issue of any Occupation Certificate.

A copy of the acoustic validation report shall be provided to Canterbury Bankstown Council prior to the issue of any Occupation Certificate.

- 6.2. The occupation or use of the building must not commence unless an occupation certificate has been issued.
- 6.3. A final Plan of Management (POM) is to be submitted to Council for approval. The Plan of Management must address the ongoing

management and operational aspects of the boarding house, including waste minimisation and recycling.

6.4. Fifty-one (51) off-street car spaces being provided in accordance with the submitted plans. This shall comprise:

- a. Thirty-nine (39) residential spaces
- b. Five (5) residential visitor spaces
- c. Seven (7) business / commercial spaces

**Note:** Six (6) of the required car parking spaces are 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.

6.5. For residential development, accessible car parking spaces for people with mobility impairment are only to be allocated as visitor parking or to adaptable units. Where allocated to adaptable units, the unit(s) and car spaces must be assigned to the unit in any future strata subdivision of the building.

6.6. Before the issue of an occupation certificate, the principal certifier must ensure that no portion of the approved structure, including gates and doors during opening and closing operations, provides for encroachment upon Council's footpath area.

6.7. A report as prepared by a registered surveyor must be submitted to the principal certifier verifying that the reduced level (RL) of the finished floor level at each level, the height of external walls, the maximum reduced level (RL) of roof structures / roof eaves overhangs and the external wall setbacks to the property boundaries all conform with the approved plans.

6.8. Before the issue of an occupation certificate, a registered surveyor must submit documentation to the principal certifier which demonstrates that:

- a. no existing survey mark(s) have been removed, damaged, destroyed, obliterated or defaced, or
- b. the consent holder has re-established any survey mark(s) that were damaged, destroyed, obliterated or defaced in accordance with the Surveyor General's Direction No. 11 – 'Preservation of Survey Infrastructure'.

6.9. Before the issue of an occupation certificate, a suitably qualified engineer must prepare a post-construction dilapidation report, to the satisfaction of the principal certifier, detailing whether:

- a. After comparing the pre-construction dilapidation report to the postconstruction dilapidation report required under this condition, there has been any structural damage to any adjoining buildings; and

- b. Where there has been structural damage to any adjoining buildings, that it is a result of the building work approved under this development consent.

Before the issue of an occupation certificate, the principal certifier is to provide a copy of the post-construction dilapidation report to Council (where Council is not the principal certifier) and to the relevant adjoining property owner(s) at the following properties:

- 135 – 141 Penshurst Road, Narwee
- 159 Penhurst Road, Narwee

6.10. Before the issue of an occupation certificate, the principal certifier must ensure that the car park is ventilated in accordance with the Building Code of Australia and, where necessary, Australian Standard AS 1668, Parts 1 and 2. Ventilation must be controlled by carbon monoxide monitoring sensors to ensure compliance with occupant health requirements.

6.11. Before the issue of the relevant occupation certificate, the consent holder must submit, to the satisfaction of the principal certifier, works-as-executed plans, any compliance certificates and any other evidence confirming compliance with Canterbury Development Control Plan 2012 Part B5.

The principal certifier must provide a copy of the plans to Council with the occupation certificate.

6.12. Before the issue of the relevant occupation certificate, the principal certifier must ensure any adjustment or augmentation of any public utility services including gas, water, sewer, electricity, street lighting and telecommunications, required as a result of the development, is completed to the satisfaction of the relevant authority.

Before the issue of the occupation certificate, the principal certifier must request written confirmation from the relevant authority that the relevant services have been completed.

6.13. The Section 73 compliance certificate under the *Sydney Water Act 1994* must be submitted to the principal certifier before the issue of an occupation certificate.

6.14. Before issue of an occupation certificate and following the completion, installation, and testing of all the mechanical ventilation systems, a Mechanical Ventilation Certificate of Completion and Performance in accordance with Clause A2.2 (a) (iii) of the Building Code of Australia, must be submitted to the principal certifier.

6.15. An occupation certificate must not be issued until all conditions relating to demolition, building and subdivision works have been satisfied and

Council has issued a Work Permit Compliance Certificate (where applicable).

- 6.16. Before the issue of an occupation certificate, the consent holder must ensure any public infrastructure damaged as a result of the carrying out of building works (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concreting vehicles) is fully repaired to the written satisfaction of Council, and at no cost to Council.

**Note:** If the council is not satisfied, the whole or part of the bond submitted will be used to cover the rectification work.

- 6.17. A registered surveyor shall prepare a Work As Executed Plan, and a suitably qualified Hydraulic Engineer shall provide certification of the constructed stormwater management 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 Canterbury Development Control Plan 2012 Part B5. The Work As Executed plan shall be submitted to the Hydraulic Engineer prior to certification of the stormwater management system.

The principal certifier must provide a copy of the Work As Executed Plan and Hydraulic Engineer's Certification to Council with the occupation certificate.

- 6.18. Where subdivision is not proposed, the surveyor shall show the location of the "On-Site Stormwater Detention System" on an A4 size site plan attached to the Section 88E Instrument to be registered, on the title of the subject property, before the issue of the Final Occupation Certificate. Alternatively, where subdivision is proposed, 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 Bankstown Development Engineering Standards and in accordance with the appropriate provisions of the Conveyancing Act. The surveyor shall show the location of the "On-Site Stormwater Detention System" on the plan of subdivision. The developer shall submit evidence of the final registration of the Restriction and Positive Covenant on the title of the property, to Council.

- 6.19. The following signs must be provided and maintained within the site at the point(s) of vehicle egress:

- a. Compelling drivers to stop before proceeding onto the public way
- b. Compelling drivers to "*Give Way to Pedestrians*" before crossing the footway; or compelling drivers to "*Give Way to Pedestrians and Bicycles*" before crossing a footway on an existing or identified shared path route.



- 6.20. Before the issue of an occupation certificate, the principal certifier is to ensure that the traffic signalling system required has been installed to the following specifications:
- a. The system of traffic lights and/or mirrors must be installed at the ends of any single lane ramp(s), to indicate traffic movement on the ramp(s).
  - b. The system using traffic light signals must maintain a green signal to entering vehicles at the point of entry and must maintain a red signal when an exiting vehicle is detected upon the ramp or driveway.
- 6.21. No occupation certificate may be issued until such time as written confirmation has been received from Council that all waste management facilities and associated access have been constructed in accordance with the requirements of this consent.
- 6.22. Before the issue of any occupation certificate, an agreement must be entered into with Council on terms satisfactory to Council for the collection of waste.
- 6.23. Before the issue of an occupation certificate, the principal certifier must ensure all refuse, spoil and material unsuitable for use on-site is removed from the site and disposed of in accordance with the approved waste management plan. Written evidence of the removal must be supplied to the satisfaction of the principal certifier.
- Before the issue of a final occupation certificate, the consent holder must ensure the temporary storage of any waste is carried out in accordance with the approved waste management plan to the principal certifier's satisfaction.
- 6.24. Before the issue of an occupation certificate, the principal certifier must be satisfied that all landscape and tree-works, including pruning in accordance with AS 4373 – 'Pruning of amenity trees and the removal of all noxious weed species', have been completed in accordance with the approved plans and any relevant conditions of this consent.
- 6.25. Before the issue of an occupation certificate, the principal certifier must ensure that access to the residential lobby is secured through a key card, swipe card, intercom or other method to restrict access to the lobby to only residents or visitors.
- 6.26. Before the issue of an occupation certificate, the principal certifier must ensure that the letterboxes installed have non-master key locks, to prevent theft and fraud.
- 6.27. Before the issue of an occupation certificate, the principal certifier is to ensure that on-site CCTV surveillance cameras have been strategically



installed and that they will operate and be maintained throughout the development with particular coverage to:

- a. principal entrance/s and exits;
- b. all areas within the premise occupied by the public (excluding toilets);
- c. staircases in multilevel premises; and
- d. the area within a 10m radius external to the public entrance(s) to the premise.

Installation of the surveillance system is to ensure suitable and clearly visible signage is displayed at the principal entrance(s) to the premise and in a prominent position on each floor accessible to the public, in lettering not less than 50mm in height with the words "Closed Circuit Television in use on these premises".

All CCTV recording equipment and cameras shall be of high-grade digital quality capable of establishing the population and identification of patrons, offenders and incidents within the depth of field view of the cameras.

CCTV recording discs or hard drive recordings shall be retained for 28 days before being re-used, destroyed or deleted. Time and date shall be auto recorded on the disc or hard drive. The CCTV recording equipment shall be capable of reproducing a CD, DVD, USB or other appropriate digital copy of recorded footage on demand of Council or Police Officers either immediately or within 12 hours of the request being made. Copy discs must be handed to Council, Police Officer or Special Inspectors as required.

All CCTV recording devices and cameras shall be regularly checked to ensure the equipment is operating correctly. If it is discovered at any time that the equipment is not in full operating order all reasonable steps must be taken to repair the system as soon as practicable. Where the system will not be functioning in full operating order for a period of longer than 24 hours the manager/licensee is to notify the relevant Local Area Commander of the NSW Police.

All CCTV recording devices and cameras shall be operated at all times when the premises are open to the public and, where premises do not operate 24 hours a day, continuously for at least 1 hour before opening and closing times of the premises.

The CCTV recording device shall be secured within the premises and only be accessible to senior management personnel so as to maintain the integrity of the recorded footage.

Camera views are not to be obstructed by temporary or permanent structures, signage or other impediments.

- 6.28. 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. All lighting must be hooded, shielded or directed away from neighbouring dwellings to minimise glare and associated nuisances to residents.
- 6.29. Any lighting on the site shall be designed so as not to cause nuisance to other residences in the area or to motorists on nearby public roads and to ensure no adverse impact on the amenity of the surrounding area by light overspill. All lighting shall comply with the Interim Australian Standard AS 4282 – ‘The Control of the Obtrusive Effects of Outdoor Lighting’.
- 6.30. Before the issue of any occupation certificate a design verification from a qualified designer shall be submitted to the principal certifier. The design verification is a statement in which the qualified designer verifies that the development 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 Part 2 of SEPP No. 65.
- 6.31. Final registration shall be finalised before the issue of any occupation certificate.

## **7. Conditions of Use.**

- 7.1. The communal open space and bathroom facility must be available for the use all residents of the building, and must be operated as common property, with no exclusive use rights given.
- 7.2. The use of the outdoor communal area(s) is subject to the following restrictions:
- a) Hour of use is limited to 7.00am to 10.00pm, Monday to Saturday and 8.00am to 10.00pm, Sunday and Public Holidays.
  - b) Limited to a maximum of 20 people at any one time.
  - c) Music and other amplified sound are not permitted.
- 7.3. The waste storage room must be provided with smooth and impervious walls and floors and coved at the intersection of the floor and walls. Floor areas must be graded and drained to a floor waste gully connected to the sewer. Waste storage rooms must be well ventilated and proofed against pests. The area or room must be provided with water service hose connectors to enable easy cleaning. Open waste storage areas must be appropriately covered and bunded. The ground must be paved with impervious material and must be graded and drained to a waste water disposal system according to Sydney Water’s requirements. A hose tap connected to a water supply must be provided.

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 must be removed and disposed of by an authorised waste removal contractor. A copy of the waste removal agreement and receipts must be made available to Council on request.

- 7.4. No part of the common property, apart from the visitor vehicle spaces which are to be used only by visitors to the building, and service vehicle spaces which are to be used only by service vehicles, is to be used for the parking or storage of vehicles or boats.
- 7.5. No approval is granted or implied for the use of any roof element for any purpose other than for gaining access to carry out maintenance or repairs.
- 7.6. The approved car parking spaces, driveways and manoeuvring areas are to be used for employees and visitors' vehicles only and not for the storage of new or used materials, finished goods or commercial vehicles.
- 7.7. The designated car wash bay(s) must be designed and constructed to ensure that waste water is discharged to the sewer in accordance with the requirements of Sydney Water.
- 7.8. The operation of the development must not adversely affect the amenity of the neighbourhood or interfere unreasonably with the comfort or repose of a person who is outside the premises by reason of the emission or discharge of noise, fumes, vapour, odour, steam, soot, ash, dust, waste water, waste products, grit, oil or other harmful products.
- 7.9. The operation of the development must not adversely affect the amenity of the neighbourhood or interfere unreasonably with the comfort or repose of a person who is outside the premises by reason of the emission or discharge of noise, fumes, vapour, odour, steam, soot, ash, dust, waste water, waste products, grit, oil or other harmful products.
- 7.10. 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).
- 7.11. Any lighting of the premises must be installed in accordance with AS/NZS 4282-2019, 'Control of the obtrusive effects of outdoor lighting', to avoid annoyance to the occupants of adjoining premises or glare to motorists on nearby roads. Flashing, moving or intermittent lights or signs are prohibited. The intensity, colour or hours of illumination of the lights must be varied at Council's discretion if Council considers there to be adverse effects on the amenity of the area.
- 7.12. Should a noise issue (relating to the development) not previously identified arise (through complaint or otherwise), the owner/ occupier must, upon request by Council, employ the services of a qualified acoustic consultant who has not previously been involved with the development to

undertake a post-occupation assessment of the development and complete an acoustic report with recommendations to rectify the noise issue. A copy of this acoustic assessment report must be submitted to Council for approval and from there noise attenuation works must be implemented. Submission of the acoustic report must be within 30 days from the date requested by Council.

7.13. The on-site stormwater detention storage system within the site as constructed shall not be altered and shall be maintained in good working order to the satisfaction of Council.

7.14. Music and other amplified sound played on the premises must not give rise to offensive noise as defined under the provisions of the Protection of the Environment Operations Act 1997. The sound level output must not exceed five (5) dB(A) above the ambient background level at the boundary of the premises.

Speakers must not be installed, and music must not be played in any of the outdoor areas associated with the premises including the public domain. Speakers located within the premises must not be placed to direct the playing of music towards the outdoor areas associated with the premises.

7.15. During occupation and ongoing use of the building, the consent holder must ensure all wastewater and stormwater treatment devices (including drainage systems, sumps and traps, and on-site detention) are regularly maintained, to remain effective and in accordance with any positive covenant (if applicable).

7.16. Any system using traffic light signals must maintain a green signal to entering vehicles at the point of entry and must maintain a red signal when an exiting vehicle is detected upon the ramp or driveway. This is to ensure that vehicles entering the site do not have to wait at the top of the ramp, and vehicles wishing to exit the site must wait for entering vehicle in the basement at the waiting bay.

7.17. All vehicles associated with the development are to enter and exit the site in a forward direction.

7.18. The requirements of the submitted Waste Management Plan shall be complied with at all times that the approved development is being carried out.

7.19. 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.

- 7.20. The development must be carried out in compliance with Council's "Domestic Waste and Recycling Service Policy and Guideline".
- 7.21. No waste storage containers are to be located or placed outside the approved waste storage area at any time except for collection purposes.
- 7.22. The approved landscaping and external work must be maintained post occupation and must not be altered or changed without Council approval or unless the altered work is carried out in accordance with the relevant provisions of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

-END-