



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

**3 August 2020 - 6.00pm**

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## ORDER OF BUSINESS

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### APOLOGIES AND DECLARATIONS

### CONFIRMATION OF MINUTES OF PREVIOUS MEETING

### BANKSTOWN WARD

- 1        60 Kitchener Parade, Bankstown**  
Alterations and additions to provide new floor space at Level 4 of existing commercial building 3

### REVESBY WARD

- 2        7-9 Macarthur Avenue, Revesby**  
Demolition of existing structures and construction of a four storey mixed use development comprising a ground floor childcare centre, 30 boarding rooms and three residential apartments with basement car parking 25

### ROSELANDS WARD

- 3        776-784 Canterbury Road, Belmore**  
Alterations and additions to an existing two storey residential flat building, including retaining 40 studio apartments on the ground and first floor and the construction of an additional third storey containing 20 studio apartments with associated laneway widening, landscaping and parking pursuant to State Environmental Planning Policy (Affordable Rental Housing) 2009 101

### BASS HILL WARD

- 4        Application to amend Bankstown Local Environmental Plan 2015:  
1 Leicester Street, Chester Hill (Chester Square) 177**

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## Canterbury Bankstown Local Planning Panel - 03 August 2020

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<b>ITEM 1</b>	<b>60 Kitchener Parade, Bankstown</b>
	<b>Alterations and additions to provide new floor space at Level 4 of existing commercial building</b>
<b>FILE</b>	<b>DA-960/2019 – Bankstown</b>
<b>ZONING</b>	<b>B4 Mixed Use</b>
<b>DATE OF LODGEMENT</b>	<b>15 November 2019</b>
<b>APPLICANT</b>	<b>Nuovo Design Studio</b>
<b>OWNERS</b>	<b>ZKFK Pty Ltd</b>
<b>ESTIMATED VALUE</b>	<b>\$505,988</b>
<b>AUTHOR</b>	<b>Planning</b>

### REPORT

This matter is reported to the Canterbury Bankstown Local Planning Panel due to a proposed variation to the floor space ratio (FSR) standard under clause 4.4 of the Bankstown Local Environmental Plan 2015.

Development Application No. DA-960/2019 proposes alterations and additions to provide new floor space at level 4 of an existing commercial building. The works involve the creation of an additional 70m<sup>2</sup> of commercial floor space on the upper floor of the existing building on site, an area that was originally approved as an open terrace area.

DA-960/2019 has been assessed against Bankstown Local Environmental Plan 2015 and Bankstown Development Control Plan 2015, in particular Part A1 – Centres and Part B5 – Parking. The application fails to comply in regards to floor space ratio.

The proposed development will result in FSR on the site increasing to 3:1, as opposed to the 2:1 permitted by the BLEP 2015 for this site. A submission pursuant to Clause 4.6 of the BLEP 2015 has been lodged seeking a variation to the FSR development standard. It is noted that under the original DA for the development of the commercial building on the site (DA-974/2012), Council supported FSR of 2.48:1, and supported a further increase in FSR to 2.76:1 under a later modification application. As will be apparent from the attached assessment

report, the circumstances of the case are such that a variation to the FSR can again be supported in this instance.

While there is a variation to the floor space ratio, the proposed development is otherwise compliant with the relevant development controls and is consistent in terms of its design and function with the existing building on-site and in the context of other commercial developments in the surrounding locality.

The proposal is also deficient by two on-site car parking spaces. With regard to the deficient car parking, the shortfall is to be addressed through a monetary contribution via a Planning Agreement (PA). The proposed car parking deficiency is addressed by the levying of developer contributions which is consistent with both Part B5 – Parking of the BDCP 2015 and Council's Planning Agreements Policy. Given the circumstances of the development site and having regard to the DCP objectives which encourage new retail and commercial development in the Bankstown CBD, the proposed outcome is considered to be acceptable and therefore complies with the BDCP 2015. The Planning Agreement will be dealt with separately by Council, and it is recommended that the Development Application be approved on a deferred commencement basis, subject to the applicant and Council reaching an agreement on the monetary contribution required to be paid in lieu of providing the parking spaces on site.

The application was not required to be advertised or notified under BDCP 2015.

## **POLICY IMPACT**

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This development is not considered to have a major policy impact. The variation to floor space ratio is justified in this instance given the site context and circumstances of the case.

## **FINANCIAL IMPACT**

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A Planning Agreement will require a monetary contribution to be paid to Council in lieu of providing two off-street parking spaces. The monetary contribution is set aside for the construction of public parking spaces as detailed in Council's CBD Car Parking Strategy.

## **RECOMMENDATION**

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

## **ATTACHMENTS**

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- A. Assessment Report
- B. Conditions of Consent

## **DA-960/2019 ASSESSMENT REPORT**

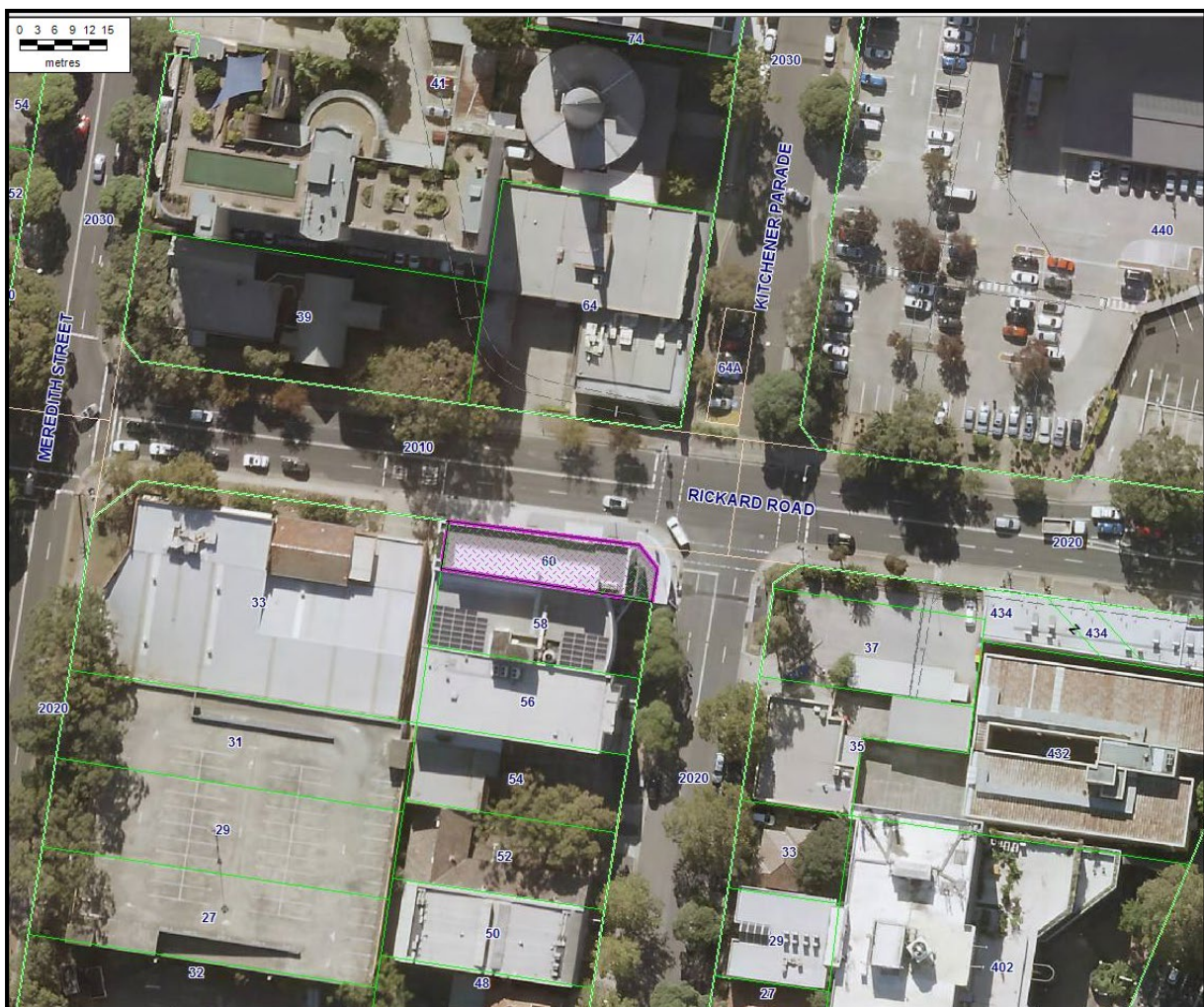
### **SITE & LOCALITY DESCRIPTION**

The subject site is known as 60 Kitchener Parade, Bankstown and is located at the southwestern corner of the intersection of Rickard Road and Kitchener Parade.

The site is a regular shaped allotment, 312.72m<sup>2</sup> in area and is currently zoned B4 – Mixed Use. The subject site has a frontage of 5.53m to Kitchener Parade and 32.93m to Rickard Road, with a splay corner of 5.1m.

At its western boundary the site adjoins the ambulance station and, at its southern boundary, the four-storey Public Trustee building. Currently, a four-storey commercial building is located on the site, approved under DA-974/2012.

The aerial photograph below details the location of the site in the context of surrounding land uses.



**Figure 1:** Aerial of subject site (in purple) in context of surrounding locality. **Source:** Exponare 2019

## **PROPOSED DEVELOPMENT**

The Development Application proposes alterations and additions to the top floor of the existing commercial building on site. The works involve the creation of an additional 70m<sup>2</sup> of commercial floor space on the upper floor on the existing building on site, originally approved as an open terrace area.



**Figure 2:** Development as constructed showing proposed addition at the top level

## **Statutory Considerations**

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

- State Environmental Planning Policy 55 – Remediation of Land (SEPP 55)
- Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment ('Deemed SEPP')
- Bankstown Local Environmental Plan 2015 (BLEP2015)
- Canterbury Bankstown Draft Local Environmental Plan 2020
- Bankstown Development Control Plan 2015 (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 55 – Remediation of Land (SEPP 55)*

Clause 7 of SEPP 55 – Remediation of Land requires Council to consider whether the land is contaminated prior to granting consent to the carrying out of any development on that land. Should the land be contaminated, 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 site has recently been developed as a multi-storey commercial building. No additional contamination is likely to have occurred during the construction process. The proposed development seeks an addition to the top level of the building and does not impact existing ground levels. Accordingly, it is considered that the site remains suitable for the proposed development and is consistent with Clause 7 of SEPP 55.

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

The site is located within land identified as being affected by Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment, being a deemed SEPP as of 1 July 2009 under Clause 120 of Schedule 6 of the EP&A Act, 1979 (as in force at that time). The GMREP 2 contains a series of general and specific planning principles which are to be taken into consideration in the determination of development applications. An assessment of the proposal indicates that the development is generally consistent with the aims and objectives of the plan, as well as the planning principles as set out in Clause 8 of the GMREP 2.

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

The following clauses of the Bankstown Local Environmental Plan 2015 were taken into consideration:

- 1.2 Aims of Plan
- 2.1 Land use zones
- 2.2 Zoning of land to which Plan applies
- 2.3 Zone objectives and Land Use Table
- 4.3 Height of buildings
- 4.4 Floor space ratio
- 4.5 Calculation of floor space ratio and site area
- 4.6 Exceptions to development standards
- 6.9 Restrictions on development in Zone B4 Mixed Use

An assessment of the Development Application revealed that the proposal complies with the matters raised in each of the above clauses of Bankstown Local Environmental Plan 2015 except for the proposed variation to Clause 4.4 – Floor Space Ratio.

### Floor Space Ratio

In this part of the Bankstown CBD, a floor space ratio of 3:1 generally applies. However, in order to qualify for FSR of 3:1, a site must have a minimum width at the front building line of 18m. Otherwise, in accordance with clause 4.4(2F) of the BLEP 2015, a floor space ratio (FSR) of 2:1 applies. The subject site has an effective width of 8.27m (5.53m + a splay of 5.1m) to Kitchener Parade and 36.57m (32.93m + a splay of 5.1m) to Rickard Road. On a corner lot, the shortest frontage is regarded as the primary frontage, and the front building line is determined based on the primary frontage. Accordingly, Kitchener Parade is taken as the primary frontage in this instance, and the allotment width is considered to measure 8.27m for the purposes of Clause 4.4(2F). Based on this, a maximum FSR of 2:1 applies to the site.

DA-974/2012 originally proposed the construction of a four-storey commercial building on the subject site. This DA was originally approved by Council with a floor space ratio of 2.48:1, in excess of the maximum 2:1 permitted for the site. In accordance with State Environmental Planning Policy No. 1, as in force at the time the original application was approved, the variation to FSR was supported on the following grounds:

- *The scale and form of development is suitable for this in-fill corner site ensuring the building is compatible with the adjoining site – 58 Kitchener Parade and the scale of development in the locality;*
- *The scale and height of the proposed building defines the corner of Kitchener Parade and Rickard Road being a good design outcome for this in-fill development on a corner site.*
- *It is noted that a development of 2:1 would not achieve a 4 storey development being a poor design outcome for redevelopment of this isolated corner site.*
- *The subject site is an isolated corner allotment and redevelopment of the site presents a building to the corner, consistent with the scale of development in the locality, and promotes additional commercial floor area/employment generation in the Bankstown CBD.*
- *The upper levels of the building are setback from Kitchener Parade to ensure the building aligns with 58 Kitchener Parade being a compatible form of development for this in-fill site.*
- *The building has been designed to address Rickard Road and Kitchener Parade. The development has a defined entry from Rickard Road having a frontage of 32.93m consistent with the control that allows an FSR of 3:1 on sites with a frontage of 30m.*
- *The design has a defined entry from Rickard Road meeting the recommendation of Council's Urban Design Panel.*



- *The primary frontage FSR control restricts development of corner sites being inconsistent with Part 5.6 - Urban Design of the Bankstown DCP which states: Increasing the building height at the street corner to emphasis the corner element.*
- *The development proposal has a café at ground level addressing the corner and contributes to active street frontages.*
- *Redevelopment of the subject site with a maximum FSR of 2:1 is not financially viable resulting in the subject site not being development or a lower scale compared to the adjoining building - 58 Kitchener being a poor urban design outcome.*
- *Council mapping shows 58 Kitchener Road has a frontage of approximately 14m. This building is 4 storeys covering the majority of the site indicating an FSR of 2:1 has not been consistently applied. The application of an FSR of 2:1 on the subject site would result in a built form out of character of the scale of buildings in the immediate locality.*

The SEPP 1 objection was considered to be well founded and the variation to FSR was supported at the time. Further additional floor area (extending the internal mezzanine level above the ground floor) was approved under a subsequent modification application (DA-974/2012/1), which further increased FSR on the site to 2.76:1. This did not require a SEPP 1 Objection in order to be supported, however, the reason for supporting of the further FSR variation was essentially the same.

The current application proposes alterations and additions to the top floor of the existing commercial building on site. The works involve the creation of an additional 70m<sup>2</sup> of commercial floor space on the upper floor on the existing building, originally approved as an open terrace area. This increases the FSR of the development to 3:1. The application has been supported by a submission pursuant to Clause 4.6 of the BLEP 2015. A copy of the applicants Clause 4.6 submission is attached as an appendix to this report.

As per the requirements of Clause 4.6, the consent authority is required to consider whether the applicants' written request adequately addresses the demonstration of whether complying with the development standard is unreasonable or unnecessary and whether there are sufficient environmental planning grounds to justify contravening the development standard in this instance. The consent authority must then be satisfied whether the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone.

In this instance, the Clause 4.6 submission essentially argues that the continued variation to the floor space ratio development standard is worthy of support along the same lines as the original variation. The aim of the reduced 2:1 FSR is to encourage consolidation of lots, in order to achieve the greater 3:1 FSR with new development. However, the nature of the adjoining site means that it is unlikely to be demolished for minimal uplift, given the substantial nature of the building already on that site. The subject site is therefore effectively isolated. Importantly, the proposal does not exceed the maximum of 3:1 that would apply to the site if the allotment width was 18m or more. The proposed development does not result in the overall height (being 21m) exceeding the maximum permitted under Clause 4.3 of the

BLEP (being 35m), and remains appropriate in the context of the heights of surrounding buildings. As such, it is considered that the written request adequately demonstrates that compliance with the floor space ratio development standard is unreasonable or unnecessary and there are sufficient environmental planning grounds to justify the contravention of the standard.

The objectives of the B4 Mixed Use business zone are as follows:

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

The proposed development is not inconsistent with the objectives of the B4 zone.

The objectives of the floor space ratio control are as follows:

*Clause 4.4 Floor space ratio*

*(1) The objectives of this clause are as follows—*

- (a) to establish the bulk and maximum density of development consistent with the capacity and character of the locality of a development site,*
- (b) to ensure the bulk of non-residential development in or adjoining a residential zone is compatible with the prevailing suburban character and amenity of the residential zone,*
- (c) to encourage lot consolidations in commercial centres to facilitate higher quality built form and urban design outcomes*

Objectives (1)(a) and (c) are considered to be relevant in this instance. The BLEP 2015 establishes that bulk and maximum density in this part of the CBD can be 3:1 when expressed as a floor space ratio, provided sites achieve an 18m width at the front building line. In this instance, development of both the subject site and adjoining site to the south have already been approved at floor space ratios in excess of 2:1, despite being less than 18m in width at the front building line. The proposed development is considered minor in the context of surrounding development, and does not result in a development that could be considered out of character or inconsistent with the bulk and maximum density in this part of the CBD. As already noted above, the proposed development does not result in the overall height (being 21m) exceeding the maximum permitted under Clause 4.3 of the BLEP (being 35m). Importantly when considering the bulk of the development, the urban design outcomes of the proposed addition are considered to be of high quality and remain consistent with the approved development on the site. The proposed top floor addition to the existing four-storey building on the site is setback from the existing walls (currently built to the boundary) and incorporates an appropriate roof form. Overall, the addition is considered to result in an appropriate top level of the building that is recessive and does not detract or take focus from the main bulk of the building in the levels below.

As noted above, the aim of the reduced 2:1 FSR control on narrow sites is to encourage consolidation of lots, in order to achieve the greater 3:1 FSR on larger, wider sites with new development. However, the nature of the adjoining site means that it is unlikely to be demolished for minimal uplift, given the substantial nature of the building already on that site. The subject site is therefore effectively isolated.

Requiring consolidation of sites in order to achieve the minimum lot width of 18m in this instance would require the demolition of existing structures on both the subject and adjoining sites. This is not considered to be in the public interest and, given that the proposal will not result in FSR of 3:1 being breached, the proposed development can be considered to remain consistent with the maximum FSR expected in this part of the Bankstown CBD, and therefore remain consistent with the objectives of the floor space ratio control.

As such, the consent authority can be satisfied that the proposed development remains in the public interest, as it is consistent with the objectives of the standard and the zone.

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

The following draft environmental planning instruments apply to the development.

*Draft Canterbury Bankstown Local Environmental Plan 2020*

The draft Canterbury Bankstown Local Environmental Plan 2020 (CBLEP 2020) has been publicly exhibited and applies to the subject site. 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 BLEP 2015 and the 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. To give determinative weight to the specific provisions contained within the draft instrument would be premature given the stage at which the draft instrument is at. Nevertheless, approval of the development would not be inconsistent with the intent and purpose of these draft provisions.

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

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

STANDARD	PROPOSED	BDCP 2015 PARTS A1 and B5		LEP 2015 COMPLIANCE
		REQUIRED	COMPLIANCE	
Building Design	Treatment of the top floor is consistent with the approved building, as constructed	Unites the facades with the whole of the building form	Yes	N/A

STANDARD	PROPOSED	BDCP 2015 PARTS A1 and B5		LEP 2015 COMPLIANCE
		REQUIRED	COMPLIANCE	
Gateway and Corner Sites	The treatment of the upper floor provides an appropriate finish that is in proportion with the scale of the whole building in the context of the corner	Provide a different setback for the top floor at the street corner by emphasising the corner element	Yes	N/A
Car Parking	Monetary contribution in lieu of providing parking spaces on site, via a Planning Agreement	2 spaces (1 per 40m <sup>2</sup> of commercial floor space. 75m <sup>2</sup> proposed = 1.875 spaces, rounded up to 2)	Yes	N/A

### Car Parking

The proposal generates demand for two (2) additional on-site car parking spaces. There is no opportunity to provide these spaces on site. It is intended to address this shortfall via a Planning Agreement (PA). Given the circumstances of the development site and having regard to the DCP objectives which encourage new retail and commercial development in the Bankstown CBD, the proposed outcome is considered to be acceptable and complies with the BDCP 2015.

As discussed below, the Planning Agreement will be dealt with separately by Council, and it is recommended that the Development Application be approved on a deferred commencement basis, subject to the applicant and Council reaching an agreement on the monetary contribution required to be paid in lieu of provided the parking spaces on site.

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

As noted above, the proposed development generates demand for an additional 2 parking spaces under Part B5 – Parking of the BDCP 2015. In accordance with Part B5, the payment of a monetary contribution in lieu of the provision of parking spaces on site can be agreed with Council in order to achieve compliance. The applicant intends to enter into an agreement with Council to pay a monetary contribution instead of providing the required 2 additional parking spaces on site.

It is worth noting that the original development approved on the site failed to provide the required number of parking spaces on site, however entered into an agreement to pay a monetary contribution in lieu of the provision of the deficient car parking spaces (a total of four). On this basis, it is considered likely that Council will be able to reach a similar agreement in this instance.

It is therefore recommended that the subject Development Application be approved on a deferred commencement basis, subject to the applicant reaching an agreement with Council for the payment of a monetary contribution for the deficiency in onsite car parking generated by the proposed development.

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

The development is assessed as being satisfactory with respect to the matters for consideration prescribed by the EP&A Regulation 2000.

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

The bulk, scale, intensity of the development, and its relationship to adjoining development and its surroundings generally, has been addressed in earlier sections of this report. Accordingly, the development is considered to have an acceptable impact on the adjoining natural, social, economic and built environments.

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

The site is considered suitable for the proposed development.

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

The application was not required to be advertised or notified in accordance with the BDCP 2015.

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

The proposed development is not considered to contravene the public interest.

**CONCLUSION**

The Development Application has been assessed in accordance with the provisions of Section 4.15 of the *Environmental Planning and Assessment Act 1979*, requiring, amongst other things, an assessment against the provisions contained in Bankstown Local Environmental Plan 2015 and Bankstown Development Control Plan 2015.

The development does not comply with the floor space ratio standard in the BLEP 2015. The variation to the FSR is considered appropriate given the site context and circumstances of the case. The Clause 4.6 submission lodged, seeking to justify contravention of the standard, is considered to address the relevant provisions of Clause 4.6. It is considered that the consent authority can be satisfied that the proposed development remains in the public interest, as it is consistent with the objectives of the standard and the zone.

The development does not provide the required car parking on site. However, the inability to reasonably accommodate on-site car parking due to the site conditions means that the provision of a parking contribution under a Planning Agreement is a reasonable outcome. It

is also consistent with the approach taken for the approval of the original development on the subject site, and other commercial developments within the CBD that cannot meet car parking demands on-site.

Therefore, the development is recommended for approval on a 'deferred commencement' basis subject to the applicant entering into a planning agreement to meet the deficient car parking.

### **RECOMMENDATION**

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



## CONDITIONS OF CONSENT

- 1) The proposal shall comply with the conditions of Development Consent. A Construction Certificate shall not be issued until the plans and specifications meet the required technical standards and the conditions of this Development Consent are satisfied.
- 2) Development shall take place in accordance with Development Application No. DA-960/2019, submitted by Nuovo Design Studio, accompanied by the drawings listed in the table below, and affixed with Council's approval stamp, except where otherwise altered by the specific amendments listed hereunder and/or except where amended by the conditions contained in this approval.

Drawing No.	Drawing Title	Issue	Dated	Prepared by
03	Site Plan	B	2/06/2020	Nuovo Design Studio
06	Proposed Terrace			
07	Proposed Roof			
08	West Elevation – East Elevation			
09	North Elevation			
10	South elevation			
12	Long Section A			
13	Sections			
15	Finishes			

- 3) No approval is granted or implied for the use of the building. Separate Development Consent for the use of the commercial/industrial floor space is required prior to occupation.
- 4) A separate application shall be submitted to Council prior to the erection of any signage unless the proposed signage is "exempt development" in accordance with Bankstown DCP 2005 – Part D1.

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

- 5) The Certifying Authority must ensure that any certified plans forming part of the Construction Certificate are not inconsistent with this Development Consent and accompanying plans.
- 6) No Approval in accordance with Council's Tree Preservation Order (TPO) is granted to lop or remove any trees. Separate approval shall be obtained to prune or remove trees on adjoining properties or other trees located on the site. Failure to comply with Council's TPO may result in a fine of up to \$100,000.
- 7) The Council Approved building plans, including demolition plans, must be submitted to Sydney Water for assessment. This will determine if the proposed structure(s) would affect any Sydney Water infrastructure or if there are additional requirements. Building plan approvals can be submitted online via Sydney Water Tap in™.

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

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

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

- 8) A Construction Certificate shall not be issued until written proof that all bonds, fees and/or contributions as required by this consent have been paid to the applicable authority.
- 9) A long service levy payment which is 0.35% of the total cost of the work is to be paid to the Building and Construction Industry Long Service Payments Corporation.
- 10) Pursuant to section 4.17 of the Environmental Planning and Assessment Act 1979, and the Bankstown Section 94A Development Contributions Plan 2009 (Section 94A Plan), a contribution of \$5,059.88 shall be paid to Council.

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

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

- 11) Stormwater runoff from all areas proposed for development shall be collected and connected to the existing stormwater system within the site, subject to the existing system being evaluated by a qualified professional Civil Engineer and found to be structurally adequate and to have the required hydraulic capacity, as required in Council's Development Engineering Standards. The existing system shall be upgraded or replaced as necessary to comply with the requirements above.

The plan for the proposed drainage system together with the hydraulic evaluations shall be submitted to the PCA for approval with the application for the Construction Certificate.

- 12) A certificate from a professional engineer certifying the structural capacity of the existing building will be appropriate to the building's proposed new use or is capable of supporting the loads imposed by the new structure must be provided to the certifying authority prior to the issue of a construction certificate.

- 13) The Construction Certificate plans shall include details of the garbage receptacle area. The garbage receptacle area shall not be visible from the street. The garbage receptacle area shall be located within the building or screened from the street by dense landscaping.
- 14) Prior to the issue of any Construction Certificate for this development, the applicant must obtain approval from Council's Traffic Section for a Site, Pedestrian and Traffic Management Plan (SPTMP). This Plan must address the measures that will be implemented for pedestrian safety and traffic management as specified below.

A PRIVATE CERTIFIER CANNOT APPROVE YOUR SITE, PEDESTRIAN & TRAFFIC MANAGEMENT PLAN

This plan shall include details of the following:

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

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

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

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

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

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

This plan shall include details of the following:

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

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

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

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

A PRIVATE CERTIFIER CANNOT ISSUE THESE PERMITS

WORKS REQUIRING A 'WORKS PERMIT'

- a) Dig up, disturb, or clear the surface of a public footway or public road,
- b) Remove or interfere with a structure or tree (or any other vegetation) on a public footway or public road,
- c) Connect a road (whether public or private) to a classified road,
- d) Undertake footway, paving, vehicular crossing (driveway), landscaping or stormwater drainage works within a public footway or public road,
- e) Install utilities in, under or over a public road,
- f) Pump water into a public footway or public road from any land adjoining the public road,
- g) Erect a structure or carry out a work in, on or over a public road
- h) Require a work zone on the public road for the unloading and or loading of vehicles
- i) Pump concrete from within a public road,
- j) Stand a mobile crane within a public road
- k) Store waste and recycling containers, skips, bins and/or building materials on any part of the public road.
- l) The work is greater than \$25,000.
- m) Demolition is proposed.
- n) Subdivision is proposed.
- o) A Swimming pool is proposed.
- p) Repair of any damage to the public road including the footway occurring during development works.

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

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

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

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

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

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

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

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

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

## **CONDITIONS TO BE SATISFIED PRIOR TO CONSTRUCTION**

- 17) The building / subdivision work in accordance with the development consent must not be commenced until:
- a) a construction certificate for the building / subdivision work has been issued by the council or an accredited certifier, and
  - b) the person having benefit of the development consent has:
    - i. appointed a principal certifying authority for the building / subdivision work, and
    - ii. notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
  - c) the person having the benefit of the development consent, if not carrying out the building work as an owner-builder, has:
    - i. appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential building work is involved, and
    - ii. notified the principal certifying authority of any such appointment, and



- iii. unless the person is the principal contractor, notified the principal contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
  - d) the person having the benefit of the development consent has given at least 2 days' notice to the council of the person's intention to commence the building / subdivision work.
- 18) Existing trees within the vicinity of the construction works or paths of travel for construction vehicles accessing the development that are to be retained shall be protected with temporary fencing of a style non injurious to tree roots, placed 2m from the trunk base of the existing tree to prevent damage during construction, and retained in accordance with Council's Tree Preservation Order. There is to be no stockpiling of materials within the 2m fenced zone.
- 19) Suitable erosion and sediment control measures shall be erected in accordance with the plans accompanying the Construction Certificate prior to the commencement of construction works and shall be maintained at all times.
- 20) Council warning sign for Soil and Water Management must be displayed on the most prominent point of the site, visible to both the street and site works. The sign must be displayed throughout the construction period.
- 21) Prior to the commencement of work, the applicant must provide a temporary on-site toilet if access to existing toilets on site is not adequate.
- 22) A section 73 compliance certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation. Make early application for the certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design.
- Application must be made through an authorised Water Servicing Coordinator. For help either visit [www.sydneywater.com.au](http://www.sydneywater.com.au) > Building and Developing > Developing your Land > Water Servicing Coordinator or telephone 13 20 92.
- 23) Prior to the commencement of work, a fence must be erected around the area of the works, except where an existing 1.8m high boundary fence is in good condition and is capable of securing the area. Any new fencing shall be temporary (such as cyclone wire) and at least 1.8m high. All fencing is to be maintained for the duration of construction to ensure that the work area is secured.

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

- 24) A sign shall be displayed on the site indicating the name of the person responsible for the site and a telephone number of which that person can be contacted during and outside normal working hours or when the site is unattended.
- 25) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
- a) showing the name, address and telephone number of the principal certifying authority for the work, and
  - b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
  - c) stating that unauthorised entry to the work site is prohibited.

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

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

- 26) Construction 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.
- 27) The building work must be carried out in accordance with the requirements of the Building Code of Australia.
- 28) All Civil and Hydraulic engineering works on site must be carried out in accordance with Council's Development Engineering Standards. All Civil and Hydraulic engineering works associated with Council's assets and infrastructure must be carried out in accordance with Council's Work Permit requirements and to Council's satisfaction.
- 30) Any excavations and backfilling must be executed safely and in accordance with the relevant Australian Standards.
- 31) If soil conditions require it, retaining walls or other approved methods of preventing movement of the soil must be provided, and adequate provisions must be made for drainage. Separate approval may be required for retaining walls should they be required.
- 32) If the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

- a) protect and support the adjoining premises from possible damage from the excavation, and
  - b) where necessary, underpin the adjoining premises to prevent any such damage.
- 33) The existing internal stormwater drainage system, and the stormwater drainage system draining the site shall be cleaned out, tested for leaks and repaired as necessary. A licensed plumber is to certify that the work has been carried out.
- 34) Prior to the commencement of work, the builder shall prepare a photographic record of the road reserve which clearly shows its condition prior to works occurring on site. For the entirety of demolition, subdivision or construction works, there shall be no stockpiling of building spoil, materials, or storage of equipment on the public road, including the footway and the road reserve shall be maintained in a safe condition at all times. No work shall be carried out on the public road, including the footway, unless a Work Permit authorised by Council has been obtained.

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

- 35) The occupation or use of the building must not be commenced unless an occupation certificate has been issued for the building.
- 36) A final Occupation Certificate shall not be issued until all conditions relating to demolition, construction and site works of this development consent are satisfied and Council has issued a Work Permit Compliance Certificate (where applicable).
- 37) No additional off-street car spaces are required to be provided on-site in accordance with the submitted plans, subject to the resolution of a Planning Agreement paying a monetary contribution in lieu of the required two (2) business/commercial spaces.
- 38) The Section 73 compliance certificate under the Sydney Water Act 1994 must be submitted to the principal certifying authority before occupation of the development / release of the plan of subdivision.

-END-



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## Canterbury Bankstown Local Planning Panel - 03 August 2020

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<b>ITEM 2</b>	<b>7-9 Macarthur Avenue, Revesby</b>
	<b>Demolition of existing structures and construction of a four storey mixed use development comprising a ground floor childcare centre, 30 boarding rooms and three residential apartments with basement car parking</b>
<b>FILE</b>	<b>DA-31/2019 – Revesby Ward</b>
<b>ZONING</b>	<b>B2 Local Centre</b>
<b>DATE OF LODGEMENT</b>	<b>21 January 2019</b>
<b>APPLICANT</b>	<b>Architecture Becka &amp; Associates</b>
<b>OWNERS</b>	<b>S Albekaa</b>
<b>ESTIMATED VALUE</b>	<b>\$4,616,846.41</b>
<b>AUTHOR</b>	<b>Planning</b>

### REPORT

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This matter is reported to Council's Local Planning Panel in response to the number of public submissions received. At the time of preparing this report, Council is in receipt of a total of ten submissions.

Development Application DA-31/2019 seeks to demolish existing structures and construct a four storey mixed use development comprising of a ground floor childcare centre, thirty boarding rooms (on levels two and three) and three residential apartments on the fourth floor with basement car parking.

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 *State Environmental Planning Policy (Affordable Rental Housing) 2009*, *State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (SEPP 65)*, *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017*, *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*, *State*

*Environmental Planning Policy No 55 – Remediation of Land, Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment, Bankstown Local Environmental Plan 2015, the Draft Consolidated LEP 2020 and Bankstown Development Control Plan 2015.*

The application was notified on two separate occasions. During the notification periods ten separate submissions were received from seven authors, outlining the following concerns:

- Overdevelopment
- Safety - increase in crime and anti-social behaviour and long term management of the boarding rooms and Council monitoring
- No need for boarding houses at this location (no demand/over supply)
- Insufficient indoor and outdoor space for two lodgers within a boarding room
- Inadequate parking
- Traffic – surrounding streets do not have capacity to accommodate any increase in traffic from the development
- A development this size should have multiple vehicle access points (only one is provided)
- Fire safety
- Privacy
- Noise
- Reduction in property values
- Solar access
- Boarding houses are cheap housing and generally attract similar socioeconomically aligned members of society
- There are numerous child care centres nearby – there is no need for another one here.
- Not a suitable mix (boarding house and childcare centre)
- Boarding house will be used as an Air BNB

The application has been assessed as generally compliant with the relevant controls, with variations to Bankstown Development Control Plan 2015 relating to lot width and the design of the top floor (proposed as a storey - not an attic). The non-compliances are discussed in more detail in this report. Despite the non-compliances, the assessment of the development application has found that these variations are justified in the circumstances of this case, in the context of both the overall development and the surrounding locality.

Relevant planning controls have been appropriately responded to and no significant or unresolved matters have been raised in public submissions. Approval of this application would facilitate the provision of affordable housing on a site within an 'accessible area' without having any unacceptable or unreasonable impacts on the locality.

The concerns raised in the submissions have been addressed in this report and do not warrant refusal or further modification of the development.

## **POLICY IMPACT**

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This matter has no direct policy implications.

## **FINANCIAL IMPACT**

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This matter has no direct financial implications.



## **RECOMMENDATION**

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

## **ATTACHMENTS**

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- A. Assessment Report
- B. Conditions of Consent



## **DA-31/2019 ASSESSMENT REPORT**

### **SITE & LOCALITY DESCRIPTION**

The subject site is known as 7 and 9 Macarthur Avenue, Revesby and consists of two allotments identified as Lot 66 in DP 19909 and B in DP 376723. The site has a combined area of 989.7m<sup>2</sup> and frontage of 23.93m with a fall of approximately 900mm from the rear (southern) boundary to the front (northern) boundary.

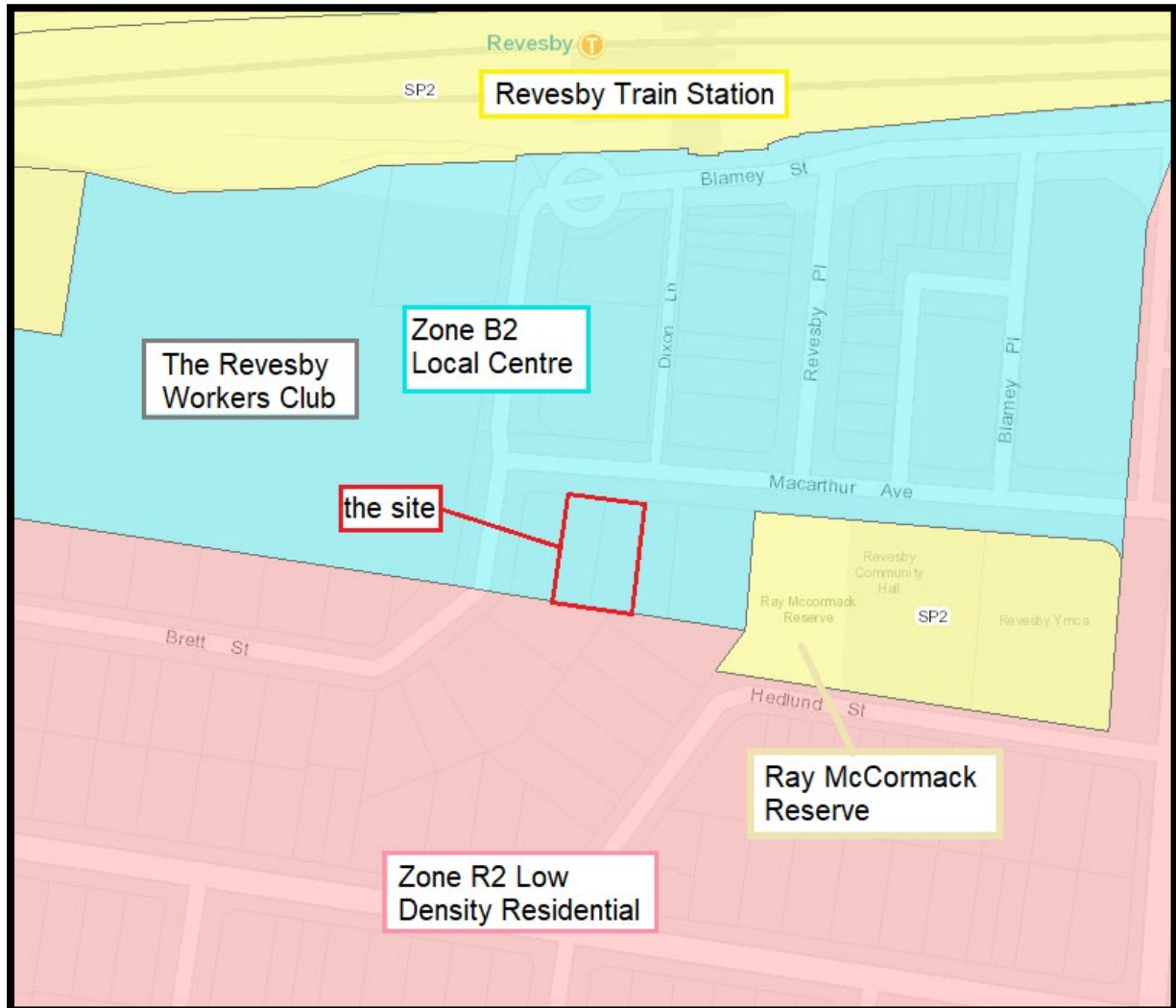
The site is zoned B2 Local Centre and is located approximately 120m to the south of Revesby Train Station and within 50m of The Revesby Workers Club. The surrounding development generally comprises commercial development to the north, east and west, with low density residential housing to the south. On the opposite side of Macarthur Avenue is a shopping centre which contains a Coles Supermarket and various other retail premises.

The existing development on the site includes two residential cottages and ancillary structures. Existing vegetation on the site consists of three trees, one of which is displaying poor health, the second is exempt under Council's Tree Management Order and no objection was raised by Council's Tree Management Officers to the removal of the third, subject to suitable replacement plantings.

The context of the subject site is illustrated in the aerial photo below:



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



Source: [www.planningportal.nsw.gov.au](http://www.planningportal.nsw.gov.au) (note: labelling has been added for illustration purposes in this report)

### **PROPOSED DEVELOPMENT**

The Development Application proposes the demolition of existing structures and the construction of a four storey mixed use development comprising a ground childcare centre, 30 boarding rooms and three residential apartments with basement car parking.

- Ground floor: Thirty-eight place childcare centre
- Second floor: Thirteen boarding rooms, one managers room, communal room and communal courtyard
- Third floor: Seventeen boarding rooms and communal courtyard
- Fourth floor: Three residential apartments with communal open space



Perspective drawings of the proposed development are provided below:



## **SECTION 4.15 ASSESSMENT**

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

### **Statutory Considerations**

When determining a development application, the consent authority is to take into consideration the matters for consideration contained in Section 4.15(1) of the *Environmental Planning and Assessment Act, 1979*. In this regard, the following environmental planning instruments, draft environmental planning instruments, development control plans, codes and policies are relevant:

- State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)
- Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment ('Deemed SEPP')
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (SEPP 65)
- State Environmental Planning Policy (Affordable Rental Housing) 2009
- State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017
- Bankstown Local Environmental Plan 2015 (BLEP 2015)
- Draft Canterbury Bankstown Consolidated Local Environmental Plan 2020
- Bankstown Development Control Plan 2015 (BDCP 2015)
- Bankstown Section 94A Development Contributions Plan

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

#### ***State Environmental Planning Policy No 55 - Remediation of Land***

The provisions of Clause 7(1) of *State Environmental Planning Policy No. 55 - Remediation of Land* specifies that a consent authority must not consent to the carrying out of any development on land unless:

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

The development site has a history of residential uses and the development application seeks to use the site for residential as well as commercial purposes. There is no evidence to suggest that the site is contaminated, however, in accordance with Clause 25(d) of the *Education and*



*Care Services National Regulations* a preliminary site investigation report was prepared and submitted to Council as part of the assessment process.

Council's Environmental Health Officer supports the recommendations of the site contamination report (prepared by Envirotech Consulting Group titled, "*Phase 1 Preliminary Environmental Site Assessment with Limited Sampling, 7-9 Macarthur Avenue, Revesby NSW 2122*", reference: REP-19-8593-A, dated 17 September 2019) which forms part of the development consent.

The subject site is considered suitable for the proposed development and therefore the development application satisfies the provisions of SEPP 55.

***Greater Metropolitan Regional Environmental Plan No 2—Georges River Catchment (deemed SEPP)***

The site is located within land identified as being affected by Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment (being a deemed SEPP from 1 July 2009). The GMREP No 2 contains a series of general and specific planning principles which are to be taken into consideration in the determination of development applications.

An assessment of the proposal indicates that the development is generally consistent with the general aims and objectives of the plan and there is no inconsistency with the planning principles as set out in Clause 8 of the GMREP No 2.

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

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

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

*State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development* (SEPP 65) aims to improve the design quality of residential flat buildings and provides an assessment framework - the 'Apartment Design Guide' for the assessment of applications under which this is considered. The proposal is consistent with the design quality principles contained within the policy, which promotes development that is of good design, appropriate context, scale and density given the desired future character of the area.

Clause 50(1A) of the EP&A Regulation 2000 requires the submission of a design verification statement from the building designer at lodgement of the development application. This document has been submitted and is considered to satisfy the submission requirement.

The proposed development is consistent with the Design Quality Principles and responds appropriately to the site's context. Moreover, the application generally conforms to the key 'Design Criteria' contained in the Apartment Design Guide, as outlined in the table below.

'DESIGN CRITERIA'	PROPOSED	COMPLIES?
<b>3B – Orientation</b> <u>Design Guidance:</u> <ul style="list-style-type: none"> <li>Solar access to living rooms, balconies and private open spaces of neighbours should be considered</li> <li>Where an adjoining property does not currently receive the required hours of solar access, the proposed building ensures solar access to neighbouring properties is not reduced by more than 20%</li> <li>If the proposal will significantly reduce the solar access of neighbours, building separation should be increased beyond minimums contained in section 3F Visual privacy</li> <li>Overshadowing should be minimised to the south or downhill by increased upper level setbacks</li> <li>A minimum of 4 hours of solar access should be retained to solar collectors on neighbouring buildings.</li> </ul>	<p>The adjoining residential properties maintain compliant solar access to living areas and to solar panels during mid-winter and to outdoor private open space areas during the equinox.</p>	<p>Yes. See comment below for further detail.</p>
<b>3C – 1 Transition</b> <u>Design Guidance:</u> <ul style="list-style-type: none"> <li>Direct street entry (terraces, balconies, courtyards) where appropriate</li> <li>Changes in levels from street to private courtyards – improve surveillance and visual privacy</li> <li>Fences permeable materials, solid fences max 1m</li> <li>Multiple entries should be differentiated.</li> <li>Limit areas for people to be concealed.</li> </ul>	<p>The childcare centre has glazing along the street frontage to maximise casual surveillance.</p> <p>The residential entry is clearly defined and is separate to the entry associated with the childcare centre.</p> <p>There is limited opportunity for people to be concealed within the development. The design of the development was considered to be satisfactory by Council's Safety Officer.</p>	<p>Yes.</p>
<b>3C – 2 Amenity of public domain</b> <u>Design Guidance:</u> <ul style="list-style-type: none"> <li>Minimise visual prominence of underground carpark</li> <li>Substations, pump rooms, garbage areas etc. to be in basement or out of view.</li> <li>Ramping for accessibility should be minimised by</li> </ul>	<p>Carparking does not dominate the streetscape as it is concealed within the basement. Services and garbage areas have been well</p>	<p>Yes.</p>

<p>building entry location and setting ground floor levels in relation to footpath levels.</p>	<p>designed within the development and do not dominate the public domain.</p> <p>The floor level of the child care centre is within 800mm of the footpath level. As the type of development does not rely upon passing pedestrian traffic for trade (i.e. an active street frontage) the ramp to the childcare centre is considered acceptable.</p>	
<p><b>3D – Communal open space</b>  <u>Design Criteria:</u>            25% of the site area is to be communal open space, and 50% of the COS must receive at least 2 hours direct sunlight between 9am-3pm on 21 June.  <u>Design Guidance:</u></p> <ul style="list-style-type: none"> <li>• Minimum dimension 3m</li> <li>• Co-located with deep soil zones</li> <li>• Direct access to communal area from entries, lobbies &amp; circulation areas.</li> <li>• Where communal open space cannot be provided at ground level, provide at podium or roof</li> <li>• Where unable to achieve design criteria (small lots, business zones, dense urban areas) should:               <ul style="list-style-type: none"> <li>○ provide COS elsewhere (landscape roof top, terrace or common room), provide larger balconies or</li> <li>○ provide larger balconies/POS</li> <li>○ demonstrate good proximity to public open space and facilities</li> </ul> </li> <li>• Facilities are provided within communal open spaces and common spaces for a range of age groups and can incorporate seating, BBQ areas, play equipment/areas, swimming pools, gyms, tennis courts or common rooms</li> <li>• COS visible from habitable rooms and POS while maintaining privacy, bay windows, corner windows or balconies.</li> <li>• Safe - fenced/contained for young children</li> <li>• Connect to public street along one edge</li> <li>• Clear boundaries between public and private open space</li> </ul>	<p><u>Required:</u>            The site has an area of 989.7m<sup>2</sup> which equates to 247.4m<sup>2</sup> communal open space required.</p> <p><u>Provided:</u>            Second floor: 170m<sup>2</sup>            Third floor: 140m<sup>2</sup>            Fourth floor: 205m<sup>2</sup>            Total: 515m<sup>2</sup></p> <p>Solar access is achieved to 170m<sup>2</sup> of the communal open space which equates to 69% of the total required communal open space.</p> <p>The central location of the communal open space areas on levels 2, 3 and 4 are well designed and positioned to ensure that the area is easily accessed by all residents and promotes casual surveillance and safety.</p>	<p>Yes.</p>
<p><b>3E – 1 Deep Soil Zones</b>  <u>Design Criteria:</u>            Sites with an area of between 650m<sup>2</sup> and 1,500m<sup>2</sup> is to provide 7% of the site as deep soil zone with a</p>	<p>The site has an area of 989.7m<sup>2</sup> which equates to 69m<sup>2</sup> deep</p>	<p>Yes.</p>

minimum dimension of 3m	soil zone required. A deep soil zone of 69m <sup>2</sup> has been provided within the outdoor play area of the child care centre. The minimum width of the deep soil zone is 6m.													
<p><b>3F – 1 Visual Privacy (Building separation)</b></p> <p>Minimum required separation distances from buildings to the side and rear boundaries are as follows:</p> <table border="1" data-bbox="209 701 818 1028"> <thead> <tr> <th>Building height</th><th>Habitable rooms &amp; balconies</th><th>Non-habitable rooms</th></tr> </thead> <tbody> <tr> <td>Up to 12m (4 storeys)</td><td>6m</td><td>3m</td></tr> <tr> <td>Up to 25m (5-8 storeys)</td><td>9m</td><td>4.5m</td></tr> <tr> <td>Over 25m (9+ storeys)</td><td>12m</td><td>6m</td></tr> </tbody> </table> <p>Note: Separation distances between building on the same site should be combine required building separations depending on the type of room.</p> <p>Apartment buildings should have an increase separation distance of 3m (in addition to the requirements in the table) when adjacent to a different zone that permits a lower density residential development to provide for a transition in scale and increased landscaping</p>	Building height	Habitable rooms & balconies	Non-habitable rooms	Up to 12m (4 storeys)	6m	3m	Up to 25m (5-8 storeys)	9m	4.5m	Over 25m (9+ storeys)	12m	6m	<p><u>Rear setback</u> Ground floor: 7.6m-18.5m</p> <p>For the second, third and fourth floors a minimum setback of 6m has been provided to all walls. These walls are blank walls with no windows and do not result in any privacy impacts for the adjoining properties.</p> <p>The communal open space areas on the second and third floors are located 9m from the rear boundary. The balconies on the fourth floor also provide a 9m setback to the rear boundary.</p> <p><u>Side boundaries:</u> The site is located in a commercial zone where zero setbacks are permitted for blank walls in the DCP.</p>	<p>Yes.</p> <p>Yes.</p>
Building height	Habitable rooms & balconies	Non-habitable rooms												
Up to 12m (4 storeys)	6m	3m												
Up to 25m (5-8 storeys)	9m	4.5m												
Over 25m (9+ storeys)	12m	6m												
<p><b>3G – 1 Pedestrian access and entries</b></p> <ul style="list-style-type: none"> <li>Building entries should be clearly identifiable and communal entries should be clearly distinguishable from private entries</li> <li>Access, entries and pathways are accessible and easy to identify</li> </ul>	<p>The child care centre entry is separate from the residential entry. Both entries are clearly defined.</p>	<p>Yes</p>												
<p><b>3H – Vehicle access</b></p> <p>Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and creates high quality streetscapes.</p>	<p>The one vehicle access point for the proposed development is considered to be acceptable from both a functionality point of view and a design/streetscape</p>	<p>Yes.</p>												

	perspective. Council's engineers have assessed the proposal against the relevant Australian Standards and have found the vehicular access driveway to be satisfactory.	
<b>3J – 1 Bicycle and parking</b> Minimum car parking requirement must be provided on site	<p><b><i>Car parking spaces</i></b></p> <p><u>Boarding house</u>  Required: 16 spaces  Provided: 16 spaces</p> <p><u>Child care centre</u>  Required: 9.5 spaces  Provided: 14 spaces</p> <p><u>Apartments</u>  Required: 3.9 spaces  Provided: 4 spaces</p> <p>Total spaces required = 29.4  Total spaces provided = 34</p> <p><b><i>Bicycle and motorcycle parking spaces</i></b>  6 bicycle spaces and 6 motorcycle spaces required and 6 of each have been provided.</p>	Yes.
<b>4A – 1 Solar access</b> 70% of apartments should receive 2hrs solar access between 9am – 3pm midwinter.	All apartments receive a minimum of 2hrs solar access between 9am – 3pm midwinter.	Yes.
<b>4B – 3 Natural cross-ventilation</b> 60% of apartments to be naturally cross-ventilated.	66% of apartments are naturally cross ventilated.	Yes.
<b>4C – 1 Ceiling heights</b> Min. 2.7m for habitable rooms. If variation is sought, then satisfactory daylight access must be demonstrated.	2.7m floor to ceiling heights provided for all apartments.	Yes.
<b>4D – 1 Unit size</b> 1 bed – min. 50m <sup>2</sup> 2 bed – min. 70m <sup>2</sup> 3 bed – min. 90m <sup>2</sup> Add 5m <sup>2</sup> for each additional bathroom/WC Every habitable room must have a window in an external wall	All apartment's meet the minimum size. The two-bedroom apartments are 70m <sup>2</sup> and 76m <sup>2</sup> and the three bedroom apartment is 95m <sup>2</sup> .	Yes.

<b>4D – 3 Apartment layouts</b> <ul style="list-style-type: none"> <li>• Master Beds: 10m<sup>2</sup> min</li> <li>• Other beds: 9m<sup>2</sup> min</li> <li>• Bedrooms min dimension of 3m</li> <li>• Living rooms at least 4m wide</li> </ul>	<p>All apartments main bedrooms are at least 10m<sup>2</sup> and other bedrooms are a minimum of 9m<sup>2</sup> with a minimum dimension of 3m.</p> <p>All living rooms within the apartments have a minimum dimension of 4m.</p>	Yes.
<b>4E -1 Private Open Space</b> 2 bed: Min. 10m <sup>2</sup> , 2m depth to primary balconies. 3 bed: Min 12m <sup>2</sup> , 2.4m depth to primary balconies. Ground level units: Min 15m <sup>2</sup> , 3m depth	<p><u>Unit 401 (2 bed)</u> 24.25m<sup>2</sup> with minimum width of 4m</p> <p><u>Unit 402 (2 bed)</u> 15.6m<sup>2</sup> with minimum width of 2.8m</p> <p><u>Unit 403 (3 bed)</u> 14m<sup>2</sup> with minimum width of 2.8m</p>	Yes.
<b>4F – 1 Internal circulation</b> Max. 8 units accessed from a single corridor.	3 apartments located on the fourth floor.	Yes.
<b>4G - 1Storage</b> 2 beds: 8m <sup>3</sup> 3 beds: 10m <sup>3</sup> (At least half to be provided within the apartment)	<p><u>Unit 401 (2 bed)</u> 4.85m<sup>3</sup> within the apartment 3.7m<sup>3</sup> within the basement Total = 8.55m<sup>3</sup></p> <p><u>Unit 402 (2 bed)</u> 4m<sup>3</sup> within the apartment 4m<sup>3</sup> within the basement Total = 8m<sup>3</sup></p> <p><u>Unit 403 (3 bed)</u> 7m<sup>3</sup> within the apartment 3.1m<sup>3</sup> within the basement Total = 10.1m<sup>3</sup></p>	Yes

<p><b>4H – Acoustic privacy</b></p> <p>Acoustic privacy is about protecting sound transmission between external and internal spaces, between apartments and communal areas and between apartments within a building</p>	<p>An acoustic report was prepared and submitted for the proposed development that detailed the development's impact on the adjoining properties in relation to noise. During the assessment process, Council's Environmental Health Officer reviewed the proposal and the associated acoustic report. The acoustic assessment found that the development is considered satisfactory subject to conditions of consent.</p>	<p>Yes.</p>
<p><b>4K – Apartment mix</b></p> <p>A mix of apartment choice provides housing choice and supports equitable housing access</p>	<p><u>Boarding rooms</u> 1 lodger x 14 2 lodgers x 16</p> <p><u>Apartments</u> 2 bedrooms x 2 3 bedrooms x 1</p> <p>The development provides for an appropriate level of housing choice in accordance with the ADG.</p>	<p>Yes.</p>
<p><b>4M-Facades</b></p> <p>The design of facade contributes greatly to the visual interest of the building and the character of the local area.</p> <p>Facades that face the street have an impact on the public domain, while side and rear facades often influence the amenity of neighbouring buildings and communal and private open spaces.</p>	<p>The streetscape design and the external finishes proposed are representative of more modern forms of architecture found throughout the area. It is considered that the development will result in a positive contribution to the streetscape and identity of the business zone.</p>	<p>Yes.</p>
<p><b>4N-Roof design</b></p> <ul style="list-style-type: none"> <li>• Roof treatments are integrated into the building design and positively respond to the street</li> <li>• Opportunities to use roof space for residential accommodation and open space are maximised</li> <li>• Roof design incorporates sustainability features</li> </ul>	<p>The design of the top floor proposes varying setbacks to the apartments and incorporates a north facing communal open space area which creates an interesting</p>	<p>Yes.</p>

	skyline and streetscape.	
<b>4O – Landscaping</b> Sites between 850m <sup>2</sup> and 1,500m <sup>2</sup> to have 1 large tree or 2 medium trees per 90m <sup>2</sup> deep soil zone	Council's tree management officer has provided conditions of consent to require the planting of 4 x replacement trees known to attain a minimum height of 8 metres at maturity in the open space area associated with the childcare centre along the rear boundary.	Yes.
<b>4P – Planting on structures</b> Planting on structures can provide amenity, improve air quality and microclimate and reduces direct energy use and stormwater runoff. It can also supplement deep soil planting on site where opportunities for this area limited or restricted, e.g. in high density areas.	The proposed development incorporates substantial landscaping within the communal open space areas on the upper floors. The landscaping proposed is consistent with the design guidance for planting on structures.	Yes.
<b>4Q – Universal design</b> Universal design is an international design philosophy that enables people to continue living in the same home by ensuring that apartments are able to change with the needs of the occupants. Universally designed apartments are safer and easier to enter, move around and live in. They benefit all members of the community, from young families to older people, their visitors, as well as those with permanent or temporary disabilities.	The development is satisfactory with regard to the universal design principles with 33% of the apartments meeting the criteria.	Yes.
<b>4S – Mixed use</b> <ul style="list-style-type: none"> <li>Mixed use development includes multiple uses in one building. In apartment buildings this is commonly achieved vertically with different uses stacked above one another. A vertical mix of uses is more likely to increase activity through the days and night which in turn improves passive surveillance of the public domain.</li> <li>In areas zoned for mixed use development building design should allow for a range of non-residential uses. Where the location or site constraints are not suited for retail uses, the design should accommodate other uses such as commercial offices.</li> <li>Residential entries and services to be separated to commercial entries.</li> </ul>	<p>The development proposes a mixed use development with various uses stacked above one another. The mix is considered to be acceptable with the mix of commercial and residential uses activating the public domain during the day and night with passive surveillance.</p> <p>The residential areas and the commercial entries and services are separate and concealment opportunities are avoided.</p>	Yes.



<ul style="list-style-type: none"> <li>• Concealment opportunities are avoided</li> <li>• Landscaped communal open space areas should be provided at podium or roof levels.</li> </ul>	The communal open space areas provides substantial areas dedicated to landscaping.	
<b>4T – Awnings and signage</b> <ul style="list-style-type: none"> <li>• Awnings should be provided along street with high pedestrian activity and active street frontages.</li> <li>• Signage to respond to the context and desired streetscape character.</li> </ul>	<p>The proposal incorporates an awning along the front façade of the building.</p> <p>There is no signage proposed as part of the development application.</p>	Yes.
<b>4U – Energy efficiency</b> <ul style="list-style-type: none"> <li>• The development incorporates passive environmental design.</li> <li>• Development incorporates passive solar design to optimise heat storage in winter and reduce heat transfer in summer</li> <li>• Adequate natural ventilation minimises the need for mechanical ventilation</li> </ul>	<p>The development application complies with the requirements of <i>State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</i> and the development application was accompanied with a Nationwide House Energy Rating Scheme Certificate. The development meets the objectives and design guidance that relates to energy efficiency.</p>	Yes.
<b>4V – Water management and conservation</b> <ul style="list-style-type: none"> <li>• Potable water use is minimised</li> <li>• Urban stormwater is treated on site before being discharged to receiving waters.</li> <li>• Flood management systems are integrated into the site design.</li> </ul>	<p>The development application complies with the requirements of <i>State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</i>. The development meets the objectives and design guidance that relate to water management and conservation.</p>	Yes.
<b>4W – Waste</b> <ul style="list-style-type: none"> <li>• Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents.</li> <li>• Domestic waste is minimised by providing safe and convenient separation and recycling.</li> </ul>	<p>The development meets the requirements of Council's Waste Management Guide for New Developments and BDCP 2015 – Part 13 Waste Management and Minimisation. Council's waste team have reviewed the proposal and consider it to be satisfactory in this regard.</p>	Yes.

### Further comment regarding access to sunlight to the adjoining properties

Each of the adjoining low density residential properties to the south maintain 3 hours solar access to a living area during mid-winter which meets the requirements of the Apartment Design Guide and also complies with the clause 5.24 of BDCP 2015 – Part B2 which provides as follows:

*5.24 The living areas of a dwelling on an adjoining allotment must receive a minimum sum of 3 hours of sunlight between 8.00am and 4.00pm at the mid–winter solstice. Where this requirement cannot be met, the development must not result with additional overshadowing on the affected living areas of the dwelling.*

In addition to the low density residential dwellings adjoining the development site, there is an existing residential apartment located on the upper floor of the commercial development to the west which is within the B2 Local Centre zone. This apartment will continue to maintain solar access to the two living area windows on the western elevation between 12pm and 5pm during mid-winter. It is noted that the height of the proposed development will reduce the amount of natural light along the shared boundary (and to the south facing kitchen window), however the amenity maintained to the dwelling overall is considered to be acceptable.

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

Division 3 of SEPP (ARH) 2009 provides controls for boarding house developments. The table below provides a summary of the controls set out in this Policy in regard to this development:

Control	Comment	Compliance
<b>Clause 26 – Land to which Division Applies</b>		
This Division applies to land within any of the following land use zones or within a land use zone that is equivalent to any of those zones— a) Zone R1 General Residential, b) Zone R2 Low Density Residential, c) Zone R3 Medium Density Residential, d) Zone R4 High Density Residential, e) Zone B1 Neighbourhood Centre, f) Zone B2 Local Centre, g) Zone B4 Mixed Use.	The site is zoned B2 Local Centre	Yes.
<b>Clause 29 – Standards that cannot be used to refuse</b>		
<b>Floor Space Ratio</b> If the development is on land within a zone in which residential flat buildings are permitted—the existing maximum floor space ratio for any form of residential accommodation permitted on the land, plus 0.5:1, if the existing maximum floor space ratio is 2.5:1 or less.	Residential flat buildings are permissible within the zone, with a maximum permissible floor space ratio of 1:1. The SEPP (ARH) 2009 affords the proposal an additional 0.5:1 FSR, allowing a total maximum FSR of 1.5:1 for the development.	Yes.

	The proposed FSR for the development is 1.45:1 which is compliant with the SEPP.	
<b>Building Height</b> The building height of all proposed buildings is not more than the maximum building height permitted under another environmental planning instrument for any building on the land	The proposed total building height is within the 14m height limit prescribed by BLEP 2015.	Yes.
<b>Landscaped Area</b> The landscape treatment of the front setback area is to be compatible with the streetscape in which the building is located	The current streetscape is characterised by commercial development with vegetation within the front setbacks limited to street trees. The proposed development is not inconsistent with the adjoining developments and will be conditioned to provide a street tree.	Yes.
<b>Solar Access</b> Where the development provides for one or more communal living rooms, at least one of those rooms is to receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter.	The north facing communal living room receives the required three (3) hours solar access between midday and 3pm.	Yes.
<b>Private Open Space</b> One area of at least 20m <sup>2</sup> (with a minimum dimension of 3m) for lodgers & 8m <sup>2</sup> (with a minimum dimension of 2.5m) for the boarding house manager	A communal open space area of more than 20m <sup>2</sup> is provided for the lodgers on both levels 2 and 3.	Yes.
<b>Parking</b> At least 0.5 spaces is provided for each boarding room, plus 1 space for each employee	The proposal includes 30 boarding rooms and a manager's room: 30 x 0.5 = 15 car parking spaces are required for the boarding rooms and 1 car space for staff.  Total spaces required is 16 car parking spaces. The boarding house component of the development has been provided and allocated with 16 car parking spaces.	Yes
<b>Accommodation size</b> Minimum GFA (excluding private kitchen and bathrooms) is 12m <sup>2</sup> for single lodging rooms and 16m <sup>2</sup> in any other case	The proposed rooms comply with this requirement.	Yes.
<b>Clause 30 – Standards for boarding houses</b>		
<b>Communal Living Room</b> A boarding house that has 5 or more boarding rooms, at least one communal living room will be provided	A communal living room of 44m <sup>2</sup> is provided on the third floor which is easily accessed by all lodgers.	Yes.

<b>Maximum GFA</b> No boarding room is to have a gross floor area of more than 25m <sup>2</sup> (excluding private kitchen and bathroom) per room.	No boarding room is greater than 25m <sup>2</sup> (excluding private kitchen and bathroom).	Yes.
<b>Maximum occupants</b> No boarding room is to be occupied by more than 2 adult lodgers	The largest boarding rooms are double rooms. These are designed to only accommodate two people. This will be reinforced through conditions of consent.	Yes.
<b>Facilities</b> Adequate bathroom and kitchen facilities are to be available within the boarding house for the use of each lodger	Individual facilities have been provided in each room.	Yes.
<b>Boarding Room Manager</b> A boarding house that has capacity to accommodate 20 or more lodgers, a boarding room or on site dwelling is to be provided for a boarding house manager	One manager's room is proposed on the second floor.	Yes.
<b>Non-residential ground floor within commercial zones</b> For a boarding house on land zoned primarily for commercial purposes, no part of the ground floor of the boarding house that fronts a street is to be used for residential purposes unless another environmental planning instrument permits such a use	The site is within a business zone and the ground floor is proposed to be used for non-residential purposes – a child care centre.	Yes.
<b>Motorcycle/Bicycle</b> One parking space is to be provided for a bicycle, and one space is to be provided for a motorcycle, for every 5 boarding rooms.	6 bicycle and 6 motorcycle spaces are provided.	Yes.
<b>Clause 30A – Character of the Local Area</b>		
<b>Character</b> Design of the development is compatible with the character of the local area.	In accordance with planning circular PS 18-001 (issued 16 Jan 2018), character is <i>'the way a place looks and feels'</i> . The circular goes on to say <i>"Character can be reflected in a LEP in its aims (Clause 1.2 of the Standard Instrument LEP) where a council can describe the characteristics of the LGA, through zone objectives, in principal development standards (such as height and FSR controls)"</i> .  It is noted that the proposal is different from the existing surrounding developments in the locality in terms of height and scale. In this regard, the surrounding development largely consists of lower scale commercial developments to	

	<p>the north, east and west with low density residential dwellings to the south.</p> <p>However, the proposed development complies with the current maximum permitted height of 14m and the maximum floor space ratio for this type of development. The development generally meets the standards contained within the relevant policies and is consistent with Council's long term desired character of the area and the objectives of the zone.</p> <p>With regard to the longer term desired character of the area, it is noted that at the Canterbury Bankstown Local Planning Panel Meeting held 30 June 2020, the Panel adopted a Planning Proposal as part of the Consolidated Local Environmental Plan which intends to increase the maximum building height for the subject site from 14m to 20m and the storey limit from three storeys plus an attic to six storeys and to increase the maximum FSR for the site from 1:1 to 3:1. The planning proposal also intends to change the zoning of the adjoining southern properties from R2 – Low Density Residential to R4 – High Density Residential with the maximum building height increased from 9m to 13m, the storey limit increased from two storeys to four storeys and the FSR increased from 0.5:1 to 1:1.</p> <p>The development provides for a built form that is not inconsistent with the height limit of the current Local Environment Plan and is well under the proposed height limit and floor space ratio of the Draft Consolidated Local Environmental Plan. The development is therefore consistent with Council's longer term strategic vision for the site and future desired character of the area. The 'design of the development' is therefore considered to be compatible with the local area</p>
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### ***State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017***

The table below provides a summary of the controls set out in *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017* with regard to this development:

CONTROL	COMMENT/COMPLIANCE
<b>Clause 23 Centre-based child care facility-matters for consideration</b> <i>Before determining a development application for the purpose of a centre-based child care facility, the consent authority must take into consideration any applicable provisions of the Child Care Planning Guideline, in relation to the proposed development</i>	
<b>Part 3 – Matters for consideration</b>	
<b>3.1 Site selection and location</b>  C1 – To ensure that appropriate zone considerations are assessed when selecting a site  C2 – To ensure that the site selected for a proposed child care facility is suitable for the use  C3 – To ensure that sites for child care facilities are appropriately located  C4 – To ensure that sites for child care facilities do not incur risks from environmental, health or safety hazards	Yes. The proposal meets the requirements of these clauses.
<b>3.2 Local character, streetscape and the public domain interface</b>  C5 – To ensure that the child care facility is compatible with the local character and surrounding streetscape  C6 – To ensure clear delineation between the child care facility and public spaces C7 – To ensure the site is legible for visitors and children on sites with multiple entries/buildings  C8 – where development adjoins public carparks, open space or bushland, the facility should provide an appealing streetscape frontage  C9 – 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 Further info required  C10 – To ensure adequate fencing when facing a classified road	Yes. The proposal meets the requirements of this clause.  Yes. The proposal meets the requirements of this clause. Yes. The proposal meets the requirements of this clause.  N/A  N/A no front fence proposed.  N/A

<p><b>3.3 Building orientation, envelope and design</b></p> <p>C11 – To respond to the streetscape and site, while optimising solar access and opportunities for shade</p> <p>C12 – To ensure that the scale of the child care facility is compatible with adjoining development and the impact on adjoining buildings is minimised</p> <p>C13 – To ensure that setbacks from the boundary of a child care facility are consistent with the predominant development within the immediate context</p> <p>C14 – To ensure prevailing setbacks are used on residential land</p> <p>C15 – To ensure that the built form, articulation and scale of development relates to its context and buildings are well designed to contribute to an area’s character</p> <p>C16 – To ensure that buildings are designed to create safe environments for all users</p> <p>C17 – To ensure that child care facilities are designed to be accessible by all potential users</p>	<p>Yes. The proposal meets the requirements of these clauses.</p>
<p><b>3.4 Landscaping</b></p> <p>C18 – To provide landscape design that contributes to the streetscape and amenity.</p> <p>C19 – To ensure landscape is incorporated into car parking design</p>	<p>Yes. The proposal meets the requirements of this clause.</p> <p>N/A (basement car park proposed).</p>
<p><b>3.5 Visual and acoustic privacy</b></p> <p>C20 – To protect the privacy and security of children attending the facility</p> <p>C21 – To minimise direct overlooking from public places</p> <p>C22 – To minimise impacts on privacy of adjoining properties.</p> <p>C23 – To minimise the impact of child care facilities on the acoustic privacy of neighbouring residential developments.</p> <p>C24 – To ensure an acoustic report is submitted</p>	<p>Yes. The proposal meets the requirements of these clauses. An acoustic report has been reviewed by Council’s Environmental Health Officer’s who concurred with the conclusion and recommendations of the report – which will form conditions of consent.</p>
<p><b>3.6 Noise and air pollution</b></p> <p>C25 – To ensure that outside noise levels on the facility are minimised to acceptable levels.</p>	<p>Yes. The proposal meets the requirements of this clause.</p>

<p>C26 – To ensure an acoustic report determines noise levels for sleeping areas.</p> <p>C27 – 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</p> <p>C28 – To ensure (where necessary) an air quality report is prepared</p>	<p>The site is not located in close proximity to external sources of air pollution such as major roads or industrial developments.</p> <p>The preparation of an air quality report was not considered to be necessary for this particular proposal.</p>
<p><b>3.7 Hours of operation</b></p> <p>C29 – To minimise the impact of the child care facility on the amenity of neighbouring residential developments</p> <p>Hours of operation within areas where the predominant land use is residential should be confined to the core hours of 7.00am and 7.00pm on weekdays. The hours of operation of the proposed child care facility may be extended if it adjoins or is adjacent to non-residential land uses.</p> <p>C30 – To ensure appropriate hours within mixed-use developments</p>	<p>Yes. The proposed hours of operation are 7.00am-7.00pm Monday to Friday which is considered appropriate to the development, given the context of the site.</p>
<p><b>3.8 Traffic, parking and pedestrian circulation</b></p> <p>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.</p> <p>C32 – In commercial developments, on street parking may only be considered where there are no conflicts with adjoining uses, that is, no high levels or vehicle movements or potential conflicts with trucks and large vehicles.</p> <p>C33 – To ensure a traffic and parking study is prepared</p> <p>C34 – To provide vehicle access from the street in a safe environment that does not disrupt traffic flows</p> <p>C35 – To ensure safe access on cul-de-sacs or narrow lanes</p> <p>C36 – To provide a safe and connected environment for pedestrians both on and around the site</p> <ul style="list-style-type: none"> <li>• Separate pedestrian access from the car park to the facility</li> <li>• Defined pedestrian crossing included within larger car parking areas.</li> <li>• Pedestrian path that enable two prams to pass each other</li> <li>• In commercial or industrial zones and mixed use developments, the path of travel from the car parking</li> </ul>	<ul style="list-style-type: none"> <li>• BDCP 2015 – Part 5 Parking requires 1 car parking space per 4 children. As the child care centre will cater for 38 children, 9.5 car parking spaces are required. The development proposes to dedicate 14 car parking spaces to the child care centre portion of the development.</li> <li>• The proposed development does not rely upon street parking to meet the parking demands generated by the development. The child care centre portion of the development requires 9.5 car parking spaces, however 14 spaces are proposed to be dedicated to the exclusive use of the child care centre. This includes drop-off/pick-up spaces for parents/carers.</li> <li>• A traffic report was prepared and submitted with the development application. Council's traffic department reviewed the proposal</li> </ul>



<p>to the centre entrance physically separated from any truck circulation or parking areas.</p> <ul style="list-style-type: none"> <li>• Vehicles can enter and leave the site in a forward direction</li> </ul> <p>C37 – To ensure adequate access in mixed-use developments</p> <ul style="list-style-type: none"> <li>• Driveway access, maneuvering areas and car parking areas for the facility that are separate to parking and maneuvering areas used by trucks.</li> <li>• Drop off and pick up zones that are exclusively available for use during the facility's operating hours with spaces clearly marked accordingly, close to the main entrance and preferably at the same floor level. Alternatively, direct access should avoid crossing driveway or maneuvering areas used by vehicles accessing other parts of the site</li> <li>• Parking should be separate from other uses, located and grouped together and conveniently located near the entrance or access point to the facility.</li> </ul> <p>C38 – To ensure safe car parking design Car parking design should:</p> <ul style="list-style-type: none"> <li>• include a child safe fence to separate car parking areas from the building entrance and play areas</li> <li>• provide clearly marked accessible parking as close as possible to the primary entrance to the building in accordance with appropriate Australian Standards</li> </ul> <p>include wheelchair and pram accessible parking</p>	<p>and the report and consider the development to be satisfactory in this regard, subject to standard conditions of consent.</p> <ul style="list-style-type: none"> <li>• There is a dedicated lift adjacent to the parent/carer drop off/pick up spaces within the car park directly into the child care centre.</li> <li>• A condition of consent will be imposed that require line marking and a dedicated pathway to the child care centre lift within the basement.</li> <li>• The ramp at the front of the child care centre is 1.2m wide. The standard width of a pram is 550mm. There is sufficient space for two prams to pass.</li> <li>• All vehicles can enter and exit the basement car parking area in a forward direction.</li> </ul>
<b>Part 4 – Applying the National Regulations to the development</b>	
<p><b>4.1 Indoor space requirements (Regulation 107)</b></p> <ul style="list-style-type: none"> <li>• A minimum of 3.25m<sup>2</sup> of unencumbered indoor space must be provided per child</li> <li>• A minimum of 0.2m<sup>3</sup> indoor storage spaces is required per child</li> </ul>	<p>Yes, the development complies with the minimum indoor space requirements per child: Required: 38 children x 3.25m<sup>2</sup> = 123.5m<sup>2</sup> Provided: 124m<sup>2</sup></p> <p>Yes, the development complies with the minimum indoor storage requirements per child Required: 38 children x 0.2m<sup>3</sup> = 7.6m<sup>3</sup> Provided: 48m<sup>3</sup></p>
<p><b>4.2 Laundry and hygiene facilities (Regulation 106)</b> The proposed development includes laundry facilities or access to laundry facilities OR explain the other arrangements for dealing with soiled clothing, nappies and</p>	<p>Yes. The proposal is consistent with this clause.</p>

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	
<b>4.3 Toilet and hygiene facilities (Regulation 109)</b> 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.	Yes. The proposal is consistent with this clause.
<b>4.4 Ventilation and natural light (Regulation 110)</b> 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>	Yes. The proposal is consistent with this clause.
<b>4.5 Administrative space (Regulation 111)</b> 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	Yes. The proposal is consistent with this clause.
<b>4.6 Nappy change facilities (Regulation 112)</b> 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. The proposed nappy change facilities can be designed and located in a way that prevents unsupervised access by children.	Yes. The proposal is consistent with this clause.
<b>4.7 Premises designed to facilitate supervision (Regulation 115)</b> 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.	Yes. The proposal is consistent with this clause.
<b>4.8 Emergency and evacuation procedures (Regulations 97 and 168)</b> An emergency and evacuation plan should be submitted to a development application with considers evacuation, assembly points, supervision and staff ratios during an evacuation	Yes. An emergency and evacuation plan was submitted as part of the assessment process and is consistent with this clause.
<b>4.9 Outdoor space requirements (Regulation 108)</b> A minimum of 7m <sup>2</sup> of unencumbered outdoor play space is to be provided per child	Yes, the development complies with the minimum outdoor space requirements per child

	Required: 38 children x 7m <sup>2</sup> = 266m <sup>2</sup> Provided: 311m <sup>2</sup>
<b>4.10 Natural environment (Regulation 113)</b> The proposed development includes outdoor spaces that will allow children to explore and experience the natural environment.	Yes. The proposal is consistent with this clause.
<b>4.11 Shade (Regulation 114)</b> The proposed development includes adequate shaded areas to protect children from overexposure to ultraviolet radiation from the sun.	Yes. The proposal is consistent with this clause.
<b>4.12 Fencing (Regulation 104)</b> 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. Note: This clause does not apply to a centre-based service primarily for children over preschool age or a family day care residence or venue for over preschool age children.	Yes. The proposal is consistent with this clause.
<b>4.13 Soil assessment (Regulation 25)</b> A soil assessment is required to be submitted with the development application	A preliminary site investigation report was prepared and submitted to Council as part of the assessment process.  Council's Environmental Health Officers support the recommendations of the site contamination report (prepared by Envirotech Consulting Group titled, "Phase 1 Preliminary Environmental Site Assessment with Limited Sampling, 7-9 Macarthur Avenue, Revesby NSW 2122, reference: REP-19-8593-A, dated 17 September 2019) which forms part of the development consent.  The subject site is considered suitable for the proposed development.
<b>Clause 25 Centre-base child care facility – non-discretionary development standards</b>	
<b>Location</b> (2)(a) location—the development may be located at any distance from an existing or proposed early education and care facility,	Yes.
<b>Indoor or outdoor space</b> (2)(b) indoor or outdoor space (i) for development to which regulation 107 (indoor unencumbered space requirements) or 108 (outdoor unencumbered space requirements) of the <i>Education and Care Services National Regulations</i> applies—the	Yes. Complies.  <u>Indoor play space</u>  Required:

<p>unencumbered area of indoor space and the unencumbered area of outdoor space for the development complies with the requirements of those regulations, or</p> <p>(ii) for development to which clause 28 (unencumbered indoor space and useable outdoor play space) of the <i>Children (Education and Care Services) Supplementary Provisions Regulation 2012</i> applies—the development complies with the indoor space requirements or the useable outdoor play space requirements in that clause.</p>	<p><math>3.25\text{m}^2</math> per child <math>\times 38 = 123.5\text{m}^2</math></p> <p>Provided: <math>124\text{m}^2</math></p> <p><u>Outdoor play space</u></p> <p>Required:</p> <p><math>7\text{m}^2</math> per child <math>\times 38 = 266\text{m}^2</math></p> <p>Provided: <math>311\text{m}^2</math></p>
<p><b>Site area and site dimensions</b></p> <p>(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,</p>	<p>The site and has an area of <math>989.7\text{m}^2</math> and frontage of <math>23.93\text{m}</math> which is sufficient to accommodate a child care facility development</p>

### ***Bankstown Local Environmental Plan 2015***

The following clauses of the Bankstown Local Environmental Plan 2015 were taken into consideration:

- Clause 1.2 – Aims of Plan
- Clause 2.1 – Land use zones
- Clause 2.2 – Zoning of land to which Plan applies
- Clause 2.3 – Zone objectives and Land Use Table
- Clause 2.7 – Demolition requires development consent
- Clause 4.3 – Height of buildings
- Clause 4.4 – Floor Space Ratio
- Clause 6.2 – Earthworks
- Clause 6.8 – Special provisions applying to centre-based child care facilities

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

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

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

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

- (a) *to manage growth in a way that contributes to the sustainability of Bankstown, and minimizes the needs and aspirations of the community,*

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

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

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

The site is located in the B2 Local Centre zone, in which development for the purposes of a 'boarding house', 'centre-based child care facility' and 'shop top housing' is permitted. Moreover, the proposal is consistent with the objectives of the B2 zone, being:

- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*
- *To encourage employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*
- *To provide for certain residential uses that are compatible with the mix of uses in local centres.*

Comment: The proposal remains consistent the objectives of the B2 land use zone.

#### Clause 4.3 Height of buildings

The subject site has a prescribed height of 14m in accordance with the LEP Height of Buildings Map. The proposed development does not exceed 14m in height.

Clause 4.4 Floor space ratio

In accordance with BLEP 2015 Floor Space Ratio Map, the maximum permitted floor space ratio for the subject site is 1:1. However, the proposal is afforded with an additional bonus floor space of 0.5:1 under Clause 29(1)(c)(i) of *SEPP (Affordable Rental Housing) 2009*. The proposed FSR for the development is 1.45:1 and is therefore compliant with the maximum floor space ratio for this development which is 1.5:1.

Clause 6.2 Earthworks

In accordance with clause 6.2, in deciding whether to grant development consent for earthworks (or for development involving ancillary earthworks), Council must consider the following matters:

- a) *the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,*
- b) *the effect of the development on the likely future use or redevelopment of the land,*
- c) *the quality of the fill or the soil to be excavated, or both,*
- d) *the effect of the development on the 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 proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,*
- h) *any appropriate measures proposed to avoid, minimize or mitigate the impacts of the development.*

The development is not considered to be inconsistent with this clause.

Clause 6.8 – Special provisions applying to centre-based child care facilities

Clause 6.8 provides as follows:

*Despite any other provision of this Plan, development consent must not be granted for the purpose of a centre-based child care facility on land if the vehicular access to that land is from—*

- (a) a classified road, or*
- (b) a cul-de-sac road or a road where the carriageway between kerbs is less than 10 metres.*

Macarthur Avenue is not a classified road or a cul-de-sac, and has a carriage width that is greater than 10m.

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

The following draft environmental planning instrument applies to this development.

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

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

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

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

The following section provides assessment and compliance tables with a summary of the development application against the applicable controls contained within Bankstown Development Control Plan 2015 - Part A1 Centres, Part B2 Commercial Centres, Part B5 – Parking and Part B6 Child Care Centres. It is noted that BDCP 2015 - Part A1 will prevail if there is an inconsistency with any other development controls contained within the DCP.

#### **PART A1 – CENTRES**

The below table provides a summary of the development controls contained within Section 3 of BDCP 2015 – Part A1 Centres:

<b>BANKSTOWN DEVELOPMENT CONTROL PLAN</b>	
<b>PART A1 – CENTRES</b>	
<b>CONTROL</b>	<b>COMPLIES?/COMMENT</b>
<p>This section is based on the Bankstown Housing Strategy (1997) and the Revesby Village Masterplan (2001), which Council adopted to guide development in the Revesby village centre. The masterplan sets the desired character and provisions to achieve the design outcomes which are consistent with Council's vision, namely:</p> <ul style="list-style-type: none"> <li>(a) To have a strong and 'individual' character that is reflected through residential design cohesion, community artworks and active public domain spaces.</li> <li>(b) To have a variety of housing types ranging from dwelling houses to shop top housing.</li> <li>(c) To have a range of facilities that are complemented by entertainment and recreation areas. The streets in the retail centre will evolve in a way that encourages pedestrian activity and vitality. Inclusion of consistent and themed paving, street furniture and landscaping will enrich the visual amenity of the environment, particularly for pedestrians.</li> <li>(d) To have safe and accessible vehicular movements and car</li> </ul>	<p>Yes. The development is consistent with the design outcomes provided in Section 3 of BDCP 2015 – Part A1.</p>



<p>parking in the retail centre. The continuity of street level shopping will be retained in new development. Outdoor cafes, portable market stalls, artworks, shelters and other public amenities will be abundant, particularly in the retail centre.</p> <p>(e) To have a safe and visually interesting environment that enables pedestrians to move easily between the part of Revesby village centre to the north of the railway and the part to the south of the railway.</p> <p>(f) To have residential streetscape treatments that provide for the creation of safe and attractive environments that reinforce the village theme. Retention of existing street trees and additional planting of theme trees will be encouraged.</p> <p>(g) To have new architectural styles that 'fit' with surrounding buildings. The character and diversity of the residential areas will be enriched by retaining historic elements (facades), incorporating community artworks and providing visually enticing public open spaces.</p>	
<p>The desired character specific to Precinct 4B is to have Ray McCormack Reserve function as a public open space for residents in precincts south of the railway line. Its function of providing passive recreation opportunities will be retained.</p> <p>Any development adjacent to Ray McCormack Reserve should address the Reserve and have windows and balconies/verandahs from living areas located on the side of the building that faces the reserve. This will improve the level of casual surveillance and security of the reserve.</p>	<p>Yes. The development is considered to be consistent with the future desired character of Precinct 4B.</p>
<p><b>Storey limit (not including basements)</b></p> <p>3.1 The storey limit within Zone B2 Local Centre is 3 storeys (not including a basement) plus an attic where the building height is 14 metres</p> <p>3.2 Development up to three storeys within Zone B2 Local Centre may contain attics provided:</p> <ul style="list-style-type: none"> <li>a) the pitch of the roof creating the space does not exceed 35 degrees; and</li> <li>b) the gross floor area of the attic does not exceed 60% of the gross floor area of the storey immediately below; and</li> <li>c) one or more dormers may form part of the attic</li> </ul>	<p>No. The height limit for this site is 14m and the development proposes a four storey building. The proposal does not technically meet this control as the fourth floor is not designed as an attic. See comment below</p>

As the above table demonstrates, the proposal is seeking a variation to the number of storeys specified in clause 3.1 of BDCP 2015 – Part A1.



## Number of storeys

With regard to the current development controls, BDCP 2015 – Part A1 permits three storeys plus an attic above for this site. Specifically, Clause 3.1 of BDCP 2015 – Part A1 provides as follows:

*3.1 The storey limit within Zone B2 Local Centre is 3 storeys (not including a basement) plus an attic where the building height is 14 metres*

Although the proposed development complies with the maximum 14m building height (as stipulated under BLEP 2015), the fourth floor is designed as a ‘storey’, not as an ‘attic’. It is considered that an attic style design is not reflective of more recent trends in architecture displayed throughout the Canterbury Bankstown area.

It is noted that at the Canterbury Bankstown Local Planning Panel Meeting held 30 June 2020, the Panel adopted a Planning Proposal as part of the Consolidated Local Environmental Plan which seeks to increase the maximum building height for the subject site from 14m to 20m and the storey limit from three storeys plus an attic to six storeys and to increase the maximum FSR for the site from 1:1 to 3:1. The planning proposal also intends to change the zoning of the adjoining southern properties from R2 – Low Density Residential to R4 – High Density Residential with the maximum building height increased from 9m to 13m, the storey limit from two storeys to four storeys and the FSR to increase from 0.5:1 to 1:1.

Despite the design of the fourth floor, the development is providing for a built form that is not inconsistent with the height limit of the current Local Environment Plan and is well under the proposed height limit within the Draft Consolidated Local Environmental Plan.

A variation to Clause 3.1 of BDCP 2015 – Part A1 is considered worthy of support in this case as the development is consistent with Council’s longer term strategic vision for the site and future desired character of the area. Further, there are no unreasonable adverse impacts (e.g. relating to privacy or solar access) to adjoining properties envisaged as a result of the proposed variation and a better development would not result if strict compliance with this clause is achieved.

## PART B2 – COMMERCIAL CENTRES

As the development application proposes a mixed use development within the B2 Local Centre it is subject to assessment under BDCP 2015 – Part B2 Commercial Centres. The proposals compliance with the controls contained within Part B2 of the BDCP 2015 is detailed in the table below.

PART B2 – COMMERCIAL CENTRES	
CONTROL	COMPLIES?/COMMENT
<b>Section 3 – Village and Small Village Centres</b>	
<b>The objectives are:</b> (a) To have development that is compatible with the desired character and role of the particular centre. (b) To have development that achieves good urban design in terms of building form, bulk, architectural treatment and visual amenity. (c) To have development that provides adequate amenity to people who live in, work in and visit the village centres and small village centres. (d) To ensure the building form and building design of development provide appropriate amenity to neighbouring residential development in terms of access to sunlight and privacy.	Yes. The development meets the objectives provided in Section 3 of BDCP 2015 – Part B2.
<b>Lot width</b> 3.2 The minimum primary frontage for shop top housing and mixed use development with 3 or more storeys is 26 metres. This clause applies to mixed use development that contains dwellings.	No. The development site has a frontage of 23.93m. See comment below.
<b>Storey limit (not including basements)</b> 3.5 The minimum floor to ceiling height for a living area is 2.7 metres.	Yes.
<b>Setbacks to the primary and secondary frontages of allotments</b> 3.6 The minimum setbacks to the primary and secondary frontages of an allotment are: (a) zero setback for the basement level, the first storey (i.e. the ground floor), and the second storey; and (b) 3 metres for the third storey (a balcony may occupy this setback provided the roof or parapet of the second storey screens the balcony when viewed from the street); and (c) 5 metres for the fourth and fifth storeys.	Yes. The development proposes a zero setback to the primary frontage on the ground floor and 4m to all other floors above.
<b>Setbacks to the side and rear boundaries of allotments</b> 3.7 Where development is adjacent to residential zoned land, Council may increase the minimum setbacks to the side and rear boundaries	Yes. The properties to the south are currently zoned R2 – Low Density Residential. Although it is noted that these properties are proposed to be rezoned

<p>3.8 For blank building walls with no window or balcony, the minimum setback to the side and rear boundaries of an allotment is:</p> <ul style="list-style-type: none"> <li>(a) zero setback for all storeys provided the setback is to a boundary that adjoins non-residential zoned land and is not a secondary frontage; or</li> <li>(b) where the setback is to a boundary that adjoins residential zoned land: <ul style="list-style-type: none"> <li>i. zero setback for the basement level, the first storey (i.e. the ground</li> <li>ii. floor), and the second storey; and 5 metres for the third and fourth storeys; and</li> <li>iii. 9 metres for the fifth storey.</li> </ul> </li> </ul> <p>3.9 The maximum depth for cross-through dwellings (i.e. single or dual aspect dwellings where the side building walls do not contain a window or balcony) is 14 metres.</p> <p>3.10 For building walls with a window or balcony in commercial development, shop top housing and mixed use development, the minimum setbacks to the side and rear boundaries of an allotment are:</p> <ul style="list-style-type: none"> <li>(a) 3 metres for the first storey (i.e. the ground floor). Council may allow a setback less than 3 metres provided it complies with the Building Code of Australia; and</li> <li>(b) 3 metres for the second storey; and</li> <li>(c) 5 metres for the third and fourth storeys; and</li> <li>(d) 5 metres for the fifth storey provided the setback is to a boundary that adjoins non-residential zoned land; or</li> <li>(e) 9 metres for the fifth storey where the setback is to a boundary that adjoins residential zoned land.</li> </ul>	<p>under the consolidated LEP to R4 – High Density Residential, the development complies with the building separation requirements of the ADG and provides an additional 3m setback to the current lower density residential development.</p> <p>Yes. The development proposes a zero setback along the east and west boundaries. The adjoining properties are also zoned B2 – Local Centre (non-residential). The rear/south the setbacks (which adjoins residential properties) are a minimum of 6m to a blank wall.</p> <p>Yes. The depth of the dwellings are less than 14m.</p> <p>Yes. No balconies or windows are proposed to the side boundaries, and the balconies to the rear boundary on the top floor are setback 9m to the rear/southern boundary.</p>
<p><b>Setbacks within an allotment</b></p> <p>3.12 The minimum setbacks between two or more habitable buildings on an allotment are:</p> <ul style="list-style-type: none"> <li>(a) 9 metres between the external enclosing walls of dwellings; and</li> <li>(b) 6 metres between the balconies, above ground decks, and the like of dwellings.</li> </ul>	<p>Yes. The minimum separation between habitable rooms are 12m on levels 2 and 3 and 14m on level 4.</p>

<p><b>Building form and design</b></p> <p>3.13 Council applies the design quality principles of State Environment Planning Policy No. 65–Design Quality of Residential Apartment Development and the Apartment Design Guide to residential flat buildings, shop top housing, serviced apartments, boarding houses and mixed use development (containing dwellings). This includes buildings that are two storeys or less, or contain less than four dwellings.</p>	<p>Yes. An assessment of the proposal against the ADG has been provided in an earlier section of this report.</p>
<p><b>Building design (utilities and building services)</b></p> <p>3.17 The location and design of utilities and building services (such as plant rooms, hydrants, equipment and the like) must be shown on the plans.</p> <p>3.18 Utilities and building services are to be integrated into the building design and concealed from public view.</p>	<p>Yes. The proposed development is consistent with these clauses.</p>
<p><b>Section 5 – Building Design</b></p>	
<p><b>The objectives are:</b></p> <ul style="list-style-type: none"> <li>a) To have high architectural quality in development.</li> <li>b) To encourage building facades and corner allotments to add visual interest to the streetscape.</li> <li>c) To provide pedestrian comfort and protection from the weather.</li> <li>d) To have facade designs and building footprints that integrate into the overall building form and enhance the desired contemporary street character.</li> <li>e) To have a modern and interesting roof skyline.</li> <li>f) To give the Hume Highway the appearance of a business enterprise corridor by creating active business frontages and limiting the domestic appearance of attics.</li> <li>g) To have front fences that achieve an attractive streetscape and incorporate open style construction such as spaced timber pickets or wrought iron.</li> <li>h) To ensure the design of dwellings are adaptable to a number of family types, and cater for senior residents and residents with disabilities.</li> <li>i) To provide adequate amenity to the occupants of buildings and to neighbouring residential development in terms of solar access.</li> <li>j) To provide adequate amenity to the occupants of buildings in terms of open space</li> <li>k) To provide appropriate landscaping in commercial centres.</li> <li>l) To have a landscape buffer zone that encourages deep soil planting to enhance commercial centres or arterial roads.</li> <li>m) To ensure the siting and design of buildings contribute to the personal and property security of people.</li> <li>n) To ensure development is integrated with the public domain and contribute to an active pedestrian</li> </ul>	<p>Yes. The development meets the objectives provided in Section 5 of BDCP 2015 – Part B2.</p>

<p>orientated environment.</p> <p>o) To maximise natural surveillance so that people feel safe at all times.</p> <p>p) To encourage building designs, materials and maintenance programs that reduce the opportunities for vandalism and graffiti.</p>	
<p><b>Façade design</b></p> <p>5.1 Council applies the design quality principles of State Environmental Planning Policy No 65–Design Quality of Residential Apartment Development and the Apartment Design Guide to residential flat buildings, shop top housing, serviced apartments, boarding houses and mixed use development (containing dwellings). This includes buildings that are two storeys or less, or contain less than four dwellings.</p> <p>5.2 Development must articulate the facades to achieve a unique and contemporary architectural appearance that:</p> <p>(a) unites the facades with the whole building form;</p> <p>(b) composes the facades with an appropriate scale and proportion that responds to the use of the building and the desired contextual character;</p> <p>(c) combines high quality materials and finishes;</p> <p>(d) considers the architectural elements shown in the illustration to this clause; and</p> <p>(e) considers any other architectural elements to Council's satisfaction.</p> <p>5.3 Development must architecturally treat blank walls that can be viewed from the street and adjoining residential zoned land by incorporating public art, variation in building materials and/or other architectural design methods which reflect contemporary and interesting design.</p> <p>5.4 The street facade of development on corner allotments should incorporate architectural corner features to add visual interest to the streetscape.</p> <p>5.5 Development should restrict the use of the first storey (i.e. the ground floor) to business, retail or other non–residential uses:</p> <p>(a) to maintain business and retail floor space in the business zones; and</p> <p>(b) to maintain active street frontages in the business zones.</p> <p>5.6 Development in enterprise corridors may have predominantly glazed facades provided it does not cause significant glare nuisance.</p>	<p>Yes. The proposed development is consistent with these clauses.</p>
<p><b>Attic and roof design</b></p> <p>5.10 Development must incorporate a high quality roof design that:</p> <p>(a) achieves a unique and contemporary architectural appearance; and</p> <p>(b) combines high quality materials and finishes.</p> <p>5.11 Council does not allow the following development to have attics:</p>	<p>N/A</p>

<ul style="list-style-type: none"> <li>(a) development with 4 or more storeys in the village, small village and neighbourhood centres that adjoin the Hume Highway; or</li> <li>(b) development in the enterprise corridors (this does not include residential development up to 2 storeys at the rear of an allotment).</li> </ul>	
<p><b>Adaptable housing</b></p> <p>5.12 Residential flat buildings, mixed use development and shop top housing that contain 10 or more dwellings must provide:</p> <ul style="list-style-type: none"> <li>(a) at least one adaptable dwelling plus an adaptable dwelling for every 50 dwellings; and</li> <li>(b) must comply with AS 4299–Adaptable Housing.</li> </ul>	<p>Yes. Dwelling 403 is designed as an adaptable dwelling.</p>
<p><b>Awnings</b></p> <p>5.13 A traditional box awning must be provided continuously along retail streets to provide pedestrian shelter to footpaths. Council may allow an awning other than a traditional box awning where it considers:</p> <ul style="list-style-type: none"> <li>(a) the awning design to be an integral feature of the building design; and</li> <li>(b) the awning design does not contain finishes susceptible to degradation (such as glazing material) that result in an unacceptable visual impact on the streetscape.</li> </ul> <p>Council does not support cut outs in awnings for trees and light poles.</p> <p>5.14 The height of an awning should:</p> <ul style="list-style-type: none"> <li>(a) match the height of an adjoining or nearby awning; and</li> <li>(b) have a consistent fascia height to accommodate a sign.</li> </ul> <p>5.15 Development may incorporate an awning design in the enterprise corridors that:</p> <ul style="list-style-type: none"> <li>(a) achieves a unique and contemporary architectural appearance; and</li> <li>(b) combines high quality materials and finishes.</li> </ul>	<p>Yes. The proposed development is consistent with these clauses.</p>
<p><b>Access to sunlight</b></p> <p>5.23 The living areas for at least 70% of dwellings in a development must receive a minimum sum of 3 hours of sunlight between 8.00am and 4.00pm at the mid– winter solstice. Council may allow light wells and skylights to supplement access to sunlight. However, these building elements must not be the primary source of sunlight to living areas.</p> <p>This clause applies to development that contain two or less storeys, or three or less dwellings such as shop top housing, mixed use development and residential flat buildings.</p> <p>5.24 The living areas of a dwelling on an adjoining allotment must receive a minimum sum of 3 hours of sunlight between 8.00am and 4.00pm at the mid–winter solstice. Where this</p>	<p>Yes. The proposed development is consistent with this clause as all three dwellings on the top floor receive 3 hours solar access between 8.00am and 4.00pm during mid-winter.</p> <p>It is noted that this clause does not apply to boarding rooms.</p> <p>Each of the adjoining low density residential properties to the south and the existing</p>

<p>requirement cannot be met, the development must not result with additional overshadowing on the affected living areas of the dwelling.</p>	<p>residential apartment located on the upper floor of the commercial development to the west maintain 3 hours solar access to a living area during mid-winter.</p>
<p><b>Entrances</b></p> <p>5.28 The main entrance or entrances to development must face the street.</p> <p>5.29 Access to the dwelling of shop top housing, mixed use development and residential flat buildings must be from the street. This may be provided: as a passage or stairway that is separate to the non-residential area in the building;</p>	<p>Yes. The proposed development is consistent with these clauses.</p>
<p><b>Building Design and natural surveillance</b></p> <p>5.31 Windows to the living areas of front dwellings, or the windows on the upper floors of development must overlook the street.</p> <p>5.32 Where the ground floor of development faces the street, the ground floor must incorporate shopfront style windows with clear glazing so that pedestrians can see into the premises and vice versa. The use of obscure or opaque glass, or other types of screening is discouraged.</p>	<p>Yes. The proposed development is consistent with these clauses.</p>
<p><b>Security devices for commercial development</b></p> <p>5.36 The security door or grille to a shopfront facing the street must be transparent or an open grille type shutter. A solid roller door or shutter is not permitted.</p>	<p>Yes. The proposed development is consistent with these clauses.</p>
<p><b>Security devices for commercial development</b></p> <p>5.36 The security door or grille to a shopfront facing the street must be transparent or an open grille type shutter. A solid roller door or shutter is not permitted.</p> <p>5.38 In determining a development application that relates to land adjoining land in Zone R2, R3 or R4, Council must take into consideration the following matters:</p> <ul style="list-style-type: none"> <li>(a) whether any proposed building is compatible with the height, scale, siting and character of existing residential development within the adjoining residential zone;</li> <li>(b) whether any goods, plant, equipment and other material used in carrying out the proposed development will be stored or suitably screened from residential development;</li> <li>(c) whether the proposed development will maintain reasonable solar access to residential development between the hours of 8.00am and 4.00pm at the mid-winter solstice;</li> <li>(d) whether noise generation from fixed sources or motor vehicles associated with the proposed development will be effectively insulated or otherwise minimised;</li> <li>(e) whether the proposed development will otherwise cause nuisance to residents, by way of hours of operation, traffic movement, parking, headlight glare,</li> </ul>	<p>Yes. The proposed development is consistent with these clauses.</p>



<p>security lighting, fumes, gases, smoke, dust or odours, or the like; and</p> <p>(f) whether any windows or balconies facing residential areas will be treated to avoid overlooking of private yard space or windows in residences.</p>	
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As the above table demonstrates, the proposal is seeking a variation to the minimum lot width requirement as specified in clause 3.2 of BDCP 2015 – Part B2.

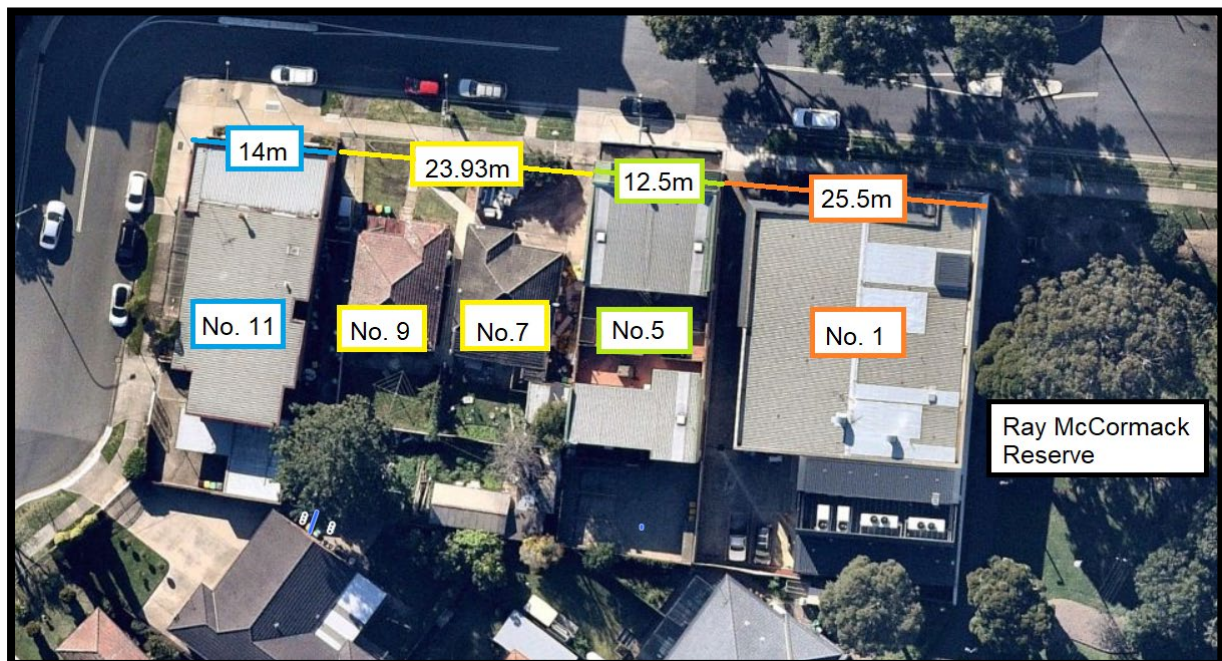
### Lot Width

Clause 3.2 of BDCP 2015 - Part B2 provides as follows:

*3.2 The minimum primary frontage for shop top housing and mixed use development with 3 or more storeys is 26 metres. This clause applies to mixed use development that contains dwellings.*

With the consolidation of two lots (No. 7 and No. 9), the development site has a combined frontage of 23.93m to Macarthur Avenue, which fails to comply with the minimum frontage requirement of 26m – being a shortfall of 2.07m.

The small strip of properties zoned B2 Local Centre on the southern side of Macarthur Avenue (including Nos. 1-3, 5, 7, 9 and 11 Macarthur Avenue) have a combined frontage of approximately 76m to Macarthur Avenue - refer to site plan and photos below.







To require the inclusion of an adjoining lot either to the east (No. 5 Macarthur Avenue with a frontage of approximately 12m) or to the west (No. 11 Macarthur Avenue with a frontage of approximately 14m) to the subject development site in order to achieve numerical compliance, would result in a development site with a primary frontage of approximately 36-38m. A frontage of 36-38m is not considered to be necessary, nor is it considered to result in a better planning outcome for this small strip of business zoned land on the southern side of Macarthur Avenue.

In this regard, each of the adjoining sites are not left isolated by the proposed development as they can each be developed individually in accordance with Council's development controls. Specifically, Clause 3.1 of BDCP 2015 – Part B2 requires a 6m frontage for a commercial development, shop top housing or mixed use development with two or more storeys and each of the adjoining sites to the east and west have a frontage of more than 6m. Clause 3.1 of BDCP 2015 – Part B2 provides as follows.

*3.1 The minimum primary frontage for commercial development, shop top housing containing a single dwelling), and mixed use development (that do not contain dwellings) with 2 or more storeys is 6 metres.*

Further, it is noted that the two properties that form the development site (i.e. No. 7 and No. 9) still contain single storey cottages from the original subdivision, while the adjoining properties have been subsequently redeveloped with two storey commercial buildings (and residential on the upper floor of No. 5 and No. 11). The approval of the subject development application (and the variation to lot width) will be an opportunity to see these properties redeveloped to a scale that is more consistent with the B2 Local Centre zone and Council's desired character of the area.

The development provides for an appealing presentation to the street (as shown in the streetscape perspective provided earlier in this report) and for a functional design that would not noticeably be improved with an additional 2.07m frontage. In the absence of any likely impacts resulting from the non-compliant primary frontage, a variation to this control is considered acceptable given the circumstances of this case and context of the adjoining developments and locality.

## **PART B6 – CHILD CARE CENTRES AND PART B5 - PARKING**

The Child Care Planning Guideline states that *“The SEPP generally provides that Development Control plans seeking to regulate development for a child care facility will not apply, except for controls relating to building height, rear and side setbacks and car parking rates”*. Please refer to the table below which gives a summary of the developments compliance with building height, rear and side setbacks and car parking rates.

Control	Complies/comment
<b>Building height</b>	Maximum building height is set out in Bankstown Local Environmental Plan 2015 at 14m for this site. The development complies with that requirement.
<b>Rear and side setbacks</b>	Side and rear setbacks have been discussed in other relevant sections earlier in this report.  In this regard, as this site is located in the B2 Local Centre zone, the setbacks that apply to this development and this site is stipulated in BDCP 2015 – Part B2 Commercial Centres (not Part B6 Child Care Centres) and also the Apartment Design Guide.
<b>Car parking rates</b>	The minimum car parking rates for child care centres are stipulated in BDCP 2015 – Part B5 Parking, which requires a minimum of 4 car parking spaces to be provided per 4 children. The centre proposes to cater for 38 children, and as such requires 9.5 car parking spaces to be provided. The development complies with this requirement as it proposes to allocate 14 car parking spaces to be dedicated for exclusive use by the child care centre.

The proposed development is otherwise not inconsistent with the remaining provisions of Bankstown Development Control Plan 2015 – Part B6 Child Care Centres and Part B5 - Parking.

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

There are no planning agreements applicable to the proposed development.

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

The proposed development is not inconsistent with the relevant provisions of the *Environmental Planning and Assessment Regulation, 2000* and the *Education and Care Services National Regulations*.

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

The proposed development is not considered likely to result in any significant detrimental environmental, social or economic impacts on the locality. As detailed in this report, where non-compliances with the relevant development controls are proposed, they are considered to be reasonable and justified in this case. 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 site is considered suitable for the development as proposed. The proposed development results in an appropriate built form for the site which is consistent with the longer term desired future character illustrated in Bankstown Development Control Plan 2015, Bankstown Local Environmental Plan 2015 and the draft Canterbury Bankstown Consolidated Local Environmental Plan 2020.

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

The application was notified on two (2) separate occasions. During the notification periods ten separate submissions were received from seven (7) authors, outlining the following concerns:

- **Overdevelopment**

The question of whether the development is an ‘overdevelopment’ is largely governed by the proposal’s compliance with the maximum permitted height and floor space ratio, the retention of the amenity to the adjoining properties (and residents) and the delivery of a quality built form.

As discussed earlier in this report, the proposed development complies with the current maximum permitted height of 14m and the maximum floor space ratio for this type of development. The development generally meets the standards contained within the relevant policies and is consistent with Council’s long term desired character of the area and the objectives of the zone.

With regard to the longer term desired character of the area, it is noted that at the Canterbury Bankstown Local Planning Panel Meeting held 30 June 2020, the Panel adopted a Planning Proposal as part of the Consolidated Local Environmental Plan which intends to increase the maximum building height for the subject site from 14m to 20m and the storey limit from three storeys plus an attic to six storeys and to increase the maximum FSR for the site from 1:1 to 3:1. The planning proposal also intends to change the zoning of the adjoining southern properties from R2 – Low Density Residential to R4 – High Density Residential with the maximum building height increased from 9m to 13m, the storey limit increased from two storeys to four storeys and the FSR increased from 0.5:1 to 1:1.

The development provides for a built form that is not inconsistent with the height limit of the current Local Environment Plan and is well under the proposed height limit and floor space ratio of the Draft Consolidated Local Environmental Plan. The development is therefore consistent with Council’s longer term strategic vision for the site and future desired character of the area and is not considered to be an over development of the site. Further, it is not anticipated that the development will result in any unreasonable adverse impacts to adjoining properties.

- **Safety - increase in crime and anti-social behaviour and long term management of the boarding rooms and Council monitoring**

There are no particular design aspects of this development that would suggest that following the construction and the building being occupied, that the development will result in an increase in crime in the area.

Council's safety officer has reviewed the proposal and considers the application to be acceptable subject to conditions of consent. The assessment of the application included review of the plan of management for the boarding house which, amongst other things, detailed the handling of complaints, the 'house rules', visitors to the site and detailed the responsibilities of the lodgers and caretaker/manager. Specifically, the plan of management states that *'The site management will be responsible for the logging of any complaints in a "Complaints and Incident Register" and the resolution of those complaints which is also to be documented. The Complaints and Incidence Register will be made available immediately upon demand at the request of Council and/or the Police.'*

- **No need for boarding houses at this location (no demand/over supply)**

Boarding houses are a permissible form of development within the B2 Local Centre zone. Further, the site is located within an 'accessible area' and therefore the development meets the requirements to be considered under the provisions of *State Environmental Planning Policy (Affordable Rental Housing) 2009*. In this regard, an accessible area means land that is within:

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

It is noted that there are no specific controls to limit the supply of additional affordable rental housing, rather the relevant policies encourage a range of housing types including boarding houses and affordable rental housing. In this regard, *State Environmental Planning Policy (Affordable Rental Housing) 2009* (ARHSEPP) aims to *'facilitate the effective delivery of new affordable rental housing by providing incentives by way of expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards'*.

- **Insufficient indoor and outdoor space for two lodgers within a boarding room**

Each of the boarding rooms meet the minimum requirements for indoor and outdoor space contained within *State Environmental Planning Policy (Affordable Rental Housing) 2009*.

- **Inadequate parking**

As discussed in earlier sections of this report, the development meets the minimum car parking requirements for the development types proposed. In total, 29.4 car parking spaces are required for the development, and 33 spaces have been provided, as follows:

Boarding house

Required: 16 spaces

Provided: 16 spaces

Child care centre

Required: 9.5 spaces

Provided: 14 spaces

Apartments

Required: 3.9 spaces

Provided: 4 spaces

- **Traffic – surrounding streets do not have capacity to accommodate any increase in traffic from the development**

The proposed development has been reviewed by Council's Traffic Department. In this regard, it is considered that Macarthur Avenue and the surrounding street network has sufficient capacity to accommodate any potential additional traffic that is generated by the proposed development.

- **A development this size should have multiple vehicle access points (only one is provided)**

One vehicle access point for the proposed development is considered to be acceptable from both a functionality point of view and a design/streetscape perspective. In this regard, the design guidance under Objective 3H-1 of the Apartment Design Guide states that '*The width and number of vehicle access points should be limited to the minimum*'. Further, Council's engineers have assessed the proposal against the relevant Australian Standards and have found the vehicular access driveway to be satisfactory.

- **Fire safety**

The development will meet the applicable fire rating standards as contained in the Building Code of Australia and the relevant Australian Standards. Such details will be required to accompany the Construction Certificate application. There is no evidence to suggest that the development cannot be capable of meeting these requirements.



- **Privacy**

The building separation between the proposed building and the existing adjoining dwellings and the proposed privacy screening (particularly along the rear boundary) is considered to be satisfactory in meeting the objectives and development controls stipulated in the various policies (as outlined in earlier sections of this report) with regard to privacy. In this regard, the proposed development achieves reasonable levels of internal and external visual privacy for the occupants of both the existing adjoining dwellings and for the future occupants of the proposed development. No unreasonable adverse privacy impacts are envisaged to result from the proposed development.

- **Noise**

An acoustic report was prepared and submitted for the proposed development that detailed the development's impact on the adjoining properties in relation to noise. During the assessment process, Council's Environmental Health Officers reviewed the proposal and the associated acoustic report. The acoustic assessment found that the development is considered satisfactory subject to standard conditions of consent. The conditions of consent will ensure that prior to the issue of the occupation certificate that all design recommendations of the acoustic report are incorporated into the building. Further, a subsequent condition of consent will require that the ongoing management of the development will be consistent with the recommendations of the acoustic report.

- **Reduction in property values**

No evidence substantiating the claim that the development will devalue the adjoining properties has been submitted to Council. In any case, the issue of property values and the factors that either contribute to increasing or reducing property values is outside the scope of the development assessment process.

- **Solar access**

As discussed earlier in this report, with regard to solar access to the existing adjoining residential properties, the development complies with the requirements of BDCP 2015 – Part B2 Commercial Centres and exceed the minimum requirements of the Apartment Design Guide. The amenity maintained to the adjoining properties is considered to be acceptable in this regard.

- **Boarding houses are cheap housing and generally attract similar socioeconomically aligned members of society**

There is no evidence to suggest that the proposed development will result in any direct increase in crime or anti-social behaviour in the locality.

- **There are numerous child care centres nearby – there is no need for another one here.**

The provision of several child care centres within close proximity is one that is driven by market forces and is outside the scope of the development assessment process. In this regard, in relation to the location of child care centres, Clause 25(a) of *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017* states 'the development may be located at any distance from an existing or proposed early education and care facility'.

- **Not a suitable mix (boarding house and childcare centre)**

A boarding house is considered to be a typical form of residential accommodation and is not considered to be a land use that is incompatible with a child care centre.

- **Boarding house will be used as an Air BNB**

An air BNB falls under the land use definition of 'bed and breakfast accommodation' which is defined as 'dwelling in which temporary or short-term accommodation is provided on a commercial basis by the permanent residents of the dwelling and where'... 'meals are provided for guests only, and cooking facilities for the preparation of meals are not provided within guests rooms, and dormitory-style accommodation is not provided'.

Each of the boarding rooms have their own cooking (and laundry) facilities and there is no evidence to suggest that the rooms will operate as a bed and breakfast. Separate development approval would be required for bed and breakfast accommodation.

### **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 controls contained in the *Bankstown Development Control Plan 2015* and the *Bankstown Local Environmental Plan 2015*, and the requirements of the *Affordable Rental Housing SEPP*. Matters raised in public submissions have been satisfactorily addressed, and it is not considered that there would be any unreasonable impacts on the locality.

### **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 *State Environmental Planning Policy (Affordable Rental Housing) 2009*, *State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (SEPP 65)*, *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017*, *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*, *State Environmental Planning Policy No 55 – Remediation of Land*, *Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment*, *Bankstown Local Environmental Plan*

*2015, the Draft Consolidated LEP 2020 and Bankstown Development Control Plan 2015.*

In this regard, the proposal is generally consistent with the various layers of legislation that applies to the development and any non-compliances have been appropriately justified. The development results in an appropriate built form 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.

Relevant planning controls have been appropriately responded to and no significant or unresolved matters have been raised in the public submissions. Approval of this application would facilitate the provision of mixed use development with a child care facility and affordable housing on a site within an 'accessible area' without having any unacceptable or unreasonable impacts on the surrounding locality.

### **RECOMMENDATION**

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



## CONDITIONS OF CONSENT

- 1) The proposal shall comply with the conditions of Development Consent. A Construction Certificate shall not be issued until the plans and specifications meet the required technical standards and the conditions of this Development Consent are satisfied.
- 2) Development shall take place in accordance with Development Application No.DA-31/2019, submitted by Architecture Becka & Associates, accompanied by the drawings as listed in the table below, and affixed with Council's approval stamp, except where otherwise altered by the specific amendments listed hereunder and/or except where amended by the conditions contained in this approval.

Drawing No.	Drawing Title	Dated	Prepared by
DA102	Site/Roof Plan	14/07/2020	Architecture Becka & Associates
DA103	Basement Plans Ramp/Section		
DA104	First Floor Plan (Ground Floor) – Commercial		
DA105	Second & Third Floor Plan – Boarding Rooms		
DA106	Fourth Floor Plan - Apartment		
DA107	Elevations		
DA108	Sections		
LS-1	Landscape Technical Specifications	15/07/2020	Treecas
LS-2	Landscape Plans First and Second Floors		
LS-3	Landscape Plans Third and Fourth Floors		

- 3) The Plan of Management for the child care centre dated 12 September 2019 Amendment A and the Plan of Management for the boarding house dated 13 July 2020 Amendment A are approved and form part of this development consent.
- 4) The premises must comply with the requirements of:
  - a) Local Government (General) Regulation 2005, Schedule 2, Part 1 Standards for places of shared accommodation;
  - b) Boarding Houses Act 2012; and
  - c) Boarding Houses Regulation 2013.
- 5) The acoustic report submitted in support of this application, prepared by Koikas Acoustics Pty Ltd titled '*Acoustical Report, Proposed Mixed-Use Development* reference number: 3674R20190408pd7-9MacarthurAveRevesby, dated 7 May 2019 and recommendations forms part of the development consent.

- 6) The site contamination report submitted in support of this application prepared by Envirotech Consulting Group titled, *"Phase 1 Preliminary Environmental Site Assessment with Limited Sampling, 7-9 Macarthur Avenue, Revesby NSW 2122"*, reference: REP-19-8593-A, dated 17 September 2019 and recommendations in section 10.3 of the report forms part of the development consent.
- 7) Any activity carried out in accordance with this approval shall not give rise to offensive odour, offensive noise or pollution of air, land or water as defined in the *Protection of the Environment Operations Act 1997* and Regulations.
- 8) No external signage is approved under this development consent. External signage details must have approval prior to installation, unless the signage is exempt development.

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

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

- 9) Prior to demolition, the entire site (includes 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 contained within this report 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**.
- 10) 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.
- 11) The Certifying Authority must ensure that any certified plans forming part of the Construction Certificate are not inconsistent with this Development Consent and accompanying plans.
- 12) Landscaping shall be installed in accordance with the approved landscape plan.
- 13) The landscape plan shall include the provision for the replacement of the rear boundary fencing. A new 1.8m fence is to be erected along all side and rear boundaries of the subject allotment at full cost to the developer. The colour of the fence is to complement the development and the fence is to be constructed of lapped and capped timber paling, sheet metal or other suitable material unless the type of material is stipulated in any flood study prepared for the site. The selection of materials and colours of the fence is to be determined in consultation with the adjoining property owners. Fencing

forward of the building line shall be no higher than 1m unless otherwise approved by Council.

- 14) Approval in accordance with Council's Tree Preservation Order (TPO) is granted to lop or remove only the trees identified to be lopped or removed on the approved plans. Separate approval shall be obtained to prune or remove trees on adjoining properties or other trees located on the site. Failure to comply with Council's TPO may result in a fine of up to \$100,000.
- 15) A soil erosion and sediment control plan must be prepared by a suitably qualified professional, in accordance with Council's Demolition and Construction Guidelines and Council's Development Engineering Standards, and submitted to the certifying authority for approval prior to the issue of a construction certificate.
- 16) The Council Approved building plans, including demolition plans, must be submitted to Sydney Water for assessment. This will determine if the proposed structure(s) would affect any Sydney Water infrastructure or if there are additional requirements. Building plan approvals can be submitted online via Sydney Water Tap in™.

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

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

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

- 17) A Construction Certificate shall not be issued until written proof that all bonds, fees and/or contributions as required by this consent have been paid to the applicable authority.
- 18) A long service levy payment which is 0.35% of the total cost of the work is to be paid to the Building and Construction Industry Long Service Payments Corporation.
- 19) Pursuant to section 4.17 of the Environmental Planning and Assessment Act 1979, and the Bankstown City Council Section 94A Development Contributions Plan 2009 (Section 94A Plan), a contribution of \$46,168.46 shall be paid to Council.

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



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

- 20) A Work Permit shall be *applied* for and obtained from Council for the following engineering works in front of the site, at the applicant's expense:
- a) A heavy duty VFC at the property boundary.
  - b) A new kerb ramp for the bin car route in shall be provided in accordance with the approved plans.
  - c) Drainage connection to Council's system.
  - d) Full width footway paving along the site's entire frontage in accordance with the local Revesby CBD. The new footpath shall be constructed using S-021 'Standard Footpaving Type.
  - e) One street tree is to be provided in the footpath adjoining the development. This tree is to be *Corymbia eximia nana* (common name Yellow Bloodwood) species and minimum 200 litre container size. The planting of this tree is to be carried out upon the completion of construction by contractors (prior to the issue of a work permit compliance certificate) in accordance with council approved standard detail - S-207A 'Standard Tree Planting in type 1 paving'
  - f) Concrete kerb and gutter along the site's entire frontage.
  - g) Removal of all driveway surfaces, reinstatement of laybacks to kerb and gutter and reshaping of the footway, all associated with redundant VFCs.
  - h) Repair of any damage to the public road including the footway occurring during development works.
  - i) 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.

Any works within the public domain (including but not limited to the driveway, footpath, new kerb ramp for bins, street trees) shall be submitted to Council's City Transformation Team with all details and design specification (including pave colour) for approval prior to the issue of a work permit.

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

- 21) The public domain adjacent to the proposed development is to be improved as part of the development. This is to include the installation of new footpath - paving *Type 1* and 1 x street tree located at the eastern end of the footpath using council approved standard details (S-021 'Standard Footpaving Type 1' and S-207A 'Standard Tree Planting in type 1 paving'). No awning or structure is to be built above the street tree pit. The applicant shall submit to the Council City Transformation team all details and

design (including paver colour and specification) for the all works within the public domain areas for approval prior to the issue of a Construction Certificate.

- 22) Finished surface levels of all internal works and at the street boundary, including driveways, landscaping and drainage structures, must be as shown on the approved plans. The levels at the street boundary must be consistent with the Street Boundary Alignment Levels issued by Council.
- 23) Stormwater drainage from the development shall be designed so as to comply with Council's Development Engineering Standards and the requirements of the BASIX Certificate. A final detailed stormwater drainage design shall be prepared by a qualified Professional Civil Engineer in accordance with the above requirements and shall generally be in accordance with the concept stormwater plan No. 26-11-18-D1 to D5, rev D dated 13/3/2020 prepared by Com Construction P/L. The final plan shall be certified by the design engineer that it complies with Council's Development Engineering Standards, the BASIX Certificate and the relevant Australian Standards.
- 24) Where Council approved cut or fill exceeds 200mm and stable batter of 1 vertical to 3 horizontal maximum grade cannot be achieved, then a masonry or other proprietary material retaining wall, intended and suitable for that purpose, shall be constructed within the development site. Note, filling of the site needs specific approval from Council.

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

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

- 25) The layout of the proposed car parking areas associated with the subject development (including, driveways, grades, turn paths, sight distance aisle widths, aisle lengths, and parking bay dimensions shall be in accordance with the Australian Standard AS 2890 parking series.
- 26) An all weather pavement shall be designed to withstand the anticipated wheel loads for all areas subjected to vehicular movements. Internal pavements specification prepared and certified by all qualified professional Civil Engineer to comply with the relevant Australian Standards, shall be submitted to the Principal Certifying Authority (PCA) for approval prior to the issue of a construction certificate.

- 27) The Construction Certificate plans shall include details of the garbage receptacle area. The garbage receptacle area shall not be visible from the street. The garbage receptacle area shall be located within the building or screened from the street by dense landscaping.
- 28) Prior to the issue of any Construction Certificate for this development, the applicant must obtain approval from Council's Traffic Section for a Site, Pedestrian and Traffic Management Plan (SPTMP). This Plan must address the measures that will be implemented for pedestrian safety and traffic management as specified below.

A PRIVATE CERTIFIER CANNOT APPROVE YOUR SITE, PEDESTRIAN & TRAFFIC MANAGEMENT PLAN

This plan shall include details of the following:

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

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

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

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

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

- 29) The pump out drainage system for the access ramp and basement car parking area shall be provided in accordance with Council's Development Engineering Standards. Engineering details and specifications shall be submitted to the Principal Certifying Authority (PCA) for approval prior to the issue of any Construction Certificate.
- 30) Engineering details and manufacturers specifications for the pumps, switching system and sump pit shall be submitted to the Principal Certifying Authority (PCA) for approval prior to issue of any Construction Certificate.
- 31) Prior to the issue of any Construction Certificate for this development, the Principal Certifying Authority must approve a Site Operations Management Plan (SOMP). This Plan must address the measures that will be implemented for the ongoing management of operations on and around the construction site, the protection of adjoining properties, and other requirements as specified below.

This plan shall include details of the following:

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

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

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

- 32) 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.
- 33) For internal driveways with a gradient exceeding 10% (1 in 10), longitudinal profiles of all vehicular driveways and ramps shall be submitted for approval by the Principal Certifying Authority (PCA) prior to the issue of the Construction Certificate. The maximum grade of the driveway/ramp shall not exceed **25%** and shall comply with AS 2890.1. The profile shall be drawn at a reduction ratio of 1 to 25 vertical and horizontal and shall be related to the datum used for the issue of the footway design levels and shall also show the road centre line levels, Council issued footway design levels and gutter levels. Council's Car Clearance Profile in Council's Development Engineering Standards, (Plan No. S 006) shall be used to design the profile.
- 34) A vacant land charge form is to accompany any Construction Certificate (CC) application for the removal of all residential garbage and recycling bins.  
<https://www.cbccity.nsw.gov.au/council/forms/waste-recycling>
- 35) A design certificate and detailed plans are to accompany any CC application which demonstrates that the residential and commercial waste storage rooms have 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) The residential bin storage room is to be designed to fit 3 x 140L garbage and 3 x 240L recycling bins.
  - (m) The commercial bin storage room is to be designed to fit 6 x 1,100L garbage and 2 x 1,100L recycling bins.
- 36) 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 applicant shall nominate the route for approval by Council prior to commencement of any work on the site. An Agreement to Council's satisfaction, signed by the applicant/owner specifying the approved route and acknowledging responsibility to pay Council for damages to public property adjacent to the site shall be lodged with Council prior to release of any Construction Certificate. All damage must be rectified upon completion of work.
- 37) As any works within, or use of, the footway or public road for construction purposes requires separate Council approval under Section 138 of the Roads Act 1993 and/or Section 68 of the Local Government Act 1993, Council requires that prior to any Construction Certificate for this development being issued, evidence of lodgement of an application for a Works Permit and or a Roadway/Footpath Building Occupation Permit shall be obtained where one or more of the following will occur, within, on or over the public footway or public road:

A PRIVATE CERTIFIER CANNOT ISSUE THESE PERMITS

WORKS REQUIRING A 'WORKS PERMIT'

- a) Dig up, disturb, or clear the surface of a public footway or public road,
- b) Remove or interfere with a structure or tree (or any other vegetation) on a public footway or public road,
- c) Connect a road (whether public or private) to a classified road,
- d) Undertake footway, paving, vehicular crossing (driveway), landscaping or stormwater drainage works within a public footway or public road,
- e) Install utilities in, under or over a public road,
- f) Pump water into a public footway or public road from any land adjoining the public road,
- g) Erect a structure or carry out a work in, on or over a public road
- h) Require a work zone on the public road for the unloading and or loading of vehicles
- i) Pump concrete from within a public road,
- j) Stand a mobile crane within a public road
- k) Store waste and recycling containers, skips, bins and/or building materials on any part of the public road.
- l) The work is greater than \$25,000.
- m) Demolition is proposed.

- n) Subdivision is proposed.
- o) A Swimming pool is proposed.
- p) A Medium duty Vehicular Footway Crossing (VFC). All existing and / or new infrastructure located on Council's land in front of the development site is to be provided in accordance with Council's Engineering Standard STD DWG N° S-004. All costs associated in achieving compliance with this condition must be borne by the person having the benefit of this Determination Notice. All work must be completed prior to the issue of any Occupation Certificate.

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

Any works within the public domain (including but not limited to the driveway, footpath, new kerb ramp for bins, street trees) shall be submitted to Council's City Transformation Team with all details and design specification (including pave colour) for approval prior to the issue of a work permit.

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

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

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

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

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

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



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

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

## CONDITIONS TO BE SATISFIED PRIOR TO CONSTRUCTION

- 38) The demolition of all structures currently existing on the property must be undertaken, subject to strict compliance with the following: -
- a) **Prior to demolition**, the entire site (includes 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 contained within this report 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.
  - b) The developer is to notify adjoining residents seven (7) working days prior to demolition. Such notification is to be clearly written on A4 size paper giving the date demolition will commence and be placed in the letterbox of every premises (including every residential flat or unit, if any) either side, immediately at the rear of, and directly opposite the demolition site.
  - c) Written notice is to be given to Canterbury-Bankstown Council for inspection prior to demolition. Such written notice is to include the date when demolition will commence and details of the name, address, business hours and contact telephone number and licence number of the demolisher. The following building inspections shall be undertaken by Canterbury-Bankstown Council:
    - (i) A *precommencement* inspection shall be carried out by Council when all the site works required as part of this consent are installed on the site and prior to demolition commencing.
    - (ii) A *final* inspection shall be carried out by Council when the demolition works have been completed to ensure that the site is left in a satisfactory manner, in accordance with the conditions of this consent.

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

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

- m) All vehicles leaving the site with demolition materials shall have their loads covered and vehicles shall not track soil and other material onto the public roads and footways and the footway shall be suitably protected against damage when plant and vehicles access the site. All loading of vehicles with demolished materials shall occur on site.
  - n) The burning of any demolished material on site is not permitted and offenders will be prosecuted.
  - o) Care shall be taken during demolition to ensure that existing services on the site (ie. sewer, electricity, gas, phone) are not damaged. Any damage caused to existing services shall be repaired by the relevant authority at the applicant's expense.
  - p) Suitable erosion and sediment control measures shall be erected prior to the commencement of demolition works and shall be maintained at all times.
  - q) Prior to the demolition of any building constructed before 1970, a Work Plan shall be prepared and submitted to Council in accordance with Australian Standard AS2601-2001 by a person with suitable expertise and experience. The Work Plan shall outline the identification of any hazardous materials, including surfaces coated with lead paint, method of demolition, the precautions to be employed to minimise any dust nuisance and the disposal methods for hazardous materials.
- 39) The building / subdivision work in accordance with the development consent must not be commenced until:
- a. a construction certificate for the building / subdivision work has been issued by the council or an accredited certifier, and
  - b. the person having benefit of the development consent has:
    - i. appointed a principal certifying authority for the building / subdivision work, and
    - ii. notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
  - c. the person having the benefit of the development consent, if not carrying out the building work as an owner-builder, has:
    - i. appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential building work is involved, and
    - ii. notified the principal certifying authority of any such appointment, and
    - iii. unless the person is the principal contractor, notified the principal contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and

- d. the person having the benefit of the development consent has given at least 2 days' notice to the council of the person's intention to commence the building / subdivision work.
- 40) Existing trees within the vicinity of the construction works or paths of travel for construction vehicles accessing the development that are to be retained shall be protected with temporary fencing of a style non injurious to tree roots, placed 2m from the trunk base of the existing tree to prevent damage during construction, and retained in accordance with Council's Tree Preservation Order. There is to be no stockpiling of materials within the 2m fenced zone.
- 41) Approval is granted for the removal of the following trees:
- Any tree/s where the base of the trunk of the tree is located within 3 metres of the external wall of an approved dwelling;
  - Any declared noxious plant. The applicant, builder and all contractors are to ensure that all noxious plants are properly identified, controlled and/or removed on this site without injury or death of any protected plants;
  - Any tree species listed under clause 2.4 of Bankstown Development Control Plan 2015 Part B11 – Tree Management Order;
  - Any of the following tree/s:

Tree Species	Location
1 x <i>Grevillea robusta</i> (Silky oak)	The south east section of the rear yard of No. 7 Macarthur Avenue, Revesby.
1 x <i>Cinnamomum camphora</i> (Camphor tree)	The south east section of the rear yard of No. 7 Macarthur Avenue, Revesby.
1 x <i>Grevillea robusta</i> (Silky oak)	The south west section of the rear yard of No. 9 Macarthur Avenue, Revesby.

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

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

- 42) Suitable erosion and sediment control measures shall be erected in accordance with the plans accompanying the Construction Certificate prior to the commencement of construction works and shall be maintained at all times.
- 43) Council warning sign for Soil and Water Management must be displayed on the most prominent point of the site, visible to both the street and site works. The sign must be displayed throughout the construction period.

- 44) Prior to the commencement of work, the applicant must provide a temporary on-site toilet if access to existing toilets on site is not adequate.
- 45) A section 73 compliance certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation. Make early application for the certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design.

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

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

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

- 47) A sign shall be displayed on the site indicating the name of the person responsible for the site and a telephone number of which that person can be contacted during and outside normal working hours or when the site is unattended.
- 48) In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of the Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.
- 49) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:
  - a. in the case of work for which a principal certifying is required to be appointed:
    - i. the name and licence number of the principal contractor, and
    - ii. the name of the insurer by which the work is insured under Part 6 of the Act,
  - b. in the case of work to be done by an owner-builder:
    - i. the name of the owner-builder, and
    - ii. If the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

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

- 50) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
- a. showing the name, address and telephone number of the principal certifying authority for the work, and
  - b. showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
  - c. stating that unauthorised entry to the work site is prohibited.

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

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

- 51) Construction may only be carried out between 7.00 am and 5.00 pm on Monday to Saturday and no construction is to be carried out at any time on a Sunday or a public holiday.
- 52) 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.

Council may also request that a 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.

- 53) Any soils to be excavated and disposed of from the site must be analysed and classified by a suitably qualified environmental consultant, in accordance with relevant NSW EPA guidelines including the 'Waste Classification Guidelines' (NSW EPA, 2014) prior to off-site disposal.

- 54) Any waste material is to be transported to an appropriately licensed waste facility by an EPA licensed waste contractor in accordance with relevant NSW EPA guidelines.
- 55) Requirements of the approved Waste Management Plan shall be complied with during all site preparation works, demolition 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
- 56) The building work must be carried out in accordance with the requirements of the Building Code of Australia.
  - 57) Prior to the ground floor slab being poured, an identification report by a Registered Surveyor must be submitted to the principal certifying authority verifying that the proposed buildings finished ground floor level and siting to the property boundaries conforms to the approved plans.



- 58) All Civil and Hydraulic engineering works on site must be carried out in accordance with Council's Development Engineering Standards. All Civil and Hydraulic engineering works associated with Council's assets and infrastructure must be carried out in accordance with Council's Work Permit requirements and to Council's satisfaction.
- 59) The stormwater drainage system shall be constructed in accordance with Council's Development Engineering Standards and the engineering plans and details approved by the Principal Certifying Authority (PCA). Should the developer encounter any existing, live, underground stormwater drainage pipes, which carry flow from upstream properties, the developer must maintain the stormwater flow and re-route the stormwater pipes around the subject building or structures at the developer's expense.
- 60) All excavations and backfilling must be executed safely and in accordance with the relevant Australian Standards.
- 61) If soil conditions require it, retaining walls or other approved methods of preventing movement of the soil must be provided, and adequate provisions must be made for drainage. Separate approval may be required for retaining walls should they be required.
- 62) If the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
- a. protect and support the adjoining premises from possible damage from the excavation, and
  - b. where necessary, underpin the adjoining premises to prevent any such damage.
- 63) All boundary fencing behind the building line shall be replaced by a 1.8m high lapped and capped timber or sheet metal fence, or as stipulated in a flood study prepared for the site, or as determined in consultation with the adjoining property owners at the developer's expense. Fencing forward of the building line shall be no higher than 1m unless otherwise approved by Council.
- 64) The stormwater drainage system shall be constructed in accordance with Council's Development Engineering Standards and the engineering plans and details approved by the Principal Certifying Authority (PCA). Should the developer encounter any existing, live, underground stormwater drainage pipes, which carry flow from upstream properties, the developer must maintain the stormwater flow and re-route the stormwater pipes around the subject building or structures at the developer's expense.
- 65) Prior to the commencement of work, the builder shall prepare a photographic record of the road reserve which clearly shows its condition prior to works occurring on site. For the entirety of demolition, subdivision or construction works, there shall be no stockpiling of building spoil, materials, or storage of equipment on the public road,

including the footway and the road reserve shall be maintained in a safe condition at all times. No work shall be carried out on the public road, including the footway, unless a Work Permit authorised by Council has been obtained.

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

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

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

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

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

- 68) Signage for No Parking Waste Nights across the frontage of the site and adjoining properties shall be approved by Council's Traffic Committee (which includes consultation with the affected properties) and installed at full cost of the developer, prior to the issue of an occupation certificate.
- 69) Prior to the issue of an occupation certificate, one street tree is to be provided in the footpath adjoining the development. This tree is to be *Corymbia eximia nana* (common name Yellow Bloodwood) species and minimum 200 litre container size. The planting of this tree is to be carried out upon the completion of construction by contractors (prior to the issue of a works permit compliance certificate) in accordance with council approved standard detail - S-207A 'Standard Tree Planting in type 1 paving'.
- 70) The acoustic report submitted in support of this application, prepared by Koikas Acoustics Pty Ltd titled 'Acoustical Report, Proposed Mixed-Use Development reference number: 3674R20190408pd7-9MacarthurAveRevesby, dated 7 May 2019 and recommendations forms part of the development consent.

The Principal Certifying Authority shall obtain a report from an appropriately qualified acoustic consultant, 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 and approved by Council prior to the issue of any Occupation Certificate.

- 71) The occupation or use of the building must not be commenced unless an occupation certificate has been issued for the building.
- 72) A final Occupation Certificate shall not be issued until all conditions relating to demolition, construction and site works of this development consent are satisfied and Council has issued a Work Permit Compliance Certificate (where applicable).
- 73) Prior to the issue of any Occupation Certificate a design verification from a qualified designer shall be submitted to the Principal Certifying Authority. The design verification is a statement in which the qualified designer verifies that the development has been constructed as shown in the plans and specifications in respect of which the Construction Certificate was issued, having regard to the design quality principles set out in Schedule 1 of SEPP No. 65.
- 74) Thirty-four (34) off street car spaces being provided in accordance with the submitted plans. This shall comprise:
- Four residential spaces associated with the three (3) apartments of the fourth floor
  - Fourteen spaces associated with the child care facility
  - Sixteen spaces associated with the boarding rooms on second and third floor.

One of the above 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.

- 75) Prior to the issue of an occupation certificate a dedicated pathway – lined marked crossing shall be provided within the basement from the child care centre drop off spaces to the lift.
- 76) A minimum of 6 bicycle and 6 motorbike parking spaces and associated sign posting shall be provided within the basement prior to the occupation certificate being issued.
- 77) A suitably qualified Professional Civil Engineer shall certify that the driveways, parking bays, and service areas have been constructed in accordance with the approved plans and specifications. Such Certification shall be submitted prior to the issue of the Occupation Certificate or occupation of the site.
- 78) The developer shall register, on the title of the subject property, a Restriction on the Use of Land and Positive Covenant, in accordance with the standard terms for "Registration of OSD on title", as outlined in Council's Development Engineering Standards and in accordance with the appropriate provisions of the Conveyancing Act.

Note: The location of the "On-Site Stormwater Detention System" shall be shown on the plan of subdivision where subdivision is proposed. Where subdivision is not proposed the location of the "On-Site Stormwater Detention System" shall be included on an A4

size site plan attached to the Section 88E Instrument and registered on the title prior to the issue of the final occupation certificate.

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

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

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

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

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

- 80) A Copy of the Work Permit Compliance Certificate shall be submitted to the PCA Prior to the issue of the Occupation Certificate.
- 81) Landscaping is to be installed in accordance with the approved landscape plan. All works and methods nominated and materials and plants specified on the approved landscape plan are to be completed prior to the issue of an occupation certificate. The landscaping shall be maintained for the life of the development.
- 82) The applicant is to plant 4 x replacement tree/s on the site as follows:
- 4 x replacement tree/s known to attain a minimum height of 8 metres at maturity in the rear yard of 7-9 Macarthur Avenue, Revesby;
  - Tree species used are not to include conifers, Casuarinaceae, palms or any of the exempted species listed under clause 2.4 of Bankstown Development Control Plan 2015 Part B11 – Tree Management Order.
  - The tree/s shall have a container size not less than 75 litres, shall comply with NATSPEC Specifying Trees: a guide to assessment of tree quality (2003) or Australian Standard AS 2303 – 2015 Tree stock for landscape use
  - The tree/s shall be planted no closer than 3.5metres from the wall of any approved dwelling on the property.
  - The tree/s shall be planted so that future growth is not in conflict with overhead electricity wires.
  - The tree/s shall be maintained for the life of the development.

- 83) A suitably qualified Professional Civil Engineer shall certify that the driveways, parking bays, and service areas have been constructed in accordance with the approved plans and specifications. Such Certification shall be submitted prior to the issue of the Occupation Certificate or occupation of the site.
- 84) Prior to the issue of any Occupation Certificate (OC), an authorised Council waste officer is to inspect and approve all waste management facilities to ensure they comply with the development approval and WMP. Specifically, the path of travel for all waste, installation of a layback, waste storage room sizing, access to water and sewer connections, finished materials, access and door way dimensions and that all waste facilities are fit for purpose.
- 85) 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 (childcare and boarding house). The contract is to ensure the removal of all waste, including bulky 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.

- 86) Prior to the issue of any Occupation Certificate, the final Waste Management Plans are to be submitted to Council for approval. The final Waste Management Plans are to include details on the how the collection, storage and disposal of bulky waste will be managed from the boarding house and childcare centre.
- 87) Lighting must be provided to the entries of the dwellings, driveways and parking areas to promote a high level of safety and security at night and during periods of low light. Lighting provided should be hooded, shielded or directed away from neighbouring dwellings to minimise glare and associated nuisances to residents.
- 88) The premises must be readily identified from the street with the allocated house numbers. Numbering of the development without Council's written approval is not permitted. An official "house numbering" letter will be sent to the applicant indicating the proposed house numbers of the new development. Note: The house numbers of the development are subject to change depending of the type on subdivision that may occur at a later stage.

- 89) The Section 73 compliance certificate under the Sydney Water Act 1994 must be submitted to the principal certifying authority before occupation of the development / release of the plan of subdivision.

## USE OF THE SITE

- 90) The implementation of this development shall not adversely affect the amenity of the neighbourhood or interfere unreasonably with the comfort or repose of a person who is outside the premises by reason of the emission or discharge of noise, fumes, vapour, odour, steam, soot, ash, dust, waste water, waste products, grit, oil or other harmful products.
- 91) 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.
- 92) The Plan of Management for the child care centre dated 12 September 2019 Amendment A and the Plan of Management for the boarding house dated 13 July 2020 Amendment A are approved and form part of this development consent. All procedures are to be adopted and shall be clearly displayed on the premises for both public and staff information at all times.
- 93) The ongoing use of the site shall be in accordance with the acoustic report submitted in support of this application, prepared by Koikas Acoustics Pty Ltd titled 'Acoustical Report, Proposed Mixed-Use Development reference number: 3674R20190408pd7-9MacarthurAveRevesby, dated 7 May 2019 and recommendations which forms part of the development consent.
- 94) The development shall not be used as 'hotel or motel accommodation', 'serviced apartment' or 'bed and breakfast accommodation', as defined by Bankstown Local Environmental Plan 2015.
- 95) Appropriate security measures, including security doors and CCTV cameras, shall be installed at the main pedestrian and vehicular entrances and exits. All CCTV cameras shall have the capacity to store footage for a minimum of twenty-eight (28) days.
- 96) Information and contact details on local medical and social support services shall be made available to the residents of the boarding house in the predominant languages of the local demographic. Boarding house rules, evacuation procedures and the Plan of Management shall also be made available in these languages.
- 97) The premises shall be operated so as to avoid unreasonable noise or vibration and cause no interference to adjoining or nearby premises. In the event of Canterbury Bankstown Council receiving complaints and if it is considered by Council that excessive

and/or offensive noise is emanating from the premises, the boarding house operator shall arrange for an acoustic investigation to be carried out (by an accredited acoustic consultant) and submit a report to Council detailing the proposed methods for the control of noise emanating from the premises. The measures shall be approved by Council prior to implementation and shall be at full cost to the boarding house operator.

- 98) The Emergency Evacuation Plan dated July 2020 – Amendment A is approved and forms part of this consent. All procedures are 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.
- 99) The boarding house operator and the child care centre operator shall ensure that the operation of the premises complies with the relevant sections of the Protection of the Environment Operations Act 1997 and the Noise Policy for Industry (2017) and shall not give rise to “offensive noise” as defined under the provisions of the Protection of the Environment Operations Act 1997.
- 100) No more than one lodger shall occupy the single boarding rooms, and no more than two lodgers shall occupy the double boarding rooms.
- 101) The total number of lodgers residing in the boarding house at any one time shall not exceed 53 lodgers.
- 102) All tenants of the boarding house shall enter into a residential tenancy agreement and be provided with a copy of the Plan of Management before occupation of any room.
- 103) The boarding house is required to be registered on a register administered by NSW Fair Trading within 28 days, where an operator/proprietor takes over an existing, or begins operating a new, registrable boarding house.

Council will carry out initial inspection (within the first twelve months) in accordance with the Boarding Houses Act 2012 and ongoing annual inspections, subject to payment of inspection fees as detailed in Council’s Fees and Charges schedule.

- 104) The implementation of this development shall not adversely affect the amenity of the neighbourhood or interfere unreasonably with the comfort or repose of a person who is outside the premises by reason of the emission or discharge of noise, fumes, vapour, odour, steam, soot, ash, dust, waste water, waste products, grit, oil or other harmful products.
- 105) 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.

- 106) Any lighting of the premises shall be installed in accordance with Australian Standard AS 4282: Control of the Obtrusive Effects of Outdoor Lighting so as to avoid annoyance to the occupants of adjoining premises or glare to motorists on nearby roads. The intensity, colour or hours of illumination of the lights shall be varied at Council's discretion if Council considers there to be adverse effects on the amenity of the area.
- 107) One boarding room on the second floor shown as managers room, shall be dedicated to a boarding house manager at all times. This room shall not be leased out separately to an individual tenant.
- 108) The communal room on the second floor as shown on the approved plan, must be available for use by all tenants and shall not be leased out as a separate boarding room.
- 109) The boarding house must operate in accordance with the requirements of *State Environmental Planning Policy (Affordable Rental Housing) 2009*.
- 110) The maximum number of children to be attend the child care centre shall be limited to thirty-eight (38) children aged at any one time.
- 111) The hours of operation of the child care centre shall be limited to Monday to Friday from 7am to 7pm and no operation on Saturday, Sundays and public holidays.
- 112) The child care centre shall operate in accordance with the requirements of the *Education and Care Services National Regulations*.
- 113) To ensure that the site and building provide a safe and healthy environment for the children, access is to be secured to dangerous areas and substances such as detergents and cleaning products and materials.
- 114) Music or singing shall only be undertaken inside the building with the windows and doors closed.
- 115) Any playground equipment provided is to be approved in terms of its safety and installation.
- 116) Signs reminding staff and visitors to minimise noise at all times shall be installed at ingress/egress points from the childcare centre.
- 117) All waste materials associated with the use shall be stored in containers located either within the building or behind screen walls in accordance with the approved plans.



- 118) The ongoing management section of the Waste Management Plan (WMP) is to be included in the by-laws of the strata property. This will ensure that the approved WMP is fully implemented and followed by residents and property managers.
- 119) The development must operate in full compliance with Council's Residential Waste Management collection requirements.
- 120) All businesses (child care centre and the boarding house) 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.
- 121) 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

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.

- 122) No commercial waste storage bins are to be located or placed outside the approved waste storage room at any time.
- 123) No residential waste storage bins are to be located or placed outside the approved waste storage rooms at any time except for collection purposes.
- 124) Signage for the residential bin storage room can be provided by Council that clearly identifies which bins 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.

-END-

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## Canterbury Bankstown Local Planning Panel - 03 August 2020

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<b>ITEM 3</b>	<b>776-784 Canterbury Road, Belmore</b>
	<b>Alterations and additions to an existing two storey residential flat building, including retaining 40 studio apartments on the ground and first floor and the construction of an additional third storey containing 20 studio apartments with associated laneway widening, landscaping and parking pursuant to State Environmental Planning Policy (Affordable Rental Housing) 2009</b>
<b>FILE</b>	<b>DA-557/2019 – Roselands</b>
<b>ZONING</b>	<b>R4 High Density Residential</b>
<b>DATE OF LODGEMENT</b>	<b>31 July 2019</b>
<b>APPLICANT</b>	<b>BKA Architecture</b>
<b>OWNERS</b>	<b>Community Living Support Corporation Pty Ltd</b>
<b>ESTIMATED VALUE</b>	<b>\$4,616,297</b>
<b>AUTHOR</b>	<b>Planning</b>

### REPORT

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

This Development Application (DA) proposes alterations and additions to an existing two storey residential flat building, retaining 40 one bedroom apartments on the ground and first floor and the construction of an additional third storey containing 20 studio apartments with associated subdivision for laneway widening, landscaping and parking, pursuant to State Environmental Planning Policy (Affordable Rental Housing) 2009.

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

The application was notified on two occasions for a period of 21 days. Four submissions from three objectors were received during the notification period and concerns raised are discussed in the report.

The DA results in a variation to the minimum landscape requirement under the ARH SEPP, visual privacy requirement under the ADG and the minimum setback controls in CDCP 2012. However, the variations can be supported on merit and the development is supported under the circumstances of delivering affordable housing in a much needed area, whilst still providing an acceptable level of amenity for occupants. Also, the upgrade of the building in terms of its design and presentation to Canterbury Road has been improved and positively contributes to the streetscape and the local built environment. The development has been designed to optimise internal amenity and minimise impacts to neighbours.

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

## **POLICY IMPACT**

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This matter has no direct policy implications

## **FINANCIAL IMPACT**

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This matter has no direct financial implications

## **RECOMMENDATION**

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

## **ATTACHMENTS**

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- A. Assessment Report
- B. Conditions of Consent

## **DA-557/2019 ASSESSMENT REPORT**

### **SITE & LOCALITY DESCRIPTION**

The subject site is known as 776-784 Canterbury Road, Belmore and is legally identified as lots 115 and 116 in DP 4475, lot A in DP103679, and lot 117B in DP 320785. The site is located on the southern side of Canterbury Road between Chapel Rd and Trafalgar Street. The site is generally rectangular in shape, with an angled street frontage to Canterbury Road of 60.9m and a south eastern rear street frontage to Allegra Avenue and Chapel Lane of 60.385m. The site has a north-eastern side boundary of 52.235m and a south-western side boundary of 60.33m and a total site area of 3,404m<sup>2</sup>. The topography of the site slopes from the north-west (front) boundary to the south east (rear) boundary of approximately 2.4m and from the north-east (side) boundary to the south west (side) boundary of approximately 1.34m.

The existing development on the site consists of a two storey residential flat building development containing 44 x one bedroom apartments and 18 car parking spaces provided off Allegra Avenue. The site also currently contains drop off and pick up spaces in front of the main building line with vehicular access from Canterbury Road.

The existing development is owned and managed by a private entity, which has leased some of the dwellings to returned servicemen and war veterans under life tenancies. This allows the serviceman to occupy their dwellings with their leases expiring on death. The remaining dwellings are being leased as low rental. However, this is an informal affordable housing arrangement.

The surrounding development is primarily residential interspersed with commercial, retail and industrial uses. Development to the south west of the site comprises two residential dwellings including a single storey dwelling at 786 Canterbury Road and a two storey dwelling at 2A Allegra Avenue. To the north-east of the site is 774 Canterbury Road which contains a single storey dwelling accessed from Canterbury Road. However, there is currently an application for a residential flat building at 774-754 Canterbury Road, which is under appeal with the Land and Environment Court. To the north-west of the site on the opposite side of Canterbury Road are several detached single storey residential dwellings. To the south-east of the site on the opposite side of Allegra Avenue and Chapel Lane are also several detached single and two storey residential dwellings.





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



**Figure 2:** View of the subject site from Allegra Avenue



**Figure 3:** View of the subject site from Canterbury Road.

## **PROPOSED DEVELOPMENT**

The DA proposes the alterations and additions to an existing two storey residential flat building retaining 40 studio apartments on the ground and first floor and the construction of an additional third storey containing 20 studio apartments with associated landscaping and parking, pursuant to State Environmental Planning Policy (Affordable Rental Housing) 2009. The proposal also includes subdivision of part of the land for the purpose of lane way widening adjacent to Allegra Avenue. The specifics of the development are as follows:

Floor	Description
Ground Floor	<ul style="list-style-type: none"> <li>• Removal of two existing units in the south-eastern portion of the site, resulting in a total of 20 existing apartments;</li> <li>• All units dedicated to affordable housing;</li> <li>• Subdivision of land for the provision of Laneway widening to the southern boundary;</li> <li>• Provision of two separate driveways and parking areas accessed from Allegra Avenue and Chapel Lane containing 24 car spaces total (including two accessible car spaces), 10 bicycle spaces and 2 motorcycle spaces;</li> <li>• Provision of two separate waste storage areas fronting the rear lane, with direct access to the proposed waste collection zone;</li> <li>• Removal of communal open space situated between Block B and F;</li> <li>• Removal of the vehicular access and car parking spaces from Canterbury Road;</li> <li>• Revised landscaping throughout the site; and</li> <li>• Revised communal open space areas;</li> <li>• Provision for lifts to upper levels.</li> </ul>
Level 01	<ul style="list-style-type: none"> <li>• Removal of two existing units in the south-eastern portion of the site, resulting in a total of 20 existing apartments; and</li> <li>• All units dedicated to affordable housing;</li> <li>• Lift access.</li> </ul>
Level 02	<ul style="list-style-type: none"> <li>• Provision for 20 new studio apartments;</li> <li>• All units dedicated to affordable housing;</li> <li>• Communal laundry facility;</li> <li>• Lift access.</li> </ul>
Roof Top	<ul style="list-style-type: none"> <li>• Provision of a roof top communal open space area, accessed via the lift and stairs from Block F;</li> <li>• The roof top includes a BBQ facility with pergola over, bench seating and toilet facilities.</li> <li>• The roof top area is screened with a planter box for landscaping around the perimeter.</li> </ul>

**Statutory Considerations**

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

- State Environmental Planning Policy 55 – Contaminated Land (SEPP 55)
- State Environmental Planning Policy (Affordable Rental Housing) 2009 (SEPP ARH)
- State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development (SEPP 65)
- State Environmental Planning Policy (Infrastructure) 2007 (SEPP 2007)
- State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017
- State Environmental Planning Policy 2004 (Building Sustainability Index: BASIX)
- Canterbury Local Environmental Plan 2012 (CLEP 2012)
- Canterbury Development Control Plan 2012 (CDCP 2012)
- Canterbury Development Contributions Plan 2013 (Contributions Plan 2013)

**SECTION 4.15 ASSESSMENT**

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

**Environmental planning instruments [section 4.15(1)(a)(i)]****State Environmental Planning Policy 55 – Remediation of Land (SEPP 55)**

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

The site currently contains a two storey residential flat development and this is proposed to remain in place. The proposal does not include basement parking and excavation of the site will be limited. Accordingly given the residential history of the site and limited excavation proposed, the application was not referred to Council's Environmental Health Officer for review as it was satisfied that the site is suitable for the purpose of the proposed development in accordance with SEPP 55 – Remediation of Land.



**State Environmental Planning Policy (Infrastructure) 2007 (SEPP 2007)****Roads and Maritime Services (RMS)**Vehicle access

As the site has a frontage to a classified road Clause 101 of the SEPP is relevant and requires Council to be satisfied that vehicular access to the land is provided by a road other than the classified road where practical. The subject site is fronting Canterbury Road which is a major road, however it has a secondary frontage at the rear boundary to Allegra Avenue, which allows for vehicular access to the site.

The application was referred to the Roads and Maritime Services (RMS), who provided concurrence. The terms of approval, including conditions, have been incorporated into the recommended conditions of consent. The objectives of this clause have been satisfied.

Noise and vibration

Canterbury Road is identified as a road with an annual average daily traffic volume of more than 40,000 vehicles, Clause 102 of the SEPP is relevant and requires Council to consider whether the development is likely to be adversely affected by road noise/vibration and requires Council to be satisfied that appropriate measures will be taken to ensure that certain noise criteria in decibels, is not exceeded.

An acoustic report prepared by Renzo Tonin and Associates, dated 17 March 2020 accompanied the application. The report includes recommendations to achieve the acoustic levels outlined in Clause 102 of SEPP (Infrastructure). Conditions of consent will be imposed to ensure that the following LAeq levels are not exceeded:

- (a) in any bedroom in the residential accommodation -35dB(A) at any time between 10pm and 7am; and
- (b) anywhere else in the building (other than a garage, kitchen, bathroom or hallway) -40dB(A) at any time.

The measures proposed are consistent with the Department of Planning Industry and Environment's 'Development near Rail Corridors and Busy Roads – Interim Guideline' relating to development near busy roads as well as satisfying the requirements of SEPP (Infrastructure).

Traffic generation

The development does not constitute a traffic generating development as stipulated in Clause 104 and Schedule 3 of the SEPP as the proposed development has less than 75 dwellings.

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

In accordance with BASIX SEPP, a BASIX Certificate (Certificate Number 14799\_02) accompanies this application. The Certificate makes several energy/resource commitments relating to water, energy and thermal comfort. The relevant commitments indicated on the BASIX Certificate have been shown on the plans in order to satisfy objectives of the SEPP. The BASIX Certificate requirements have been incorporated into conditions of consent.

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

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

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

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

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

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

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

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

The site is located within 60m walking distance from a bus stop located on Canterbury Road, on the same side as the subject site. The bus stop is serviced by the 487 bus route, which meets the criteria of providing at least one bus per hour for all times with the exception of a bus service between 8am and 9am on Sunday.

However, this slot is covered by a separate bus route which is the 415 located on Burwood Road and within 400m walking distance from the subject site. The 415 bus provides a service at 8:33am on Sunday morning, and therefore meets the criteria of an accessible area as demonstrated in *LEC Bella Ikea Pty Ltd v City of Ryde Council* [2018] NSWLEC which concludes that an accessible area can be achieved with two stops collectively. Therefore, the site constitutes an "accessible area" under the ARH SEPP.

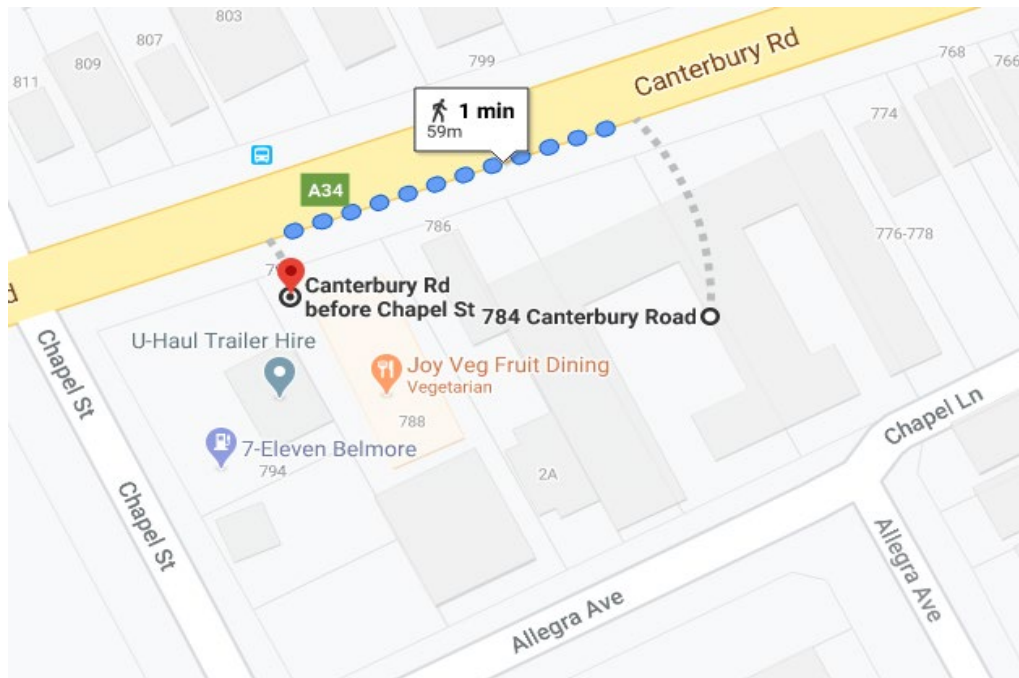


Figure 3: Distance map from the subject site to a bus stop (487 bus route) with regular bus services (source google maps).

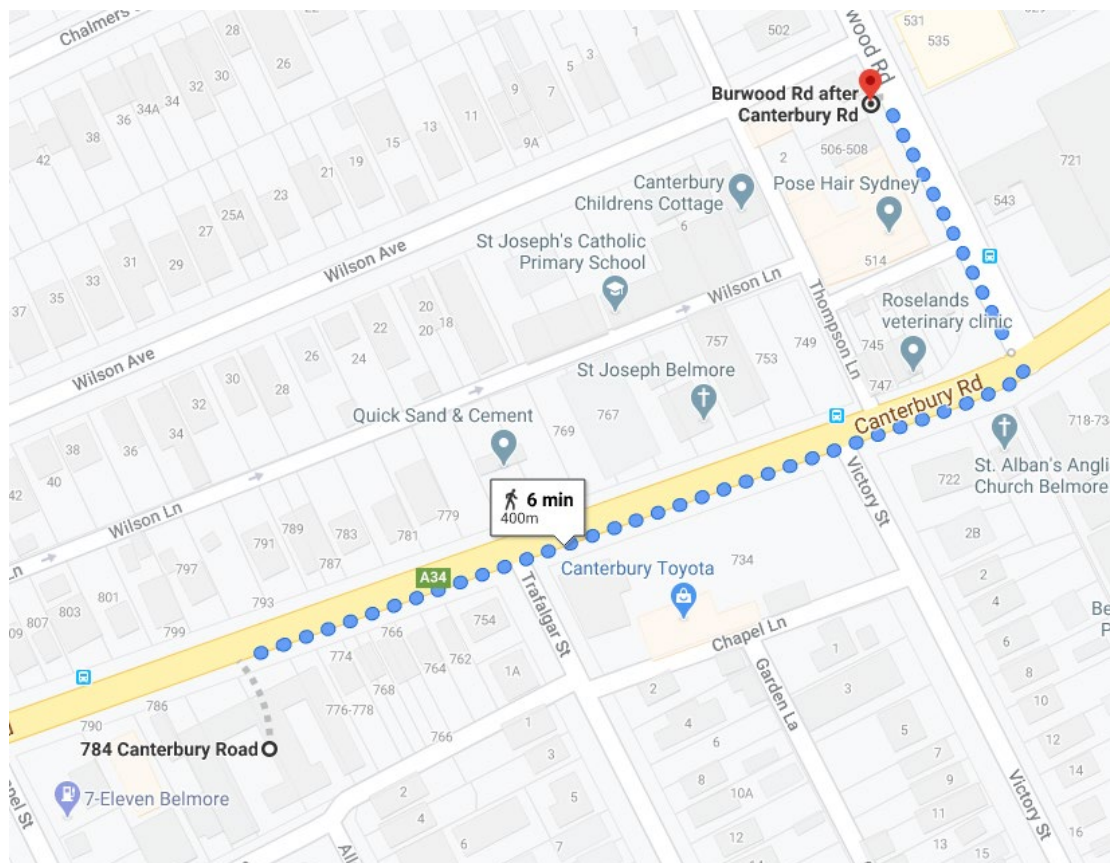


Figure 4: Distance map from the subject site to a bus stop (415 bus route) with regular bus services (source google maps).

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

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

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

Floor space ratio is defined as the maximum floor space allowable in the subject zone (i.e. 1.6:1 for the subject site as per CLEP 2012) plus a floor space bonus based on the amount of floor space to be dedicated to affordable rental housing.

The development (according to GFA diagrams) provides a total gross floor area (GFA) of 2,496m<sup>2</sup> representing an FSR of 0.73:1.

Since this application proposes to dedicate the GFA of the total 60 dwellings, as affordable housing, it therefore benefits from an FSR bonus.

Given the maximum allowable floor space ratio in the subject zone is 1.6:1, but increases to 2.1:1 with the added bonus of 0.5:1 emanating from the applicant's dedication of 100% of the total GFA of the proposal as affordable housing, the proposed FSR of 0.73:1 complies with the maximum allowable FSR, satisfying the requirements of this clause.

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

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

Control	Requirement	Proposal	Complies
Site area	If the site area on which it is proposed to carry out the development is at least 450 square metres,	The total site area is 3,404m <sup>2</sup> .	Yes
Landscaped area	In the case of a development application made by a social housing provider—at least 35 square metres of landscaped area per dwelling is provided.	Proposed landscaping for the development is 838.7m <sup>2</sup> .	No - see comment [1] below.
Deep soil zone	(i) there is soil of a sufficient depth to support the growth of trees and shrubs on an area of not less than 15 per cent of the site area (the <b>deep soil zone</b> ), and (ii) each area forming part of the deep soil zone has a minimum dimension of 3 metres, and (iii) if practicable, at least	The proposed development provides 21.6% total deep soil area which is equivalent to 736.6m <sup>2</sup> and is a minimum of 6m in dimension. The deep soil area located in the front setback has the ability to accommodate large canopy tree planting which will also serve to soften the built form presentation from Canterbury Road.  The ARH SEPP requires that two thirds of the deep soil area be provided at the	Yes

	two-thirds of the deep soil zone is located at the rear of the site area	rear of the site if practicable. In this case, approximately 622m <sup>2</sup> deep soil area is provided in front of the main building line fronting Canterbury Road. In these circumstances, given the site has a primary frontage to Canterbury Road and has also got a rear boundary fronting another street (Allegra Avenue), it serves better to have the deep soil in front of the building line as it enables services including waste collection, pedestrian entries and vehicular access to be shifted away from the busy road corridor of Canterbury Road. Due to site constraints containing two street frontages, it is not practicable to have the deep soil at the rear of this site for the reasons outlined above. Therefore, the location of the deep soil is acceptable.	
Solar access	Living rooms and private open space areas for a minimum of 70% of dwellings are to receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter (equal to 42 out of 60 units)	The solar access requirements under the ADG are also relevant to the proposed development. The ADG requires that living rooms and private open space areas for a minimum of 70% of dwellings are to receive a minimum of 2 hours direct sunlight between 9am and 3pm in mid-winter. Both policies are applicable to this application and each policy states that; "In the event of an inconsistency between this Policy and another environmental planning instrument, whether made before or after this Policy, this Policy prevails to the extent of the inconsistency". On this basis, the new development complies with the solar access requirements of part 4A of the ADG which is acceptable.	Yes
Car parking	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	The proposal includes provision for 24 car spaces located on ground floor and accessed from the drive way crossings off Allegra Avenue.	Yes see note [2] below.



	bedrooms and at least 1 parking space is provided for each dwelling containing 3 or more bedrooms  Based on the proposal for 60 dwellings, a total of 24 car spaces are required.		
Dwelling size	35m <sup>2</sup> per studio 50m <sup>2</sup> per 1 bed 70m <sup>2</sup> per 2 bed 95m <sup>2</sup> per 3+ bed	The dwelling's on ground floor and the first floor of the development are existing, therefore no reassessment is required for these dwellings. The second-floor addition including the 20 studio apartments each contain only one bathroom and the dwellings sizes range between 35m <sup>2</sup> and 46.2m <sup>2</sup> .	Yes

As demonstrated above the proposed development complies with most of the standards prescribed in Clause 14 of SEPP ARH, with the exception of the following matters which require further discussion below:

#### [1] Landscaping

The subject development application is not made by a social housing provider. However, as part of the proposal, the applicant is to dedicate the existing and proposed dwellings (total of 60 dwellings) as affordable housing. On this basis, a condition of consent will be imposed to ensure that the dwellings are leased as affordable dwellings for 10 years from the date of the occupation certificate being issued and operated by a registered social housing provider for the duration of this period.

Taking the above into consideration, the proposal has been assessed against Clause 14(1) (c) which requires that a development application made by a social housing provider have at least 35sqm landscaped area per dwelling. Based on a proposal for 60 dwellings, the minimum landscaping required equates to 2100m<sup>2</sup>.

The proposed landscaping provided as demonstrated in the applicant's Landscape Area Calculation Plans is 1180.2m<sup>2</sup> landscaped area which equates to 34%. This results in a numerical noncompliance of 919.8m<sup>2</sup> or a 44% variation to the control.

However if the application was not made by a social housing provider the landscaped area requirement is significantly less. Clause 14(1)(c) states that for any other development application, then at least 30% of the site area is to be landscaped. In this case, based on a site area of 3,404m<sup>2</sup>, the minimum area required to be landscaped would be 1,021.2m<sup>2</sup>. The proposal would have complied with this landscape requirement under the ARH SEPP had the application not been made by a social housing provider.

Notwithstanding noncompliance with the specific landscaping control, the resultant community benefit arising from all 60 dwellings being dedicated as affordable housing (ARH SEPP only requires a minimum 20% of the floor area to be dedicated) is considered to

substantially outweigh the noncompliance. The proposal has also demonstrated a balance in terms of its proportions dedicated to parking, deep soil, landscaping and communal open space. Therefore, the proposed landscaped area is supported under the circumstances of delivering affordable housing whilst continuing to providing suitable amenity for occupants

## [2] Car Parking

The ARH SEPP provides reduced parking rates for applications made by a social housing provider, which is 0.4 car spaces per dwelling.

Although the DA has not been made by a social housing provider given that the whole site will be used for affordable housing through a housing provider it is appropriate to apply these rates.

The proposal includes a total of 60 dwellings containing (40 existing one bedroom dwellings and 20 proposed studio apartments). The parking rate calculated is 0.4 car spaces x 60 dwellings, which requires 24 car spaces to be provided.

The dedication of land for road widening through the proposed subdivision displaces a total of 18 existing car spaces at the rear of the site, adjacent to Allegra Avenue. However, these car spaces were relocated to the middle of the site, resulting in the existing communal landscape area to be reduced.

The proposal complies with the minimum parking requirements as it provides 24 car spaces located on ground floor and accessed from the proposed drive way crossing's off Allegra Avenue.

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

Clause 15 requires a two step assessment.

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

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

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

## Character of the Local Area

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



Project Venture v Pittwater Council (2005, NSWLEC 191) sets out the planning principles for compatibility in the urban environment and expanded upon Fodor v Hornsby Shire Council (2005, NSWLEC 71). In the Project Venture decision, Senior Commissioner (SC) Roseth noted that ‘for a new development to be visually compatible with its context, it should contain, or at least respond to, the essential elements that make up the character of the surrounding urban environment’. SC Roseth opined that the most important contributor to urban character is the relationship between the built form and surrounding space; “a relationship that is created by building height, setbacks, and landscaping”.

The development is consistent with Council’s height controls and will align with the desired future character of the locality. The design ensures that the proposed development is appropriate in terms of scale and bulk. There are variations sought to the landscaping and setback requirements, however the development is still capable of complying with the objectives and design criteria of those controls. On this basis, the variations are acceptable and further discussion is provided within this report.

The proposed building form and scale is considered to be consistent with surrounding development in the vicinity, with the design adopted responding to relevant planning controls and the need to protect the amenity of neighbouring residents, with the exception of setbacks and landscaping. However, the setbacks on the ground and first floor are existing and the proposal seeks to retain these setbacks unchanged. In relation to the first floor addition, while these setbacks don’t comply with the required controls under the ADG, the setbacks are existing and remain unchanged. In relation to the second floor addition, the setbacks are dictated by the setbacks of the existing building. Notwithstanding the noncompliance to the setback and landscaping requirements, it is considered acceptable given that the proposed development still maintains an adequate level of visual privacy and maintains the existing landscape treatment forward of the building line, providing good amenity for future occupiers of the building and neighbouring residents.

The design of the proposed development positively contributes to the streetscape and the surrounding built form. The development has been designed to optimise internal amenity and minimise impacts to neighbours.

The proposed development has been considered under the ARH SEPP and has been found to respond appropriately to the intent of the Policy and satisfies the requirements of Clause 16(A). The proposed development is considered to be compatible with the character of the local area and is acceptable.

Must be used as Affordable Housing for Ten Years (Clause 17)

Clause 17 of the SEPP requires that the nominated affordable housing dwellings within the development must be used for affordable housing for a minimum period of ten years and managed by a registered community housing provider, specifically requiring that Council impose conditions to this effect, to ensure that the proposal satisfies this Clause. The proposal includes the dedication of the existing and proposed apartments (60 apartments in total) to be nominated as affordable housing through a registered community housing provider. On this basis, appropriate conditions of consent will be imposed to ensure Clause 17 is satisfied.

### Subdivision (Clause 18)

Clause 18 of the SEPP allows land on which in-fill affordable rental housing has been carried out to be subdivided with consent. Subdivision is not proposed by this application.

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

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

SEPP 65 aims to improve the design quality of residential apartment development across NSW and provides an assessment framework, the Apartment Design Guide (ADG), for assessing 'good design'. Clause 50(1A) of the Environmental Planning and Assessment Regulation 2000 requires the submission of a design verification statement from a qualified designer (registered architect) at lodgement of the development application that addresses the design quality principles contained in SEPP 65 and demonstrates how the objectives in Parts 3 and 4 of the ADG have been achieved. These principles are discussed as follows:

#### Principle 1: Context and Neighbourhood Character

The development is consistent with Council's height controls and will align with the desired future character of the locality. The design ensures that the proposed development is appropriate in terms of scale and bulk. There are variations sought to landscaping requirements of the ARH SEPP and the setback and visual privacy requirements in the ADG and DCP, however are considered acceptable as discussed later within this report.

#### Principle 2: Built Form and Scale

The design ensures that the proposed development is appropriate to the existing and desired future character of the streetscape in terms of scale, bulk and height. While the proposal to retain the existing two storeys and to add an additional level with an outline largely dictated by the existing building outline, the external appearance in terms of design and finishes is compatible with the area.

Also, the overall building envelope is appropriate as the building height is well below the 18m height standard prescribed by the LEP and the FSR is well below the bonus offered to the development as all dwellings are affordable rental housing pursuant to the ARH SEPP.

#### Principle 3: Density

The density of the proposed development is satisfactory and a reasonable response to the existing and desired future context as it offers a high level of amenity for residents and each apartment. The development results in a total of 60 apartments across three storeys' in the building and is well under the permissible height and FSR bonus afforded to the site by virtue of the ARH SEPP.

#### Principle 4: Sustainability

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

#### Principle 5: Landscape

The Landscape design principle states that good design is recognised when landscaping and buildings operate as an integrated and sustainable system, resulting in attractive developments that contribute to the landscape character of the streetscape. It also states that good landscape design optimises usability, privacy and opportunities for social interaction, equitable access, and respect for neighbors' amenity, provides for practical establishment and long term management.

A Landscape Plan prepared by Ecodesign Landscape Architects P/L formed part of the documentation with this application which demonstrates good landscape design. The landscaping treatment for the development is provided along the primary frontage, within the central areas of the development, rooftop garden around the perimeter of the communal open space and within private ground floor courtyards. The landscape treatment fronting Canterbury Road provides a deep soil setback from the front boundary to the predominant building line with large canopy tree planting which will serve as a buffer between the built form and the major road.

The landscaped areas and communal open space areas (COS) are not contained in the same place, but rather are spaced out across the development to ensure equitable access to all future occupiers. Also, the COS areas provide bench seating and additional amenities on the roof top terrace which facilitates with social interaction.

For the reasons outlined above, the landscape treatment is satisfactory.

#### Principle 6: Amenity

The proposed development offers good amenity through a combination of appropriate room dimensions, access to sunlight for 70% of the second floor addition, natural ventilation to all new dwellings, storage contained within each new apartment and private open space. In addition to the internal amenity offered to each apartment, the overall layout of the development provides adequate parking and balance of the site in terms of the proportion of built form to landscaped areas and communal open space.

Upgrades to the building are also proposed to ensure the usability of the communal open space areas better achieves social interaction through the additions of amenities including bench seating and BBQ facilities. The accessibility for all residents and visitors has also been upgraded with the provision of three lift cores dispersed across the site which provides access from ground floor up to the roof top terrace.

#### Principle 7: Safety

The safety design principle states that good design optimises safety and security within the development and the public domain. The proposed development achieves safety through its compatibility with the Crime Prevention through Environmental Design (CPTED) principles as

outlined in CDCP 2012. The proposal provides increased activation and passive surveillance of the surrounding streets and private open space areas on the site. Additionally, residential entry and lobby areas are to be secured and well-lit and this has been confirmed with a condition.

#### Principle 8: Housing Diversity and Social Interaction

This principle aims to achieve good design by providing a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets. Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents.

The proposed development offers a combination of studio and one bedroom apartments that will accommodate for low to moderate income earners pursuant to the ARH SEPP. The location of the site is in good proximity to public transport and other commercial services which widens the demographic and social mix. Additionally, the three separate communal spaces offered on the site will provide opportunities for social interaction among future occupiers.

#### Principle 9: Aesthetics

The proposed use of pattern, texture, form and colour seeks to produce a design aesthetic that reflects the quality of residential accommodation provided. The use of contrast and definition is achieved using materials such as painted brick, metal wall cladding, aluminium features, steel balustrades and aluminium louvre screening to enhance articulation to the building façade. Additionally, the development responds to the existing streetscape with a 3 storey building which has defined the ground and first floor with painted brick and the top floor has been defined through the use of cladding which works to contrast the upper level from the base. Together, these elements contribute to the desired future character of the locality and enhance the existing surrounding streetscapes.

#### **Apartment Design Guide**

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

Section	Design Criteria	Proposed	Complies
<b>Part 3 Siting the Development</b>			
<b>3C Public Domain Interface</b>	<ul style="list-style-type: none"> <li>- Transition between private and public domain is achieved without compromising safety and security</li> <li>- Amenity of the public domain is retained and enhanced</li> </ul>	The proposal seeks to retain the ground floor building envelope. However, as part of the alterations and additions to the existing development, the communal residential entry from Canterbury Road has been upgraded and an awning over has been provided which is clearly identifiable from the street. Landscape treatment and large canopy tree planting is provided in the front setback which serves as a buffer between the public and private domain to ensure amenity is enhanced and maintained.	Yes
<b>3D Communal and Public Open Space</b>	<p>Communal open space has a minimum area equal to 25% of the site. Total site area is 3,404m<sup>2</sup>, requiring a minimum 851m<sup>2</sup>)</p> <p>Communal open space should have a minimum dimension of 3m.</p>	The proposed development provides 764.2m <sup>2</sup> communal open space on ground floor and 139m <sup>2</sup> communal open space has been provided in the form of a roof top terrace, both are a minimum 3m dimension. In total, the site provides 903m <sup>2</sup> communal open space which is equivalent to 26%.	Yes
	Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter).	Achieved	Yes

Section	Design Criteria	Proposed	Complies								
3E Deep Soil Zones	Deep soil zones are to meet the following minimum dimensions:	Based on a site area of 3,404m <sup>2</sup> , the ADG requires a minimum of 7% the site area to be deep soil which equates to 238.28m <sup>2</sup> .	Yes								
	<table><tr><th>Site Area</th><th>Min. Dimen sions</th><th>Deep Soil Zone (% of site area)</th></tr><tr><td>Greater than 1,500m<sup>2</sup></td><td>6m</td><td rowspan="2">7%</td></tr><tr><td>Greater than 1,500m<sup>2</sup> with significant existing tree cover</td><td>6m</td></tr></table>	Site Area		Min. Dimen sions	Deep Soil Zone (% of site area)	Greater than 1,500m <sup>2</sup>	6m	7%	Greater than 1,500m <sup>2</sup> with significant existing tree cover	6m	The proposed development provides 21.6% total deep soil area which is equivalent to 736.6m <sup>2</sup> and is a minimum of 6m in dimension. The deep soil area has the ability to accommodate large canopy tree planting which will also serve to soften the built form presentation from Canterbury Road.
	Site Area	Min. Dimen sions		Deep Soil Zone (% of site area)							
	Greater than 1,500m <sup>2</sup>	6m		7%							
Greater than 1,500m <sup>2</sup> with significant existing tree cover	6m										
3F Visual Privacy	Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:	<u>Rear</u> -Requirement is 3m Minimum 2.5m to habitable room and 0.7m to balcony.	No see note [3] below								
	<table><tr><th>Buildin g Height</th><th>Habitabl e Rooms &amp; Balconie s</th><th>Non-habita ble Rooms</th></tr><tr><td>Up to 12m (4 storeys)</td><td>6m</td><td>3m</td></tr></table>	Buildin g Height		Habitabl e Rooms & Balconie s	Non-habita ble Rooms	Up to 12m (4 storeys)	6m	3m	<u>Side</u> -Requirement is 6m Minimum to western side boundary, 3.2m to the wall of the building and 1.8m to the balcony.  Minimum to eastern side boundary, 3.7m to the wall of the building and 2.4m to the blade wall/louvres.		
Buildin g Height	Habitabl e Rooms & Balconie s	Non-habita ble Rooms									
Up to 12m (4 storeys)	6m	3m									

Section	Design Criteria	Proposed	Complies
<b>3J Bicycle and Car Parking</b>	<p>For development within 800 metres of a railway station the minimum car parking requirement for residents and visitors is the lesser of that set out within the Guide to Traffic Generating Developments or Council requirements.</p> <p>The subject site is not located within 800m of a railway station and therefore the parking rates under Part B1 Transport &amp; Parking of the CDCP 2012 apply.</p> <p><u>CDCP Part B1 Parking rates requirement</u> Studio or 1 bedroom: 1 space per dwelling</p> <p><u>Proposed RFB development</u> 20 x studio = 20 40 x 1 bedroom = 40 Total required = 60 car spaces</p> <p>Any development comprising 10 or more dwellings must provide a minimum of one car wash bay.</p> <p><u>Bicycle spaces</u> Residents- Minimum 1 space per 5 dwellings. Visitors- Minimum 1 space per 10 dwellings</p> <p>Total required= 18</p>	<p>The subject site is not located within 800m of a railway station, therefore Council's car parking controls would typically apply, except in specific circumstances such as this one. The proposed development has been submitted pursuant to the ARH SEPP 2009, which provides car parking rates which are the relevant parking controls in this regard.</p> <p>The proposal for 60 (studio and 1 bedroom dwellings) provides 24 car spaces as required by the ARH SEPP, the parking rates are acceptable and comply with the relevant requirements.</p> <p>No car wash bay or visitor spaces have been proposed nor are they required by the ARH SEPP.</p> <p>No bicycle spaces are required by the ARH SEPP, however 6 double sided bicycle parking racks have been proposed with provision for 12 bicycle spaces. There is no requirement for motorcycle spaces, however 2 motorcycle spaces have been provided.</p>	Yes
	<p>The car parking needs for a development must be provided off street.</p>	<p>The proposal has provided all required car parking off street and located on the ground floor of the development.</p>	Yes



Section	Design Criteria	Proposed	Complies
<b>3G Pedestrian Access and Entries</b>	<p>Multiples entries should be provided to activate the street edge.</p> <p>Entry locations relate to the street and subdivision pattern / existing pedestrian network.</p> <p>Building entries should be clearly distinguishable from private entries.</p> <p>Building access areas (lift lobbies, stairwells and hallways) should be clearly visible from public domain and communal spaces.</p> <p>Minimise ground floor and underground level changes along pathways and entries. Steps and ramps integrated into design.</p> <p>Provide way finding maps for large developments. Electronic access and audio/video intercoms required.</p> <p>Provide pedestrian links to streets and destinations with clear sight lines.</p>	<p>The existing main entry to the site from Canterbury Road is proposed to be retained and modified so that the entry is more welcoming and easily identifiable from the street. In addition, the proposal includes two communal pedestrian entries from Allegra Avenue. There is also internal pedestrian access through the site from Canterbury Road through to Allegra Avenue. On this basis, pedestrian access and entry into the site is adequately achieved.</p>	Yes
<b>Part 4 Designing the Building</b>			
<b>4A Solar and Daylight Access</b>	<p>Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter.</p>	<p>The ADG requires that 70% of the total units, which equates to 42 units, are required to achieve 2 hours solar access to living and private open space areas. Given there are no changes to the ground and first floor apartment's orientation and layout, the solar access received remains unchanged.</p> <p>Therefore a solar access assessment has been provided for the second floor addition.</p>	Yes- see comment [4] below.

Section	Design Criteria	Proposed	Complies
	A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter.	15% of the 20 apartments on the second floor is 3 apartments. The total units that receive little to no solar access is 6 apartments.	No- see comment [4] below.
<b>4B Natural Ventilation</b>	At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartment at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.	60% of the total units equates to 36 units which are required to achieve natural ventilation. In accordance with the natural ventilation diagrams submitted with the application, all apartments receive natural ventilation. However, given there are no changes to the ground and first floor apartments, the ventilation received remains unchanged.  The second floor containing 20 apartments, provides operable glass louvre panels adjacent to the main entry door to each dwelling. The operable louvres are 2.4mx0.5m and will allow for natural cross ventilation to be achieved. Therefore 100% of the proposed apartments will be naturally ventilated.	Yes
	Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	No cross through or crossover apartments proposed.	N/A

Section	Design Criteria	Proposed	Complies						
4C Ceiling Heights	Measured from finished floor level to finished ceiling level, minimum ceiling heights are:	The floor to ceiling heights for the ground and first floor dwellings remains unchanged.	Yes						
	<b>Minimum Ceiling Height for Apartment and Mixed Use Buildings</b>								
	Habitable rooms	2.7m							
	Non-habitable	2.4m							
	For 2 storey apartments	2.7m main living area floor 2.4 for second floor.							
	These minimums do not preclude higher ceilings if desired.								
4D Apartment Size and Layout	Apartment are required to have the following minimum internal areas:	The dwelling’s on ground floor and the first floor of the development are existing, therefore no reassessment is required for these dwellings. The second-floor addition including the 20 studio apartments each contain only one bathroom and the dwellings sizes range between 35m <sup>2</sup> and 46.2m <sup>2</sup> . Therefore, compliance with the minimum internal area of studio apartments for the new dwellings comply with the requirements.	Yes						
	<table><tr><th>Apartment Type</th><th>Minimum Internal Area</th></tr><tr><td>Studio</td><td>35m<sup>2</sup></td></tr><tr><td>1 bedroom</td><td>50m<sup>2</sup></td></tr></table>			Apartment Type	Minimum Internal Area	Studio	35m <sup>2</sup>	1 bedroom	50m <sup>2</sup>
	Apartment Type	Minimum Internal Area							
	Studio	35m <sup>2</sup>							
	1 bedroom	50m <sup>2</sup>							
The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m <sup>2</sup> each.  A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m <sup>2</sup> each.									
	Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.	Achieved	Yes						

Section	Design Criteria	Proposed	Complies									
	In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.	The proposed 20 apartments on the second floor provide living room depths that are a maximum 6m depth.	Yes									
	Master bedrooms have a minimum area of 10m <sup>2</sup> and other bedrooms 9m <sup>2</sup> (excluding wardrobe space).	The proposed 20 apartments on the second floor are studios therefore this control is not applicable.	N/A									
	Bedrooms have a minimum dimension of 3m (excluding wardrobe space).	The proposed 20 apartments on the second floor are studios therefore this control is not applicable.	N/A									
	Living rooms or combined living/dining rooms have a minimum width of: <ul style="list-style-type: none"><li>• 3.6m for studio and 1 bedroom apartments</li></ul>	Studio apartments are an open plan layout and the internal width is 6m in depth.	Yes									
	The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts.	No cross-over or cross-through apartments proposed.	N/A									
<b>4E Private Open Space and Balconies</b>	All apartments are required to have primary balconies as follows:	The proposed 20 studio apartments located on the second floor each have a balcony with a minimum area ranging between 4m <sup>2</sup> and 10.87m <sup>2</sup> .  The minimum depth of the balconies range between 1.2m and 2.4m.	Yes									
	<table><tr><th>Dwellin g type</th><th>Minimu m Area</th><th>Minimu m Depth</th></tr><tr><td>Studio apartm ents</td><td>4m<sup>2</sup></td><td>-</td></tr><tr><td>1 bedroo m apartm ents</td><td>8m<sup>2</sup></td><td>2m</td></tr></table>			Dwellin g type	Minimu m Area	Minimu m Depth	Studio apartm ents	4m <sup>2</sup>	-	1 bedroo m apartm ents	8m <sup>2</sup>	2m
	Dwellin g type			Minimu m Area	Minimu m Depth							
	Studio apartm ents			4m <sup>2</sup>	-							
	1 bedroo m apartm ents			8m <sup>2</sup>	2m							
	The minimum balcony depth to be counted as contributing to the balcony area is 1m.											

Section	Design Criteria	Proposed	Complies										
	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.	Although it is an existing situation that ground floor apartments don't have POS, the proposed development has improved the amenity of some of these apartments by providing courtyards where possible.	No see comment [5] below.										
4F Common Circulation and Spaces	<p>The maximum number of apartments off a circulation core on a single level is eight.</p> <p>Where design criteria 1 is not achieved, no more than 12 apartments should be provided off a circulation core on a single level</p>	<p>Each level contains 20 dwellings and the proposal provides three separate lift cores across the building.</p> <p>The average number of dwellings to a lift core is 20/3=7.</p> <p>Therefore, each lift core will service an average of 7 dwellings which will adequately service the development.</p>	Yes										
4G Storage	<p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <table><tr><th>Dwelling type</th><th>Storage size volume</th></tr><tr><td>Studio apartments</td><td>4m<sup>3</sup></td></tr><tr><td>1 bedroom apartments</td><td>6m<sup>3</sup></td></tr><tr><td>2 bedroom apartments</td><td>8m<sup>3</sup></td></tr><tr><td>3+ bedroom apartments</td><td>10m<sup>3</sup></td></tr></table> <p>At least 50% of the required storage is to be located within the apartment.</p>	Dwelling type	Storage size volume	Studio apartments	4m <sup>3</sup>	1 bedroom apartments	6m <sup>3</sup>	2 bedroom apartments	8m <sup>3</sup>	3+ bedroom apartments	10m <sup>3</sup>	All new units are capable of achieving compliance with the requirement.	Yes- see comment [6] below.
Dwelling type	Storage size volume												
Studio apartments	4m <sup>3</sup>												
1 bedroom apartments	6m <sup>3</sup>												
2 bedroom apartments	8m <sup>3</sup>												
3+ bedroom apartments	10m <sup>3</sup>												

Section	Design Criteria	Proposed	Complies
<b>4H Acoustic Privacy</b>	<p>Adequate building separation is provided within the development and from neighbouring buildings/adjacent uses</p> <p>Noisy areas within buildings including building entries and corridors should be located next to or above each other and quieter areas next to or above quieter areas</p> <p>Rooms with similar noise requirements are grouped together</p> <p>Noise sources such as garage doors, driveways, service areas, plant rooms, building services, mechanical equipment, active communal open spaces and circulation areas should be located at least 3m away from bedrooms</p>	<p>The proposed separation from within the development and adjacent sites is acceptable.</p> <p>The applicant has provided an acoustic assessment report prepared by Renzo Tonin and Associates, dated 17 March 2020 which will provides recommendations for mitigating acoustic amenity for the subject development and maintaining acoustic privacy for the neighbouring developments. The recommendations contained in the acoustic report forms part of the conditions of consent.</p>	Yes

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

### [3] Visual Privacy

The proposal does not meet the numerical requirements for building separation to the side or rear boundary. By requiring the building to comply with the building separation requirements of the Apartment Design Guide, the proposal for alterations and additions to the existing development would not be feasible particularly in a situation where the applicant has opted to dedicate all 60 dwellings as affordable housing under the ARH SEPP, which is a good outcome. The inability for the setbacks of the third storey addition to comply with the relevant separation requirements under the ADG is because it is constrained by the outline of the existing building envelope which does not comply with the requirements.

Notwithstanding the non-compliant separation distances of the third storey addition being dictated by the existing building envelope, the amended plans have offset the balconies with the existing developments to the west of the site and with the proposed residential flat building development to the east of the site. Additionally, louvres have been incorporated into the design to reduce the likelihood of direct overlooking and visual privacy impacts to the neighbouring dwellings.

Part 2F of the ADG stipulate the following aims for building separation as follows:

- ensure that new development is scaled to support the desired future character with appropriate massing and spaces between buildings;
- assist in providing residential amenity including visual and acoustic privacy, natural ventilation, sunlight and daylight access and outlook;
- provide suitable areas for communal open spaces, deep soil zones and landscaping.

Overall, the scale and massing of the proposal is appropriate, and the development provides good amenity as it has satisfactorily balanced landscaping, communal open space and deep soil zones across the whole site. It also provides good amenity to each apartment including visual privacy despite the reduced setbacks, natural ventilation, acoustic privacy and solar access. Given this, whilst the setbacks may not be in line with the ADG, it is considered that the proposed development meets the aims for visual privacy and the proposed development is therefore acceptable.

#### [4] Solar access

The ADG requires that living rooms and private open spaces of at least 70% of apartments (42 apartments out of 60) in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter. Given there are no changes to the ground and first floor apartment's orientation and layout, the solar access received remains unchanged for those 40 apartments.

Taking the above into consideration, a solar access assessment has been provided for the second floor addition. The required solar access to living rooms and private open spaces for 70% of the units located on the second floor addition equates to 14 units. As demonstrated on the solar access diagram plans prepared by the applicant, 14 out of the 20 apartments meet the minimum requirements. The dwellings that do not meet the minimum requirements are 2.10, 2.16, 2.17, 2.18, 2.19 and 2.20.

The ADG requires that no more than 15% of the total apartments (maximum of 3 apartments) receive no solar access. Apartments 2.10, 2.16, 2.17, 2.18, 2.19 and 2.20 receive little to no solar access to the primary living and private open space areas due to the south western orientation of the site. Notwithstanding this, a condition of consent will be imposed to ensure that these dwellings provide a skylight over the main living areas to increase the solar access received.

#### [5] Private open space areas

The ADG requires that all dwellings provide private open space areas. While it has been established the proposed second floor apartments provide balconies that meet the minimum criteria, the existing dwellings on the ground and first floor do not each contain private open space areas to meet the minimum design criteria in the ADG, which is balconies being; 4m<sup>2</sup> for studio apartments and 8m<sup>2</sup> for one bedroom dwellings. It also states that 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.



The proposed development has improved the amenity of the nine (9) ground floor apartments adjacent to the side boundaries by providing individual courtyards where possible. The size of the courtyards are a minimum 3m depth and range between 16.83m<sup>2</sup> and 23m<sup>2</sup> which satisfies the design criteria. The remaining 11 units located on ground floor don't have existing or proposed courtyards, however 8 of the units have direct frontage to a communal open space area which is considered a positive outcome. Overall, the amenity of all the ground floor apartments will be improved or remain unchanged as a result of the proposed alterations and additions to the existing development.

#### [6] Storage

The proposed 20 new units on level 2 can comply with the minimum storage area requirements of 4m<sup>3</sup> irrespective of the storage areas in the units not being annotated with the cubic areas on the plans. The apartments on the ground and first floor of the development are 1 bedroom units, which would require 6m<sup>3</sup> storage space in accordance with the ADG. Given that the apartments on the ground and first floor are existing and no change is proposed to the floor area of these apartments, requirement to meet this minimum storage under the ADG is not required as they will remain unchanged. Additionally, the ADG stipulates that at least 50% of the storage is to be located within the apartment. This would typically allow for 50% of the storage space to be provided in the basement level. However, given that this proposal seeks alterations and additions to the existing development which does not contain basement parking, all storage areas are required to be provided within each unit. A condition of consent is imposed to require the level 2 units to provide 4m<sup>3</sup> storage to achieve the minimum storage area requirements of the ADG.

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

This site is zoned R4 High Density Residential under the CLEP 2012. The controls applicable to this application are discussed below.

#### Clause 1.2 Aims of Plan

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

- (1) This Plan aims to make local environmental planning provisions for land in Canterbury in accordance with the relevant standard environmental planning instrument under section 3.20 of the Act.
- (2) The particular aims of this Plan are as follows:-
  - (a) to provide for a range of development that promotes housing, employment and recreation opportunities for the existing and future residents of Canterbury,
  - (b) to promote a variety of housing types to meet population demand,
  - (c) to ensure that development is of a design and type that supports the amenity and character of an area and enhances the quality of life of the community,
  - (d) to create vibrant town centres by focusing employment and residential uses around existing centres and public transport nodes,

- (e) to revitalise Canterbury Road by encouraging a mix of land uses that does not detract from the economic viability of existing town centres,
- (f) to retain industrial areas and promote a range of employment opportunities and services,
- (g) to promote healthy lifestyles by providing open space that supports a variety of leisure and recreational facilities and encouraging an increased use of public transport, walking and cycling,
- (h) to protect the natural environment for future generations and implement ecological sustainability in the planning and development process,
- (i) to protect and promote the environmental and cultural heritage values of Canterbury.

### Clause 2.3 Zone objectives and Land Use Table

Clause 2.3(2) of CLEP 2012 outline that the consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.

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

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

The proposed development meets the objectives of the R4 High Density Residential zone as it provides for a residential flat building development comprising 60 affordable rental housing units and will deliver housing for very low to moderate income households.

Provision/ Standard	Requirement	Proposal	Complies
<b>Part 2 Permitted or Prohibited Development</b>			
2.1-2.3 Zoning	R4 High Density Residential Development	Residential flat building development.	Yes
2.7 Demolition requires development consent	The demolition of a building or work may be carried out only with development consent.	Partial demolition of existing building in south eastern portion of the site.	Yes
<b>Part 4 Principal Development Standards</b>			
4.3 Height of Buildings	18m	The maximum height limit is 12.4m (which includes the lift overrun, pergola and the roof top structure).	Yes

Provision/ Standard	Requirement	Proposal	Complies
4.4 Floor Space Ratio	1.6:1, however afforded bonus under the ARH SEPP (2.1:1).	0.73:1	Yes
<b>Part 6 Local Provisions</b>			
6.1 Acid Sulfate Soils	Development consent must not be granted under this clause for the carrying out of works unless an acid sulfate soils management plan has been prepared for the proposed works in accordance with the Acid Sulfate Soils Manual and has been provided to the consent authority.	The site does not contain acid sulfate soils and is not in the immediate vicinity of another site with any class of acid sulfate soil. Therefore, an Acid Sulfate Soils Manual is not required for this site.	Yes
6.2 Earthworks	Before granting consent to development including earthworks, the following must be considered: (a) drainage patterns and soil stability (b) the likely future use or redevelopment of the land, (c) quality of the fill or the soil to be excavated, or both, (d) effect of development on existing and likely amenity of adjoining properties, (e) the source of any fill material and the destination of any excavated material, (f) the likelihood of disturbing relics, (g) the potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area, (h) appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.	The proposed development seeks to retain the existing two storey building on the site. Therefore, there is no major excavation required for the proposed development and there will be minimal impact to adjoining properties. Rather, any excavation involved is relatively minor and any potential impacts will be controlled through the inclusion of conditions of consent to ensure the construction stage is carried out in accordance with the relevant building standards.	Yes

Provision/ Standard	Requirement	Proposal	Complies
6.3 Flood Planning	<p>This clause applies to land at or below the flood planning level. Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:</p> <ul style="list-style-type: none"> <li>(a) is compatible with the flood hazard of the land, and</li> <li>(b) will not significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and</li> <li>(c) incorporates appropriate measures to manage risk to life from flood, and</li> <li>(d) will not significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and</li> <li>(e) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.</li> </ul>	The subject site is not flood affected.	N/A
6.4 Stormwater Management	<p>Consent must not be granted unless:</p> <ul style="list-style-type: none"> <li>(a) Water permeable surfaces are maximized having regard to soil characteristics affecting on-site stormwater infiltration.</li> <li>(b) Includes on-site detention if practical as an alternative means of water supply.</li> <li>(c) Avoids significant impacts of run-off on adjoining land or the environment or minimises and mitigates impacts.</li> </ul>	The application was referred to Council's Development Engineer who did not raise any objections with the proposal subject to conditions of consent.	Yes

Provision/ Standard	Requirement	Proposal	Complies
6.6 Essential Services	<p>Essential services must be available or adequate arrangements have been made to make them available, including:</p> <ul style="list-style-type: none"> <li>- the supply of water;</li> <li>- the supply of electricity <b>(substation)</b>;</li> <li>- the disposal and - management of sewage;</li> <li>- stormwater drainage or on-site conservation;</li> <li>- suitable vehicular access.</li> </ul>	<p>The existing building already contains existing services for the function of the building. The proposed alterations and additions are not likely to result in the need for additional services but rather will rely on the existing services. The applicant has not advised that a substation will be required and a condition of consent will be included to reinforce that consent is not provided for a substation under the subject consent. New vehicular crossings from Allegra Avenue are proposed as part of this application and were referred to Council's Traffic Team who raised no objection to the new vehicular crossings subject to conditions of consent.</p>	Yes

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

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

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

As the Planning Proposal has been exhibited it must be considered under Section 4.15 (1)(a)(ii) of the Environmental Planning and Assessment Act, 1979. The Draft CBLEP also seeks to insert a saving provision "If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies, and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced".

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

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

The proposed development has been compared to the requirements of CDCP 2012 as follows:  
As the application was lodged on the 20 September 2018 the application was assessed against Amendment 3 of the CDCP 2012.

**Part B1 – Transport and Parking**

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

Standard	Requirement	Proposal	Complies
<b>Car Parking</b>	<ul style="list-style-type: none"> <li>• <b>Studio/1 bedroom:</b> 1 space per dwelling (60x1 = 60 spaces required).</li> <li>• <b>Visitor:</b> 1 space per 5 dwellings (60/5 = 12 spaces required).</li> <li>• <b>Car wash bay:</b> 1 car wash bay.</li> </ul>	<p>Noted and assessment against the relevant controls in the ARH SEPP has been provided earlier within this report.</p> <p>No car wash bay or visitor spaces have been proposed nor are they required by the ARH SEPP.</p>	Yes – pursuant to the ARH SEPP
<b>Bicycle Parking</b>	<ul style="list-style-type: none"> <li>• <b>Residents:</b> 1 space per 5 dwellings (12 spaces required).</li> <li>• <b>Visitors:</b> 1 space per 10 dwellings (6 spaces required).</li> </ul>	No bicycle spaces are required by the ARH SEPP, however 6 double sided bicycle parking racks have been proposed with provision for 12 bicycle spaces. There is no requirement for motorcycle spaces, however 2 motorcycle spaces have been provided.	Yes – pursuant to the ARH SEPP

**Part B2 – Landscaping and Part B3 – Tree Preservation**

The application submitted a Landscape Plan prepared by a suitably qualified Landscape Architect in accordance with the requirements of Part B2 of CDCP 2012. The Landscape Plan will form part of the conditions of consent to ensure that the proposed development adequately satisfies the requirements.

**Part B4 – Accessible and Adaptable Design**

An access report formed part of the proposal's documentation. The application was referred to Council's Building Surveyor and conditions of consent have been imposed to ensure the proposal complies with the relevant standards. Additionally, the development has been upgraded by providing lift access from ground floor to the proposed roof top terrace and accessible car spaces have also been provided in accordance with the relevant requirements. Where the design includes some non-compliances, these matters can be resolved through minor design changes or BCA Performance Solutions at the relevant Construction Certificate stage. On this basis, the design is considered acceptable from an accessible and adaptable design perspective.

**Part B5 – Stormwater and Flood Management**

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

**Part B7 – Crime Prevention and Safety**

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

<b>Standard</b>	<b>Requirement</b>	<b>Proposal</b>	<b>Complies</b>
Crime Prevention through Environmental Design	Avoid blind corners	The proposal does not appear to present any blind corners	Yes
	Provide natural surveillance for communal and public areas.	Active uses and habitable rooms have been orientated towards main communal and/or public areas.	Yes
	Provide clearly visible entries.	The communal residential entry from the Canterbury Road frontage and the communal entries from Allegra Avenue are clearly identifiable.	Yes
	Design the fence to maximise natural surveillance from the street to the building	The front boundary fence does not obstruct surveillance to the street.	Yes
	Avoid landscaping that obstructs natural surveillance.	The proposed landscaping balances privacy and maintains natural surveillance.	Yes
	Entrances, exits, service areas, pathways, car parks are to be well-lit after dark	To ensure appropriate lighting is incorporated within the development and ensure there is no light spillage onto adjoining properties appropriate conditions have been imposed	Yes
	Where permitted, provide appropriate mixed uses within buildings to increase opportunities for natural surveillance	The development is a residential flat building and is suitable for the site.	Yes
	Ensure buildings are clearly identified by street numbers.	Achieved and will be conditioned	Yes
	Use materials that reduce the opportunity for vandalism.	The proposal incorporates a variety of materials and finishes which are acceptable.	Yes
	Provide an appropriate level of security for individual dwellings and communal areas through use of intercoms, self-closing doors and signage.	Achieved and will be conditioned to ensure ongoing safety.	Yes



Part B9 - Waste

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

Part C4 Residential Flat Buildings

This section of the DCP assessment provides controls for applications to which State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development (SEPP 65) applies. SEPP 65 applies to residential flat buildings three storeys or greater with four or more Dwellings.

Control	Requirement	Proposed	Complies
C4.2.1.1 Minimum Lot Sizes and frontage	Residential flat buildings must have a street frontage.	The site has a primary frontage to Canterbury Road.	Yes
	The minimum primary street frontage width for residential flat buildings up to 3 storeys is 27m for development along major roads.	The primary street frontage is 60.9m.	Yes
C4.2.1.2 Isolated Sites	Isolation of sites occurs where a property that adjoins a development site would be narrower or smaller than required to be developed under Canterbury LEP. Consequently, the isolated site would be incapable of accommodating the form of redevelopment envisaged by the planning controls.	The proposal is an infill affordable housing residential flat building development and the proposed alterations and additions will not result in isolation of adjoining properties.	Yes
C4.2.1.3 Open Space	<u>Balconies</u> Section 6A of SEPP 65 states that a DCP cannot be inconsistent with the provisions of the ADG made under that SEPP in relation to balconies and developments to which the SEPP relates. The ADG therefore sets the objectives and controls for balconies in the LGA for residential flat buildings to which SEPP 65 relates. Refer to the objectives, design criteria and design guidance outlined in 4E Private Open Space and Balconies of the ADG.	Noted and assessment against the relevant controls in the ADG has been provided earlier within this report.	Yes
	<u>Communal open space</u> C1 Residential flat buildings must provide communal open space areas equivalent to at least 25% of the open space on a site that is created by the required setbacks and building separations. C2 Communal open space may be provided on podiums, terraces, or in any deep-soil setback or separation between buildings in residential flat buildings. C3 At least one side must have a minimum 6m length for each area of communal open space. C4 Consolidate communal open	The ADG provides design criteria and guidance for communal open space which requires a minimum 25% of the total site area and a minimum 3m width. Total site area is 3, 404m <sup>2</sup> which requires 851m <sup>2</sup> .  The proposed development provides 764.2m <sup>2</sup> communal open space on ground floor and 139m <sup>2</sup>	Yes

Control	Requirement	Proposed	Complies
	<p>space into recognisable areas with reasonable area, facilities and landscape for the uses it will accommodate, and design to generate a variety of visible pedestrian activity.</p> <p>C5 Consolidate communal open space into recognisable areas with reasonable area, facilities and landscape for the uses it will accommodate, and design to generate a variety of visible pedestrian activity.</p> <p>C6 Provide communal open space in locations that are sunny, and are adjacent to, as well as visible from, the main building lobby.</p> <p>C7 Provide windows that overlook communal open space and approaches to the building to generate a variety of visible pedestrian activity in the main building lobby.</p> <p>C8 Screen walls surrounding any communal area are no higher than 1.2m, although screens with 50% transparency may be up to 1.8m high.</p>	<p>communal open space has been provided in the form of a roof top terrace, both are a minimum 3m dimension. In total, the site provides 903m<sup>2</sup> communal open space which is equivalent to 26%.</p> <p>The locations of the communal open space areas are suitable and will receive sunlight. Also, the COS contains appropriate amenities to encourage social interaction, including; bench seating, BBQ facilities and toilet facilities.</p> <p>Appropriate planter boxes have been proposed around the perimeter of the roof top communal open space which will provide suitable screening and reduce any possibility for overlooking and privacy impacts.</p>	
C4.2.1.4 Layout and Orientation	<p>C1 Orientate development to maximise solar access and natural lighting, without unduly increasing the building's heat load.</p> <p>C2 Site the development to avoid casting shadows onto neighbouring dwelling's primary living area, private open space and solar cells.</p> <p>C3 Coordinate design for natural ventilation with passive solar design techniques.</p> <p>C4 Site new development and private open space to avoid existing shadows cast from nearby buildings.</p> <p>C5 Site a building to take maximum benefit from cross-breezes and prevailing winds.</p> <p>C6 Do not compromise the creation of casual surveillance of the street, communal space and parking areas, through the required orientation.</p>	<p>The orientation of the development is restricted as the second floor addition is heavily dictated by the footprint of the existing building. Notwithstanding the above, the second floor addition is capable of achieving natural ventilation to all second floor apartments and meet the minimum solar access requirements. The second floor addition does not compromise casual surveillance to the street, but rather additional dwellings fronting Canterbury Road increases passive surveillance.</p>	Yes

Control	Requirement	Proposed	Complies
C4.2.2.1 Floor Space Ratio	FSR is expressed as a ratio of the permissible gross floor area to the site area, as defined under LEP. The maximum permissible FSR for any development is prescribed in the LEP.	Noted see LEP assessment table earlier in this report.	Yes
C4.2.2.2 Height	The maximum permissible height of building is prescribed in the LEP and varies across zones.	Noted see assessment earlier in this report.	Yes
	<u>Height</u> C1 Development for the purposes of residential flat buildings must not exceed the following numerical requirements: (a) Maximum three storeys and 10m maximum external wall height, where the height of buildings under the LEP is 11.5m. Basement and Sub-floor Projection C2 Any part of a basement or sub-floor area that projects greater than 1m above ground level comprises a storey. Attics and Roof Terraces C3 Attics and mezzanine floors do not comprise a storey. C6 Retaining walls that would be located along, or immediately adjacent to, any boundary: (a) Maximum 3m height for steeply sloping land, but only to accommodate a garage that would be located at street level; and (b) Maximum 1m height for all other land. Cut and fill – Development Without Basement Parking C7 Maximum 1m cut below ground level where it will extend beyond an exterior wall of the building. C8 No limit to cut below ground level where it will be contained entirely within the exterior walls of a building, however, excavated area is not to accommodate any habitable room that would be located substantially below ground level. C9 Maximum 600mm fill above ground level where it would extend beyond an exterior wall of a building. C10 If proposed cut and fill, or a retaining wall, would be deeper or higher than 1m, structural viability must be confirmed by suitably qualified engineers' reports.	C1 of CDCP is not applicable to the development as the maximum permissible building height under the LEP is 18m for the subject site.  There is no basement or subfloor proposed.  There are no attics or mezzanine floors proposed.  There is not cut proposed that exceeds 1m below ground level.  A condition of consent will be imposed to ensure that should any cut and fill, or a retaining wall, deeper or higher than 1m be required, a structural viability must be confirmed by suitably qualified engineers' reports.	Yes
C4.2.2.3 Setbacks	<u>Front setback</u> C1 Development, including basement and	Canterbury Road is a major road, therefore a 9m front	No- however existing.

Control	Requirement	Proposed	Complies
	<p>sub-floor areas, fronting a major road must have a minimum front setback of 9m.</p> <p><u>Rear setback</u> C2 Development must comply with the minimum setbacks as follows: (a) A minimum setback of 6m from the rear boundary.</p> <p><u>Side setback</u> (b) A minimum setback of 4m from the side boundaries.</p> <p>(c) All buildings shall provide a building form comprising a podium base element and an upper element which provides an additional setback in accordance with the table for 4 to 6 storey developments.</p> <p>C3 A minimum width of deep soil alongside boundaries of 2m and minimum of 5m wide along front/rear boundaries.</p>	<p>setback is required. The existing front setback ranges between 7.8m and 11.9m.</p> <p>The minimum rear setback provided is 2.5m to building wall on ground and first floor and 0.7m to balcony wall on the second floor.</p> <p>The minimum western side setback provided is 3.2m to the wall of the building and 1.8m to the balcony.</p> <p>The minimum eastern side setback provided is 3.8m to the wall of the building and 2.4m to the balcony.</p> <p>A 1m strip of deep soil has been provided adjacent to the side boundaries. A condition will be imposed to increase this deep soil side setback to 2m.</p> <p>Deep soil front setback ranges between 7.8m and 11.9m in depth. There is 2.5m depth deep soil interspersed between pedestrian entries and driveways across the rear boundary.</p>	
C4.2.2.4 Building Depth	<p>C1 Building depth must not exceed a maximum of 25m.</p> <p>C2 The building depth may be increased to 35m in the R4 Zone provided facades incorporate deep soil courtyards that are:</p> <p>(a) Parallel to front or rear boundaries (or that have an orientation which is generally parallel to those boundaries) provided that the adjacent deep soil setbacks each accommodate at least three major canopy trees; or</p> <p>(b) Parallel to side boundaries (or have an</p>	<p>The zoning of the site is R4, therefore the development would benefit from an increased building depth of 35m provide it would be capable of meeting the deep soil courtyard requirements</p> <p>The existing building depth is 45.6m which exceeds the maximum building depth of</p>	No- however existing.

Control	Requirement	Proposed	Complies
	orientation that is generally parallel to side boundaries) provided that the facades will incorporate deep soil courtyards that each have a minimum area 6m by 6m and will each accommodate at least one major canopy tree.	35m permitted in the R4 zone. However, the existing building depth remains unchanged and the proposal provides a deep soil front setback that accommodates four large canopy trees which are to be retained and protected during construction.	
C4.2.2.5 Building Separation	Section 6A of SEPP 65 states that a DCP cannot be inconsistent with the provisions of the ADG made under that SEPP in relation to visual privacy (building separation) to which the SEPP relates. The ADG therefore sets the objectives and controls for building separation in the LGA for residential flat buildings to which SEPP 65 relates. Refer to 3F Visual Privacy of the ADG for objectives, design criteria and design guidance.	Noted and assessment against the relevant controls in the ADG has been provided earlier within this report.	Yes
C4.2.2.6 Floor To Ceiling Heights	Refer to 4C Ceiling Heights of the ADG made under SEPP 65 for objectives, design criteria and design guidance in relation to minimum ceiling heights.	Noted and assessment against the relevant controls in the ADG has been provided earlier within this report.	Yes
C4.2.3 Building Design	<p><u>Contemporary Built Form</u></p> <p>C1 Contemporary architectural designs may be acceptable if:</p> <p>(a) A heritage listing does not apply to the existing dwelling or to its immediate neighbours.</p> <p>(b) The proposed addition is not visually prominent from the street or from a public space.</p> <p>(c) Extensive remodelling of existing facades is proposed in accordance with controls of this DCP.</p> <p>C2 New building forms and design features shall not mimic traditional features but should reflect these in a contemporary design.</p> <p>C3 Access to upper storeys must not be via external stairs.</p> <p>C4 All dwellings must contain one kitchen and laundry facility.</p> <p>C5 Retain and extend prominent elements</p>	<p>Neither the subject site nor neighbouring properties are heritage listed.</p> <p>The use of contrast and definition is achieved using materials such as painted brick, metal wall cladding, aluminium features, steel balustrades and aluminium louvre screening to enhance articulation to the building façade. Additionally, the development responds to the existing streetscape with a 3 storey building which has defined the ground and first floor with painted brick and the top floor has been defined through the use of cladding which works to contrast the</p>	Yes

Control	Requirement	Proposed	Complies
	<p>of the existing roof (such as gables, hips or longitudinal ridges that run parallel to a street boundary).</p> <p>C6 Contemporary roof forms may be acceptable on additions at ground floor level if concealed substantially behind the existing dwelling, and not visible from the street or other public space</p>	<p>upper level from the base. The building does not mimic traditional features.</p> <p>Access to upper storeys is via stairs located in the inner parts of the building.</p> <p>All dwellings contain kitchen facilities and communal laundry rooms have been provided on each floor of the development. Shared laundries are an existing arrangement on the ground and first floor, and a similar arrangement has been provided on the first floor.</p> <p>New roof form proposed and appropriate.</p>	
	<p><u>Building Entries</u></p> <p>C7 Entries to residential buildings must be clearly identifiable.</p> <p>C8 Provide the main common entry and separate private ground floor apartment entries where it is desirable to activate the street edge or reinforce a rhythm along the street.</p> <p>C9 A minimum of one habitable room per dwelling must be oriented towards the street to promote positive social interaction and community safety.</p> <p>C10 Sight lines to the street from habitable rooms or entrances must not be obscured by ancillary structures.</p> <p>C11 Ground level private terraces located within the front setback must be setback at least 1m from the street boundary to accommodate a landscape strip which should remain in communal ownership.</p> <p>C12 Private open spaces accessed from the street must be clearly articulated.</p>	<p>The communal entries into the building from Canterbury Road and Allegra Avenue are clearly identifiable.</p> <p>The ground floor dwellings fronting Canterbury Road do not have private open space areas or separate entries and this current arrangement is to remain unchanged. Rather, the front setback area adjacent to Canterbury Road is a landscaped area for the purpose of communal open space. This area is to be retained as communal open space. In regard to the requirement for a 1m landscape strip to remain in communal ownership, this control is satisfied as the entire front setback area is communal area. It is also noted that no subdivision is proposed as</p>	Yes

Control	Requirement	Proposed	Complies						
		part of this application.							
	<p><u>Façade Treatment</u></p> <p>C13 Development on corner lots must address both street frontages through façade treatment and articulation of elevations.</p> <p>C14 Facade design should reflect the orientation of the site using elements such as sun shading devices, light shelves and bay windows.</p> <p>C15 Facades visible from the street should be designed as a series of articulating panels.</p> <p>C16 Width of articulating panels should be consistent with the scale and rhythm characteristic of bungalows.</p> <p>C17 The width of articulating panels for RFB’s up to 3 storeys shall be in accordance with the numerical requirements below:</p> <table><tr><th>Street Elevation Facades</th><th>Side Elevation Facades</th></tr><tr><td>4m to 6m</td><td>10m to 15m</td></tr><tr><td>6m to 8m</td><td>10m to 15m</td></tr></table> <p>C18 Avoid long flat walls along street frontages - stagger the wall alignment with a step (not a fin wall of other protruding feature) of at least 0.5m for residential buildings.</p> <p>C19 Vary the height of modules so they are not read as a continuous line on any one street between 2 - 4 storeys, step-back to the middle component and again at the top.</p> <p>C20 Incorporate contrasting elements in the facade - use a harmonious range of high quality materials, finishes and detailing.</p> <p>C21 Screen prominent corners with awnings, balconies, terraces or verandas that project at least 1 m from the general wall alignment.</p> <p>C22 For residential flat buildings, layer and step facades in order to avoid building forms that are bland, bulky or over scaled by:</p> <p>(a) Complying with base and upper element setback controls; and</p> <p>(b) Incorporating balconies, staggered alignments for exterior walls and</p>	Street Elevation Facades	Side Elevation Facades	4m to 6m	10m to 15m	6m to 8m	10m to 15m	<p>The subject site is not a corner block; however, it does have a frontage to the front and rear. The façade is well articulated, and the building presents well to both Canterbury Road and Allegra Avenue.</p> <p>The building finishes includes a combination of painted face brick, wall cladding and vertical aluminium louvres which serves as a series of articulating panels and well defines the third storey from the ground and first floor.</p> <p>The use of articulation on the front elevation (Canterbury Road frontage) provides articulating panels with the use of different materials and finishes at intervals between 6m and 8m.</p> <p>The ability to stagger the wall alignment is restricted as the ground and first floor remains unchanged, and the third floor addition is dictated by the floors below.</p> <p>Notwithstanding this, the second floor provides balconies on some of the dwellings fronting Canterbury Road, which serves to stagger the wall alignment and provide additional articulation.</p> <p>Appropriate vertical screening provided.</p>	Yes
Street Elevation Facades	Side Elevation Facades								
4m to 6m	10m to 15m								
6m to 8m	10m to 15m								



Control	Requirement	Proposed	Complies
	through contrasting design elements.		
	<u>Pavilions</u> C27 Residential flat buildings up to three storeys facades that would be wider than 25m should be indented so that the new building would appear like a cluster of pavilion elements: (a) Width of each pavilion should be between 10-12m (b) Pavilion elements should be separated by courtyards that are less than 6m wide.	Achieved.	Yes
	<u>Windows</u> C30 Large windows should be screened with blinds, louvres, awnings or pergolas. C31 Windows must be rectangular. C32 Square, circle and semi-circle windows are acceptable in moderation. C33 Vertical proportioned window openings can include multi-panel windows or multi-panel doors. C34 Windows and openings shall be appropriately located and shaded to reduce summer heat load and maximise sunlight in winter. C35 Dormer windows on buildings in the residential zone do not appear as additional storey.	Some of the large windows fronting Canterbury Road are fixed with louvres which provides suitable screening from the public domain.  All windows in the development are rectangular in shape.  No dormer windows are proposed.	Yes
C4.2.3.2 Roof Design and Features	<u>Building three storeys or less</u> C1 Use a simple pitched roof that accentuates the shape of exterior walls and minimises bulk and scale. C2 Avoid complex roof forms with multiple gables, hips and valleys, or turrets. C3 Roof pitches are to be compatible and sympathetic to nearby buildings. C4 Parapet roofs that increase the height of exterior walls are to be minimised. C5 Use minor gables only to emphasise rooms or balconies that project from the body of a building. C6 Mansard roofs (or similar) are not permitted. C7 Pitched roofs should not exceed a pitch of 30 degrees. C8 Relate roof design to the desired built form and context. C9 Roofs with greater pitches will be considered on merit considering matters such as streetscape, heritage value and design integrity.	The proposed building is three storeys, therefore controls C1-C10 of CDCP are applicable.  The roof form of the proposed development is a flat roof form and has a roof pitch that ranges between 2 degrees and 6 degrees across the development. The immediate vicinity is characterised by a combination of flat roof and pitched roof forms. Therefore, there is no predominant roof form that is characteristic of the area. On this basis, the proposed roof is compatible with the	Yes

Control	Requirement	Proposed	Complies
	C10 Relate roof design to the desired built form and context.	existing streetscape.	
C4.2.3.3 Dwelling Layout & Mix	Section 6A of SEPP 65 states that a DCP cannot be inconsistent with the provisions of the ADG made under that SEPP in relation to apartment size and layout (dwelling layout) and development to which the SEPP relates. The ADG therefore sets the objectives and controls for dwelling layout in the LGA for residential flat buildings to which SEPP 65 applies. Refer to 4D Apartment Size and Layout of the ADG for objectives, design criteria and design guidance. An additional objective and control in relation to the mix of dwellings are provided below.	Noted and assessment against the relevant controls in the ADG has been provided earlier within this report.	Yes
C4.2.4 Amenity	This section of the DCP contains amenity provisions for solar access and overshadowing and acoustic privacy. Visual privacy and natural ventilation objectives and controls are discussed in section C4.2.2.5 Building Separation in this chapter of the DCP.	Noted and detailed assessment against all specific amenity provisions has been discussed within this report.	Yes
C4.2.4.1 Solar Access and Overshadowing	Section 6A of SEPP 65 states that a DCP cannot be inconsistent with the provisions of the ADG made under that SEPP in relation to solar and daylight access (solar access and overshadowing in this DCP) and development to which the SEPP relates. The ADG therefore sets the objectives and controls for solar access and overshadowing in the LGA for residential flat buildings to which SEPP 65 relates. Refer to 4A Solar and Daylight Access of the ADG for objectives, design criteria and design guidance.  C1 Daylight is to be provided to all common circulation areas (including lift wells) that are above ground.	Noted and assessment against the relevant controls in the ADG has been provided earlier within this report.  Natural light provided to all common circulation areas including lift shafts which are located externally.	Yes
	<u>Solar Access to Neighbouring Development</u> C2 Proposed development must retain a minimum of 3 hours of sunlight between 8.00am and 4.00pm on 21 June for existing primary living areas and to 50% of the principal private open space. C3 If a neighbouring dwelling currently receives less than 3 hours of sunlight, then the proposed development must not	As demonstrated in the shadow diagrams, a minimum 3 hours solar access is retained for the neighbouring developments primary living areas and private open space. The neighbouring residential	Yes

Control	Requirement	Proposed	Complies
	<p>reduce the existing level of solar access to that property.</p> <p>C4 Sunlight to solar hot water or photovoltaic systems on adjoining properties must comply with the following:</p> <p>(a) Systems must receive at least 3 hours of direct sunlight between 8.00am and 4.00pm on 21 June.</p> <p>(b) If a system currently receives less than 3 hours sunlight, then proposed development must not reduce the existing level of sunlight.</p> <p>C5 Clothes drying areas on adjoining residential properties must receive a minimum of 3 hours of sunlight on 21 June.</p>	<p>property adjoining the site to the eastern boundary at 774 Canterbury Road achieves a minimum 3 hours solar access to required areas between 8am and 12pm. The neighbouring properties to the west of the site at 786 Canterbury Road and 2A Allegra Avenue maintain a minimum 3 hours solar access between 12pm and 4pm.</p> <p>Noted and achieved.</p>	
C4.2.4.2 Acoustic Privacy	<p>C1 Protect sensitive rooms, such as bedrooms, from likely sources of noise such as major roads and neighbouring' living areas.</p> <p>C2 Above ground access to new dwellings must not include communal balconies that would be located immediately next to a bedroom window.</p> <p>C3 Bedroom windows in new dwellings that would be located at or close to ground level are be raised above, or screened from, any shared pedestrian pathway.</p> <p>C4 Screen balconies or windows in living rooms or bedrooms that would face a driveway or basement ramp. C5 Address all requirements in 'Development Near Rail Corridors and Busy Roads - Interim Guideline (2008)' published by the NSW Department of Planning.</p>	<p>Acoustic report received, and conditions incorporated into consent to ensure a suitable level of acoustic privacy is maintained for future occupants of the site and neighbouring properties.</p>	Yes
C4.2.5.1 Fences	<p>C1 Provide boundary definition by construction of an open fence or low hedge to the front street boundary.</p> <p>C2 Front fences within the front boundary setback are to be no higher than 1.2m.</p> <p>C3 Side fences may be 1.8m high to the predominant building line. Forward of the building line, side fences must taper down to the height of the front fence at a height no greater than 1.2m.</p> <p>C5 Screen walls around private open spaces shall not be taller than 1.2m, although screens with 50% transparency may be up to 1.8m in height.</p>	<p>A condition of consent will be imposed to ensure that all boundary fencing is replaced and renewed in keeping with the relevant fence height requirements for each boundary. A 1.6m height front boundary fence is proposed to Canterbury Road. A condition of consent will be imposed to ensure that the fence is solid render up to 1.2m in height and the remaining 0.4m up to a</p>	Yes

Control	Requirement	Proposed	Complies
		<p>maximum of 1.6m is 50% transparent.</p> <p>A fence has been proposed along the rear boundary to Allegra Avenue, however a condition will also be imposed to ensure that a solid 1.2m height fence to the rear boundary with a 50% transparent screen up to 1.8m in height and replacement side boundary fencing that tapers down forward of the front building line towards the Canterbury Road frontage.</p>	
C4.2.5.2 Building Services	<p>C1 All letterboxes be installed to meet Australia Post standards.</p> <p>C2 Design and provide discretely located mailboxes at the front of the property.</p> <p>C3 Integrate systems, services and utility areas (such as plant rooms, hydrants, equipment and the like) with the design of the whole development – coordinate materials with those of the building and integrate with landscaping.</p> <p>C4 The location of substations is to be shown on plans.</p> <p>C7 Facilities should not be visually obtrusive and should not detract from soft-landscaped areas that are located within the required setbacks or building separations.</p> <p>C8 Appliances that are fitted to the exterior of a building, and enclosures for service meters, do not detract from the desired architectural quality of new building, or the desired green character of streetscapes.</p> <p>C9 Unscreened appliances and meters should not be attached to any façade that would be visible from a street or driveway within the site.</p> <p>C10 Screen or treat air conditioning units, TV antennae, satellite dishes, ventilation ducts and other like structures so they are not visible on the street elevation.</p> <p>C11 Coordinate and integrate building services, such as drainage pipes, with overall façade and balcony design.</p>	<p>The building already contains services for the function of the existing building. The proposed alterations and additions are not likely to result in the need for new services but rather will rely on the existing services which will be upgraded to accommodate for the new dwellings. Such as, new letterboxes being installed.</p> <p>The applicant has not advised that a substation will be required and a condition of consent will be included to reinforce that consent is not provided for a substation under the subject consent.</p> <p>Three separate clothes drying areas have been provided across the ground floor of the site and are not visible from public spaces.</p> <p>A condition of consent will be imposed to ensure that other services such as TV antennae, AC units and hot</p>	Yes

Control	Requirement	Proposed	Complies
	<p>C12 Location and design of service areas should include:</p> <p>(a) Screening of clothes drying areas from public and semi-public places; and</p> <p>(b) Space for storage that is screened or integrated with the building design.</p> <p>C13 Minimise visual impact of solar hot water systems.</p>	water systems that would be required as part of the building upgrade, will be suitable screened and not visible from the street.	

*The proposed development is consistent with the above objectives and numerical controls, except for the following numerical controls:*

#### [6] Setbacks

The setbacks on the ground and first floor are existing and the proposal seeks to retain these setbacks. In relation to the first floor addition, while these setbacks don't comply with the numerical requirements under the DCP, the setbacks are existing and remain unchanged. In relation to the second floor addition, the setbacks are dictated by the setbacks of the existing building. Notwithstanding the noncompliance it is considered acceptable given that the proposed development still maintains an adequate level of visual privacy and maintains the existing landscape treatment forward of the building line, providing good amenity for future occupiers of the building and neighbouring residents

The objectives of the Setback controls in CDCP 2012 are set out below:

- 01. To establish the desired spatial proportions of the street and define the street edge.*
- 02. To limit the scale and bulk of development by retaining landscaped open space around.*
- 03. To contribute to the natural landscape by retaining adequate space for new trees and conserving existing visually prominent trees.*
- 04. To provide sufficient separation between buildings and adjacent land to limit the visual, environmental and likely potential amenity impacts of new development.*
- 05. To minimise stormwater run-off by retaining deep soil areas that facilitate rainwater infiltration*

Despite not meeting the minimum setback requirements due to the proposal being largely dictated by the existing building envelope, the proposal meets the objectives for the setback controls in CDCP 2012. The bulk and scale of the development can be measured by the building's height, FSR and landscape treatment. Given that the proposal is well below the maximum permissible building height standard under the LEP and well below the bonus FSR (pursuant to ARH SEPP) and the landscaped area in the front setback has been retained the overall development is appropriate.

In terms of deep soil, the DCP requires 2m deep soil side setbacks. The proposed development shows a 1m strip of deep soil adjacent to the side boundaries. A condition of consent will be imposed to increase this deep soil side setback to 2m.

The DCP requires a 5m deep soil front and rear setback. The proposed development provides a deep soil front setback which ranges between 7.8m and 11.9m in depth and exceeds the minimum requirement by a large margin.

A 2.5m wide deep soil corridor currently exists across the rear boundary however the proposal includes the subdivision of a 3m wide strip of land (which gradually tapers down) in the south eastern corner of the site for the purpose of road widening. Irrespective of the lack of continuous deep soil adjacent to the rear boundary, the proposed rear landscaping is an improvement from the existing deep soil provided and will serve as a visual buffer from the public domain. The inability to meet the deep soil requirement is also impractical to meet due to the subdivision of land which will excise a part of the residential site to be used for road widening purposes and produce improved vehicular and waste service accessibility.

Notwithstanding the above, the requirement for 5m deep soil in the front setback and 5m deep soil at the rear equates to a total depth of 10m deep soil. Even though minimal deep soil is provided at the rear, an equivalent depth is still provided within the front setback as it provides more than the minimum requirement. Therefore, the total depth of deep soil for the overall development is still met.

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

The Canterbury Development Contributions Plan 2013 applies to the site and requires a contribution of **\$149,080.64**. This is included as a condition of consent.

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

There are no relevant planning agreements applicable to the proposed development. However, subdivision of land has been proposed which will result in land dedication to Council for the purpose of road widening to facilitate the connection between Allegra Avenue and Chapel Lane to provide for a future vehicular thoroughfare.

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

The proposed development is not inconsistent with the provisions of the Environmental Planning and Assessment Regulation, 2000.0

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

- **Sediment and Erosion Control**

The submitted development plans show details of sediment and erosion control measures to be installed as part of the construction of the development. Standard conditions will be included regarding the installation and maintenance of the sediment and erosion control measures as part of the pre and during construction phase of the development.

- **Health, Safety & Amenity during Construction Phase**

During the construction of the development, the health and amenity of workers, the public and adjoining properties alike needs consideration under Section 4.15 of the EP&A Act. Accordingly, all works associated with the development will be restricted to daytime hours to ensure the works will not be a nuisance to adjoining occupiers and property owners (by way of standard condition).

- **Referrals**

Referral	Comments Received
Building Surveyor	No objections – subject to conditions of consent.
Development Engineer	No objections – subject to conditions of consent.
Resource Recovery	No objections – subject to conditions of consent.
Fire Safety Officer	No objections – subject to conditions of consent.
Traffic Engineer	No objections – subject to conditions of consent.
General Counsel	No objections – subject to conditions of consent.
Roads and Maritime Services	No objections – subject to conditions of consent.

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

The proposed development is permissible in the subject site's current zoning and is consistent with the objectives of the zone as it provides a residential flat building development to accommodate for the housing needs for very low to moderate income households within this local residential environment. The site is suitable for the development providing for the orderly and economic use of the land.

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

The application was advertised on three different occasions. The first notification period was from 14 August 2019 to 3 September 2019. The application was notified a second time from 2 October 2019 to 22 October 2019, as occupiers of the subject site were not notified the first time. The third notification period was from 29 April 2020 to 26 May 2020. Council received a total of 4 submissions from three individuals with the following concerns were raised:

Concern: Insufficient laundry facilities

Comment: the existing laundry facilities remain unchanged for the existing dwellings. Also, two of the existing dwellings on ground and the first floor are being deleted which will reduce the laundry use required for a total of 4 dwellings. An additional laundry facility is proposed on the second storey addition to cater for the demand of the proposed 20 studio apartments on this level.

Concern: Washing lines not in the middle of the space

Comment: There are three clothes lines provided and dispersed across the ground floor of the development. Additionally, individual courtyards and private open space areas are proposed for several existing dwellings and all new dwellings which are capable of accommodating clothes drying areas.

Concern: How will the war service memorial in the large courtyard be managed

Comment: A condition of consent has been imposed to ensure it is retained or sensitively relocated on the site in memory of those war veterans.



Concern: The off street parking and lifts will reduce the size of the courtyards

Comment: The concern that off street parking and the provision for new lift cores will result in the size of the courtyards being reduced is acknowledged. The communal open space area fronting Canterbury Road is being retained and the vehicular crossing removed to improve the overall usability of this area. As part of the proposal, bench seating has been proposed in the front communal area with the provision of new landscaping and front boundary fencing to allow privacy when occupying this space. Additionally, the proposal has provided a new roof top terrace which counteracts for the loss of private open space on ground floor. The roof top includes toilet facilities, BBQ facilities and bench seating to encourage social interaction for future occupiers of the development.

Concern: The proposed addition of another level to the development will cause congestion onto Canterbury road in an already highly congested road

Comment: The application was referred to Roads and Maritime Services (RMS) as a result of Canterbury Road being a major Road which typically has large volumes of vehicles on travelling on the road daily. RMS raised no objection to the proposed development subject to conditions of consent.

Concern: Parking design is inadequate for this property and needs to be underground. The planning for the third storey doesn't take this into account.

Comment: The parking has been assessed pursuant to the requirements of the ARH SEPP which requires that 0.4 car parking spaces be provided per dwelling, when the development is operated by a social housing provider. A total of 24 car parking spaces have been provided and a condition of consent has been imposed to ensure that the development is operated by a social housing provider. Due to the constraint of maintaining the existing buildings this makes an underground carpark difficult to design and execute and would likely render the proposal unfeasible.

Concern: Concern is raised about the noise, visual and air pollution during construction and that appropriate materials used for fire safety.

Comment: Standard conditions of consent will be imposed to ensure that the proposed development complies with the relevant Australian Standards during construction. Also, it will be the responsibility of the principal certifying authority to ensure the developer adheres to the conditions at all stages of the development to mitigate any impacts that are likely to arise during the process.

Concern: The development description of the DA proposal and associated documentation is not clear as it refers to an additional one storey but the proposal is actually four storeys.

Comment: The development contains a total of three storeys of residential dwellings. The proposal seeks to retain the ground and first floor and proposes a third storey addition. Also, a roof top terrace is proposed in the middle block of the building and is appropriately setback from both side boundaries. In addition, a planter box wraps the perimeter of the roof top

communal open space which will also reduce any potential privacy impacts. In regard to the overall building height, pursuant to the building height map in Canterbury Local Environmental Plan 2012, the site has a permissible 18m height limit. However, the maximum building height proposed for the subject development is 12.4m and is well below the allowable height limit at the site.

Concern: Noise impacts as a result of the proposed private courtyards on the ground floor located within the side setback areas.

Comment: It should be acknowledged that the existing side setback areas are communal open space areas which can be used by any occupier of the site for recreational purposes. The proposal to convert the side setback areas into private courtyards is not considered to be any more of an impact than the existing situation.

Concern: The creation of the private courtyards and balconies facing the side setbacks will impact visual privacy to adjoining neighbours.

Comment: The concern that ground floor courtyards will result in visual privacy impacts is noted. However, the ground floor RL's are remaining unchanged and there is a 1.8m high boundary fence replacement condition for the full extent of the side boundary at the developers cost. Additionally, the privacy impacts from the balconies is also noted. However, the location of the existing balconies on the first floor remains unchanged. They have been improved however using solid balustrade construction replacement for walls of the balcony to reduce direct overlooking.

Concern: Power, water and other services will be interrupted and how will they be managed?

Comment: Standard conditions of consent will be imposed to ensure that the proposed development complies with the relevant Australian Standards during construction.

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

The public interest is served through the detailed assessment of this application under the *Environmental Planning and Assessment Act 1979*, *Environmental Planning and Assessment Regulation 2000*, *Environmental Planning Instruments* and *Development Control Plans*. Based on the above assessment, the proposal is in the public interest.

**CONCLUSION**

The Development Application has been assessed in accordance with the provisions of Section 4.15 of the *Environmental Planning and Assessment Act 1979*, *Canterbury Local Environmental Plan 2012*, *Canterbury Development Control Plan 2012* and all other relevant environmental planning instruments and policies. The proposal does not contravene any development standards and is unlikely to have any significant impacts. Notwithstanding that, the proposal results in a variation to the minimum landscape requirement under the ARH SEPP, visual privacy requirement under the ADG and the minimum setback controls in CDCP 2012, however the variations are not considered to have any significant impacts.

The development is supported under the principle of delivering affordable housing, whilst protecting the amenity for occupants. Also, the upgrade of the building in terms of its design and presentation to Canterbury Road has been improved as part of this development and positively contributes to the streetscape and the local built environment.

The site is suitable for the proposed development and consistent with the objectives of the R4 High Density Residential zone pursuant to Canterbury LEP 2012 by virtue, the proposal is permissible within the zone. On that basis, the application is recommended for approval subject to conditions of consent.

**RECOMMENDATION**

It is recommended that the application DA-557/2019 be **APPROVED** subject to the attached conditions.



## CONDITIONS OF CONSENT

- 1) The proposal shall comply with the conditions of Development Consent. A Construction Certificate shall not be issued until the plans and specifications meet the required technical standards and the conditions of this Development Consent are satisfied.
- 2) Development shall take place in accordance with Development Application No.DA-557/2019, submitted by BKA Architecture, accompanied by the drawings and documents as listed in the table below, and affixed with Council's approval stamp, except where otherwise altered by the specific amendments listed hereunder and/or except where amended by the conditions contained in this approval.

Drawing No.	Drawing/Document Title	Revision	Dated	Prepared by
DA-100	Cover Page	Rev. E	27/3/2020	BKA Architecture
DA-110	Ground Floor plan	Rev. G	27/3/2020	BKA Architecture
DA-111	Ground Floor Plan Continued	Rev. G	27/3/2020	BKA Architecture
DA-112	Level 1 Floor Plan	Rev. F	27/3/2020	BKA Architecture
DA-113	Level 2 Floor Plan	Rev. F	27/3/2020	BKA Architecture
DA-114	Roof Plan	Rev. F	27/3/2020	BKA Architecture
DA-200	Elevations- North and East	Rev. E	27/3/2020	BKA Architecture
DA-201	Elevations-South and West	Rev. E	27/3/2020	BKA Architecture
DA-202	Elevations- Internal Courtyard	Rev. E	27/3/2020	BKA Architecture
DA-300	Section	Rev. D	27/3/2020	BKA Architecture
DA-710	Solar and Cross Ventilation Diagram	Rev. E	27/3/2020	BKA Architecture
DA-600	Materials and Finishes	Rev. G	27/3/2020	BKA Architecture
L-01, L02, L03	Landscape Plan	Rev E	26/3/2020	Eco Design
TK874-01F02	Acoustic Assessment Report	Rev. 4	17/3/2020	Renzo Tonn and Associates
1028673M_02	BASIX Certificate	-	18/3/2020	-
Surveyor Reference 52889	Plan of Subdivision	-	23/6/2020	S.J Dixon Surveyors P/L

The development plans shall be amended as follows:

- a) The war/veterans memorial is to be retained in its current location or relocated to the central common open space area behind the building line.
- b) The operable louvres adjacent to the front door are to be a minimum of 2.4m by 0.5m in dimensions for all studio apartments on the second storey are to be operable.

- c) All onsite parking is to remain common parking for the use of all apartments. It is not to be allocated or subdivided to individual apartments.
- d) The deep soil side setbacks adjacent to the eastern and western side boundaries is to be increased so the deep soil is minimum width of 2m.
- e) A gate and intercom is to be provided at all main/common pedestrian entry points to the site.
- f) The bathroom and ensuite windows being fixed with translucent glass.
- g) A lift swipe access security system is to be installed to all lift shafts.
- h) The front fencing on (Canterbury Road) frontage is to be of solid material and no higher than 1.2 metres with additional 300mm being of material that is 50% transparent (totalling a maximum height of 1.5 metres).
- i) Storage areas must be provided in each of the second storey apartments of at least 4m<sup>3</sup> per studio apartment.
- j) The landscaped areas located in the front setback adjacent to Canterbury Road must be retained as deep soil and landscaping respectively for the life of the development. No encroachments for services or any structure is permitted.
- k) The Acoustic assessment report referenced to in the above table is to be amended and submitted to the PCA to ensure to ensure the following LAeq levels are not exceeded:
  - in any bedroom in the residential accommodation -35dB(A) at any time between 10pm and 7am; and
  - anywhere else in the building (other than a garage, kitchen, bathroom or hallway) -40dB(A) at any time.

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

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

- 3) A civil design drawing detailing the following shall be submitted to and approved by Council prior to the issue of a construction certificate:
  - i. construction of a new kerb, gutter and footpath along the Allegra Avenue frontage of the site;
  - ii. extension of Chapel Lane into the land identified as "*Lane Widening*" on the approved ground floor plan DA-110 together with associated kerb, gutter and footpath

Both to be in accordance with Council's standards for road and footpath design and any consent granted in condition 5 below.

- 4) All buildings and structures, together with any improvements integral to the future use of the site are to be wholly within the freehold property (unlimited in height or depth), along the Canterbury Road boundary.

- 5) Prior to any works being carried out within a road reserve area (i.e. Canterbury Road, Allegra Avenue and/or Chapel Lane) consent must be obtained under section 138 of the Roads Act 1993, noting that any such consent for road works within Canterbury Road will require the concurrence of Roads and Maritime. Any application for consent must, without limitation, include sufficient details to address Condition 6 below.
- 6) Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system that impact upon Canterbury Road are to be submitted to Roads and Maritime for approval, prior to the commencement of any works. Please send all documentation to [development.sydney@rms.nsw.gov.au](mailto:development.sydney@rms.nsw.gov.au) A plan checking fee will be payable and a performance bond may be required before Roads and Maritime approval is issued.
- 7) All construction and service vehicles are to access the site via Allegra Avenue/Chapel Lane. A construction zone will not be permitted on Canterbury Road.
- 8) The proposed development, noting its use, should be designed, as per the requirements of Clause 101 (2)(c) of State Environmental Planning Policy (Infrastructure) 2007 such that it includes measures to ameliorate potential traffic noise or vehicle emissions noise within the site of the development arising from Canterbury Road. These measures shall be certified by an appropriately qualified noise and air quality expert and noted on the plans prior to issue of a Construction Certificate.
- 9) A Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council for approval prior to the issue of a Construction Certificate as advised by RMS.
- 10) The Certifying Authority must ensure that any certified plans forming part of the Construction Certificate are not inconsistent with this Development Consent and accompanying plans.
- 11) A detailed landscape plan prepared by a qualified landscape architect or designer is to be approved prior to the issue of a Construction Certificate. The landscape plan is to be prepared in accordance with the relevant DCP and is to show all features, built structures including retaining walls, irrigation, mulch and natural features such as significant gardens, landscaping, trees, natural drainage lines and rock outcrops that occur within 3 metres of the site boundary. The landscape plan shall consider any stormwater, hydraulic or overland flow design issues where relevant.
- 12) The landscape plan shall include the provision for the replacement of all boundary fencing. A new 1.8m fence is to be erected along all side and rear boundaries and taper down forward of any building line to a maximum height of 1.2m of the subject allotment at full cost to the developer. The colour of the fence is to complement the development and the fence is to be constructed of lapped and capped timber paling, sheet metal or other suitable material unless the type of material is stipulated in any



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

- 13) Approval in accordance with Council's Tree Preservation Order (TPO) is granted to lop or remove only the trees identified to be lopped or removed on the approved plans. Separate approval shall be obtained to prune or remove trees on adjoining properties or other trees located on the site. Failure to comply with Council's TPO may result in a fine of up to \$100,000.
- 14) All scheduled plant stock shall be pre-ordered, prior to issue of Construction Certificate or 3 months prior to the commence of landscape construction works, whichever occurs sooner, for the supply to the site on time for installation. Written confirmation of the order shall be provided to Council's Landscape Architect (Contact no: 9707 9000), prior to issue of any Construction Certificate. The order confirmation shall include name, address and contact details of supplier; and expected supply date.
- 15) A soil erosion and sediment control plan must be prepared by a suitably qualified professional, in accordance with Council's Demolition and Construction Guidelines and Council's Development Engineering Standards, and submitted to the certifying authority for approval prior to the issue of a construction certificate.
- 16) The Council Approved building plans, including demolition plans, must be submitted to Sydney Water for assessment. This will determine if the proposed structure(s) would affect any Sydney Water infrastructure or if there are additional requirements. Building plan approvals can be submitted online via Sydney Water Tap in™.

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

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

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

- 17) A Construction Certificate shall not be issued until written proof that all bonds, fees and/or contributions as required by this consent have been paid to the applicable authority.
- 18) A long service levy payment which is 0.35% of the total cost of the work is to be paid to the Building and Construction Industry Long Service Payments Corporation.

- 19) A dilapidation report prepared by an accredited engineer, detailing the structural adequacy of the adjoining properties at 774 Canterbury Road, Belmore, 786 Canterbury Road, Belmore and 2A Allegra Avenue Roselands and their ability to withstand the proposed excavation, and any measures required to be incorporated into the work to ensure that no damage will occur during the course of the works, shall be submitted to Council, or the Principal Certifying Authority prior to the issue of a Construction Certificate and undertaken during construction. All costs to be borne by the applicant.
- 20) A photographic survey must be prepared of the adjoining properties at 774 Canterbury Road, Belmore, 786 Canterbury Road, Belmore and 2A Allegra Avenue Roselands detailing the physical condition of those properties, both internally and externally, including such items as walls, ceilings, roof, structural members and other similar items, shall be submitted to the Principal Certifying Authority and Canterbury Bankstown Council if Council is not the Principal Certifying Authority, prior to the issue of the relevant Construction Certificate. On completion of the excavation and building works and prior to the occupation of the building, a certificate stating to the effect that no damage has resulted to adjoining premises is to be provided to the Principal Certifying Authority and Canterbury Bankstown Council if Council is not the Principal Certifying Authority. If damage is identified which is considered to require rectification, the damage shall be rectified or a satisfactory agreement for rectification of the damage is to be made with the affected person(s) as soon as possible and prior to the occupation of the development. All costs incurred in achieving compliance with this condition shall be borne by the persons entitled to act on this Consent.
- 21) This condition has been levied on the development in accordance with Section 7.11 of the Environmental Planning and Assessment Act 1979 and in accordance with Canterbury Development Contributions Plan 2013, after identifying the likelihood that this development will require or increase the demand on public amenities, public services and public facilities in the area.

The amount of the contribution (as at the date of this consent) has been assessed as \$149,080.64. The amount payable is based on the following components:

Contribution Element	Contribution
<b>2013</b>	
• Community Facilities	\$ 13,483.84
• Open Space and Recreation	\$ 131,810.08
• Plan Administration	\$ 3,786.72

Note: The contributions payable may be adjusted, at the time of payment, to reflect Consumer Price Index increases (All Groups Index) for Sydney as published by the Australian Bureau of Statistics.

The contribution is to be paid to Council in full prior to the release of the Construction Certificate, (or for a development not involving building work, the contribution is to be paid to Council in full before the commencement of the activity on the site) in accordance with the requirements of the Contributions Plan.

The Development Contributions Plan 2013 may be inspected at Council's Campsie Customer Service Centre, 137 Beamish Street, Campsie or from Council's website [www.cbcity.nsw.gov.au](http://www.cbcity.nsw.gov.au). A copy of the Plan may be purchased from Council's Administration Centre, 137 Beamish Street, Campsie during office hours.

- 22) Finished surface levels of all internal works and at the street boundary, including driveways, landscaping and drainage structures, must be as shown on the approved plans. The levels at the street boundary must be consistent with the Street Boundary Alignment Levels issued by Council.
- 23) Stormwater drainage from the development shall be designed so as to comply with Council's Canterbury Development Control Plan 2012 Part B5 stormwater guideline requirements and of the BASIX Certificate (where applicable). A final detailed stormwater drainage design shall be prepared by a qualified Professional Civil Engineer in accordance with the above requirements and shall generally be in accordance with the concept stormwater plan job No. 190398, issue A dated 29/7/2019 prepared by Australian Consulting Engineers. The final plan shall be certified by the design engineer that it complies with Council's Canterbury Development Control Plan 2012 Part B5, the BASIX Certificate and the relevant Australian Standards.
- 24) Where Council approved cut or fill exceeds 200mm and stable batter of 1 vertical to 3 horizontal maximum grade cannot be achieved, then a masonry or other proprietary material retaining wall, intended and suitable for that purpose, shall be constructed within the development site. Note, filling of the site needs specific approval from Council.

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

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

- 25) An all weather pavement shall be designed to withstand the anticipated wheel loads for all areas subjected to vehicular movements. Internal pavements specification prepared and certified by all qualified professional Civil Engineer to comply with the relevant Australian Standards, shall be submitted to the Principal Certifying Authority (PCA) for approval prior to the issue of a construction certificate.
- 26) The Construction Certificate plans shall include details of the garbage receptacle area. The garbage receptacle area shall not be visible from the street. The garbage receptacle area shall be located within the building or screened from the street by dense landscaping.

- 27) A Work Permit shall be applied for and obtained from Council for the following engineering works in front of the site, at the applicant's expense:
- a) Two (2) medium duty VFC at the property boundary Chapel Lane.
  - b) Drainage connection to Council's system within Chapel Lane.
  - c) Concrete footway paving along the site's frontage to Chapel Lane in accordance with Council's Standards.
  - d) Concrete kerb and gutter along Chapel Lane in accordance with Council's Standards.
  - e) Road construction along the site's frontage to Chapel Lane.
  - f) Removal of all driveway surfaces, reinstatement of laybacks to kerb and gutter and reshaping of the footway, all associated with redundant VFCs.
  - g) Repair of any damage to the public road including the footway occurring during development works.
  - h) Reinstatement of the footway reserve and adjustment or relocation of existing public utility services to match the footway design levels as proposed on the approved Work Permit. Adjustment or relocation to any public utility services shall be carried out to the requirements of the public utility authority.

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

- 28) Prior to the issue of any Construction Certificate for this development, the applicant must obtain approval from Council's Traffic Section for a Site, Pedestrian and Traffic Management Plan (SPTMP). This Plan must address the measures that will be implemented for pedestrian safety and traffic management as specified below.

A PRIVATE CERTIFIER CANNOT APPROVE YOUR SITE, PEDESTRIAN & TRAFFIC MANAGEMENT PLAN

This plan shall include details of the following:

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

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

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

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

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

- 29) If any neighbouring properties or roadway are to be utilised for support, the legal rights of any adjoining properties must be respected including for temporary supports. In this regard the written permission of the affected property owner must be obtained and a copy of the owner's consent for temporary rock anchors or other material in adjacent lands must be lodged to Canterbury Bankstown Council prior to the issue of a Construction Certificate.

Temporary rock anchors are rock anchors that will be de-stressed and removed during construction. All other rock anchors are permanent rock anchors for the purposes of this Consent. Council will not permit permanent rock anchors in adjacent private lands unless they are specifically permitted in a Development Consent.

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

- Demonstrate that any structures within the road reserve are of adequate depth to ensure no adverse impact on existing or potential future service utilities in the road reserve.
- All existing services must be shown on a plan and included on cross sectional details where appropriate.

- Demonstrate how the temporary anchors will be removed and replaced by full support from structures within the subject site by completion of the works.
  - The report must be supported by suitable geotechnical investigations to demonstrate the efficacy of all design assumptions.
- 30) For internal driveways with a gradient exceeding 10% (1 in 10), longitudinal profiles of all vehicular driveways and ramps shall be submitted for approval by the Principal Certifying Authority (PCA) prior to the issue of the Construction Certificate. The maximum grade of the driveway/ramp shall not exceed 25% and shall comply with AS 2890.1. The profile shall be drawn at a reduction ratio of 1 to 25 vertical and horizontal and shall be related to the datum used for the issue of the footway design levels and shall also show the road centre line levels, Council issued footway design levels and gutter levels.
- 31) The layout of the proposed car parking areas associated with the subject development including, driveways, grades, turn paths, sight distance, aisle widths, aisle lengths, and parking bay dimensions should be in accordance with the Australian Standard AS 2890 parking series.
- 32) The pump out drainage system for the access ramp and basement car parking area shall be provided in accordance with Council's Canterbury Development Control Plan 2012 Part B5. The Engineer must design the Pump out system in accordance with Australian Standards AS3500.3. Engineering details and specifications shall be submitted to the Principal Certifying Authority (PCA) for approval prior to the issue of any Construction Certificate. Engineering details and manufacturers specifications for the pumps, switching system and sump pit shall be submitted to the Principal Certifying Authority (PCA) for approval prior to issue of any Construction Certificate.
- 33) Prior to the issue of any Construction Certificate for this development, the Principal Certifying Authority must approve a Site Operations Management Plan (SOMP). This Plan must address the measures that will be implemented for the ongoing management of operations on and around the construction site, the protection of adjoining properties, and other requirements as specified below.

This plan shall include details of the following:

- a) Proposed hoardings, scaffolding and/or fencing to secure the construction site;
- b) Proposed measures to be implemented, under the separately approved Works Permit issued by Council, for the protection of all public roads and footway areas surrounding the construction site from building activities, crossings by heavy equipment, plant and materials delivery and static load from cranes, concrete pumps and the like;
- c) Proposed method of support of any excavation, adjacent to adjoining buildings or the public road. The proposed method of support is to be certified by a Civil Engineer with National Professional Engineering Registration (NPER) in the construction of civil works.

- d) Proposed measures to be implemented in order to ensure that no soil/excavated material is transported on wheels or tracks of vehicles or plant and deposited on the public road.
- e) Proposed measures for protection of the environment, according to the relevant provisions of the Protection of Environment Operations (POEO) Act, 1997 including procedures to control environmental impacts of work e.g. sediment control, proper removal, disposal or recycling of waste materials, protection of vegetation and control/prevention of pollution i.e. water, air noise, land pollution.

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

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

- 34) 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 the relevant development consent.
- 35) The existing building must be brought into conformity with the Performance Requirements CP1,CP2,DP2, DP3, DP4, DP6, EP1.2 of the Building Code of Australia (BCA), to protect persons using the building, and to facilitate their egress from the building in the event of fire, or to restrict the spread of fire from the building to other buildings nearby. Details indicating compliance with the Performance Requirements of the BCA must be provided to the certifying authority prior to the issue of a construction certificate.
- 36) As any works within, or use of, the footway or public road for construction As any works within, or use of, the footway or public road for construction purposes requires separate Council approval under Section 138 of the Roads Act 1993 and/or Section 68 of the Local Government Act 1993, Council requires that prior to any Construction Certificate for this development being issued, evidence of lodgement of an application for a Works Permit and or a Roadway/Footpath Building Occupation Permit shall be obtained where one or more of the following will occur, within, on or over the public footway or public road:

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WORKS REQUIRING A 'WORKS PERMIT'



- a) Dig up, disturb, or clear the surface of a public footway or public road,
- b) Remove or interfere with a structure or tree (or any other vegetation) on a public footway or public road,
- c) Connect a road (whether public or private) to a classified road,
- d) Undertake footway, paving, vehicular crossing (driveway), landscaping or stormwater drainage works within a public footway or public road,
- e) Install utilities in, under or over a public road,
- f) Pump water into a public footway or public road from any land adjoining the public road,
- g) Erect a structure or carry out a work in, on or over a public road
- h) Require a work zone on the public road for the unloading and or loading of vehicles
- i) Pump concrete from within a public road,
- j) Stand a mobile crane within a public road
- k) Store waste and recycling containers, skips, bins and/or building materials on any part of the public road.

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

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

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

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

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

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

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

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

### **CONDITIONS TO BE SATISFIED PRIOR TO CONSTRUCTION**

- 37) The building work in accordance with the development consent must not be commenced until:
- a. a construction certificate for the building work has been issued by the council or an accredited certifier, and
  - b. the person having benefit of the development consent has:
    - i. appointed a principal certifying authority for the building work, and
    - ii. notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
  - c. the person having the benefit of the development consent, if not carrying out the building work as an owner-builder, has:
    - i. appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential building work is involved, and
    - ii. notified the principal certifying authority of any such appointment, and
    - iii. unless the person is the principal contractor, notified the principal contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
  - d. the person having the benefit of the development consent has given at least 2 days' notice to the council of the person's intention to commence the building work.
- 38) Existing trees within the vicinity of the construction works or paths of travel for construction vehicles accessing the development that are to be retained shall be protected with temporary fencing of a style non injurious to tree roots, placed 2m from the trunk base of the existing tree to prevent damage during construction, and retained in accordance with Council's Tree Preservation Order. There is to be no stockpiling of materials within the 2m fenced zone.

- 39) Suitable erosion and sediment control measures shall be erected in accordance with the plans accompanying the Construction Certificate prior to the commencement of construction works and shall be maintained at all times.
- 40) Council warning sign for Soil and Water Management must be displayed on the most prominent point of the site, visible to both the street and site works. The sign must be displayed throughout the construction period.
- 41) Prior to the commencement of work, the applicant must provide a temporary on-site toilet if access to existing toilets on site is not adequate.
- 42) A section 73 compliance certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation. Make early application for the certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design.

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

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

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

- 44) A sign shall be displayed on the site indicating the name of the person responsible for the site and a telephone number of which that person can be contacted during and outside normal working hours or when the site is unattended.
- 45) In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of the Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.
- 46) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:
  - a. in the case of work for which a principal certifying is required to be appointed:

- i. the name and licence number of the principal contractor, and
  - ii. the name of the insurer by which the work is insured under Part 6 of the Act,
- b. in the case of work to be done by an owner-builder:
  - i. the name of the owner-builder, and
  - ii. If the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

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

- 47) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
- a. showing the name, address and telephone number of the principal certifying authority for the work, and
  - b. showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
  - c. stating that unauthorised entry to the work site is prohibited.

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

- 48) A vacant land charge form is to accompany any Construction Certificate (CC) application for the removal of all domestic garbage and recycling bins.  
<https://www.cbcity.nsw.gov.au/council/forms/waste-recycling>
- 49) A design certificate and detailed plans are to accompany any CC application which demonstrate that the waste storage room has been designed to be constructed in accordance with the following requirements:
- i. Floors must be constructed of concrete at least 75mm thick and graded and drained to a Sydney Water approved drainage fitting.
  - ii. The floors must be finished so that is non-slip and has a smooth and even surface.
  - iii. 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;
  - iv. The walls must be constructed of solid impervious material.
  - v. The ceilings must be finished with a smooth faced non-absorbent material capable of being cleaned.

- vi. Walls, ceiling and floors must be finished in a light colour.
  - vii. Is to be provided with an adequate supply of hot and cold water mixed through a centralised mixing valve with hose cock.
  - viii. A self-closing door openable from within the room.
  - ix. Must be constructed to prevent the entry of birds and vermin.
  - x. Be provided with adequate light and ventilation. Light source must be through controlled light switches located both outside and inside the room.
  - xi. Any doorways must be 2m wide.
  - xii. Designed to fit 10 x 660L recycling bins
  - xiii. Designed to fit 8 x 660L garbage bins
- 50) A design certificate and detailed plans are to accompany any CC application which demonstrate that the bin carting route from the waste storage room to nominated collection point has been designed to be constructed in accordance with the following requirements:
- i. Direct and less than 10 metres,
  - ii. Minimum 2m wide hard surface;
  - iii. Non-slip, free from obstacles and steps;
  - iv. Not within a driveway or carpark, this is considered a conflict point for vehicles and collection staff; and
  - v. A maximum grade of 1:30 (3%);
  - vi. Layback installed at the nominated collection point.
- 51) A design certificate and detailed plans are to accompany any CC application which demonstrate that the bulky waste storage room has been designed to be constructed in accordance with the following requirements:
- i. Floors must be constructed of concrete at least 75mm thick and graded and drained to a Sydney Water approved drainage fitting.
  - ii. The floors must be finished so that is non-slip and has a smooth and even surface.
  - iii. The walls must be constructed of solid impervious material.
  - iv. 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;
  - v. The ceilings must be finished with a smooth faced non-absorbent material capable of being cleaned.
  - vi. Walls, ceiling and floors must be finished in a light colour.
  - vii. Is to be provided with an adequate supply of hot and cold water mixed through a centralised mixing valve with hose cock.
  - viii. A self-closing door openable from within the room.
  - ix. Must be constructed to prevent the entry of birds and vermin.
  - x. Be provided with adequate light and ventilation. Light source must be through controlled light switches located both outside and inside the room.

- xi. Any doorways must be 2m wide.
- xii. Designed with a minimum floor space of 4m<sup>2</sup>

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

- 52) Construction may only be carried out between 7.00 am and 5.00 pm on Monday to Saturday and no construction is to be carried out at any time on a Sunday or a public holiday.
- 53) The building work must be carried out in accordance with the requirements of the Building Code of Australia.
- 54) Prior to the ground floor slab being poured, an identification report by a Registered Surveyor must be submitted to the principal certifying authority verifying that the proposed buildings finished ground floor level and siting to the property boundaries conforms to the approved plans.
- 55) 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.
- 56) 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.
- 57) The stormwater drainage system shall be constructed in accordance with Council's Canterbury Development Control Plan 2012 Part B5 and the engineering plans and details approved by the Principal Certifying Authority (PCA). Should the developer encounter any existing, live, underground stormwater drainage pipes, which carry flow from upstream properties, the developer must maintain the stormwater flow and re-route the stormwater pipes around the subject building or structures at the developer's expense.
- 58) All excavations and backfilling must be executed safely and in accordance with the relevant Australian Standards.
- 59) If the soil conditions require it, retaining walls or other approved methods of preventing movement of the soil must be provided, and adequate provisions must be made for drainage. Separate approval may be required for retaining walls should they be required.

- 60) If an excavation extends below the level of the base of the footings of an adjoining building or a building on an adjoining allotment of land, the person causing the excavation to be made:
- a) if necessary, must underpin and support the building in an approved manner, and
  - b) must, at least 7 days before excavating below the level of the base of the footings of a building give notice of intention to do so to the owner of that building and furnish particulars of the excavation to the owner of the building being erected or demolished.
  - c) must take all precautions to protect all of the structures from damage.

The owner of any affected buildings is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on an adjoining allotment of land.

- 61) All boundary fencing behind the building line shall be replaced by a 1.8m high lapped and capped timber or sheet metal fence, or as stipulated in a flood study prepared for the site, or as determined in consultation with the adjoining property owners at the developer's expense. Fencing forward of the building line shall be no higher than 1m unless otherwise approved by Council.
- 62) The stormwater drainage system shall be constructed in accordance with Council's Development Engineering Standards and the engineering plans and details approved by the Principal Certifying Authority (PCA). Should the developer encounter any existing, live, underground stormwater drainage pipes, which carry flow from upstream properties, the developer must maintain the stormwater flow and re-route the stormwater pipes around the subject building or structures at the developer's expense.
- 63) The wastewater from the car wash bay shall be collected and disposed of, in accordance with the requirements contained in Council's Development Engineering Standards.
- 64) Prior to the commencement of work, the builder shall prepare a photographic record of the road reserve which clearly shows its condition prior to works occurring on site. For the entirety of demolition, subdivision or construction works, there shall be no stockpiling of building spoil, materials, or storage of equipment on the public road, including the footway and the road reserve shall be maintained in a safe condition at all times. No work shall be carried out on the public road, including the footway, unless a Work Permit authorised by Council has been obtained.
- 65) The works detailed in the drawing approved under condition 3 and the works the subject of the consent granted under condition 5 of this consent are to be carried out at no cost to Council and to Council's satisfaction prior to the issue of any Subdivision Certificate for the subdivision approved under this consent.



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

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

- 67) The approved subdivision plan is to be registered with NSW Land Registry Services prior to the issue of an occupation certificate.
- 68) The occupation or use of the building must not be commenced unless an occupation certificate has been issued for the building.
- 69) A final Occupation Certificate shall not be issued until all conditions relating to demolition, construction and site works of this development consent are satisfied and Council has issued a Work Permit Compliance Certificate (where applicable).
- 70) A Copy of the Work Permit Compliance Certificate shall be submitted to the PCA Prior to the issue of the Occupation Certificate.

- 71) Prior to the issue of any Occupation Certificate a design verification from a qualified designer shall be submitted to the Principal Certifying Authority. The design verification is a statement in which the qualified designer verifies that the development has been constructed as shown in the plans and specifications in respect of which the Construction Certificate was issued, having regard to the design quality principles set out in Schedule 1 of SEPP No. 65.
- 72) In accordance with Clause 17(1) (a) of State Environmental Planning Policy (Affordable Rental Housing) 2009, all sixty (60) dwellings must be used for the purpose of affordable housing for a tenure of 10 years from the date of the issue of the occupation certificate. All affordable rental housing at the site must be managed by a registered community housing provider
- 73) A restriction being registered against the title of the property on which development is to be carried out, in accordance with section 88E of the [Conveyancing Act 1919](#), prior to the issue of the occupation certificate requiring that all sixty (60) dwellings within the approved development are to be used for the purposes of affordable housing for 10 years from the date of issue of the occupation certificate in accordance with Clause 17(1) (b) of State Environmental Planning Policy (Affordable Rental Housing) 2009. In this regard, the restriction shall specifically nominate those units to be allocated as affordable housing.
- 74) The site forming Lot 115 and 116 in DP4475, Lot A in DP103679 and Lot 117B in DP320785, the subject of this development consent, must be consolidated into one allotment. The plan of consolidation being lodged and registered with the Land and Property Information NSW prior to the earlier of the release of the occupation certificate or occupation of the building.
- 75) A restriction being registered against the title of the property on which development is to be carried out, in accordance with section 88E of the [Conveyancing Act 1919](#), prior to the issue of the occupation certificate requiring that all sixty (60) dwellings are to be operated by a social housing provider as defined in State Environmental Planning Policy (Affordable Rental Housing) 2009 for a total period of 10 years. In this regard, the restriction shall specifically nominate all units to be allocated as affordable housing.
- 76) A total of twenty four (24) off street residential car spaces being provided in accordance with the submitted plans including the nominated accessible car spaces to be provided for people with mobility impairment in accordance with AS 2890.1. All car parking spaces shall be clearly marked and signposted according to these requirements.
- 77) Landscaping is to be installed in accordance with the approved landscape plan. All works and methods nominated and materials and plants specified on the approved landscape plan are to be completed prior to the issue of an occupation certificate. The landscaping shall be maintained for the life of the development.

- 78) A suitably qualified Professional Civil Engineer shall certify that the driveways, parking bays, and service areas have been constructed in accordance with the approved plans and specifications. Such Certification shall be submitted prior to the issue of the Occupation Certificate or occupation of the site.
- 79) Lighting must be provided to the entries of the dwellings, driveways and parking areas to promote a high level of safety and security at night and during periods of low light. Lighting provided should be hooded, shielded or directed away from neighbouring dwellings to minimise glare and associated nuisances to residents.
- 80) The premises must be readily identified from the street with the allocated house numbers. Numbering of the development without Council's written approval is not permitted. An official "house numbering" letter will be sent to the applicant indicating the proposed house numbers of the new development. Note: The house numbers of the development are subject to change depending of the type on subdivision that may occur at a later stage.
- 81) The Section 73 compliance certificate under the Sydney Water Act 1994 must be submitted to the principal certifying authority before occupation of the development.
- 82) Prior to the issue of any Occupation Certificate (OC), an authorised Council waste officer is to inspect and approve all waste management facilities to ensure they comply with the development approval, Waste Management Plan. Specifically, the path of travel for all waste, from unit to point of waste collection, waste storage room sizing, access to water and sewer connections, finished materials, access and door way dimensions, truck turntables, and that all waste facilities are fit for purpose.
- 83) Prior to the issue of any OC, the developer is to enter into a formal agreement with Council for the utilisation of Council's Domestic Waste Collection Service. This is to include Council being provided an easement for unimpeded access to and from the waste collection locations for council and its contractors to enter and exit for the purpose of waste and recycling collection. The development is also required to indemnify council and its contractors against claims for loss or damage or wear and tear of access roads or to other parts of the building. A positive covenant shall be placed on the property title, such as section 88B certificate.

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

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

## CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE

84) Prior to the issue of a Subdivision Certificate, the following must be complied with:

- a) Easements have been created where necessary over the relevant lots on the plan of subdivision under provisions of the *Conveyancing Act 1919* as follows:
  - i. Easements to drain water (for inter-allotment drainage),
  - ii. Easement for services (for utilities),
  - iii. Right of carriageway (for internal driveway, vehicle manoeuvring), and
  - iv. Easement for overhang (for eaves and gutters).

Note: a statement must be placed on the Section 88B Instrument that nominates Canterbury-Bankstown Council as the authority empowered to release, vary or modify the easements created.

- b) The following information must be submitted to Council or the Principal Certifier with an application for a Subdivision Certificate:
  - i. Original Plan of Subdivision signed by a registered surveyor, plus five (5) copies,
  - ii. Copy of this Determination Notice and any approved Section 4.55 modifications,
  - iii. Evidence that all conditions of consent relevant to the release of the Subdivision Certificate have been complied with,
  - iv. A Compliance Certificate (Section 73 of the *Sydney Water Act 1994*) from Sydney Water,
  - v. Certification by a registered surveyor that all services such as stormwater, drainage, water, gas, electricity and telephone are contained separately within each lot or within easements created to accommodate such services,
  - vi. A report by a registered surveyor verifying that the external wall setbacks and roof eaves overhang to the proposed subdivision boundaries all conform with the approved plans,
  - vii. A Work As Executed Plan prepared by a registered surveyor, together with certification from a professional engineer as defined in the National Construction Code (NCC), of the constructed on-site drainage and/or stormwater detention system, must be obtained prior to the release of the linen plans. The Work As Executed plans must be shown on a copy of the approved stormwater drainage plan and must contain all information specified in Part B5 of Canterbury DCP 2012. The Work As Executed information must be shown in red ink on a copy of the approved drawings. The information must be prepared by a professional engineer as defined in the NCC and completed on Council's standard form "On-Site Stormwater Detention System – Certificate of Compliance", contained in Council's Canterbury Part B5 CDCP 2012. A copy of the Work As Executed Plan together with the certification must be submitted to Council for information prior to issue of the linen plan,
  - viii. A copy of the Work Permit Compliance Certificate, where required,

- ix. A copy of the Compliance Certificate for the subdivision work, and
  - x. A copy of the Occupation Certificate for the building.
- c) An application for the issue of a Subdivision Certificate must be lodged with Council and appropriate fees must be paid at the time of submitting the information referred to in part (b) of this condition.

The subdivision certificate must not be issued until the requirements of this condition have been complied with.

## **CONDITIONS FOR ONGOING USE**

- 85) The ongoing management section of the WMP are to be included in the by-laws of the strata property. This will ensure that the approved WMP is fully implemented and followed by residents and property managers.
- 86) The development must operate in full compliance with Council's Waste Management collection requirements
- 87) The nominated on-site collection point is to be utilised to facilitate the collection of waste and recycling bins for the development. The on-site collection point is always to be kept clear of obstructions so not to restrict the collection of waste and recycling bins.
- 88) The nominated collect and return collection point is to be utilised to facilitate the collection of waste and recycling bins for the development.
- 89) The temporary bin holding area will be required to be of sufficient size to allow the temporary storage of all allocated bins for the development. Developments proposing a temporary holding area will require a caretaker to transfer all allocated bins from the bin storage area to the temporary holding area the day before the designated collection day and return them once emptied
- 90) 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.

- 91) No waste storage bins are to be located or placed outside the approved waste storage room at any time except for collection purposes.
- 92) 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.

-END-





### **ITEM 4                      Application to amend Bankstown Local Environmental Plan 2015: 1 Leicester Street, Chester Hill (Chester Square)**

**AUTHOR                      Planning**

### **PURPOSE AND BACKGROUND**

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This report considers a planning proposal application to amend the building height and floor space ratio controls for the site at 1 Leicester Street, Chester Hill.

### **ISSUE**

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Council is in receipt of an application for a planning proposal applying to 1 Leicester Street, Chester Hill (Chester Square). The application seeks to amend the Floor Space Ratio from 2.5:1 to 4.53:1, the Height of Buildings from 20m to 62m (6 storeys to 18 storeys), and introduce an affordable housing provision of 5% to facilitate higher density, mixed-use development on the site. The yield would be approximately 633 dwellings (32 affordable rental housing for 10 years retained by the proponent), and 15,621m<sup>2</sup> of commercial floor space. A public benefit offer accompanies the proposal, which includes a cold shell for a new 2,000m<sup>2</sup> library, public domain improvements to Waldron Road, widening of Frost Lane, and local road upgrades.

Council's assessment has found that, whilst the previous masterplanning for the centre is now old and outdated, the updated masterplanning for this centre has yet to commence, and while it is anticipated there will be significant change within the centre given the previous planning changes did not result in any development of the centre, this proposal as it currently stands now finds itself inconsistent with the current built form of Chester Hill. It is likely further masterplanning would ultimately be required to fully resolve this proposal in terms of built form context and economic impact. Whilst these matters should not prevent the consideration of strategic merit, which is what the Gateway process is about, they are important parts of the next steps before Council could make any final change to the LEP.

Whilst this stage of assessment is to determine whether there is strategic merit to apply for a Gateway approval, other detail which the early assessment has highlighted as issues that need to be further explored should Gateway approval be provided are

- the height and density of the proposal
- the need to break up the length of the buildings and add an east/west connection
- the need for a design excellence clause to be applied to reflect the intent that future redevelopment of the site will be catalytic in nature
- the need to refine the proposed height of buildings map to provide certainty about the location of the proposed towers
- the need for more substantial public benefits to be offered by the proponent to aid renewal of the centre, and
- the proposal being out of sequence with Council's masterplanning program.

However, despite these issues, the planning proposal has merits which warrant thorough consideration. Chester Hill has experienced minimal private investment and renewal for an extended period of time. To date, the current planning controls have failed to deliver the growth and change envisaged by the North West Local Area Plan, which have been in effect for approximately 5 years. While not anticipated by Council's strategic plans, this proposal presents an opportunity for a landmark redevelopment which will catalyse investment, housing, and jobs throughout the rest of the centre, along with new services, facilities, and public domain improvements in Chester Hill.

This report details the assessment of the planning proposal and recommends it progress to Gateway and public exhibition as submitted, in order to explore the views of the resident and business community before a final decision is made. Consideration of public feedback and the applicant's responses to issues raised will need to occur at that time. Upon considering this, Council will be able to decide to proceed, not proceed, or make changes to the planning proposal in the public interest.

This report recommends that before the plan is finalised, the following matters need to be addressed:

- Council negotiate a more substantial public benefit offer with the proponent and in light of the intensity of development proposed. This should include a contribution to the broader strategic planning review for Chester Hill, supply of up to 15% of dwellings within the development for affordable housing, and contributions to further social and general infrastructure.
- A design excellence clause be applied to this important site to ensure any redevelopment is of a high quality sufficient to trigger investment and renewal throughout Chester Hill.
- A public domain plan be prepared for Chester Hill to identify the required works and cost the embellishment of Waldron Road, Frost Lane and Charles Place. This will include investigation of the feasibility of the proposed expansion of Charles Place and associated land acquisition costs and cost recovery mechanisms available to council.
- A site-specific DCP be prepared to further define the development controls for the development as outlined in this report.

Due to the substantial time and financial resources required to complete the work outlined above, this should only be undertaken knowing the Department of Planning, Industry and Environment has given its in-principle support for the planning proposal through the Gateway Determination. Otherwise, the time and money could be wasted.

Should Council decide to proceed, a review of the planning controls surrounding the site is recommended to ensure the planning controls do promote renewal and that the proposal would better integrate from a built form perspective. In addition to this, negotiations should continue with the applicant for a more substantial public benefit offer given the intensity of development proposed and changes to planning controls for this site proceeding ahead of a broader review of planning controls in Chester Hill.

In accordance with the Local Planning Panel's Direction, the panel is requested to recommend whether the proposal should be referred to the Department of Planning, Industry and Environment for a Gateway Determination. The next step will be to report the matter to a Council meeting for a decision.

## **RECOMMENDATION** That -

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That the Local Planning Panel recommends the following:

1. The application to amend Bankstown Local Environmental Plan 2015 proceed to Gateway and public exhibition as submitted to allow the public to have their say on the proposal before a final decision is made.
2. After the planning proposal has been exhibited, a report be provided to Council outlining submissions received and the applicant's response to the issues raised in this report.
3. Before the plan is finalised:
  - a. Council negotiate a more substantial public benefit offer with the proponent as outlined in this report and in light of the intensity of development proposed. This should include a contribution to the broader strategic planning review for Chester Hill, supply of up to 15% of dwellings within the development for affordable housing, and contributions to further social and general infrastructure.
  - b. A design excellence clause be applied to this important site to ensure any redevelopment is of a high quality sufficient to trigger investment and renewal throughout Chester Hill.
  - c. A public domain plan be prepared for Chester Hill to identify the required works and cost the embellishment of Waldron Road, Frost Lane and Charles Place. This will include investigation of the feasibility of the proposed expansion of Charles Place and associated land acquisition costs and cost recover mechanisms available to council.
  - d. A site-specific DCP be prepared to further define the development controls for the development as outlined in this report.
4. Council seek authority from the Department of Planning, Infrastructure and Environment to exercise the delegation in relation to the plan making functions under Section 3.36(2) of the *Environmental Planning and Assessment Act 1979*.

## ATTACHMENTS

[Click here for Attachments B-H](#)

[Click here for Attachments I-O](#)

- A. Attachment A: Assessment Findings
- B. Attachment B: Applicants Planning Proposal
- C. Attachment C: Applicants Urban Design Report
- D. Attachment D: Applicants Urban Design Addendum Report
- E. Attachment E: Applicants Traffic and Parking Impact Assessment
- F. Attachment F: Applicants Traffic and Parking Impact Assessment Addendum Report
- G. Attachment G: Applicants Economic Impact Assessment
- H. Attachment H: Applicants Economic Impact Assessment Addendum Report
- I. Attachment I: Applicants Social Impact and Community Benefits Assessment
- J. Attachment J: Applicants Landscape Concept Design
- K. Attachment K: Councils Urban Design Peer Review
- L. Attachment L: Councils Urban Design Peer Review of Revised Concept
- M. Attachment M: Councils Economic Impact Peer Review
- N. Attachment N: Councils Traffic and Transport Peer Review
- O. Attachment O: Councils Social Needs Peer Review

## POLICY IMPACT

The current planning controls for Chester Hill were set through the implementation of the North West Local Area Plan, which occurred shortly after the gazettal of the Bankstown LEP 2015. Despite the introduction of the North West Local Area Plan, redevelopment within Chester Hill Town Centre has not occurred as envisaged by Council's controls. The proposal offers a unique opportunity to trigger renewal in a centre that has experienced limited growth under the existing controls and it is considered appropriate to explore the opportunities renewal of this site could bring towards revitalising the broader Chester Hill Town Centre. Even though the proposal is out of sequence from a timing perspective in Council's Local Strategic Planning Statement, the LSPS does not preclude unanticipated proposals from being progressed where they have merit and are consistent with the vision.

Due to the scale of renewal sought, a broader review of planning controls for the centre will be necessary if Council ultimately decides to proceed with the planning proposal. This will ensure that a consistent built form character for Chester Hill and appropriate infrastructure investment is achieved.

## FINANCIAL IMPACT

Independent peer reviews undertaken on behalf of Council have identified a number of public domain improvements, social assets and traffic works required to ensure that the precinct would continue to function well if the proposal was to proceed. Further negotiations with the proponent will be required to ensure that a planning agreement to provide an equitable share of these costs is entered into.

There will be significant additional costs incurred by Council resulting from the planning proposal to commence a broader strategic review of Chester Hill. For these reasons this report recommends that a contribution be provided by the applicant to fund this work.

## COMMUNITY IMPACT

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The planning proposal is accompanied by a letter of offer which outlines public benefits for Council's consideration. Public domain and infrastructure works outlined in the letter such as a new library and Waldron Road improvements as well as affordable housing would be positive benefits for the community (noting this report recommends further negotiations occur regarding the offer).

There is broader public benefit in the potential for the subsequent redevelopment of this site to trigger investment and renewal in Chester Hill. That will rely on the landmark nature of the development and high quality design, and a design excellence clause has been recommended for that reason.

To address the inconsistencies in planning controls with adjoining and surrounding sites, a review of planning controls for the broader Chester Hill centre and surrounds should be undertaken as part of Council's town centre masterplanning program. Given the significant time and financial costs of undertaking this body of work, it would not be undertaken in the absence of a gateway determination.

## DETAILED INFORMATION

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### SITE DESCRIPTION

The subject site is located at 1 Leicester Road, Chester Hill (known as Chester Square) (see Figure 1) and comprises the following properties:

Property Address	Lot and DP Description	Site Area
1 Leicester Road, Chester Hill	Lot 452 DP800063	1.67ha / 16,714m <sup>2</sup>

The site sits to the north of the main street of Chester Hill, being Waldron Road. This area is dominated by post war low scale single detached dwellings. Although zoned for multiple dwellings, such as apartment buildings, as a Local Centre the current planning rules have resulted in little redevelopment in the locality.

The Chester Square site contains a supermarket set back from the street with a range of supporting retail and parking to the front on Leicester Street. The shopping centre is built to the alignment on three street frontages, being Bent Street, Frost Lane and Priam Street. This creates three frontages in the form of tall, blank, walls, with no activation and no means of pedestrian access into the Centre. All three frontages currently provide a poor pedestrian interface and limit the opportunities for passive surveillance.

Although Frost Lane acts as a service lane to the rear of the retail and commercial offerings along Waldron Road, there is no vehicular access directly to Chester Square from Frost Lane. Vehicular access, to the parking and servicing of the Centre, is currently from either Leicester Street or Bent Street.

**Figure 1** Subject Site



Chester Hill is a compact and highly walkable centre. The main street, Waldron Road, is approximately 600 metres in length, nearly half of which is single-sided (where commercial uses and activation are located on one side of the street). The core of the main street sits between Chester Hill Road and Priam Street. It is a well-proportioned main street in terms of building heights and street widths, however, the public domain is tired which shows in the overall visual amenity of the centre.

The subject site sits within 200 metres of the Chester Hill railway station. With a direct mid-block pedestrian connection through Frost Lane to Waldron Road, this creates a highly accessible development from a pedestrian sense and links the site both functionally and physically to Waldron Road. This mid-block connection however is narrow and has poor visibility. Additional width would improve the connection to the subject site and offer opportunities for further activation from adjoining buildings.

## **PROPOSAL**

Council received an application for a planning proposal for the site at 1 Leicester Street, Chester Hill (Chester Square) in August 2019 and a revised proposal in June 2020. These are outlined in further detail below:

### *Original Planning Proposal (August 2019)*

In August 2019, Council received a planning proposal seeking to amend Bankstown Local Environmental Plan 2015 as follows:



- Amend the 'Height of Buildings Map' to increase the building height from 20 metres to 65 metres
- Amend the 'Floor Space Ratio Map' to increase the floor space ratio from 2.5:1 to 4.53:1.
- Introduce an additional Clause 6.12 to the LEP in relation to the provision of affordable housing as follows:

*"6.12 Affordable Housing on Certain Land at Chester Hill*

- (1) *This clause applies to the land identified as 1 Leicester Street, Chester Hill.*
- (2) *The consent authority may, when granting development consent to development on the land, impose a condition requiring 5% of any residential floor area to be dedicated to Council as affordable housing to be managed by a registered community housing provider."*

The planning proposal was supported by the following technical studies:

- Urban Design Report – Turner Architects
- Landscape Concept Package – Turf Design Studio
- Traffic and Parking – Ason Group
- Social Impact and Community Benefits Assessment – Cred Consulting
- Economic Impact Assessment – AEC Urban Economics

The planning proposal would enable the redevelopment of the site to accommodate the following:

- 648 residential units (including 32 affordable housing units)
- 3,500m<sup>2</sup> supermarket
- 1,200m<sup>2</sup> mini major
- 1,000m<sup>2</sup> commercial offices and
- 9,800m<sup>2</sup> of specialty retail
- A total floor area of 75,779m<sup>2</sup>
- Car parking for approximately 690 vehicles for the commercial component and 875 vehicles for the residential component

A public benefit offer accompanied the planning proposal that would deliver the following public benefit offerings:

- A 160m<sup>2</sup> community centre within the development to be constructed (cold shell) and dedicated to Council;
- A financial contribution towards the embellishment and upgrade of Nugent Park North and Nugent Park South;
- 1.5m widening of Frost Lane (to be dedicated to Council) and embellishment of the lane including new pavement treatment, catenary lighting, etc;
- Creation of a circa 2,800m<sup>2</sup> central publicly accessible plaza area (24/7 public access secured on title); and
- Upgrades to local traffic network including intersection signalisation at Waldron Road and Priam Street.



### *Revised Planning Proposal (June 2020)*

Following a preliminary assessment by Council and discussion with the proponent, a revised planning proposal was submitted in June 2020.

The revised planning proposal includes:

- Amend the 'Height of Buildings Map' to increase the building height from 20 metres to 62 metres
- Amend the 'Floor Space Ratio Map' to increase the floor space ratio from 2.5:1 to 4.53:1
- Introduce an additional Clause 6.11 to the LEP in relation to the provision of affordable housing as follows:

#### *"6.12 Affordable Housing on Certain Land at Chester Hill*

- (1) *This clause applies to the land identified as 1 Leicester Street, Chester Hill.*
- (2) *The consent authority may, when granting development consent to development on the land, impose a condition requiring 5% of any residential floor area to be dedicated to Council as affordable housing to be managed by a registered community housing provider."*

The revised planning proposal was supported by the following additional technical reports:

- Economic Impact Assessment – AEC
- Urban Design Review – Nation Architects

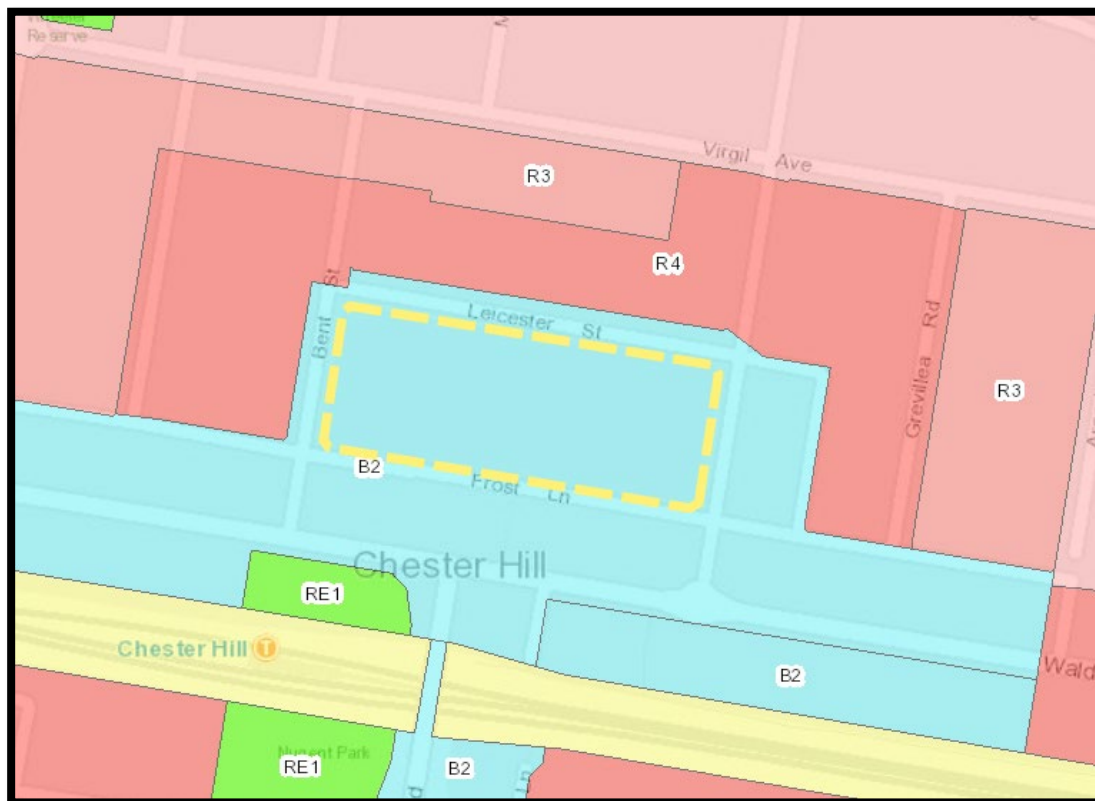
A revised public benefit offer was also received which provided for:

- A circa 2,000 square metre library within the development to be constructed (cold shell) and dedicated to Council;
- Public domain improvements to Waldron Road
- 1.5m widening of Frost Lane (to be dedicated to Council)
- Embellishment of Charles Place
- Creation of a circa 2,800m<sup>2</sup> central publicly accessible plaza area (24/7 public access secured on title);
- Upgrades to local traffic network including intersection signalisation at Waldron Road and Priam Street; and
- Supply of up to 5% of housing stock within the development to be retained by the Proponent and operated by a Service Housing Provider for affordable housing for a period of 10 years.

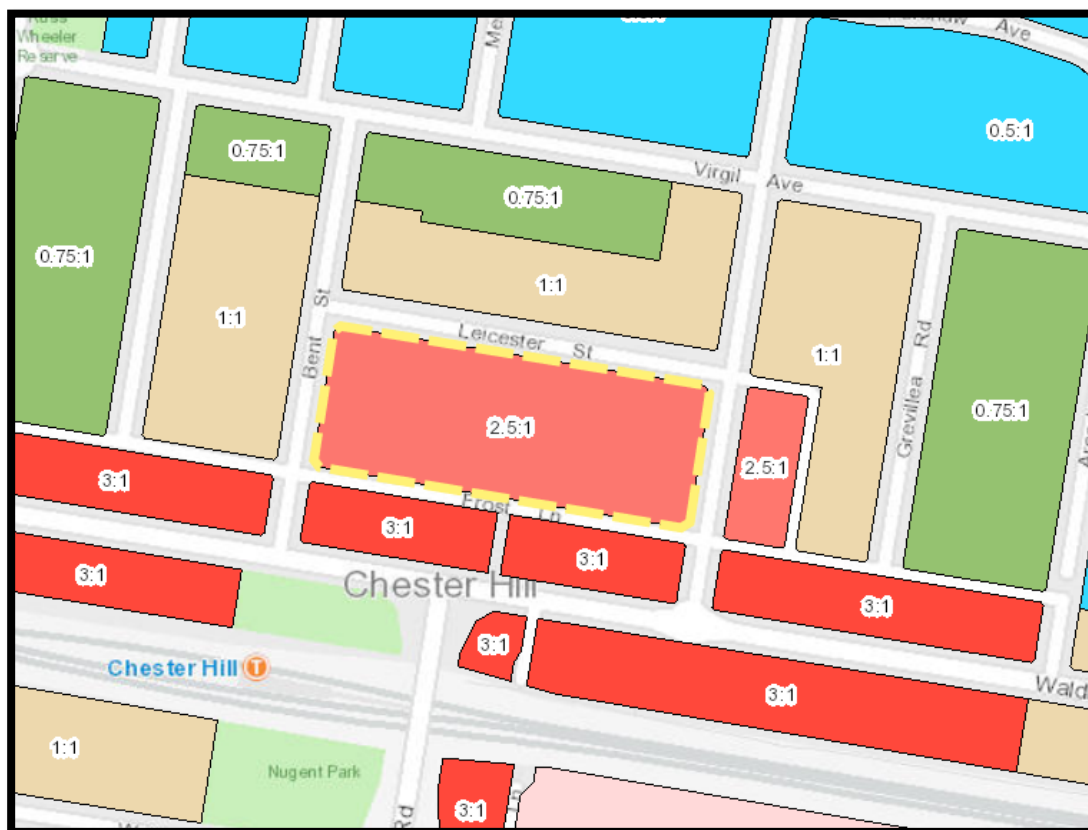
The application as revised seeks to amend the Floor Space Ratio from 2.5:1 to 4.53:1, the Height of Buildings from 20m to 62m, and introduce an affordable housing provision of 5% to facilitate higher density, mixed-use development on the site.

It is estimated that the proposal would yield 633 units with 32 units (or 5%) set aside as affordable rental housing units for up to ten years and retained by the proponent. The proposal would deliver 58,043m<sup>2</sup> of residential floor space and 15,621m<sup>2</sup> of commercial floor space (1,000m<sup>2</sup> of which for office purposes, the balance being retail uses).

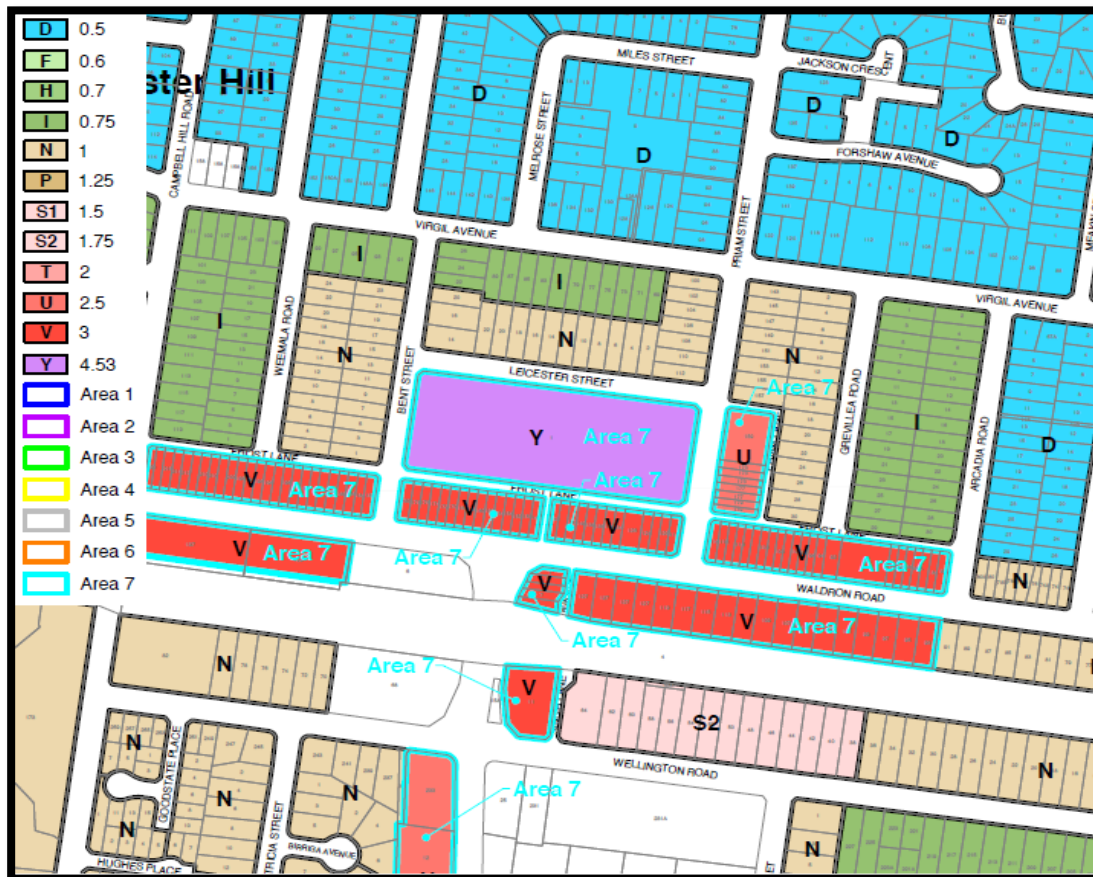
**Figure 2** Current Zoning



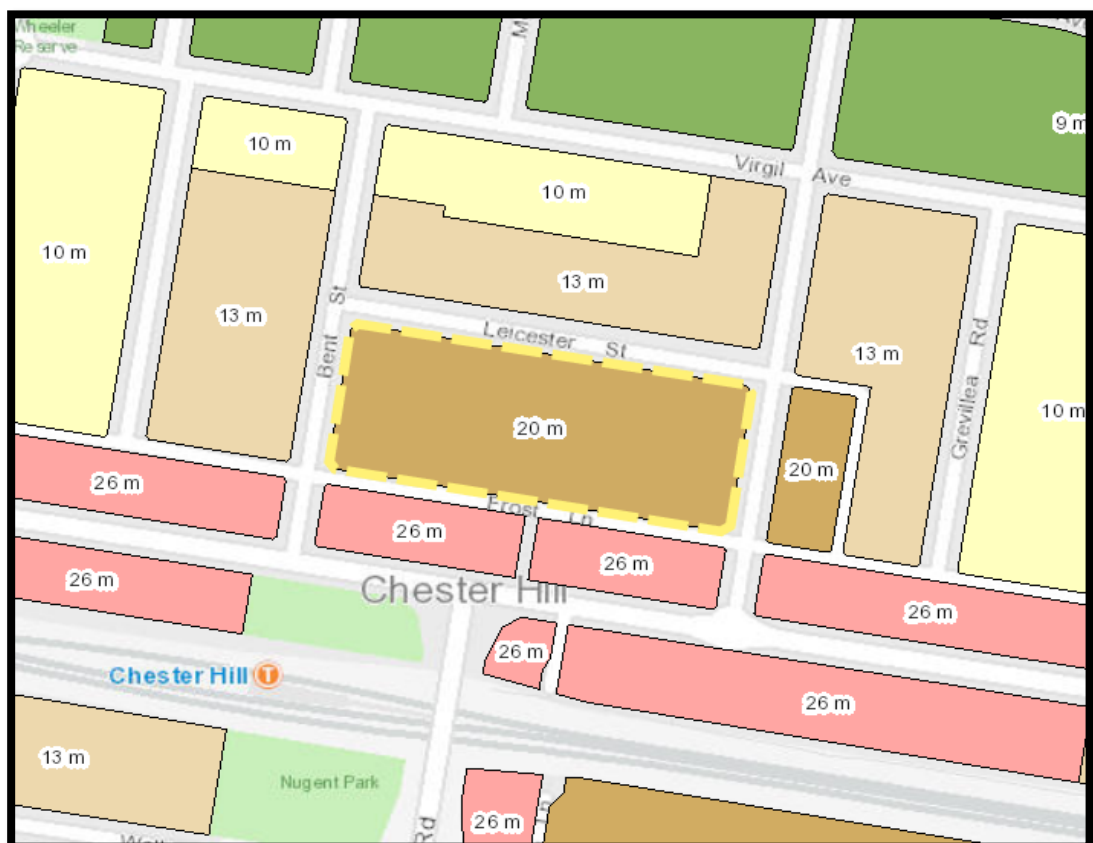
**Figure 3** Current Floor Space Ratio



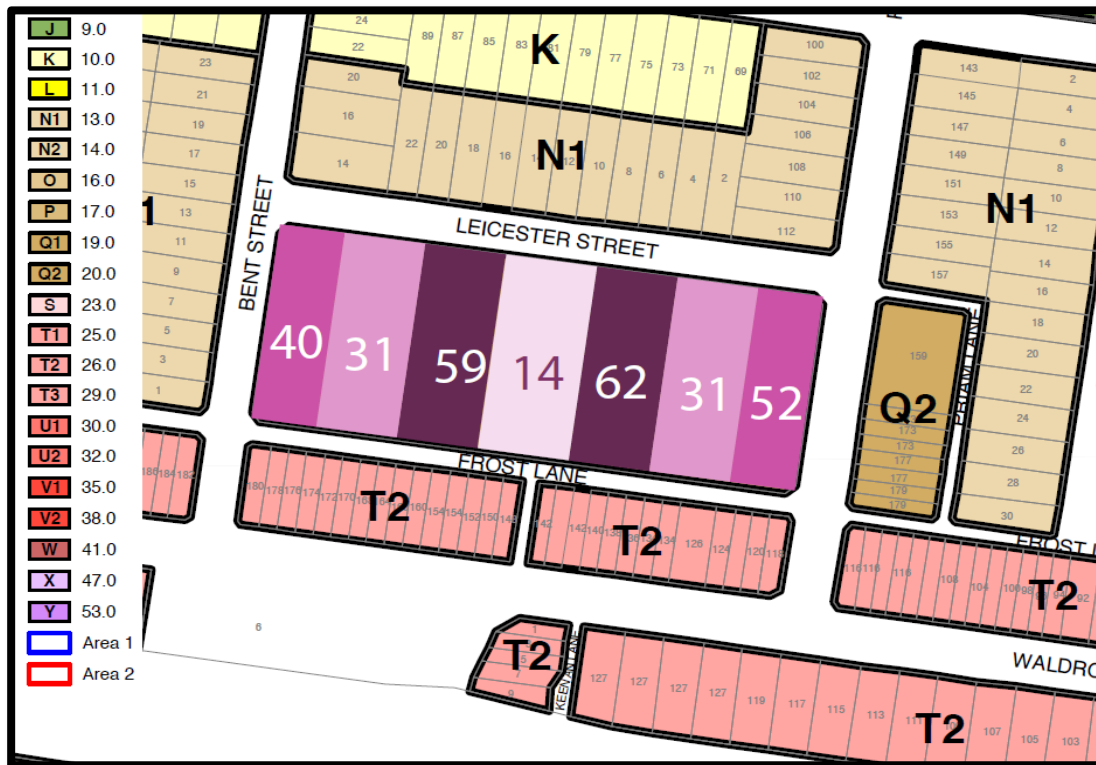
**Figure 4** Proposed Floor Space Ratio



**Figure 5** Current Height of Buildings



**Figure 6** Proposed Height of Buildings



**Figure 7** Artistic Impression from above Leicester Street





**Figure 8** Artistic impression as viewed from the corner of Leicester and Priam Streets



**Figure 9** Artistic impression as viewed from Leicester Street looking south towards Waldron Road





**Figure 10** Perspective of proposed development as observed from Virgil Avenue



**Figure 11** Perspective view from Chester Hill Road



**Figure 12** Perspective view as observed from western along Waldron Road



## CONSIDERATIONS

Based on the *Environmental Planning & Assessment Act 1979* and the Department of Planning, Industry and Environment's guidelines, the following key policies are relevant to Council's assessment of the application:

- Greater Sydney Region Plan
- South District Plan
- State Environmental Planning Policies
- Ministerial Directions
- Council's Local Strategic Planning Statement
- Council's North West Local Area Plan
- Department of Planning and Environment's publications: A Guide to Preparing Local Environmental Plans and A Guide to Preparing Planning Proposals

## ASSESSMENT SUMMARY

The full assessment of the proposal is found in Attachment A. The key matters are detailed below.

### *Built form and character*

The independent urban design peer review commissioned by Council found that overall the arrangement of built forms on the site was a good response to the strengths and constraints of the site. In particular, the peer review supported the podium and tower elements of the proposal, townhouse treatment to the north of the site and concentration of height in the centre of the site as a means to reduce the bulk and scale impacts of the proposed development.



However, the peer review concluded that the proposed maximum building height of 65 metres (19 storeys) and an FSR of 4.53:1 would result in a built form which would be incompatible with the current local context and character of the centre. Accordingly, the peer review recommended that a maximum building height of 43 metres (14 storeys) and an FSR of 3.5:1 be supported by Council subject to surrounding street blocks being raised to achieve a compatible built form.

In response, the applicant lodged a revised planning proposal for a maximum height of 62 metres (18 storeys) and retained the FSR of 4.53:1. After reviewing the reports and meeting with the applicant, Council's peer review found that there was no additional justification within the further work undertaken by the applicant to change their recommendation (Attachment L).

Council's urban design review was limited in its context to an existing built form that has yet to be reviewed, and so considered that should Council wish to proceed with heights and FSR above what was recommended, the following key aspects should occur:

- Precinct review of Chester Hill Town Centre
- Frontage treatment using townhouses / terraces to sleeve the podiums
- One way services and access through the site
- Pedestrian links, including the central open space directly accessible from Leicester Street
- Deep planting along Priam and Bent Streets
- Public realm improvements of Waldron Road
- Charles Place upgrades and widening
- Further articulation of buildings, including separation, length and upper floors, and
- Reduced car parking rates for Waldron Road.

Having considered these studies, and that planning rules have not been tested for around five years, this report recommends that the planning proposal proceed to Gateway and public exhibition in order to understand the views of the community. It is also recommended that the applicant address the issues raised in this report for further consideration by Council. An important consideration in this recommendation is the potential for this proposal to act as a stimulus for growth and renewal in Chester Hill that can also provide significant public benefits which might not otherwise occur, such as a new library and upgrades to the town centre.

Chester Hill has been identified as a Local Centre in Council's LSPS, which sits under Bankstown and Campsie in the centres hierarchy. Urban renewal within the area including investment, jobs and housing has not occurred. On balance of the information before Council, the public benefit that could be leveraged from the development, desire for renewal in the area and the subject site being an important parcel of land within the centre, it is recommended that the planning proposal proceed to Gateway. This increased density is subject to a site specific DCP and a design excellence clause being adopted to ensure that the development performs as a positive catalyst in what will be a landmark development.

Controls	Current	Proposed	Recommended for gateway + exhibition
Zone	B2 Local Centre	No change	No change
FSR	2.5:1	4.53:1	4.53:1
Height	20m (6 Storeys)	62m (18 Storeys)	62m (18 Storeys)

**Figure 13** Building height cross sections from planning proposal



### *Public domain improvements*

To accommodate development of a scale over the existing controls, there is a need to improve the function of the town centre and public domain. In order to accommodate the quantum of density sought, it is proposed that Charles Place is expanded to provide improved pedestrian access to the town centre, bus interchange and train station beyond. This would provide a higher quality public space creating a pedestrian north/south link from Leicester Road to Waldron Road with greater solar access. Frost Lane is a service lane and the potential for the pedestrian vision identified in the submitted scheme is unlikely to be realised or desirable in order to retain retail activity on Waldron Road.

Waldron Road is the community focal point for the locality but is in need of revitalisation. The planning proposal should be contributing to the improvement of the public realm along Waldron Road including footpath widenings, street tree planting and a range of other improvements. A detailed streetscape concept should be prepared for the main street which looks at the experience of the place, pedestrian connections, on street parking, events and activation, landscape (hard and soft), lighting, street furniture, play opportunities, Wifi, directional signage etc.

A public domain concept (See Figure 14) has been recommended by the independent urban designer commissioned by Council, which includes public realm works to upgrade Waldron Road and encourage foot traffic from the train station into the subject site via Waldron Road. This would retain foot traffic on Waldron Road in order to retain commercial activity on the main street of Chester Hill.

**Figure 14** Public Domain Concept (Place Design Group)



The concept above includes the current Post Office site which has been discussed earlier in this report and may be considered for acquisition as part of a broader public benefits package to enable the expansion of Charles Place. The Post Office site is considered optimal in that it comprises three titles and is generally central to the proposed public square and Chester Hill Road. This would usually be funded through a planning agreement however, at this point in time the proponent has not resolved this aspect. The report recommends further negotiations with the applicant regarding the proposed public benefits, including this issue.

### *Traffic*

The planning proposal was supported by a Traffic Impact Assessment which found that the addition of the proposal traffic does not adversely affect intersections within the study area, other than Waldron Road / Priam Street and Chester Hill Road / Waldron Road which are already at capacity or failing.

The report subsequently recommended that the existing roundabout at Waldron Road / Priam Street be signalised which would significantly improve the operation of the intersection to an acceptable Level of Service C. These signals should then be coordinated with the signalised intersection of Chester Hill Road / Waldron Road to facilitate optimised traffic flow.

Council commissioned an independent traffic peer review which found that the modelled mitigation measures for the Priam Street/ Waldron Road do not align with Transport for NSW requirements for signalised intersections.

In addition, there were concerns raised including:

- SIDRA modelling for existing conditions does not seem to reflect site observations and therefore the future conditions modelling is unlikely to be calibrated either.
- The anticipated distribution of traffic does not seem to align with surveyed traffic volumes at the surrounding key intersections.

- Some traffic volumes for critical movements at intersections decrease in the “2021 with development” scenario when compared to existing conditions (e.g. turns between Waldron Road and Chester Hill Road. The Chester Square TIA should be reviewed to ensure “2021 without development” traffic volumes through the surrounding key intersections are correct.
- Traffic generation estimates for the site do not seem to consider the existing staff car park accessed off Priam Street, which accounts for around nine per cent of the existing car parking supply for the site.
- The indicative location and quantum of site accesses and supporting traffic modelling does not seem to provide an appropriate level of detail to adequately assess the traffic impact of the planning proposal.

The independent traffic consultants commissioned by Council supported the recommendation for the widening of the pedestrianised area between Frost Lane and Waldron Road through property acquisition of the Australia Post site (see Figure 14), as this would improve pedestrian amenity and reinforce a strong desire line between the railway station and the Chester Square Shopping Centre.

However, the report highlighted that Waldron Road was classified as a *regional road* and therefore any closing carriage ways or shared pedestrian zones would not support its intended function as a key collector road. This would likely have significant impacts to travel times for vehicles travelling through Chester Hill, as well as negatively impact operation of lower order local intersections which have not been designed to accommodate high traffic volumes.

Further detailed analysis of this option would be required which would likely include a microsimulation traffic model of the town centre and origin-destination analysis to understand the likely diversion routes of traffic to surrounding roads.

#### *Viability and impact on Waldron Road*

The independent feasibility analysis commissioned by Council found that the proposed development is not feasible unless the cost of the building is reduced (quality) and the proponent takes a lower profit margin. The reason for this is that the Chester Hill submarket does not generate high enough sales prices (gross realisation) to support the higher costs of development at these heights (construction costs). The current planning controls (unchanged) are however feasible. The applicant has responded to this by saying that the assumptions they are working from are different to those used by Council’s consultant, in particular the developer will be able to construct the building at a lower cost than Council’s peer review assumes. While this matter has not been resolved, this report recommends a design excellence clause be applied to ensure a high quality design and built form outcome for this important site to ensure it acts as a catalyst for renewal in Chester Hill.

The independent feasibility analysis commissioned by Council found that the proposal may have an adverse impact on retailers on Waldron Road, in particular in the food retailer sector. The report recommended controls on the retail mix to maintain and improve the performance of Waldron Road as foreshadowed in the adopted North West Local Area Plan. This option will be considered by Council in preparing the LEP amendment and/or DCP, although it is noted that this is not a critical component at this point as Waldron Road comprises a broad range of commercial / retail offering to that in the current shopping centre and likely future shopping centre.

On this basis, public domain works on Waldron Road to support a positive public realm experience from the current main street is needed, as recommended in this report and it is recommended that Council undertake broader planning to fully realise this issue.

### **Conclusion**

The external economic and urban design advice commissioned by Council found that the planning proposal will result in development that is inconsistent with the current context and character and that the development. However, this is largely due to the assessment considering the current built form context, which is outdated and likely to change once the planning controls for the broader centre are reviewed. This also has to be considered in the context of the minimal renewal that has occurred in the centre over recent years, and the opportunity for the renewal of the site to act as a catalyst for the centre and bring with it investment, housing, jobs, new services and facilities and public domain improvements consistent with Council's vision under the Local Strategic Planning Statement.

In weighing these matters, this report recommends that the planning proposal proceed as a stimulus for growth and renewal in Chester Hill and a source of significant public benefits which might not otherwise occur, such as a new library and upgrades to the town centre. Notwithstanding, comments from the community and businesses will be an important consideration for Council in determining whether to make the plan, as will the responses from the applicant regarding issues raised in this report.

The planning proposal is recommended to proceed to Gateway and public consultation. It is important that before the proposal is finalised, further negotiations occur regarding the public benefits package being offered to Council, and a site specific design excellence clause be applied. This is important if the proposed development is to act as a catalyst for further growth and investment in Chester Hill. Furthermore, if Council decides to proceed with the plan, a broader review of planning controls in the centre should be undertaken.

### **Next Steps**

Should Council decide to support the planning proposal progressing to Gateway, the next steps would be to seek a Gateway Determination from the Department of Planning, Industry and Environment. Should the proposal be allowed to proceed, the negotiations with the applicant on the planning agreement to deliver public benefits would continue.

A thorough consideration of public feedback and the applicant's responses to issues raised in this report would occur following the exhibition of the planning proposal. Upon considering this, Council will be able to decide to proceed, not proceed, or make changes to the planning proposal as it sees fit.



## ATTACHMENT A – ASSESSMENT FINDINGS

Attachment A outlines the assessment findings and is based on the justification of matters as set out by Environmental Planning and Assessment Act 1979 and the Department of Planning, Industry and Environment's guidelines. The following key policies are relevant to Council's assessment of the application:

- Greater Sydney Region Plan
- South District Plan
- State Environmental Planning Policies
- Ministerial Directions
- Council's Local Strategic Planning Statement
- Council's North West Local Area Plan
- Department of Planning and Environment's publications: A Guide to Preparing Local Environmental Plans and A Guide to Preparing Planning Proposals

### SUMMARY OF TECHNICAL INVESTIGATIONS

The planning proposal (**Attachment B**) included the following supporting technical investigations:

- Urban Design Report – Turner Architects (**Attachment C**)
- Urban Design Addendum – Nation Architects (**Attachment D**)
- Traffic and Parking Assessment – Ason Group (**Attachment E**)
- Traffic and Parking Assessment Addendum – (**Attachment F**)
- Economic Impact Assessment – AEC (**Attachment G**)
- Economic Impact Addendum – Atlas Urban Economics (**Attachment H**)
- Social Impact Assessment and Community Benefits Assessment – Cred Consulting (**Attachment I**)
- Landscape Concept Design – Turf Design Studio (**Attachment J**)

Council subsequently engaged relevant specialists to undertake independent reviews of number of these studies to assess their adequacy and make recommendations on any further investigations required. These include:

- Urban Design Peer Review – Place Design Group (**Attachment K**)
- Urban Design Peer Review of Revised Concept – Place Design Group (**Attachment L**)
- Economic Impact Peer Review – SGS Economic and Planning (**Attachment M**)
- Traffic and Transport Peer Review – GTA Consultants (**Attachment N**)
- Social Infrastructure Needs Peer Review – Ethos Urban (**Attachment O**)



The findings of these reports are summarised as follows:

### **Urban Design**

The findings of the peer review report prepared by Place Design Group generally found the following:

- The proposal is generally consistent with the adopted strategic planning intent contained in the North West Local Area Plan and Local Strategic Planning Statement.
- The proposed scale, bulk and height are inconsistent with the existing character and controls for the area of Chester Hill.
- Pedestrian access through the site to Waldron Road and the train station needs to be improved for a development of this scale. If supported, options to expand the walkway width of Charles Place should be considered.
- The current local centre is dominated by and prioritises car movements over pedestrians and cyclists. If supported, consideration should be given to limiting private vehicle access to the eastern end of the Chester Hill Centre while still allowing buses along the full length via and at grade plaza space with bus shelters. A scramble crossing would then assist rebalancing pedestrian access through the centre.
- Other public domain and amenity improvements should be considered such as a 'grass plane,' consisting of paving, landscaping, seating, and shade trees should be explored along Waldron to reinforce its role as the primary retail precinct.
- Recommended that maximum building height of 14 storeys and an FSR of 3.5:1 be adopted for the site subject to an improved public benefit offer being made to support better connectivity and integration with the Waldron Road main street.

### **Traffic and Transport**

The findings of the peer review report prepared by GTA Consultants generally found the following:

- The indicative location and quantum of site accesses and supporting traffic modelling does not seem to provide an appropriate level of detail to adequately assess the traffic impact of the Planning Proposal.
- The SIDRA Model submitted needs to be recalibrated against current operating conditions.
- Traffic generation estimates for the site should be updated to consider the existing staff car park accessed off Priam Street, considering this accounts for around nine per cent of the existing car parking supply for the site.
- It is recommended that the anticipated distribution of traffic be updated to reflect the existing distribution of traffic at the key surveyed intersections.
- It is unclear how "2021 without development" traffic volumes were calculated, as it seems that some turning movements at key intersections reduce when compared with existing turning movements despite STFM data indicating increased traffic growth.

- Clarification should be provided as to the reason behind using 2026 STFM growth rates for calculating 2021 future traffic volumes.
- Modelled mitigation measures for the Priam Street/ Waldron Road do not align with Transport for NSW requirements for signalised intersections.
- The proposal, based on the Bankstown DCP 2015, will generate the need for between 1,300 and 1,400 car parking spaces. There is potential to decrease parking requirements through implementation of sustainable travel initiatives and shared use of car parking spaces between uses.
- Preliminary SIDRA modelling indicates that with upgrading of the Priam Street/ Waldron Road intersection and lengthening of turning bays, the additional traffic generated could potentially be accommodated on the surrounding network, subject to clarification of the above concerns and recommendations.

Council presented to the Traffic Consultant a notional concept for public domain improvements and road works to accommodate the development. This included better pedestrian access and footpath widening and carriageway narrowing. The report considered this and recommended as follows:

- The concept does not align with the intended function of Waldron Road and further detailed analysis such as microsimulation traffic modelling would likely be required to support such a proposal. It is recommended the location of the access points be further refined to better understand the likely traffic distribution of traffic around the site.

Further traffic work to address the areas identified can be addressed post Gateway.

### **Urban Economics**

The findings of the peer review report prepared by SGS Economics and Planning generally found the following:

- The proposed redevelopment includes more retail floor space than future retail demand is likely to create and so it is likely to impact on retail turnover in other centres.
- Some expansion of the Chester Hill centre is likely to be possible without impacting on the viability of retailing on Waldron Road given that these retail premises are relatively specialised retail premises, and so serve a different market segment than would likely be served by businesses located in an expanded Chester Square Shopping Centre.
- There is likely to be demand for the commercial floor space proposed as population growth is forecast in the surrounding area and the vacancy rate of the Chester Hill Centre is currently low.
- Proposed supermarket floor space expansion is least likely to impact on turnover along Waldron Road.

- There is a concentration of hospitality retail floor space along Waldron Road, making this an important part of the centre's function and continued viability. Competition from the proposed redevelopment could impact of hospitality retail, including both restaurants and take away food and drink premises, along Waldron Road.
- Given potential competition between the expanded shopping centre and Waldron Street, a limit to the amount of hospitality retail floor space provided could be considered to ensure that the role of Waldron Road is not adversely impacted.
- The report tested the feasibility of the proposed controls and assessed this against the current planning controls and the alternative height and FSR proposed by Council's independent urban designer. This analysis found that the current controls were viable, while the proposed planning controls were not viable unless both the construction costs were significantly reduced, and a developer was prepared to accept a reduced profit margin. The alternatively height and FSR proposed by Council's independent urban designers was found to be only marginally viable also.
- A review of the addendum report conceded some changes to the assumptions and resultant viability as the proponent's economist had access to real costs. However, the position remained that the proposal was marginally viable.

While the independent economic analysis commissioned by Council finds no need to alter the existing planning controls at this time from a viability perspective, the feasibility of a project is a matter for the developer. The planning proposal represents a stimulus for growth and renewal in Chester Hill and a source of public benefits which might not otherwise occur, such as a new library and upgrades to the town centre.

### **Social Infrastructure**

The findings of the peer review report prepared by Ethos Urban generally found the following:

- There are some issues with the underlying assumptions of the report submitted with the planning proposal as they relate to forecast population growth and change generated by the development. The methodology used to forecast population change associated with the development may have projected higher levels of population growth than are likely.
- The Report submitted in support of the planning proposal applied numeric benchmarks to identify social infrastructure "gaps" arising from the proposed development. The numerical benchmarks, while arising from a rigorous process, lacks consideration of the broader strategic context and directions set out in Council's adopted strategic planning frameworks. This should be reviewed and incorporated.
- Some of the community benefits proposed in the report (i.e. the 160sqm cold shell community centre within the development) do not align with Council's approach to social infrastructure provision, nor to best practice principles for social infrastructure provision. Other community benefits (i.e. financial contribution towards embellishment of Nugent Park) are appropriate and will contribute towards meeting community needs in the area.

- The existing proposed community benefits are considered inadequate, and the following alternative community benefits are proposed:
  - Financial contribution towards upgrade of Nugent Park North and Nugent Park South.
  - Financial contribution towards upgrade and/or expansion of existing community facilities within 400m walking distance of the site, including:
    - Bill Lovelee Youth Centre
    - Chester Hill Library and Knowledge Centre
    - Chester Hill Community Centre
  - The detailed upgrades for these facilities will be subject to stakeholder and community engagement to determine community priorities.

The public benefits offered have been revised with consideration of the above, as set out in the executive summary report.

## ASSESSMENT FINDINGS

The assessment findings are based on the matters set out by the Department of Planning, Industry and Environment.

### 1. Strategic Merit Test

Section 1 assesses the proposal based on the Department of Planning & Environment's Strategic Merit Test as outlined in the Department's publication *A Guide to Preparing Local Environmental Plans*. The intended outcome is to determine whether a proposal demonstrates strategic and site specific merit to proceed to the Gateway. A proposal that seeks to amend controls that are less than 5 years old will only be considered where it clearly meets the Strategic Merit Test.

#### 1.1 Does the proposal give effect the relevant district plan within the Greater Sydney Region, or corridor / precinct plans applying to the site, including any draft regional, district or corridor / precinct plans released for public comment?

##### 1.1.1 Greater Sydney Region Plan (*A Metropolis of Three Cities*)

Proponent's Submission:	Consistent
Objective 4: Infrastructure use is optimised	Yes.  The subject site is located within close proximity to Chester Hill Railway Station and the bus interchange on Waldron Road.
Objective 5: Benefits of growth realised by collaboration of governments, community and business	Not applicable.  This objective deals with more formalised collaboration between different levels of government. This planning proposal is developer-led.

Proponent's Submission:	Consistent
Objective 6: Services and infrastructure meet communities' changing needs.	Yes.  There is a need to deliver social infrastructure that reflects the needs of the community now and in the future. The planning proposal includes a public benefit offer to provide additional infrastructure including a new 2,000m <sup>2</sup> library.
Objective 7: Communities are healthy, resilient and socially connected	Yes.  The planning proposal will increase density by providing up to 633 additional dwellings in close proximity to public transport, retail and local community services.
Objective 10: Greater housing supply	Yes.  The housing target for Chester Hill to 2031 as established in council's adopted North West Local Area Plan is 725 additional dwellings.  The planning proposal would provide 633 additional dwellings, a large portion of this target.
Objective 11: Housing is more diverse and affordable	Yes.  Although the GSRP sets a target of between 5-10% of new residential floor space for affordable rental housing for very low and low-income households "noting that these parameters will be tailored to each nominated area" it is considered that the offer is acceptable having regard to the viability of the development.
Objective 12: Great places that bring people together.	Not addressed by applicant. Assessment discussion further below.
Objective 14: A Metropolis of Three Cities - integrated land use and transport creates walkable and 30 minute cities	Yes.  The subject site is located within close proximity to Chester Hill Railway Station and the bus interchange on Waldron Road.
Objective 22: Investment and business activity in centres	Yes.  Additional commercial and retail floor space will be provided as a result of this planning proposal.
Objective 24: Economic sectors are targeted for success	Not applicable. This objective deals more with regulatory barriers for industry, tourism and agricultural sectors attraction.

Proponent's Submission:	Consistent
Objective 30: Urban tree canopy cover is increased	<p>Not applicable.</p> <p>This objective is concerned with increasing the urban tree canopy.</p>
Objective 33: A low-carbon city contributions to net-zero emissions by 2050 and mitigates climate change	<p>Not applicable.</p> <p>This objective deals with achieving net-zero emissions by 2050. The planning proposal claims this is achieved by reducing reliance on vehicle use. There is no further consideration given to the emissions generated by the additional floor space or any offsets required.</p>
Objective 34: Energy and water flows are captured, used and re-used	<p>Not applicable.</p> <p>This objective deals with exploring precinct-based initiatives to increase renewable energy generation, energy and water efficiency over and above BASIX. The planning proposal only suggests compliance with BASIX will be achieved.</p>
Objective 36: People and places adapt to climate change and future shocks and stresses	<p>Not applicable.</p> <p>This objective deals with supporting initiatives that respond to the impacts of climate change.</p>
Objective 37: Exposure to natural and urban hazards is reduced	<p>Not applicable.</p> <p>This objective deals with avoiding new development in areas exposed to natural and urban hazards. The site is an infill site not considered to contain hazards that need to be managed.</p>
Objective 38: Heatwaves and extreme heat are managed	<p>Not applicable.</p> <p>This objective deals with mitigating the heat island effect. The material submitted does not demonstrate how this is achieved at this stage.</p>
<p>Council's Assessment:</p> <p>Although the planning proposal does not specifically address <i>Objective 6 Services and infrastructure meet communities' changing needs</i>, there is a need to deliver social infrastructure that reflects the needs of the community now and in the future. The planning proposal includes a public benefit offer to provide additional infrastructure including a new 2,000m<sup>2</sup> library which is consistent with this objective.</p> <p>Although the proposal does not specifically address <i>Objective 12: Great places that bring people together</i>. Similar to Objective 6, the proposal includes provision for a public square, library and laneway dedication integrated with retail and housing and is consistent with this objective.</p>	

Proponent's Submission:	Consistent
<p>These include:</p> <ul style="list-style-type: none"> <li>- A public plaza for gatherings,</li> <li>- Social infrastructure such as the library,</li> <li>- Public domain upgrades to Waldron Road and Charles Place to improve the tired appearance from the train station,</li> <li>- Public domain upgrades to draw the community from the station, along Waldron Road and to the library and subject site,</li> <li>- Social infrastructure and local services at the heart of Chester Square</li> <li>- Excellence exhibited through design (needed in order to support this scale of development in this context).</li> <li>- Excellent design will also require sensitive podium design and pedestrian through links that break the longer building elements. This will allow pedestrians to respond to the podiums for an appropriate human scale, as opposed to the towers.</li> </ul> <p>Careful and sensitive design is required for this scale of development. In addition to the site specific design excellence clause recommended, a site specific DCP that responds the various urban design reports considered, as well as the design principles within <i>Better Placed</i> by the NSW Government Architect.</p> <p>As there has been minimal renewal in the centre and a lack of take up of the existing development controls, the proposal represents an opportunity for the renewal of the subject site to act as a catalyst for the centre.</p>	

### 1.1.2 South District Plan

Proponent's Submission:	Consistent
<p><u>Liveability</u></p> <p>Yes.</p> <p>The Planning Proposal is consistent with the stated priorities as it is specifically aimed at improving housing diversity and renewal of a particularly large land holding within the local area.</p> <p>The planning proposal is also intended to be accompanied by a voluntary planning agreement to increase liveability within Chester Hill.</p> <p>The Proposal will facilitate the delivery of a substantial quantum of residential accommodation and employment floor space on a site that is highly suitable for development uplift given its favourable location within the Chester Hill local centre and also having regard to the size of the site and its ability to achieve transformational change for Chester Hill.</p>	<p>Yes, see further discussion below.</p>



Proponent's Submission:	Consistent
<p>The proposal will allow for a transit-oriented development that will assist in achieving housing diversity and affordability on a site that is well located to services and facilities.</p> <p>The proposal will improve the viability and liveability of the Chester Hill local centre through the expanded commercial floor space within the centre and substantial public domain upgrades consistent with the liveability priorities.</p>	
<p><u>Productivity</u></p> <p>Yes.</p> <p>Whilst Chester Hill is not identified as a 'strategic centre' it is nonetheless identified as a 'local centre' and is a thriving commercial centre with a high level of amenity and has the capacity to become an important and larger local centre which can accommodate increased employment and housing, particularly given its immediate proximity to Chester Hill train station.</p> <p>Chester Hill therefore has an opportunity for increasing local jobs, enhancing the public domain and providing housing in an appropriate location.</p> <p>The proposed increase of both housing accommodation and employment floor space within walking distance of Chester Hill Station is consistent with the District Plan's emphasis on improving access to jobs on the basis that from an economic perspective, having access to a larger number of jobs means greater potential for job and skill matching, enhanced opportunities for skill and knowledge development and ultimately better outcomes for households and the overall economy.</p>	<p>Yes. The expansion of Chester Hill will create jobs and housing in a local centre. The economic reviews demonstrate that the proposed increases in additional retail and commercial floor space should not hinder the creation of jobs in identified strategic centres, being Bankstown and Campsie.</p>
<p><u>Sustainability</u></p> <p>Yes.</p> <p>The planning proposal is consistent with sustainability priorities as it will facilitate future development on the site that will ensure the protection of the environment.</p> <p>By providing additional housing and employment floor space in an existing centre,</p>	<p>Yes. The planning proposal maintains that the sustainability priorities will be achieved as it will ensure development of a site that will protect the environment by reducing the need for housing on the urban fringes of Sydney. Likewise, the planning proposal states that the future development will comply with BASIX.</p> <p>Outside of BASIX compliance in the DA stage, increased sustainability measures can be achieved through the site specific DCP.</p>

Proponent's Submission:	Consistent
<p>the proposal maximises the efficiency of existing infrastructure and reduces pressure on the fringe of Sydney and other sensitive locations.</p> <p>Any future building on the site would be required to be consistent with the principles of ecological sustainable design and a BASIX certificate would need to accompany any future development application.</p> <p>The planning proposal would not result in any adverse impacts on bushland or any waterways and is unlikely to impact on any other aspects of the South District's environment that the District Plan seeks to protect.</p>	
<p><u>Liveability</u></p> <ul style="list-style-type: none"> <li>• Planning Priority S6: Creating and renewing great places and local centres, and respecting the District's heritage</li> </ul> <p>The scale of the proposed development has the potential to impact the street level and diminish the human scale of the locality if not carefully designed. The elements of renewing centres into great places include affordability, services, social infrastructure, public places, open spaces and walkable centres. Subject to the provision of the following elements, the proposal would be consistent with Priority S6:</p> <ul style="list-style-type: none"> <li>- Affordable housing</li> <li>- Library / multi purpose facility (cold shell)</li> <li>- Public plaza</li> <li>- Public domain upgrades on Waldron Road, Charles Place and Frost Lane</li> <li>- Renewal of a centre</li> <li>- Pedestrian links through the site</li> <li>- Access to housing and jobs in walking distance to a train station</li> <li>- Design excellence clause</li> </ul> <p>In order to support a proposal of this scale, design excellence is required. The scale of the proposed development may dominate the street level and diminish the human scale of the locality. The connection and activation of the proposed public square with the Chester Hill local centre, railway station and bus interchange are currently inadequate due to the narrow accessway of Charles Place. However, the proponent has proposed embellishment works and Council has identified that Charles Place should be widened in due course.</p> <p>While the public square and incorporation with a library will create a great local place within the site boundary, it is important that the place is well integrated with Chester Hill more broadly and shares the public benefit with Waldron Road. Subsequent public domain plan preparation and a site specific DCP, including expansion of Charles Place and negotiation of a public benefit offer will achieve this.</p>	

## 1.2 Is the proposal consistent with a relevant local strategy that has been endorsed by the Department? –

### 1.2.1 Local Strategic Planning Statement (*Connective City 2036*)

	Consistent
Proponent's Submission:	Yes.
Not addressed as the draft LSPS was not released for public comment at the time the planning proposal was lodged.	
Council's Assessment:	
<p>The LSPS identifies Chester Hill as one of 88 centres across the LGA. The draft LSPS establishes a hierarchy of centres, Chester Hill being designated a 'Local Centre' which is a 3<sup>rd</sup> order centre in a hierarchy of 6 from City Centre down to Neighbourhood Centre. The 'Local Centre' categorisation in does not set parameters for height or density.</p>	
<p>The LSPS sets a housing target of 50,000 more dwellings accommodating 80% of increased housing supply in centres along the Sydenham to Bankstown Metro line and sustainable growth in local village and small village centres.</p>	
<p>The LSPS endorses the adopted North West LAP as a 'detailed action plan' which planned to growth Chester Hill sustainably and was subsequently implemented through and amendment to the Bankstown LEP by increasing the building height for the subject site to 20 metres and increasing the FSR to 2.5:1.</p>	
<p>The planning proposal is consistent with the primary objectives of the LSPS including location of high density housing near stations, evolution of larger centres into vibrant urban places (such as Chester Hill), provision of commercial and street-fronting retail space, local jobs and civic places.</p>	
<p>There has been minimal renewal in the centre despite the uplift facilitated through the NWLAP. The proposal is from one of the largest landholdings in the centre and represents an opportunity for the subject site to act as a catalyst; through the delivery of public benefits, social infrastructure, housing and local employment on a train line.</p>	

### 1.2.2 North West Local Area Plan

	Consistent
Proponent's Submission:	No, however is consistent with the other aims and objectives of the LSPS, such as revitalising local centres including Chester Hill.
<p>The proponent's submission states that "the Plan focused on additional density and height along Waldron Road rather than on the subject site and at the time of the strategic planning work undertaken to inform the Plan, the subject site was not considered for its full potential to achieve transformational change for Chester Hill and a true place-making outcome for the centre".</p>	
<p>Further the planning proposal states that in the years since the LEP amendments implemented the Plan in 2016, the lack of development was evidence that the fragmented ownership had limited development activity.</p>	The NWLAP is now approaching 5 years since its

Notwithstanding, the planning proposal is consistent other objectives of the Plan such as providing more housing close to public transport, open space and connectivity.

implementation, and it is appropriate to revisit the planning controls and seek resident and business views of the area through this planning proposal.

#### Council's Assessment:

The NSW LAP considered the subject site and its potential to contribute to the revitalisation of the local centre finding that:

*"There is the potential for the built form to strengthen the retail core on the north side of the railway line with increased densities and building heights along Waldron Road (a major public transport corridor) and in the transitional areas surrounding the Chester Square shopping centre".*

This outcome was informed by an urban design study that identified the need to:

*"...promote and expand the retail vitality of the shopping centre and the main street retail strip along Waldron Road".*

The NWLAP was finalised through a LEP amendment gazetted on 22 January 2016, which raised building heights for the subject site to 20 metres and surrounding lands on Bent, Leicester and Priam Streets to 13 metres. The areas fronting Waldron Road were raised to 26 metres to reinforce the role of Waldron Road to implement the adopted strategy. The desired built form seeks to transition the greatest building height and density from Waldron Road in the suburban surrounds to ensure development was appropriate.

However, these planning controls have not been physically realised through redevelopment since their implementation in the last 5 years. The recent comprehensive LEP did not revisit these controls at Chester Hill and were focussed on centres where Council's local area plans had not yet been implemented. Despite development consent granted to a few larger development applications, minimal renewal of the centre has occurred to realise the NWLAP.

The scale of the development, coupled with design excellence and public benefits, are an opportunity to revisit the direction of Chester Hill to facilitate urban renewal in proximity to a train station. This is reinforced in Council's newly adopted employment and housing strategies.

The proposal represents an opportunity for conversations with the community about a new consideration for the centre and evolution into a vibrant urban place.

- Action C3: Transform Waldron Road into the Main Street for the Chester Hill Village Centre and the North West Local Area

As discussed above, the significant increase in the building height for the subject site to 62 metres represents a departure from the adopted strategic direction for Chester Hill which implemented a maximum building height of 20 metres. The strategic direction established in the LAP is for those lots fronting Waldron Road at 26 metres in height to reinforce Waldron Road and the main street retail strip.

Waldron Road has had limited urban renewal, likely due to its fragmented land ownership, small lot sizes and basement car parking costs. The Waldron Road commercial strip also has limited vacancy rates, potentially making redevelopment unattractive for land owners.

The proposal has recognised the potential impact on Waldron Road, and has proposed public domain works on Waldron Road in order to maintain economic vitality as a main street, that could compliment the different offerings within the subject site as detailed in the economic reports.

- Action L8: Make Key Facilities More Sustainable for Community Services

This action aims to provide high quality facilities and services at focal points that will serve the long term needs of the community consistent with the Bankstown Community Plan. This includes the Chester Hill community hub on the south side of the railway line which comprises the multi-purpose community centre and the library and meeting spaces and the Bill Lovelee Youth Centre at Abbott Park. This strategy seeks to avoid the legacy of poorly located community facilities which are inadequate and limited in their capacity to support future community needs.

The Public Benefit offer accompanying the planning proposal includes dedication to Council a 2,000m<sup>2</sup> 'cold shell' library within the development. The library would be well located within the northern centre of Chester Hill.

Whilst a change of direction from the 2016 adopted strategic direction for Chester Hill and located away from civic facilities on the southern side of the railway line; the library in this location would be centrally located near the train line, high density development and a public plaza.

**1.3 Is the proposal responding to a change in circumstances, such as the investment in new infrastructure or changing demographic trends that have not been recognised by existing planning controls?**

	Consistent
Proponent's Submission:	No.
No comment.	
Council's Assessment:	
There have been no new infrastructure investments or changes in demographic trends locally that warrant a review of the planning controls as established by the detailed studies that support the LAP. Notwithstanding the above, as there has been minimal renewal in the centre, the proposal does represent an opportunity for the renewal of the subject site to act as a catalyst for the centre.	

**1.4 Does the proposal have regard to the natural environment (including known significant environmental values, resources or hazards)?**

	Consistent
<p>Proponent's Submission:</p> <p>The proponent's submission addresses statutory matters relating to Hazard and Risk include Ministerial Direction's relating to acid sulphate soils, mine subsidence, flooding and bush fire protection.</p> <p>The submission found that these matters are not applicable to the subject site.</p> <p>Council's Assessment:</p> <p>Agreed.</p>	Yes.

**1.5 Does the proposal have regard to the existing uses, approved uses and likely future uses of land in the vicinity of the land subject to a proposal?**

	Consistent
<p>Proponent's Submission:</p> <p>The proponent's submission acknowledges that the site links the commercial/mixed use centre of Chester Hill and surrounding low-density dwellings.</p> <p>The submission highlights that the site currently offers little activation to 3 of the 4 street frontages and that redevelopment presents the opportunity to rectify this.</p> <p>Council's Assessment:</p> <p>The planning proposal distinguishes itself from the existing local character. The proposal rather seeks to promote the proposal acting as a 'place' marker of the Chester Hill precinct. Through design excellence and public benefits, the proposal is anticipated to provide flow on economic, housing and social benefits to surrounding land uses and potentially increase development activity.</p>	Yes.

**1.6 Does the proposal have regard to the services and infrastructure that are or will be available to meet the demands arising from the proposal and any proposed financial arrangements for infrastructure provision?**

	Consistent
<p>Proponent's Submission:</p> <p>The proponent's submission states that:</p> <ul style="list-style-type: none"> <li>• Required electricity, telecommunication, gas, water, sewer and drainage services are available to the site.</li> <li>• The site is well served by public transport infrastructure in that the site is within walking distance of the Chester Hill Station and numerous bus services.</li> </ul> <p>Notwithstanding, a public benefit offer accompanies the planning proposal which includes:</p> <ul style="list-style-type: none"> <li>• A 2,000 square metre library within the development to be constructed (cold shell) and dedicated to Council;</li> <li>• 1.5m widening of Frost Lane (to be dedicated to Council)</li> <li>• Creation of a circa 2,800 square metre central publicly accessible plaza area (24/7 public access secured on title);</li> <li>• Embellishment of Charles Place;</li> <li>• Public domain works along Waldron Road;</li> <li>• Upgrades to local traffic network including intersection signalisation at Waldron Road and Priam Street; and</li> <li>• Provision of 5% affordable housing.</li> </ul> <p>Council's Assessment:</p> <p>Council concurs that the site is very well located in terms of access to rail and bus transit services.</p> <p>Notwithstanding, Council is concerned about vehicular and pedestrian movement in and around the centre and have engaged independent consultants to review the infrastructure needs in relation to traffic and transport and social and community infrastructure.</p> <p>These peer reviews have identified public domain improvements including the expansion of Charles Place to enable a development of this scale to properly integrate with the Waldron Road main street retail and the railway station / bus interchange.</p> <p>The proponent made a public benefit offer which includes public domain upgrades along Waldron Road, Charles Place and Frost Lane.</p> <p>A broader strategic review involving community consultation and a more detailed investigation of the necessary infrastructure requirements to support development of this scale in Chester Hill will need to be undertaken in future. Council will negotiate potential contributions to the costs associated with these studies given that the scale of the proposal necessitates bringing this strategic review forward out of sequence.</p>	<p>Yes.</p>



## 2. Planning Proposals–Justification Matters

Section 2 assesses the proposal based on the justification matters as outlined in the Department of Planning & Environment’s publication *A Guide to Preparing Planning Proposals*. The intended outcome is to demonstrate whether there is justification for a proposal to proceed to the Gateway.

### 2.1 Is the planning proposal a result of an endorsed local strategic planning statement, strategic study or report?

	Consistent
<p>Proponent’s Submission:</p> <p>The planning proposal is not the result of a Council initiated strategic study or report. However, the site is of such a large size and magnitude that it is strategically significant within the context of Chester Hill and also the broader local government area, such that consideration of a Planning Proposal for the site in the absence of a strategic study is warranted.</p> <p>Council’s Assessment:</p> <p>Council agrees that the planning proposal is not the result of any strategic study or report. The recently adopted LSPS prioritises the investigation of Bankstown and Campsie for additional housing, followed thereafter by nine other centres including Chester Hill (subject to master plans, structure planning, community consultation, and environmental and urban design studies).</p> <p>Whilst out of sequence, Chester Hill has been identified for renewal based on its centres hierarchy and location on a train line. The subject site is a key landholding and has the ability to delivery social and public benefits for this centre. Based on the subject site’s size and location, as well as public benefits proposed, the proposal is consistent with the recently endorsed LSPS.</p>	<p>Yes, though noted that it has proceeded ahead of the LSPS schedule.</p>

## 2.2 Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

	Consistent
<p>Proponent's Submission:</p> <p>The planning proposal is the best means of achieving the objectives and intended outcomes for the site in a manner which will provide an appropriate model for the growth which also includes a significant public benefit.</p> <p>Council's Assessment:</p> <p>Agreed. This assessment recommends that a broader strategic review involving community consultation, delivery of the proposed public benefits and a more detailed investigation of the necessary infrastructure requirements to support compatible development in Chester Hill be undertaken.</p>	Yes.

## 2.3 Will the planning proposal give effect to the objectives and actions of the applicable regional, or district plan or strategy (including any exhibited draft plans or strategies)?

### 2.3.1 Greater Sydney Region Plan (*A Metropolis of Three Cities*)

	Consistent
<p>Proponent's Submission:</p> <p>Refer to section 1.1.1 of this attachment.</p> <p>Council's Assessment:</p> <p>Refer to section 1.1.1 of this attachment.</p>	Yes. Refer to section 1.1.1 of this attachment.

### 2.3.2 South District Plan

	Consistent
<p>Proponent's Submission:</p> <p>Refer to section 1.1.2 of this attachment.</p> <p>Council's Assessment:</p> <p>Refer to section 1.1.2 of this attachment.</p>	Yes. Refer to section 1.1.2 of this attachment.

## 2.4 Will the planning proposal give effect to a council's endorsed local strategic planning statement, or another endorsed local strategy or strategic plan?

### 2.4.1 Community Strategic Plan (CBCity 2028)

	Consistent
<p>Proponent's Submission:</p> <p>The planning proposal is consistent with the identified destinations in that it will accommodate population growth in an established centre in a manner which contributes to housing diversity and the quality of the local housing stock. The increased residential population in the centre will contribute to the vibrancy and vitality of the centre and the proposal will deliver improved connectivity and permeability, increased street activation as well as a new central 'town square' which will be an important publicly accessible open space area within the centre of the site. The development will provide high density housing including a quantum of affordable housing in proximity to transport nodes and contribute towards dwelling targets within Canterbury Bankstown, as well as provide employment through the proposed commercial uses.</p> <p>Council's Assessment:</p> <p>Agreed. The planning proposal can help achieve a number of outcomes identified in the CBCity 2028.</p>	Yes.

### 2.4.2 Local Strategic Planning Statement (Connective City 2036)

	Consistent
<p>Proponent's Submission:</p> <p>Not addressed as the draft LSPS was not released for public comment at the time the planning proposal was lodged.</p> <p>Council's Assessment:</p> <p>Refer to section 1.2.1 and 2.1 of this attachment.</p>	Yes.

### 2.4.3 Affordable Housing Strategy 2020

	Consistent
<p>Proponent's Submission:</p> <p>Not addressed as the affordable housing strategy was not released for public comment at the time the planning proposal was lodged.</p> <p>Council's Assessment:</p> <p>The planning proposal's latest letter of offer revised the affordable housing offer from dedication to Council to retention by the proponent. Council's recently adopted Affordable Housing Strategy requires a minimum dedication of 5% affordable housing to Council, as originally proposed by the proponent.</p>	No, as the affordable housing strategy requires dedication of affordable housing to Council.

#### 2.4.4 Employment Lands Strategy

	Consistent
<p>Proponent's Submission:</p> <p>Not addressed as the employment lands strategy was not released for public comment at the time the planning proposal was lodged.</p> <p>Council's Assessment:</p> <p>The employment lands strategy identifies that the Chester Hill local centre lacks quality pedestrian connections, civic spaces and public domain. Demand for additional retail and commercial floor space of 5,900m<sup>2</sup> is forecast to support the population to 2036.</p> <p>The planning proposal will provide approximately 15,621m<sup>2</sup> of commercial and retail floor space on the site (including redevelopment of the existing commercial / retail on site). Public domain works, a library civic space and public plaza are also proposed for the site, consistent with the employment lands strategy.</p>	Yes

#### 2.4.5 Housing Strategy 2020

	Consistent
<p>Proponent's Submission:</p> <p>Not addressed as the housing strategy was not released for public comment at the time the planning proposal was lodged.</p> <p>Council's Assessment:</p> <p>The Housing Strategy recognises Chester Hill as a local centre and states that the north west local area plans were incorporated as amendments to the Bankstown LEP 2015. The Housing Strategy nominated the north west area to be reviewed, and Chester Hill to provide increased capacity for renewal and vitality with the core of the centre. Whilst it is acknowledged that planning for renewal was forecast for 2026, the housing strategy also details that built form controls for the B2 zone will be through place based planning. As the proposal is the key landholding of the centre, the proposed renewal of the site and catalyst public benefits will facilitate place based planning conversations with residents and business owners about the future of Chester Hill.</p>	Yes, subject to community consultation and master planning of the surrounding context in the future.

**2.5 Is the planning proposal consistent with applicable State Environmental Planning Policies?**

	Consistent
<p>Proponent's Submission:</p> <p>The Planning Proposal is consistent with all relevant State Environmental Planning Policies.</p> <p>Council's Assessment:</p> <p>Refer to Section 3.0</p>	Yes

**2.6 Is the planning proposal consistent with applicable Ministerial Directions (s.9.1 directions)?**

	Consistent
<p>Proponent's Submission:</p> <p>Refer to Section 4.0</p> <p>Council's Assessment:</p> <p>Refer to Attachment 4.0</p>	Yes

**2.7 Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?**

	Consistent
<p>Proponent's Submission:</p> <p>No threatened species, populations or ecological communities have been observed on the site. It is unlikely due to the urban context, history of the site and the surrounding area that there are any threatened species populations or communities that are at the limit of their known distribution with regard.</p> <p>Council's Assessment:</p> <p>Agreed.</p>	Yes.

**2.8 Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?**

	Consistent
<p>Proponent's Submission:</p> <p>The site is not affected by any known natural hazards such as flooding, land slip or bushfire.</p> <p>Due to the historical use of the site originally for detached housing and subsequently for a shopping centre it is considered unlikely that there are any significant contamination issues with the site.</p> <p>Council's Assessment:</p> <p>Agreed.</p>	Yes

**2.9 Has the planning proposal adequately addressed any social and economic effects?**

	Consistent
<p>Proponent's Submission:</p> <p>The development will provide high density housing including a quantum of affordable housing in proximity to transport nodes.</p> <p>The public benefit offer will also provide 5% of housing for affordable housing.</p> <p>The planning proposal is also accompanied by an Economic Impact Assessment that demonstrates that the proposed development will generate economic investment and local employment opportunities.</p> <p>Council's Assessment:</p> <p>Agreed.</p>	Yes

**2.10 Is there adequate public infrastructure for the planning proposal?**

	Consistent
<p>Proponent's Submission:</p> <p>Required electricity, telecommunication, gas, water, sewer and drainage services are available to the site.</p> <p>The site is well served by public transport infrastructure in that the site is within walking distance of the Chester Hill Station and numerous bus services.</p>	Yes.

The proposal is also accompanied by a public benefit offer for the delivery of additional infrastructure within Chester Hill in support of the proposal.  
Council's Assessment:

Agreed, subject to the proposed public benefit offer.

**2.11 What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination?**

	Complies
<p>Proponent's Submission:</p> <p>Relevant public authorities will be consulted following the Gateway Determination. It is expected that Roads and Maritime Services may be consulted in relation to the project.</p> <p>Council's Assessment: The proposal has not been the subject of formal consultation with State and Commonwealth public authorities. This would be undertaken post Gateway, should Council decide to proceed with a planning proposal.</p>	Yes



### 3.0 State Environmental Planning Policies

SEPPs (as at October 2019)		Applicable	Consistent
19	Bushland in Urban Areas	No	N/A
21	Caravan Parks	No	N/A
33	Hazardous & Offensive Development	No	N/A
36	Manufactured Home Estates	No	N/A
47	Moore Park Showground	No	N/A
50	Canal Estate Development	No	N/A
55	Remediation of Land	Yes	Yes
64	Advertising & Signage	No	N/A
65	Design Quality of Residential Apartment Development	No	N/A
70	Affordable Housing (Revised Schemes)	No	N/A
	(Aboriginal Land) 2019	No	N/A
	(Affordable Rental Housing) 2009	No	N/A
	(Building Sustainability Index: BASIX) 2004	No	N/A
	(Coastal Management) 2018	No	N/A
	(Concurrences) 2018	No	N/A
	(Educational Establishments & Child Care Facilities) 2017	No	N/A
	(Exempt & Complying Development Codes) 2008	No	N/A
	(Gosford City Centre) 2018	No	N/A
	(Housing for Seniors or People with a Disability) 2004	No	N/A
	(Infrastructure) 2007	No	N/A
	(Kosciuszko National Park–Alpine Resorts) 2007	No	N/A
	(Kurnell Peninsula) 1989	No	N/A
	(Mining, Petroleum Production & Extractive Industries) 2007	No	N/A

	(Penrith Lakes Scheme) 1989	No	N/A
	(Primary Production & Rural Development) 2019	No	N/A
	(State & Regional Development) 2011	No	N/A
	(State Significant Precincts) 2005	No	N/A
	(Sydney Drinking Water Catchment) 2011	No	N/A
	(Sydney Region Growth Centres) 2006	No	N/A
	(Three Ports) 2013	No	N/A
	(Urban Renewal) 2010	No	N/A
	(Vegetation in Non-Rural Areas) 2017	No	N/A
	(Western Sydney Employment Area) 2009	No	N/A
	(Western Sydney Parklands) 2009	No	N/A
	Greater Metropolitan REP No.2–Georges River Catchment	No	N/A

#### 4.0 Ministerial Directions

Direction & Issue Date		Applicable	Consistent
<b>Employment and Resources</b>			
1.1	Business and Industrial Zones [01/05/17]	Yes	Yes
1.2	Rural Zones [14/04/16]	No	N/A
1.3	Mining, Petroleum Production & Extractive Industries [01/07/09]	No	N/A
1.4	Oyster Aquaculture [01/07/09]	No	N/A
1.5	Rural Lands [28/02/19]	No	N/A
<b>Environment and Heritage</b>			
2.1	Environment Protection Zones [14/04/16]	No	N/A
2.2	Coastal Management [03/04/18]	No	N/A
2.3	Heritage Conservation [01/07/09]	No	N/A
2.4	Recreation Vehicle Areas [14/04/16]	No	N/A
2.5	Application of E2 and E3 Zones & Environmental Overlays in Far North Coast LEPs [02/03/16]	No	N/A
2.6	Remediation of Contaminated Land [17/04/20]	Yes	Yes
<b>Housing, Infrastructure and Urban Development</b>			
3.1	Residential Zones [14/04/16]	No	N/A
3.2	Caravan Parks & Manufactured Home Estates [14/04/16]	No	N/A
3.3	Home Occupations [01/07/09]	No	N/A
3.4	Integrating Land Use & Transport [14/04/16]	Yes	Yes
3.5	Development Near Licensed Aerodromes [20/08/18]	No	N/A
3.6	Shooting Ranges [16/02/11]	No	N/A
3.7	Reduction in Non-Hosted Short Term Rental Accommodation Period [15/02/19]	No	N/A
<b>Hazard and Risk</b>			
4.1	Acid Sulfate Soils [01/07/09]	No	N/A
4.2	Mine Subsidence & Unstable Land [14/04/16]	No	N/A

4.3	Flood Prone Land [01/07/09]	No	N/A
4.4	Planning for Bushfire Protection [01/07/09]	No	N/A
<b>Regional Planning</b>			
5.2	Sydney Drinking Water Catchments [03/03/11]	No	N/A
5.3	Farmland of State & Regional Significance on the NSW Far North Coast [01/05/17]	No	N/A
5.4	Commercial & Retail Development along the Pacific Highway, North Coast [21/08/15]	No	N/A
5.9	North West Rail Link Corridor Strategy [30/09/13]	No	N/A
5.10	Implementation of Regional Plans [14/04/16]	No	N/A
5.11	Development of Aboriginal Land Council Land [06/02/19]	No	N/A
<b>Local Plan Making</b>			
6.1	Approval & Referral Requirements [01/07/09]	Yes	Yes
6.2	Reserving Land for Public Purposes [01/07/09]	No	N/A
6.3	Site Specific Provisions [01/07/09]	No	N/A
<b>Metropolitan Planning</b>			
7.1	Implementation of A Plan for Growing Sydney [14/01/15]	No	N/A
7.2	Implementation of Greater Macarthur Land Release Investigation [22/09/15]	No	N/A
7.3	Parramatta Road Corridor Urban Transformation Strategy [09/12/16]	No	N/A
7.4	Implementation of North West Priority Growth Area Land Use & Infrastructure Implementation Plan [15/05/17]	No	N/A
7.5	Implementation of Greater Parramatta Priority Growth Area Interim Land Use & Infrastructure Plan [25/07/17]	No	N/A
7.6	Implementation of Wilton Priority Growth Area Interim Land Use & Infrastructure Plan [05/08/17]	No	N/A
7.7	Implementation of Glenfield to Macarthur Urban Renewal Corridor [22/12/17]	No	N/A
7.8	Implementation of Western Sydney Aerotropolis Interim Land Use & Infrastructure Plan [20/08/18]	No	N/A
7.9	Implementation of Bayside West Precincts 2036 Plan [25/09/18]	No	N/A
7.10	Implementation of Planning Principles for the Cooks Cove Precinct [25/09/18]	No	N/A

-END-