



AGENDA FOR THE CANTERBURY BANKSTOWN LOCAL PLANNING PANEL MEETING

1 November 2021 - 6.00pm

ORDER OF BUSINESS

ORDER OF BUSINESS

APOLOGIES AND DECLARATIONS

CONFIRMATION OF MINUTES OF PREVIOUS MEETING

ROSELANDS WARD

- 1 DA-1133/2020 - 409 Burwood Road, BELMORE**
Alterations to existing commercial building and additions to the rear including residential apartments and at grade parking, for one commercial tenancy at Ground Level and 11 residential apartments over four storeys. 3

Canterbury Bankstown Local Planning Panel - 01 November 2021

ITEM 1	DA-1133/2020 - 409 Burwood Road, BELMORE
	Alterations to existing commercial building and additions to the rear including residential apartments and at grade parking, for one commercial tenancy at Ground Level and 11 residential apartments over four storeys.
FILE	DA-1133/2020 – Bunmarra/Roselands
ZONING	B2 Local Centre
DATE OF LODGEMENT	8 December 2020 (Amended Plans received on 16 August 2021).
APPLICANT	Toto Mesiti
OWNERS	Toto Mesiti
ESTIMATED VALUE	\$3,154,000
AUTHOR	Planning

REPORT

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

Development Application No. DA-1133/2020 proposes alterations to an existing commercial building and additions to the rear including residential apartments and on-grade car parking. Proposed development comprises of one commercial tenancy at ground level and 11 residential apartments over four storeys.

- DA-1133/2020 has been assessed against the relevant provisions of State Environmental Planning Policy No. 55- Remediation of Land, State Environmental Planning Policy 65, 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. Draft Canterbury Bankstown Consolidated Local Environmental Plan.

The application was notified with newspaper advertising on two different occasions.

The first notification was between 20 January 2021 and 9 February 2021. No submissions were received during the notification period.

Amended Plans were received on the 16 August 2021 and the application was re-notified between 15 September 2021 and 5 October 2021. No submissions were received during the second notification period.

The proposal fails to demonstrate compliance with a number of the Design Quality Principles of the State Environmental Planning Policy 65 Design Quality of Residential Apartment Development and does not demonstrate compliance with a number of objectives and design guidance of the Apartment Design Guide, the proposal also fails to demonstrate compliance with the aims of the Canterbury Local Environmental Plan 2012 (CLEP 2012), the Canterbury Development Control Plan 2012. (CDCP 2012).

The key issues are:

- The proposal does not address a number of 'Design Criteria' and 'Design Guidance' contained in the Apartment Design Guide, namely 3E Deep Soil, 3F Visual Privacy, 3G Pedestrian Access and Entries, 3J Bicycle and car parking, 4D Apartment size and layout, 4K Apartment Mix, 4R Adaptive Reuse and 4S Mixed use.
- Insufficient information if the proposal will breach the Height of buildings pursuant to clause 4.3 of the CLEP 2012.
- The proposal fails on a number of DCP Controls, namely
 - insufficient car parking, and manoeuvring of vehicles on site, the dedication of a 3 metre land dedication to enable the site to be serviced adequately and safely.
 - The proposed façade design and built form massing to the rear proposed building does not respond in any discernible way to the character of the existing building to be retained.
 - The development includes blind corners particularly in the ground floor circulation areas and the residential entry is not clearly visible.
 - The south eastern lift, circulation area and fire stairs will hinder on the future development and solar access to the adjoining property.
- Internal referrals from various stakeholders have raised issues from the Development Engineer, Urban Designers, Traffic Unit, Asset Planning- Infrastructure and Resource Recovery.

As outlined above and in the detailed assessment made against the relevant control and policies throughout the assessment report it is concluded that the proposal is an overdevelopment of the site and cannot be supported.

POLICY IMPACT

This matter has no direct policy implications.

FINANCIAL IMPACT

This matter has no direct financial implications.

RECOMMENDATION

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

ATTACHMENTS

- A. Assessment Report
- B. Reasons for Refusal

DA-1133/2020 ASSESSMENT REPORT

SITE & LOCALITY DESCRIPTION

The subject site is known as 409 Burwood Road, Belmore. The site is a regular allotment with a 12.19m frontage to Burwood Road and a total site area of 530.1m². The site is zoned B2 Local Centre under the Canterbury Local Environmental Plan 2012.

The site currently contains a part single storey / part double storey brick Federation commercial building with hipped tiled roof and awning over the pedestrian footway with car parking at the rear of the site accessed via Acacia Lane. The building was previously used by the Commonwealth Bank. The surrounding development consists of mainly single storey commercial buildings and two storey shop top housing. To the south of the site is the former Club Belmore and the site is located approximately 150 metres from Belmore Train Station.



Figure 1: Aerial of subject site in blue **Source:** NearMaps 2021



Figure 2: Front view from Burwood Road of subject site **Source:** Google Maps

PROPOSED DEVELOPMENT

The Development Application proposes the following works: -

Existing Building (Burwood Road)

Alterations to existing two storey commercial building comprising:

- Demolition of rear single storey addition;
- Alteration to the Burwood Road existing shopfront façade at ground level to introduce commercial and residential entries;
- Internal reconfiguration of existing commercial tenancy premise to facilitate services;
- Internal reconfiguration and refurbishment of the existing first floor (above the commercial tenancy) for a 1-bedroom apartment (Apartment 1.1).

New Building (Acacia Lane)

Construction of a five storey building comprising the following:

Ground Floor

- Residential car parking for five vehicles including one accessible car parking space (for the residential component), and one (1) commercial car space/car wash bay and one courier bay;
- Bicycle parking for four bikes.
- Commercial and residential waste rooms.

Level 1 to 4

- Communal private open space at Level 1;
- Ten residential apartment dwellings as follows:

Apt Number	Level	Type
Unit 1.2	Level 1	Studio
Unit 1.3	Levels 1	Studio
Unit 1.4	Level 1	Studio
Unit 2.1	Level 2	Studio
Unit 2.2	Level 2 and 3	1 bed
Unit 2.3	Level 2	Studio
Unit 3.1	Level 3	Studio
Unit 3.2	Level 3	Studio
Unit 4.1	Level 4 (Universal Design)	Studio
Unit 4.2	Level 4 (Adaptable)	1 bed

Statutory Considerations

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

- State Environmental Planning Policy 55 –Remediation of Land (SEPP 55)
- State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development (SEPP 65)
- State Environmental Planning Policy (Infrastructure) 2007 (SEPP 2007)
- State Environmental Planning Policy 2004 (Building Sustainability Index: BASIX)
- Canterbury Local Environmental Plan 2012 (CLEP 2012)
- Canterbury Development Control Plan 2012 (CDCP 2012)
- Canterbury Development Contributions Plan 2013 (Contributions Plan 2013)
- Draft Canterbury Bankstown Local Environmental 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, we must be satisfied that the land will be remediated before the land is used for that purpose.

The applicant states that *“the land is suitable for the proposed development having been used for commercial purposes. In addition, the ground floor of the existing building is to be retained with only minor excavation to the rear for footings and use to accommodate building services and car parking, with more sensitive residential units occupying the upper levels”*.

As stated above, the site has been used for commercial purposes (a bank) for many years, furthermore Council records of the site does not suggest the site has been used for any purpose listed in Table 1 of *‘Managing Land Contamination Planning Guidelines SEPP 55 – Remediation of Land’* (1998) and there is no evidence of fill.

Further, Council’s Environmental Health Officer has reviewed the application and has not raised any objections, with regard to site contamination.

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

Ausgrid

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

Ausgrid have assessed the plans lodged in support of the application, and advise that they consent to the proposed development subject to conditions.

Transport for New South Wales (TfNSW)

Vehicle access

The application was referred to Transport for New South Wales (TfNSW), who provided comments for Council’s consideration. These comments are as follows:

1. *The proposed development will generate additional pedestrian movements in the area. Pedestrian safety is to be considered in the vicinity.*
2. *The layout of the proposed car parking areas associated with the subject development (including, driveways, grades, turn paths, sight distance requirements in relation to landscaping and/or fencing, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS 2890.1- 2004, AS2890.6-2009 and AS 2890.2 – 2018 for heavy vehicle usage. Parking Restrictions may be required to maintain the required sight distances at the driveway.*

If the application was to be supported, a condition would be imposed requiring the proposed car park areas associated with the subject development comply with the relevant Australian Standards as provided by TfNSW above.

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

In accordance with BASIX SEPP, a BASIX Certificate accompanies this application. The Certificate makes a number of energy/resource commitments relating to water, energy and thermal comfort. The relevant commitments indicated on the BASIX Certificate have been shown on the plans in order to satisfy objectives of the SEPP. If the application was being recommended for approval the BASIX Certificate requirements would be incorporated into conditions of consent, if the application was being recommended for approval.

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.

An updated signed statement has been provided that addressed the requirements of Clause 50 (1AB) of the Environmental Planning & Assessment Regulation 2000

The application generally fails a number of 'Design Criteria' contained in the Apartment Design Guide, as detailed further in the table below.

Principle 1: Context and Neighbourhood Character

The development is generally consistent with Council's height control. However, details of the lift overrun have not been provided and may result in a breach to the building height.

Principle 2: Built Form and Scale

No maximum floor space ratio (FSR) development standard applies to the site. Although the development is generally compliant Council's maximum 18m building height standard. The proposed design in its current form seeks a number of variations to the ADG and the CDCP 2012 and is not supported and is considered an overdevelopment.

Principle 3: Density

Given the number of variations proposed to key development controls to achieve the proposed density, the proposal is not supported in its current form and would not achieve a reasonable response to the desired future context and built form.

Principle 4: Sustainability

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

Principle 5: Landscape

The proposed landscaping is in keeping with the nature of the Business Zone. However, landscaping can be further enhanced with Planting on Structures as per Part 4P Planting on Structures of the ADG.

Principle 6: Amenity

The proposed development has been designed to maximise solar access. The proposal also achieves 72.2% of the apartments receiving solar access in accordance with Part 4A Solar Access and Daylight of the ADG and 72.2% of apartments meet the ventilation requirements under Part 4B Natural Ventilation of the ADG.

Storage is provided within all units and two storage areas within the car parking area, whilst the balconies are of sufficient size to meet the recreational needs of future occupants. Lift access has been provided from the ground level throughout the building, thereby providing full accessibility for all residents and visitors. However, access to the existing apartment nominated as apartment 1.1 is via stairs only.

However, the proposal provides apartments that do not provide the minimum width within the dining room and apartments with widths of less than 4m. It is considered that by not achieving the minimum width for each apartment this will result in poor internal amenity for future occupants which is not an acceptable design outcome.

Principle 7: Safety

The Crime Prevention through Environmental Design (CPTED) principles as outlined in CDCP 2012 were considered in the assessment of this application. The proposed arrangement for the residential lobby is not consistent with Part 4F Common Circulation and Spaces of the ADG to provide safe, high amenity common circulation spaces, particularly in relation to the following design guidance:

- *Direct and legible access should be provided between vertical circulation points and apartment entries by minimising corridor or gallery length to give short, straight, clear sight lines.*
- *Tight corners and spaces are avoided.*

The proposed residential lobby includes a narrow passageway, ramp and double sets of doors to get to the lift layout, is not supported as short, straight line of sight with generous circulation space is not achieved.

Principle 8: Housing Diversity and Social Interaction

The proposed design incorporates only studio and 1-bedroom apartments (including one adaptable apartment and one universal design apartment). The dwelling mix is not considered to promote diversity, affordability, and access to a variety of housing choice.

Principle 9: Aesthetics

The blue coloured balustrade is a poor selected material and is not consistent with the Part 4M Facades of the ADG in response to the character of the local area. The proposal should consider high quality materials and colours within the façade which respond to the local context.

The proposed translucent glazed balustrades between the east facing balconies located on all levels provide visual privacy consistent with ADG, however full width full height glass balustrades alone are generally not desirable, as per the ADG part 4E Private Open Space and Balconies.

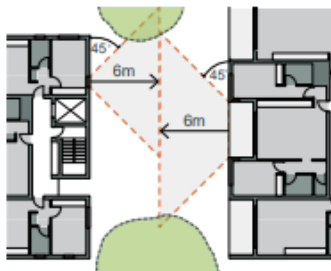
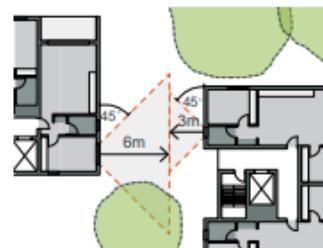
Apartment Design Guide

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
Part 3 Siting the Development			
3B-Orientation	<ul style="list-style-type: none"> - Solar access to living rooms, balconies and private open spaces of neighbours should be considered • 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%. <p>CDCP 2012</p> <ul style="list-style-type: none"> - Part C5 Shop top housing states that the minimum solar access for neighbouring development is as follows: - 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 reduce the existing level of solar access to that property – <ul style="list-style-type: none"> • If the proposal will significantly reduce the solar access of neighbours, building separation should be increased beyond minimums contained in section 3F Visual privacy and overshadowing should be minimised to the south or downhill by increased upper level setbacks 	<p>There are no 'primary living areas or private open space at the adjoining property to the south of the subject property'.</p> <p>The verandah at 411 Burwood Road is the location of condensers for the refrigeration equipment that services the Supreme Souvlakia Meat & Poultry Wholesalers that is the primary commercial use of the premises. The adjoining owners provided access to the applicant and photos were provided.</p> <p>As stated above the circulation area and fire stairs will hinder the future solar access to the adjoining property and will adversely impact on where the communal open space could be located.</p>	Yes

Section	Design Criteria	Proposed	Complies
3C Public Domain Interface	<ul style="list-style-type: none"> - Avoid long, high blank walls and fences - Direct access from the street to ground floor apartments and windows overlooking the street improve safety and social interaction; - Key components to consider when designing the interface include entries, private terraces or balconies, fence and walls, changes in level, services location and planting. - Safety considerations (real or perceived) and consideration of social interaction opportunities when viewed from the public domain. - Terraces, balconies and courtyard apartments to have direct street level entry where possible; - Changes in levels between ground floor and terraces to balance passive surveillance and privacy; - Provide seating at building entries, letter boxes and private courtyards adjacent the street. - Multiple building entrances to be clearly defined through architectural detailing, changes in materials, plant species and colours; - Concealment opportunities minimized. 	<p>The proposal seeks to retain much of the Inter-War building both internally and externally and for the most part proposes an appropriate level of intervention to adaptively reuse the building.</p> <p>The new works are proposed behind the existing building.</p> <p>The proposal provides a separate entry to the residential component of the development via Burwood Road.</p>	Yes
3D Communal and Public Open Space	Communal open space has a minimum area equal to 25% of the site. Total site area is 530.1m ² , requiring a minimum 132.525m ²)	<u>Provided:</u> On the first floor 86.3m ² communal open space is provided.	No ^[1]

Section	Design Criteria	Proposed	Complies												
	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).	Based on the COS of 86.2m ² (refer to discussion under note 1). Required: 43.15m ² Provided: 12pm - 38.11m ² 1pm – 48.93m ² 2pm – 52.98m ² 3pm – 43.34m ²	Yes												
3E Deep Soil Zones	<div>Deep soil zones are to meet the following minimum dimensions:<table><tr><th>Site Area</th><th>Minimum Dimensions</th><th>Deep Soil Zone (% of site area)</th></tr><tr><td>Less than 650m²</td><td>-</td><td rowspan="4">7%</td></tr><tr><td>650m² - 1,500m²</td><td>3m</td></tr><tr><td>Greater than 1,500m²</td><td>6m</td></tr><tr><td>Greater than 1,500m² with significant existing tree cover</td><td>6m</td></tr></table></div>	Site Area	Minimum Dimensions	Deep Soil Zone (% of site area)	Less than 650m ²	-	7%	650m ² - 1,500m ²	3m	Greater than 1,500m ²	6m	Greater than 1,500m ² with significant existing tree cover	6m	<div>The site has an area of 530.1m² which requires 37.107m² (7%) deep soil zone. The proposal does not provide any deep soil areas.</div>	No ^[2]
Site Area	Minimum Dimensions	Deep Soil Zone (% of site area)													
Less than 650m ²	-	7%													
650m ² - 1,500m ²	3m														
Greater than 1,500m ²	6m														
Greater than 1,500m ² with significant existing tree cover	6m														

Section	Design Criteria	Proposed	Complies									
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:	Building separation to R3 Zone (rear):										
	<table><tr><th>Building Height</th><th>Habitable Rooms & Balconies</th><th>Non-habitable Rooms</th></tr><tr><td>Up to 12m (4 storeys)</td><td>6m</td><td>3m</td></tr><tr><td>Up to 25m (5-8 storeys)</td><td>9m</td><td>4.5m</td></tr></table>	Building Height	Habitable Rooms & Balconies	Non-habitable Rooms	Up to 12m (4 storeys)	6m	3m	Up to 25m (5-8 storeys)	9m	4.5m	Levels 1-3 Required 9m Provided= 9.7m (min)	Yes
	Building Height	Habitable Rooms & Balconies	Non-habitable Rooms									
Up to 12m (4 storeys)	6m	3m										
Up to 25m (5-8 storeys)	9m	4.5m										
		Level 4 Required 12m Provided= 13.6m	Yes									
	<p>Note: An increased 3m building separation is required given the land to the east is a different zone (R3 Medium Density Residential) that permits lower density residential.</p> <p><u>Conditions within a development</u></p> <p>Conditions within a development Habitable to habitable rooms</p>  <p>Habitable to non-habitable rooms</p> 	Internal building separation:	No ^[3] Insufficient information provided to determine whether the variation in the building separation will not adversely impact the visual privacy of the apartments impacted by the reduced variation.									

Section	Design Criteria	Proposed	Complies
3G Pedestrian Access and Entries	<p>Multiples entries should be provided to activate the street edge.</p> <p>Entry locations relate to the street and subdivision pattern / existing pedestrian network.</p> <p>Building entries should be clearly distinguishable from private entries.</p> <p>Building access areas (lift lobbies, stairwells and hallways) should be clearly visible from public domain and communal spaces.</p> <p>Minimise ground floor and underground level changes along pathways and entries. Steps and ramps integrated into design.</p> <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>Although a separate residential entry is proposed via Burwood Road, the proposed residential lobby includes a narrow passageway, ramp.</p>	No ^[4]
3J Bicycle and Car Parking	<p>For development within 800 metres of a railway station the minimum car parking requirement for residents and visitors is the lesser of that set out within the Guide to Traffic Generating Developments or Council requirements as set out in the table below. Otherwise, the CDCP 2012 controls apply.</p> <p>Council's controls were used to assess the car parking controls as it is the lesser of the two.</p>	<p>The subject site is located approximately 150m from Belmore Train Station.</p> <p>Refer to detailed assessment under the heading of Part B1 CDCP 2012.</p>	No ^[5]

Section	Design Criteria	Proposed	Complies
	The car parking needs for a development must be provided off street.	Car parking provided on site at grade level.	No The commercial car parking has not been satisfactorily addressed in accordance with Part B1 of the CDCP 2012.
Part 4 Designing the Building			
4A Solar and Daylight Access	Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter.	72.7% (8 out of 11 apartments meet the design criteria).	Yes
	A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter On the basis of 11 apartments, the total apartments in a building not receiving direct sunlight is a maximum of 2 apartments.	One apartment will not receive direct sunlight between 9am-3pm in mid-winter (i.e. apartment 1.1).	Yes
4B Natural Ventilation	At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartment at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.	72.7%, or 8 out of 11 apartments are naturally cross ventilated.	Yes
	Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	<18m glass line to glass line.	Yes

Section	Design Criteria	Proposed	Complies	
4C Ceiling Heights	Measured from finished floor level to finished ceiling level, minimum ceiling heights are:	The proposal will achieve a minimum of 2.7m for habitable rooms and 2.4m for non-habitable rooms. The existing ground floor commercial tenancy varies from 2.89m-3.2m.	Yes No changes sought to front portion of the existing building, Given the pre-1950's façade and building is maintained this is considered acceptable in this instance.	
	Minimum Ceiling Height for Apartment and Mixed Use Buildings			
	Habitable rooms			2.7m
	Non-habitable			2.4m
	For 2 storey apartments			2.7m main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area
	Attic Space			1.8m at edge of room with a 30 degree minimum ceiling slope
	If located in mixed use areas	3.3m for ground & first floor to promote future flexibility of use		
	These minimums do not preclude higher ceilings if desired.			
4D Apartment Size and Layout	Apartment are required to have the following minimum internal areas:	Studio apartments have an area ranging from 40.8m ² -52.3m ² . 1-bedroom apartments range from 67.4m ² – 101.1m ² .	Yes	
	Apartment Type Minimum Internal Area			
	Studio			35m ²
	1 bedroom			50m ²
	2 bedroom			70m ²
	3 bedroom			90m ²
	The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m ² each. A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m ² each.			

Section	Design Criteria	Proposed	Complies
	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.	All habitable rooms include sufficient windows.	Yes
	In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.	Achieved.	Yes
	Master bedrooms have a minimum area of 10m ² and other bedrooms 9m ² (excluding wardrobe space).	Achieved.	Yes
	Bedrooms have a minimum dimension of 3m (excluding wardrobe space).	Achieved.	Yes
	Living rooms or combined living/dining rooms have a minimum width of: <ul style="list-style-type: none"> • 3.6m for studio and 1 bedroom apartments • 4m for 2 and 3 bedroom apartments 	Apartment 4.2 (1-bedroom) has a width ranging from 3.3m-3.5m to the dining room	No ^[6]
	The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts.	Apartment 2.1 and 2.2 have portions of the apartment that are less than 4m.	No ^[7]

Section	Design Criteria	Proposed	Complies															
4E Private Open Space and Balconies	All apartments are required to have primary balconies as follows:	Achieved.	Yes															
	<table><tr><th>Dwelling type</th><th>Minimum Area</th><th>Minimum Depth</th></tr><tr><td>Studio apartments</td><td>4m²</td><td>-</td></tr><tr><td>1 bedroom apartments</td><td>8m²</td><td>2m</td></tr><tr><td>2 bedroom apartments</td><td>10m²</td><td>2m</td></tr><tr><td>3+ bedroom apartments</td><td>12m²</td><td>2.4m</td></tr></table>			Dwelling type	Minimum Area	Minimum Depth	Studio apartments	4m ²	-	1 bedroom apartments	8m ²	2m	2 bedroom apartments	10m ²	2m	3+ bedroom apartments	12m ²	2.4m
	Dwelling type			Minimum Area	Minimum Depth													
	Studio apartments			4m ²	-													
	1 bedroom apartments			8m ²	2m													
	2 bedroom apartments			10m ²	2m													
	3+ bedroom apartments	12m ²	2.4m															
The minimum balcony depth to be counted as contributing to the balcony area is 1m.																		
For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m2 and a minimum depth of 3m.	No ground level apartments. Apartments on podium level do not provides a private open space.	N/A																
4F Common Circulation and Spaces	The maximum number of apartments off a circulation core on a single level is eight.	2-3	Yes															

Section	Design Criteria	Proposed	Complies										
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>4m³</td></tr><tr><td>1 bedroom apartments</td><td>6m³</td></tr><tr><td>2 bedroom apartments</td><td>8m³</td></tr><tr><td>3+ bedroom apartments</td><td>10m³</td></tr></table> <p>At least 50% of the required storage is to be located within the apartment.</p>	Dwelling type	Storage size volume	Studio apartments	4m ³	1 bedroom apartments	6m ³	2 bedroom apartments	8m ³	3+ bedroom apartments	10m ³	Achieved.	<p>Yes</p> <p>Apartments 1.1 and 1.3 could be conditioned to comply with the storage area with the allocation of the two storage areas within the car park area to be designated to these apartments. Apartment 4.2 can be conditioned to achieve 6m³ as required by the ADG.</p>
Dwelling type	Storage size volume												
Studio apartments	4m ³												
1 bedroom apartments	6m ³												
2 bedroom apartments	8m ³												
3+ bedroom apartments	10m ³												
4H Acoustic Privacy	<p>Adequate building separation is provided within the development and from neighbouring buildings/adjacent uses</p> <p>Noisy areas within buildings including building entries and corridors should be located next to or above each other and quieter areas next to or above quieter areas</p> <p>Rooms with similar noise requirements are grouped together</p> <p>Noise sources such as garage doors, driveways, service areas, plant rooms, building services, mechanical equipment, active communal open spaces and circulation areas should be located at least 3m away from bedrooms</p>	<p>Minimal building separation provided due to local centre location.</p> <p>Rooms with similar noise requirements grouped together.</p>	<p>Yes</p>										
4K Apartment Mix	A variety of apartment types is provided	Only studio and 1 bedroom apartments proposed.	No ^[8]										

Section	Design Criteria	Proposed	Complies
4Q Universal Design	<p>Developments achieve a benchmark of 20% of the total apartments incorporating the Liveable Housing Guideline's silver level universal design features.</p> <p>20% of 11 = 2.2 (2)</p>	1 Liveable and 1 adaptable apartment proposed.	Achieved
4R Adaptive Reuse	<p>Design solutions may include:</p> <ul style="list-style-type: none"> • new elements to align with the existing building • additions that complement the existing character, siting, scale, proportion, pattern, form and detailing • use of contemporary and complementary materials, finishes, textures and colours <p>Additions to heritage items should be clearly identifiable from the original building</p> <p>New additions allow for the interpretation and future evolution of the building</p>	<p>The proposal seeks to retain much of the Inter-War building both internally and externally and for the most part proposes a communal open space and additional 10 apartments located to the rear of the existing building above at grade car parking.</p> <p>The subject site is not a heritage item.</p> <p>The proposed façade design and built form massing (to the rear proposed building) does not respond in any discernible way to the character of the existing building to be retained, appearing discordant within the streetscape.</p>	<p>Yes</p> <p>No^[9]</p>

Section	Design Criteria	Proposed	Complies
4S Mixed Use	<p>Mixed use developments positively contribute to the public domain. Design solutions may include:</p> <ul style="list-style-type: none"> • development addresses the street • active frontages are provided • avoiding blank walls at the ground level <p>Residential circulation areas should be clearly defined. Design solutions may include:</p> <ul style="list-style-type: none"> • residential entries are separated from commercial entries and directly accessible from the street • commercial service areas are separated from residential components • residential car parking and communal facilities are separated or secured • security at entries and safe pedestrian routes are provided • concealment opportunities are avoided <p>Landscaped communal open space should be provided at and commercial podium or roof levels</p>	<p>Separate accesses via Burwood Road have been provided for the commercial component and a separate entry for the residential apartments.</p> <p>However, concerns are raised with the narrow entry servicing the residential component of the development.</p>	No ^[10]

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

^[1] Communal open space

The ADG requires that communal open space within a development have an area of at least 25% of the site area. In this case the minimum area of communal open space required is 132.525m², however 86.3m² has been provided. This is a shortfall 46.225m² which equates to a 34.88% departure.

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

An adequate area of communal open space is provided to enhance residential amenity and to provide opportunities for landscaping. The ADG states that the size, location and design of communal open spaces will vary depending on the site context and the scale of development. The function of the communal open space is to provide amenity in the form of, landscape character, facilities within common open spaces and incorporate some of the following elements such as seating for individuals, barbecue areas, play equipment, swimming pools and gyms.

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

The ADG acknowledges the relationship between balconies and communal open space and seeks more communal open space where the number or size of balconies is compromised. However, an increase in balcony size assists in supporting a communal open space slightly reduced in size. In this case, all the proposed residential units include balconies that exceed the minimum ADG requirements therefore qualifying for consideration for a reduced communal open space area. The design criteria ADG requires primary balconies of 4m² for studio apartments and 8m² for 1-bedroom apartments.

The proposal provides larger balconies ranging from 5.5m² to 19m².

The communal open space, in combination with the proposed larger balconies, and adequate area to service the apartments with the required balcony area it considered to provide good opportunities for passive recreation, relaxation and sufficient area to service the development.

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

^[2] Deep soil area

The ADG requires deep soil zones on sites that are a minimum 7% of site, which in this case equates to 37.107m² (No minimum dimension applies). The purpose of deep soil is to, among other things, allow infiltration of rainwater to the water table, and reduce stormwater runoff, promoting healthy growth of large trees with large canopies.

The site is located in a business zone, with the site to be fully developed it restricts the opportunity to comply with the ADG deep soil requirements. However, the proposal can also consider Part 4P of the ADG - 'Planting on structures' within the proposed Communal Open Space, this is not provided.

^[3] Visual Privacy

Internal building separation:

Required:

12m

Proposed:

Level 1: 10.5m-10.8m

Levels 2 and above: 5.3m.

Insufficient information on the windows servicing apartment 1.1 (facing the communal open space) has been provided to determine whether the proposed variation to the minimum building separation requirement will not adversely impact the visual privacy between the existing residential apartment 1.1 and the proposed rear apartments and the common circulation area.

^[4] Pedestrian access and entries

Although a separate residential entry is proposed via Burwood Road, the proposed residential lobby includes a narrow passageway, ramp and double sets of doors to get to the lift, this design is not supported as short, straight line of site with generous circulation space is not achieved.

Furthermore, the passageway from Burwood Road leads into a smoke lobby which is the largest area of this passageway, the occupants/visitors are then required to walk through another door to enter into the lobby and lift area.

^[5] Bicycle and car parking

The car parking area to service the site is not satisfactory, the proposal fails to comply with the required number of car spaces to service the site, Council's development engineer has raised a number of concerns with the internal manoeuvrability of the carparking area which is a result of the narrow width of the site and Council's traffic unit also raise concern with the commercial car parking layout with vehicles not being able to exit in a forward direction and not providing sight triangles. Furthermore, the proposed location of the commercial car spaces would be impacted by the required 3m lane dedication.

A detailed assessment on the car parking is addressed under the heading Part B1 of the Canterbury Development Control Plan 2012 (CDCP 2012).

^{[6]&[7]} Apartment size and layout

The proposed development fails to comply with Objective 4D-3 Design criteria 3 and 4 which require:

3. *Living rooms or combined living/dining rooms have a minimum width of:*
 - *3.6m for studio and 1 bedroom apartments*
 - *4m for 2 and 3 bedroom apartments*
4. *The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts*

Apartment 4.2 (which is a 1-bedroom apartment) has a dining room with a width ranging from 3.3m-3.5m and Apartments 2.1 (which is a studio cross through apartment) and 2.2 (which is a 1-bedroom cross over apartment) have widths of the apartment that are less than 4m. It is considered that not achieving the minimum width for each apartment will result in poor internal amenity for future occupants which is not an acceptable design outcome.

^[8] Apartment Mix

The proposal seeks only studio and one-bedroom apartments.

The dwelling mix is not considered to promote diversity, affordability and access to a variety of housing choice.

^[9] Adaptive reuse

This is further addressed in the Urban Design Comments.

^[10] Mixed Use

As stated earlier, although a separate residential entry is proposed via Burwood Road, the proposed residential lobby includes a narrow passageway, ramp and double sets of doors to get to the lift, this design is not supported as a short, straight line of site with generous circulation space is not achieved.

Summary

As outlined above, the proposed development fails to comply with a number of Design Criteria of the ADG, particularly in regard to matters such as visual privacy, width of living spaces, entry areas and apartment mix, which demonstrates that the proposal is an overdevelopment for a site with a width to Burwood Road of 12.19m and therefore the proposal is not supported in its current form.

Canterbury Local Environmental Plan 2012

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

Clause 1.2 Aims of Plan

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

1.2 Aims of Plan

- (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—*
 - (aa) to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,*
 - (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.*

The proposal fails to satisfy the aims contained in the Canterbury Local Environmental Plan 2012 in particular:

- (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,*
- ...
- (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 B2 Local Centre Zone are as follows:

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

The proposed development fails to meet the objectives of the zone in that it will not satisfactorily provide a development that contributes to the development of an active, diverse and well-designed centre.

Provision/ Standard	Requirement	Proposal	Complies
Part 2 Permitted or Prohibited Development			
2.1-2.3 Zoning	B2 Local Centre	Shop top housing.	Yes
2.7 Demolition requires development consent	The demolition of a building or work may be carried out only with development consent.	Minor demolition works proposed.	Yes
Part 4 Principal Development Standards			
4.3 Height of Buildings	18m	18m.	No. Details of the lift over-run has not been shown on the plans and may result in a height breach
4.4 Floor Space Ratio	N/A	N/A.	N/A
5.6 Architectural roof features	Development that includes an architectural roof feature that exceeds, or causes a building to exceed, the height limits set by clause 4.3 may be carried out, but only with development consent.	The proposed development does not include an architectural roof feature.	N/A
5.10 Heritage Conservation	The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned.	No objections raised by Council's heritage advisor.	Yes
Part 6 Local Provisions			
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.	N/A.	N/A

Provision/ Standard	Requirement	Proposal	Complies
6.2 Earthworks	<p>Before granting consent to development including earthworks, the following must be considered:</p> <ul style="list-style-type: none"> (a) drainage patterns and soil stability (b) the likely future use or redevelopment of the land, (c) quality of the fill or the soil to be excavated, or both, (d) effect of development on existing and likely amenity of adjoining properties, (e) the source of any fill material and the destination of any excavated material, (f) the likelihood of disturbing relics, (g) the potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area, (h) appropriate measures proposed to avoid, minimise or mitigate the impacts of the development. 	<p>Council's development engineer did not raise any objections to the proposed stormwater design and drainage of the site.</p>	Yes

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

Provision/ Standard	Requirement	Proposal	Complies
6.4 Stormwater Management	<p>Consent must not be granted unless:</p> <p>(a) Water permeable surfaces are maximized having regard to soil characteristics affecting on-site stormwater infiltration.</p> <p>(b) Includes on-site detention if practical as an alternative means of water supply.</p> <p>(c) Avoids significant impacts of run-off on adjoining land or the environment or minimises and mitigates impacts.</p>	<p>Council's Development Engineer reviewed the application and has found the proposed stormwater design to be satisfactory.</p>	Yes
6.6 Essential Services	<p>Essential services must be available or adequate arrangements have been made to make them available, including:</p> <ul style="list-style-type: none"> - the supply of water; - the supply of electricity (substation); - the disposal and - management of sewage; - stormwater drainage or on-site conservation; - suitable vehicular access. 	<p>The Applicant has provided a letter from a Level 3 Accredited Service Provider with a demand for 21 residential units, a basement and 1 commercial space. Although the proposed development is for 1 commercial space, 11 residential units and at grade carparking, it is satisfied that the development would not require a substation and can rely on the Ausgrid's low voltage network.</p> <p>Ausgrid provided the applicant with advice that <i>"At this point in time, it appears Ausgrid's low voltage network could possibly accommodate the development detailed in your electrical consultant's demand calculation. Please note, a preliminary enquiry does not reserve any capacity on Ausgrid's low voltage network for the development in question"</i>.</p>	Yes

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

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 CBLEP also seeks to insert a Design Quality Clause which reads:

Draft Design Quality Clause

6.14 Design Quality

- (1) The objective of this clause is to ensure that development achieves good urban design and supports quality places for people.*
- (2) This clause applies to the following development: residential flat buildings, multi dwelling housing, boarding houses, seniors living, mixed use development, shop top housing, commercial premises, industrial buildings, warehouse or distribution centres, centre-based child care facilities, schools, places of worship, registered clubs, community facilities, in relation to:*
 - the erection of a new building, or*
 - in the Council's opinion, significant alterations or additions that are visible from the public domain.*
- (3) Before granting consent for development, the consent authority must have regard to the following matters, to the extent it considers them relevant to the proposed development:*
 - (a) whether the development positively contributes to the urban context and site conditions in terms of natural features, built form, streetscape, street wall height, building separation, setbacks, amenity, building bulk and modulation,*
 - (b) whether the development positively contributes to the quality and amenity of the public domain in terms of landscaping, passive surveillance, visual interest and the interface of public and private domain,*
 - (c) whether the development uses external materials that are good quality, durable and low-maintenance,*
 - (d) whether the development achieves a high standard of architectural detailing and colours that are appropriate to the building type and location,*
 - (e) whether the development achieves the principles of ecologically sustainable development,*
 - (f) whether the development achieves internal layouts that are functional, efficient and fit for purpose,*
 - (g) whether the development integrates a high quality landscape design with the built form,*

- (h) *how the development satisfactorily addresses the following matters:*
- *impacts on heritage items, heritage conservation areas or historically significant buildings on the site or in the vicinity of the site,*
 - *environmental impacts such as solar access, visual and acoustic privacy, wind, reflectivity, urban heat and water sensitive urban design,*
 - *pedestrian, cycle, vehicular and service access and circulation requirements,*
 - *the integration of waste management infrastructure in the site layout and building design.*

Given, the assessment made throughout this report, the proposal would not be in line with the envisaged design quality clause and would be inconsistent with the Draft CBLEP in this regard.

The Draft CBLEP also seeks to insert a savings 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”*.

Taking the above points into account the application would fail the Draft Design Quality clause but would be protected under the proposed savings provisions clause.

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

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

Canterbury Development Control Plan 2012 (CDCP 2012)

The proposed development has been assessed against the requirements of CDCP 2012 as follows:

Part B1 – Transport and Parking

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

Standard	Requirement	Proposed	Complies
Commercial carparking	Car spaces <ul style="list-style-type: none"> • 1 space per 60m² GFA. 108.38m²/60m²= 1.8 rounded up to 2 spaces <i>10% of total required parking shall be allocated for visitor use.</i>	2 car parking spaces are proposed rather than the 3 spaces that are required. Also, it must be noted here that one of the 2 commercial spaces proposed has been dedicated as the residential car wash bay which is unacceptable.	No ^[11]

	<p>Servicing and delivery</p> <ul style="list-style-type: none"> Minimum 1 courier parking space to be provided in a convenient and signposted location (provision of additional parking spaces for courier motorcycles is desirable). <p>Total required = 3 car parking spaces (2 commercial spaces and 1 courier space)</p>	Further, Council's Traffic Engineers have raised concern over the design and location of the courier space.	
Car Parking Shop-top housing – Large Local Centre	<ul style="list-style-type: none"> Studio: 0.25 per dwelling 8 x 0.25 = 2 spaces required. 1 bedroom: 0.8 space per dwelling 3 x 0.8 = 2.4 spaces rounded down to 2 spaces required. Visitor: Not Required Car wash bay: 1 car wash bay. <p>Total space required: 4 residential spaces, plus 1 x car wash bay.</p>	<p>5 residential car spaces have been provided for the residential apartments which complies with the minimum requirements.</p> <p>However, an additional space dedicated as a residential car wash bay is also required. This car wash bay must be in addition to the residential, visitor and commercial spaces. However, the car wash bay has been nominated within one of the proposed commercial car parking spaces at the rear.</p> <p>In addition, Council's Development Engineers and Traffic Engineers have raised concerns over the usability of spaces 1 and 5.</p>	No ^[12]
Bicycle Parking	<ul style="list-style-type: none"> Residents: 1 space per 5 dwellings 11 apartments/5 = 2.2 rounded down to 2 spaces required. Visitors: 1 space per 10 dwellings 11 apartments/10 = 1.1 or rounded down to 1 space required. 	4 spaces proposed	Yes

	<p>Staff: Minimum 1 space per 200m² GFA (Office rate) = 0.58 (1 Space required)</p> <ul style="list-style-type: none"> • Staff: Minimum 1 space per 200m² GFA 108.38m² / 200m² = 0.54 spaces or rounded up to 1 Space required. <p>Total: 4 bicycle spaces required.</p>		
--	---	--	--

For comparison the RMS car parking rates are outlined below.

Guide to Traffic Generating Developments

5.4.2 Medium Density RFB (a building containing at least 2 but less than 20 dwellings)

The recommended minimum number of off-street, resident parking spaces is 1 space for each unit, plus an additional 1 space per each 5 x 2 bedroom unit or part thereof. Also, an additional 1 space per each 2 x 3 or more bedroom unit or part thereof is recommended.

An additional one space per each five units for visitor parking or part thereof is recommended.

Based on the RMS requirements stated above the proposal would require 11 residential car spaces and 2 visitor car spaces. However, in this case CDCP 2012 was used to assess the minimum car parking requirements for the development as the ADG states that the minimum car parking requirement is either set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the council whichever is less.

^[11] The commercial car spaces are unable to exit in a forward direction and would result in the two of the commercial car spaces having to reverse out into Acacia Lane at the rear of the site. Therefore, the proposal is inconsistent with Part B.1.4.1 control C6 of the CDCP 2012 which reads: *"Provide on-site manoeuvring so that all vehicles enter and leave the site in a forward direction"*.

- Furthermore, the proposal is also deficient of one (1) commercial space. In this regard, based on the rates in Table B1.2 of the CDCP 2012, the proposal generates the demand for two (2) commercial spaces and one (1) courier space, the proposal only provides for two spaces. The 'office' car parking rate has been used to determine the required parking for the commercial tenancy, this allows for greater flexibility of uses on the site.

[12] The residential car wash bay has been nominated within the commercial car space. The car wash bay is for the residential component of the building and cannot be shared with the commercial car space. Furthermore, the carwash bay is inconsistent with Part B.1.4.4 controls C2 and C3 of the CDCP 2012:

B1.4.4 Car Wash Bays

Controls

- C1 Car wash bays are to be provided in addition to visitor parking as identified in section B1.4.2.*
- C2 The minimum dimension for car wash bays is 3.5m x 5.4m.*
- C3 Car wash bays must be roofed and bunded to exclude rainwater.*
- C4 All wastewater from car washing is to be discharged into the sewer (non-residential development requires a Trade Waste Agreement with Sydney Water Corporation).*
- C5 Alternative water management and disposal options may be considered where water is recycled, minimised or re-used on site, subject to Council's merit assessment.*

Development Engineer's comments:

- *Vehicles are only able to access space 5 while executing a reverse manoeuvre, as it is too close to the entry where forward parking manoeuvre is impossible, then exiting from the space becomes impossible while negotiating a forward exit.*
- *Vehicles will collide with bollards while reverse exit from dedicated space 1 following a forward entry.*

Traffic Engineer's comment:

Sight Distance Triangles

The revised plans do not provide pedestrian sight triangles for vehicles exiting the carpark (See extract of the plan showing the driveway below). This is necessary to ensure adequate visibility as the development provides pedestrian access to Acacia Lane, thus generating additional pedestrian movement.

A splay extending 2 metres from the driveway edge along the front boundary and 2.5 metres from the boundary along the driveway in accordance with Figure 3.3 of AS2890.1 shall be provided to give clear sight lines of pedestrians from vehicles exiting the site and should be kept clear of any obstacles. The applicant is to prepare a revised plan that provides the pedestrian sight triangles in accordance with AS280.1:2004, and the plan referred to traffic unit for review.

Parking space No 1 (Courier parking) located on the northern side of the proposed driveway is within the pedestrian sight triangle and would obstruct the line of sight of a driver exiting the carpark. In addition, this parking space would also obstruct the view of exiting drivers to traffic in Acacia Lane.

The plans show waste bins located on the southern side of the driveway, within the pedestrian sight triangle. The first 2.5m of this area from the kerbline should be free of waste bins to provide sight lines to pedestrians on the right side of the driveway. The applicant is to prepare a revised plan that provides the pedestrian sight triangles in accordance with AS2890.1:2004.

Convex Mirror

Traffic mirror is not supported as speed and distance of objects are difficult to judge from a convex mirror. As such commercial parking (parking spaces 1 and 2) must exit the property in forward direction.

Part B2 – Landscaping and Part B3 – Tree Preservation

The applicant submitted a Landscape Plan prepared by a qualified Landscape Architect in accordance with the requirements of Part B2 of CDCP 2012. However, an arborist report has not been provided that demonstrates that the tree on the adjoining property to the north would not be compromised during construction and ensure its future retention and viability.

Part B4 – Accessible and Adaptable Design

An access report prepared by Plan Urbia Pty Ltd was submitted as part of the DA. The report concludes that the design generally complies with the relevant standards. Where the design includes some non-compliances, these matters can be resolved through minor design changes or BCA Performance Solutions at the relevant Construction Certificate stage. On this basis, the design is considered acceptable from an accessible and adaptable design perspective.

Part B5 – Stormwater and Flood Management

The application was referred to Council's Development Engineer who raised no objections in relation to the proposed stormwater design.

Part B7 – Crime Prevention and Safety

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

Standard	Requirement	Proposal	Complies
Crime Prevention through Environmental Design	Avoid blind corners	The ground floor areas surrounding the shops and access ways include a series of blind corners.	No

	Provide natural surveillance for communal and public areas.	The communal open space is located on level 1 with a number of apartments overlooking this space. Therefore, natural surveillance is achieved	Yes
	Provide clearly visible entries.	This has been addressed under the ADG compliance table and Part D of the CDCP 2012	No
	Design the fence to maximise natural surveillance from the street to the building.	N/A	N/A
	Avoid landscaping that obstructs natural surveillance.	No obstruction by landscaping	N/A
	Ensure buildings are clearly identified by street numbers.	Can be imposed as a condition	Yes* via condition if the application was supported
	Use materials that reduce the opportunity for vandalism.	Achieved	Yes
	Provide an appropriate level of security for individual dwellings and communal areas through use of intercoms, self-closing doors and signage.	Can be imposed as a condition	Yes* via condition if the application was supported

Part B9 - Waste

The application was referred to Council's Project Officer – Resource Recovery who has raised issues with the current design as follows:

- *Both the residential and commercial bin storage areas are in excess of 15 metres from the proposed kerbside collection point in Acacia Lane.*
- *The architectural plan does not reflect the required bin allocation. The correct bin allocation must be shown to demonstrate sufficient space to store all required bins.*
- *The doorway to the residential bin storage area must have a minimum width of 1.2m.*

Part C5 Shop Top Housing

Control	Requirement	Proposed	Complies
C5.2.1.3 Balconies and Communal Open Space	<p>Clause 6A of SEPP 65 states that development control plans that have provisions that are inconsistent with the ADG in relation to open space and balconies have no effect in the assessment of residential apartment development applications.</p> <p>Clause 5.2.1.3 of the CDCP 2012 is therefore not relevant to the assessment of this application and open space and balcony matters have been assessed only in relation to part 4E of the ADG (as detailed in the ADG table above).</p>		
C5.2.1.4 Layout and Orientation	<ul style="list-style-type: none"> • Orientate development to maximise solar access and natural lighting, without unduly increasing the building's heat load. • Site the development to avoid casting shadows onto neighbouring dwelling's primary living area, private open space and solar cells. • Coordinate design for natural ventilation with passive solar design techniques • Site new development and private open space to avoid existing shadows cast from nearby buildings. • Site a building to take maximum benefit from cross-breezes and prevailing winds. • Do not compromise the creation of active street frontage or casual surveillance of the street, communal space and parking areas, through the required orientation. 	<p>The subject site has a north/west-south/east orientation. The proposed development has been designed to maximise solar access and natural ventilation to the development.</p> <p>However, the south eastern lift, circulation area and fire stairs will hinder the future solar access to the adjoining property and will adversely impact on where the communal open space would be located.</p>	<p>Yes</p> <p>No</p>
C5.2.2.2 Floor to Ceiling Height	<p>Refer to part 4C Ceiling Heights of the ADG for objectives, design criteria and design guidance in relation to minimum ceiling heights.</p> <p>Clause C5.2.2.2 of the CDCP 2012 is therefore not relevant to the assessment of this application and the ceiling height matters have been assessed against part 4C of the ADG (as detailed in the table above).</p>		
C5.2.2.3 Setbacks	A minimum side boundary setback of 4.5m is required for the residential component in the B5 zone. SEPP 65 separation requirements will apply for buildings with a height of 4 storeys and above.	N/A	N/A
C5.2.2.4 Building Depth	The ADG sets the objectives, criteria and guidelines for building depth in the LGA for shop top housing to which SEPP 65 relates. Refer to part 4B Natural Ventilation of the ADG for objectives, design criteria and design guidance.		

Control	Requirement	Proposed	Complies
	Clause C5.2.2.4 of the CDCP 2012 is therefore not relevant to the assessment of this application and the ceiling height matters have been assessed against part 4B of the ADG (as detailed in the ADG table above).		
C5.2.2.5 Building Separation and Visual Privacy	<p>The ADG sets the objectives, criteria and guidelines for building separation in the LGA for shop top housing to which SEPP 65 relates. Refer to part 3F Visual Privacy of the ADG for objectives, design criteria and design guidance.</p> <p>Clause C5.2.2.5 of the CDCP 2012 is therefore not relevant to the assessment of this application and visual privacy matters have been assessed only in relation to part 3F of the ADG (as detailed in the ADG table above).</p>		
C5.2.3.1 Built Form	<ul style="list-style-type: none"> Provide accessible entries for all potential use such as the transporting of furniture. Face habitable rooms towards the street, private open space, communal space, internal driveway or pedestrian ways in order to promote positive social interaction and community safety. 	<p>The area in front of the lift at the ground level is limited.</p> <p>Habitable rooms have been designed to face the street, private open space.</p>	<p>No</p> <p>Yes</p>
C5.2.3.2 Roof Design and Features	<ul style="list-style-type: none"> Roof terraces are permitted with consent in all business zones except the B1 Zone. A management strategy is required and must be approved by Council as part of the development application, for any proposed roof terrace. Supplement open space on roof terraces by providing space and appropriate building systems to support the desired landscape design, incorporating shade structures and windscreens to encourage use of roof top open space. Demonstrate that roof terrace has been designed to protect the privacy, solar access and amenity of adjoining buildings. Measures to minimise overlooking of adjoining properties include screening or planting between properties and preventing rooftop users from standing at the edge of roof terraces that look into adjoining properties through planting and screens. 	<p>The proposal incorporates a communal open space area above the at grade car spaces and is located in between the existing residential accommodation and the new apartments to the rear of the site.</p> <p>As part of the revised package the applicant provided a PoM, however it was for a boarding house and does not address what was requested by Council which was a Plan of Management for the communal open space.</p>	<p>Yes</p> <p>No</p>

Control	Requirement	Proposed	Complies
	<ul style="list-style-type: none"> Allow for views and passive surveillance of streets and public open space from roof terraces. 		
C5.2.3.3 Dwelling Layout and Mix	<p>The ADG sets the objectives, criteria and guidelines relating to apartment size and layout (Part 4D of the ADG) and for apartment mix (part 4K of the ADG).</p> <p>Refer to the ADG table above for an assessment against part 4D and part 4K</p>		
	<ul style="list-style-type: none"> 10% of dwellings in any development must be accessible or adaptable to suit current or future residents with special needs. 	<p>10% of 11 = 1.1</p> <p>1 apartment proposed and 1 universal designed apartment.</p>	Yes
C5.2.3.4 Building Services	<ul style="list-style-type: none"> All letterboxes be installed to meet Australia Post standards. Design and provide discretely located mailboxes at the front of the property. 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. Facilities should not be visually obtrusive and should not detract from soft-landscaped areas that are located within the required setbacks or building separations. 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. Unscreened appliances and meters should not be attached to any facade that would be visible from a street or driveway within the site: <ul style="list-style-type: none"> (a) Screen air conditioning units behind balcony balustrades; (b) Provide screened recesses for water heaters rather than surface- mounting them on exterior walls; and (c) Locate meters in service cabinets. 	<p>Mailboxes are located at the front entry on Burwood Road.</p> <p>The hot water systems are located on each balcony and can be conditioned to be enclosed.</p> <p>The air-conditioners have not been shown on the plans, (however an appropriate location of air-conditioners could be achieved via conditions of consent).</p> <p>The service and meter rooms are located adjacent to the commercial space and is considered to be satisfactorily integrated within the built form.</p>	<p>Yes.</p> <p>However, details of the fire hydrant have not been identified on the plans and would impact on the front façade.</p>

Control	Requirement	Proposed	Complies
	<ul style="list-style-type: none"> 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. Coordinate and integrate building services, such as drainage pipes, with overall façade and balcony design. Location and design of service areas should include: <ol style="list-style-type: none"> Screening of clothes drying areas from public and semi-public places; and Space for storage that is screened or integrated with the building design. <p>Minimise visual impact of solar hot water systems by:</p> <ol style="list-style-type: none"> Placing the system as unobtrusively as possible, both to the street and neighbouring properties; Using a colour that is consistent with the colour of roof materials; Designing solar panels, where possible, as part of the roof; Setting the solar panels back from the street frontage and position below the ridgeline; and Separate the water storage tank from the solar collectors and place on a less visually obtrusive part of the roof, or within the building (for example, the roof space or laundry). 		
C5.2.4.1 Solar Access and Overshadowing	<p>Clause 6A of SEPP 65 states that development control plans that have provisions that are inconsistent with the ADG in relation to solar and daylight access, have no effect in the assessment of residential apartment development applications.</p> <p>Clause 5.2.4.1 of the CDCP 2012 is therefore not relevant to the assessment of this application and matters have been assessed only in relation to Part 4A of the ADG (as detailed in the table above).</p>		

Control	Requirement	Proposed	Complies
	Daylight is to be provided to all common circulation areas (including lift wells) that are above ground.	Achieved.	Yes
Solar Access to Neighbouring Development	<p>C1 Proposed development must retain a minimum of 3 hours of sunlight between 8.00am and 4.00pm on 21 June for existing primary living areas and to 50% of the principal private open space.</p> <p>C2 If a neighbouring dwelling currently receives less than 3 hours of sunlight, then the proposed development must not reduce the existing level of solar access to that property.</p> <p>C3 Sunlight to solar hot water or photovoltaic systems on adjoining properties must comply with the following: (c) Systems must receive at least 3 hours of direct sunlight between 8.00am and 4.00pm on 21 June. (d) If a system currently receives less than 3 hours sunlight, then proposed development must not reduce the existing level of sunlight.</p> <p>C4 Clothes drying areas on adjoining residential properties must receive a minimum of 3 hours of sunlight on 21 June.</p>	<p>There are no primary living areas or private open space areas located on the adjoining property to the south of the subject property. The verandah at 411 Burwood Road is the location of condensers for the refrigeration equipment that services the Supreme Souvlakia Meat & Poultry Wholesalers that is the primary commercial use of the premises.</p> <p>As stated previously in this report, the circulation area and fire stairs will hinder the future solar access to the adjoining property and will adversely impact on where the communal open space could be located.</p> <p>There are no solar hot water or photovoltaic (PV) systems on the adjoining properties at the time of writing this report.</p> <p>No clothes drying areas on adjoining sites that will be impacted by the proposed development.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
C5.2.4.2 Acoustic Privacy	<ul style="list-style-type: none"> Locate sensitive rooms, such as bedrooms, from likely sources of noise such as major roads and neighbouring living areas. 	Achieved.	Yes

Control	Requirement	Proposed	Complies
	<ul style="list-style-type: none"> • Above ground access to new dwellings must not include communal balconies that would be located immediately next to a bedroom window. • 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. • -Screen balconies or windows in living rooms or bedrooms that would face a driveway or basement ramp. • On land adjoining railway or busy roads, address all requirements in 'Development Near Rail Corridors and Busy Roads - Interim Guideline' which has been published by the NSW Department of Planning and Environment. • Design the layout of lower levels facing the road or rail to: <ol style="list-style-type: none"> (a) The position of windows facing the noise source and ensure that total unprotected window area is minimal so as to limit the amount of airborne noise entering the built fabric; (b) Ensure that the detailing of the window types addressing the corridors are designed and constructed to attenuate excessive noise - (double and triple glazing and insulated to manufacturers standards); and (c) Ensure that balcony parapet walls are constructed of solid masonry or materials of similar sound attenuating qualities. 		

Control	Requirement	Proposed	Complies
	<ul style="list-style-type: none"> When designing the public spaces fronting busy roads and the rail corridor at ground level, consider the use of elements such as moving water and screens to achieve sound attenuation. 		
C5.2.5 Parking and Access	<p>Under part 3J of the ADG, development within 800 metres of a railway station in the Canterbury Bankstown LGA must provide the minimum car parking requirement for residents and visitors that is the lesser of that set out within the RMS's Guide to Traffic Generating Developments or Council's requirements.</p> <p>Refer to discussion above relating to compliance with the minimum parking requirements (Part B1 of the CDCP 2012 compliance table).</p> <p>In addition to the above, the application was referred to Council's Development Engineer and Traffic Unit who raised issues with the application in regards to parking and access, and these issues have formed part of the reasons for refusal.</p>		

Part D Business Centres

Control	Requirement	Proposed	Complies
Minimum frontage	18m	12.19m	No ^[13]
Site isolation	Neighbouring properties are not to be isolated so that the property will be unable to reasonably accommodate redevelopment.	No isolation but needs to amalgamate.	Yes
Floor to Ceiling Height	<p>Floor to ceiling heights Ground Floor: 3.3m</p> <p>Residential Floors: 2.7m Basement car parking must meet AS2890.1 requirements.</p>	<p>2.89m-3.2m</p> <p>2.7m can be achieved. No basement proposed.</p>	<p>As per existing. No changes made to commercial space Yes N/A</p>
Front setback	<p>1-3 storeys build to front boundary</p> <p>Fourth storey - 3m setback</p> <p>Greater than four storeys – 5m (all storeys to be set back this distance including the fourth storey)</p>	<p>2 storey built to front boundary (existing).</p> <p>Levels 1-4 (proposed) setback is 11.4m-22m from the front boundary.</p>	<p>Yes</p> <p>Yes</p>

Control	Requirement	Proposed	Complies
Side Setbacks	Except where a proposed development adjoins a residential boundary, setbacks are not required in the B1 or B2 zones when the desired character is for a continuous street frontage.	Nil.	Yes
Rear setbacks	<ul style="list-style-type: none"> 45° building height plane projected at 1.8m at the residential boundary Minimum 6m setback to residential boundary Two-storey limit on residential boundary A setback to a rear lane is not required. 	<p>Generally complies with a minor encroachment on the north-eastern corner of level 4.</p> <p>9.7m balcony to rear of R3.</p> <p>More than two storey limit.</p> <p>Parking and driveway to boundary.</p>	<p>No^[14]</p> <p>Yes</p> <p>No^[15]</p> <p>Yes</p>
Building depth	Minimum 10m – commercial Maximum street frontage wall length of 50m	9.7m – 15.9m.	No ^[16]
Solar	Design and site development to avoid casting shadows onto neighbouring dwelling's primary living area, private open space and solar cells.	Addressed under C5.2.4.1 of the CDCP 2020.	Yes
Ground Level Interface	<p><u>Building entries</u> Locate entries so they relate to the existing street, subdivision pattern, street tree planting and pedestrian access network and are clearly visible. Provide entries to upper levels from the street front facade to encourage activities on the ground floor.</p> <p>Ground level awnings the façade of the building shall be built to the front street boundary; A cantilevered awning from the building facade shall overhang the footpath at a minimum width of 3m; Cantilevered awning height is to be in the range of 3.2m - 4.2m from natural ground level;</p> <p>Posted awnings or colonnades will not be support.</p>	<p>The proposed residential lobby includes a narrow passageway, ramp and double sets of doors to get to the lift layout. This is not supported as a short, straight line of sight with generous circulation space is not achieved.</p> <p>Existing street awning is retained.</p>	<p>No^[17]</p> <p>N/A</p>

Control	Requirement	Proposed	Complies
Façade treatment	To encourage articulated building design to reduce the appearance of scale, enhance visual interest and ensure a diversity of built form. To encourage vertical and horizontal building elements that contribute to streetscape modulation and enhance the pedestrian experience. Define a base, middle and top.	The proposal retains the original façade materials and finishes exposed after removal of accreted signage. The entry to the commercial premises replaces the previous ATM and the entry to the residential premises is through the opening that was, originally, the entrance to the banking chamber. The masonry of the original façade remains.	Yes
	Period Facades: (a) Traditional facades should be integrated into the overall design of new development. (b) Pre-1950 shop front facades are to be maintained in the parts of the B2 Zone where building height is five (5) storeys or less (infill development is permitted behind so that the traditional main street character of the centres is maintained). (c) Where the permitted height is greater than five (5) storeys, facades do not need to be retained.	The proposal seeks to maintain the Period Façade and the proposed works also involve the retention of the existing two storey Inter-War building (with proposed alterations).	Yes
	Adopt requirements of 'Development near rail corridors and busy roads – Interim Guideline' (NSW Dept. of Planning and Environment)	An acoustic report prepared by Acoustic Logic dated 29/9/2020 was submitted with the application for consideration. The report was considered satisfactory.	Yes
Roof design	Must not exceed a pitch of 10°	Does not exceed a 10° roof pitch.	Yes
Performance controls			
Visual Privacy	Clause 6A of SEPP 65 states that development control plans that have provisions that are inconsistent with the ADG in relation to visual privacy have no effect in the assessment of residential apartment development applications. The CDCP 2012 identifies SEPP 65 as the relevant control in this regard.		
Solar and daylight access	Clause 6A of SEPP 65 states that development control plans that have provisions that are inconsistent with the ADG in relation to solar and daylight access have no effect in the assessment of residential apartment development applications. The CDCP 2012 identifies SEPP 65 as the relevant control in this regard.		
Common circulation and spaces	Clause 6A of SEPP 65 states that development control plans that have provisions that are inconsistent with the ADG in relation to common circulation and spaces have no effect in the assessment of residential apartment development applications.		

Control	Requirement	Proposed	Complies
Apartment size and layout	Clause 6A of SEPP 65 states that development control plans that have provisions that are inconsistent with the ADG in relation to apartment size and layout have no effect in the assessment of residential apartment development applications. The CDCP 2012 identifies SEPP 65 as the relevant control in this regard.		
Ceiling heights	Clause 6A of SEPP 65 states that development control plans that have provisions that are inconsistent with the ADG in relation to ceiling heights have no effect in the assessment of residential apartment development applications. The CDCP 2012 identifies SEPP 65 as the relevant control in this regard.		
Private open space and balconies	Clause 6A of SEPP 65 states that development control plans that have provisions that are inconsistent with the ADG in relation to private open space and balconies have no effect in the assessment of residential apartment development applications. The CDCP 2012 identifies SEPP 65 as the relevant control in this regard.		
Natural ventilation	Clause 6A of SEPP 65 states that development control plans that have provisions that are inconsistent with the ADG in relation to natural ventilation have no effect in the assessment of residential apartment development applications. The CDCP 2012 identifies SEPP 65 as the relevant control in this regard.		
Storage	Clause 6A of SEPP 65 states that development control plans that have provisions that are inconsistent with the ADG in relation to storage have no effect in the assessment of residential apartment development applications. The CDCP 2012 identifies SEPP 65 as the relevant control in this regard.		

^[13] Minimum Frontage

D1.2.1, C1 requires a minimum frontage of 18m within a B2 Local centre.

The objectives of this control are to

- O1 To ensure efficient vehicular access to parking and servicing and reduce driveway crossings.*
- O2 To facilitate efficient building envelopes that achieve optimum density.*

The subject site has a frontage to Burwood Road of 12.19m, which represents a variation of 32.28%. As outlined throughout this report, the proposal in its current form cannot be supported. The variation to the car parking controls will result in the commercial car parking spaces requiring these vehicles to reverse into the lane. This is not considered a good planning outcome, is a safety concern, and is inconsistent with the parking controls stated in CDCP 2012. In addition, having the residential car wash bay shared with the commercial space also demonstrates that the site width constraint limits the development potential to the site.

In addition to the above, Council's development engineer has raised a number of concerns with the internal manoeuvrability of the carparking area which is a result of the narrow width of the site.

Although the site does not have a floor space ratio requirement, as outlined in the assessment of the ADG and the CDCP 2012, the number of non-compliances, particularly in relation to matters that go to key amenity considerations for future residents demonstrates that the density proposed is an overdevelopment of the site.

In 2019, the applicant wrote to the adjoining properties being 405 Burwood Road, Belmore and 411 Burwood Road, Belmore advising of intentions to re-develop and indicating an interest to purchase their property.

The applicant's justification on the variation to the site frontage is provided below:

"The lot development pattern is generally consistent reflecting the historical attached commercial terrace typology that is evident to the present day, generally characterised by narrow allotments benefiting from dual street frontages.

Providing for site amalgamation to achieve the minimum 18m site frontage will overtime dilute and diminish the established diversity of period character, reflected through its variety of architectural forms and detailing, of this commercial precinct, likely resulting in the demolition of existing shops.

Arguably, a site width of 18m is the preferred option where vehicular access is anticipated and required from the primary road frontage. In this circumstance, the Burwood Road frontage provides for a continuous unbroken pedestrian footway between Leylands Parade to the south and Tobruk Avenue to the north, with the subject site and adjoining sites, benefitting from Acacia Lane to the rear. As such the site and adjoining sites are able to be appropriately serviced in their current arrangement.

The development pattern is fine grain and that consolidation of sites will disrupt the original subdivision pattern and the overall building typology characteristics of the area. The consolidation of sites would diminish the fine grain nature of many of the buildings and original subdivision pattern which are both important in the expression of the original development of the commercial centre".

In part, there would be some merit in re-developing the site without the amalgamation of adjoining sites in order to preserve the period character of the area. However, approving this development in its current form would result in an undesirable precedent, given the number of non-compliances and inconsistencies with the ADG and Council's controls. The subject site is the first within this strip to be re-developed and therefore ensuring that the subject development meets the ADG and key controls of the CDCP 2012 is fundamental to ensure that future development of the adjoining sites and the broader locality is not compromised or result in substandard development.

[14] & [15] Setbacks

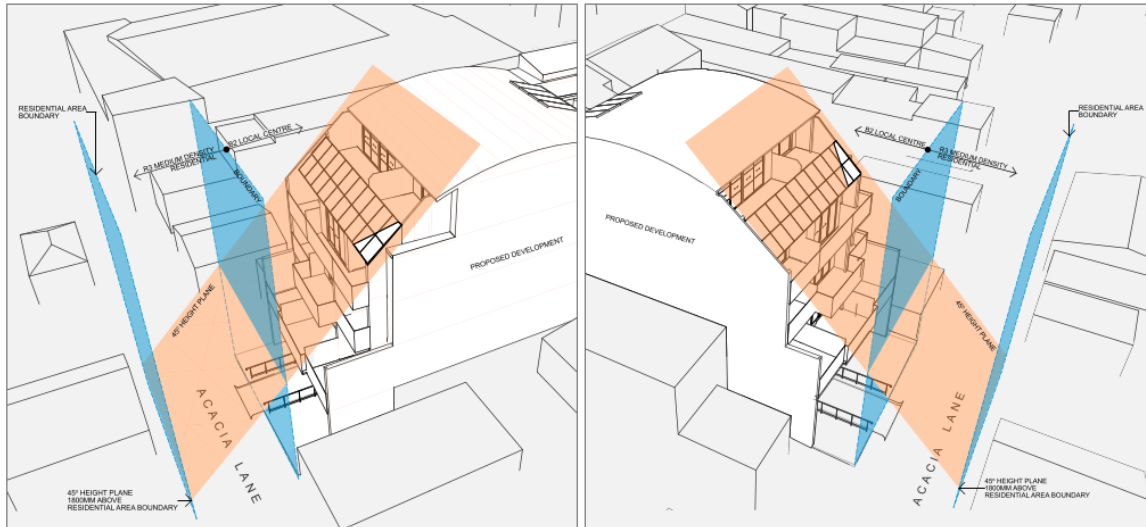
Part D1.3.4 Setbacks refers to the building height plane and the controls state the following:

On boundary with residential zone – rear setback

- C7 Establish a 45° height plane projected at 6 m from the residential zone boundary.
- C8 Provide minimum 6m setback to the residential zone boundary.
- C9 A two-storey limit on the boundary with residential zone applies.
- C10 A setback to a rear lane is not required.

The proposed development seeks an encroachment within the 45 degree height plane and a two-storey limit on the boundary with residential zone.

The applicant has provided a height plane blanket demonstrating the areas of encroachment within the 45degree which occurs to a small portion on level 4 in the north-eastern corner of the site.



Source: Form Architects

Although the design seeks to vary the setback controls, the design is still generally in keeping with the objectives of the setback controls given the following:

- The encroachment occurs to a small portion on level 4 (5th storey).
- The design achieves compliance with the building separation requirements specified within the ADG, including the additional setback requirements to the eastern boundary given the land to the east comprises a lower density residential zone (R3 Medium Density).
- Although the design incorporates more than 2 storeys on the residential boundary (along the rear boundary), the building is contained within the building height plane and as stated above is compliant with the ADG separation requirements
- In light of the above, the proposed variation to the rear height plane is considered acceptable in this instance, if the application was to be supported

^[16] Building Depth

Part D1.3.5, control C1 (a) requires a building depth for commercial premises to be a minimum of 10m.

The commercial tenancy has a depth varying from 9.2m-15.8m.

The objectives of this control are to:

O1 To ensure that natural daylight is available in all parts of the building so that artificial light is not necessary during daylight hours

O2 To ensure an appropriate level of depth is available to create viable building spaces for retail and commercial use.

The applicant's justification for the variation is:

"This is considered a minor deviation with a portion of the commercial tenancy having a depth of approx. 9.7m representing only 20% of the commercial space".

The shop has a GFA of 108.39m², the variation is between 9.2m to the back of the accessible bathroom or 6.4m to the closest portion of the accessible bathroom. This area (adjacent to the accessible bathroom) has a GFA of 11.9m² and has been marked as storage.

Given the minor variation to the depth, of 8% to a small portion of the commercial space is considered acceptable in this instance given this area can be used for storage/display or a goods and service counter.

^[17] Ground Level Interface

As outlined throughout this report, the development provides two separate entries via Burwood Road, one being to service the commercial area and the other to service the residential apartments. However, the proposed residential lobby includes a narrow passageway ramp which is inconsistent with objective O2 which reads

O2 To encourage passive surveillance of streets and other publicly accessible places, and promotion of safety and security.

Therefore, the proposal will result in a design outcome that is unacceptable.

D7.2 Belmore Local Centre

Controls

- C1 Development in the Belmore Local Centre is to be in accordance to the structure plan shown in Figure D7.1.



The subject site falls within the area identified for 'possible parking spaces along Acacia Lane.

The applicant was requested to provide a 3.0m wide lane dedication to the rear of the site, this has not been provided.

Council's infrastructure specialist has also reviewed the application and has advised as follows:

The existing road reserve is 6.1m nominal, hence a 3m dedication is required.

A 6.5m carriageway provides for a garbage truck to be stationary and serviced in the laneway whilst allowing the passage of another vehicle, which could be a passenger car or a deliver vehicle.

Council has adopted this lane widening specification for several years to ensure that developed properties can be serviced and accessed appropriately, without being limited to infrastructure that was configured over 100 years ago when such requirements did not exist.

The development fails to comply with the relevant provisions of the CDCP 2012 and does not provide a 3metre wide lane dedication and will therefore not make a positive contribution to the local centre in its current form.

External Referrals	Comments Received
Transport for NSW	No objections – Advisory Comments provided.
Ausgrid	No objections – Subject to conditions.
Internal Referrals	Comments Received
Urban Design	<p><u>Designing the Building:</u></p> <ul style="list-style-type: none"> The blue coloured balustrade is a poor selected material and is not consistent with the Part 4M Facades of the ADG in response to the character of the local area. The proposed translucent glazed balustrades between the east facing balconies of units 1, 2, 3 and 4 located on levels provide visual privacy consistent with ADG, however full width full height glass balustrades alone are generally not desirable, per ADG part 4E Private Open Space and Balconies. The proposed arrangement for lobby is not consistent with Part 4F Common Circulation and Spaces of the ADG to provide safe, high amenity common circulation spaces, particularly in relation to the following design guidance: <ul style="list-style-type: none"> Direct and legible access should be provided between vertical circulation points and apartment entries by minimising corridor or gallery length to give short, straight, clear sight lines. Tight corners and spaces are avoided. The proposed residential lobby includes a narrow passageway, ramp and double sets of doors to get to the lift layout and is not supported as short, straight line of sight with generous circulation space is not achieved. There is a conflict between the commercial and residential uses within the site, with loading access and commercial visitors needing to cross from Acacia Lane through the residential parking and lobby, resulting in a security concern. Commercial and residential uses should be separated, particularly in the residential lobby. The proposal is not consistent with the Part 4R Adaptive Reuse of the ADG, nor is it consistent with DCP Part D Business Centres C1 Façade Design, in relation to the new additions to existing buildings. <ul style="list-style-type: none"> ADG: Design solutions may include: <ul style="list-style-type: none"> ➤ new elements to align with the existing building ➤ additions that complement the existing character, siting, scale, proportion, pattern, form and detailing

	<ul style="list-style-type: none"> ➤ use of contemporary and complementary materials, finishes, textures and colours ○ DCP: (a) New building forms and design features shall not mimic traditional features, but should reflect these in a contemporary design”, Figure D1.2 and C2 Period Facades. • The proposed façade design and built form massing (to the rear building) does not respond in any discernible way to the character of the existing building to be retained, appearing discordant within the streetscape. The strong existing character of the original building should be reflected in the façade design and built form massing of the additions, incorporating complementary scale, proportion, pattern, form and detailing. • The large void in the streetscape results in a piecemeal appearance and sets an undesirable precedent for future development within the locality. The additions do not address the Burwood Road streetscape, despite being visible from the public domain, which disconnects the building from its locality. The void in the streetscape draws additional attention to the poorly designed building massing and character discussed elsewhere in this report, while simultaneously distracting from the character of the existing building being preserved. • The significant extent of blank wall along the south eastern boundary will result in a prominent, unmitigated structure within the locality until adjacent development is constructed and will unreasonably impact on the amenity of adjoining sites to the East and West due to overshadowing impacts. • Careful site analysis and urban design testing should be undertaken in consideration of the existing streetscape character and the likely built form pattern and character of future development within the locality. A design solution which achieves the following outcomes should be provided: <ul style="list-style-type: none"> ○ Consistency with the desired built form outcome within the streetscape, including setbacks to Burwood Road and provision of an active street frontage for the width of the site. Design solutions which demolish part of the existing building while still retaining the façade and primary hip roof form and integrate it within the overall design consistent with DCP Part D Business Centres C2 Period Facades, should be provided. ”(a) Traditional facades should be integrated into the overall design of new development”. (b) Pre-1950 shop front facades are to be maintained in the parts of the B2 Zone where building height is five (5) storeys or less (infill development is permitted behind so that the
--	--

	<p>traditional main street character of the centres is maintained)”. <ul style="list-style-type: none"> Reduction of the unmitigated blank wall to the Eastern boundary by splitting the built form into two with a courtyard in the centre. This massing is consistent with the likely future character of development within the locality and may allow for a larger, compliant communal open space with greater access to sunlight. <p><u>Deep Soil Planting:</u></p> <ul style="list-style-type: none"> The applicant has not provided adequate deep soil area for the development. In accordance with Part 3E of the ADG, at least 7% of the site must be devoted to deep soil planting and the minimum width for the deep soil area. It is noted that due to the constraints of the site (and the limited site area) it is not possible to comply with the ADG deep soil requirements. It is recommended that additional planting on structure within the Communal Open Space is provided. The soil depth and area should comply with Part 4P of ADG requirements. <p><u>Communal Open Space:</u></p> <ul style="list-style-type: none"> The communal open spaces that has been provided per amended drawing does not meet the minimum 25% ADG requirement. The proposal only takes into consideration the rear additions to the development for the purposes of calculating the site area in relation to COS, despite the existing building forming a substantial component of the development, including a residential dwelling. It is not clear whether the circulation pathway from the lifts to the podium dwellings are included in the COS calculations, however they should not as they do not form part of the usable COS. <p>As per Council’s previous recommendation, the staircase and lobby area should be relocated to within the primary built form in order to achieve a COS of adequate size and amenity for the development.</p> </p>
Traffic	This is discussed under the heading Part B1 of Canterbury Development Control Plan 2012 (CDCP 2012).
Resource Recovery (Waste)	This is discussed under the heading Part B9 of Canterbury Development Control Plan 2012 (CDCP 2012).
Development Engineer	This is discussed under the heading Part B1 of Canterbury Development Control Plan 2012 (CDCP 2012).
Infrastructure Specialist	This is discussed under the heading D7.2 Belmore Local Centre of the CDCP 2012.
Environmental Health Officer	No objections – subject to conditions.
Building Surveyor	No objections – subject to conditions.

Canterbury Development Contributions Plan 2013 (Contributions Plan 2013)

The Canterbury Development Contributions Plan 2013 applies to the site. In this regard, section 7.11 contributions would be required for this form of development.

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

There are no planning agreements applicable to the proposed development.

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

The proposed development is inconsistent with the provisions of the Environmental Planning and Assessment Regulation, 2000 in that an amended Design Verification Statement has not been submitted with the amended plans.

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

Given the number of variations sought to the proposal this will result in unacceptable impacts on the subject site, on the amenity of the occupants and on the locality and therefore the proposal cannot be supported.

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

Based on the information submitted, it has not been satisfactorily demonstrated that the site is suitable for the proposed development and is an overdevelopment. In addition to planning issues, internal stakeholders do not support the application for the reasons detailed within this report. As a result of the number of variations sought and lack of information submitted, the site is not considered suitable for the proposal in its current form.

Submissions [section 4.15(1)(d)]

The application was notified with newspaper advertising on two different occasions.

The first notification was between 20 January 2021 and 9 February 2021. No submissions were received during the notification period.

Amended Plans received on the 16 August 2021 were re-notified between 15 September 2021 and 5 October 2021. No submissions were received during the notification period.

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

The public interest is served through the detailed assessment of this application under the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Environmental Planning Instruments and Development Control Plans. The public interest is best served by the consistent application of the requirements of the relevant environmental planning instruments and by ensuring that any adverse impacts on the surrounding area and the environment are avoided. Based on the above assessment, approval of the proposed development would not be in the public interest.

CONCLUSION

The Development Application has been assessed pursuant to the provisions of Section 4.15 of the Environmental Planning and Assessment Act, 1979 and all relevant State Environmental Planning Policies, Canterbury Local Environmental Plan 2012, development control plan, codes and policies.

As outlined within the body of the report, the current design is inconsistent with the Apartment Design Guide and Canterbury Development Control Plan 2012.

The 3m wide land dedication at the rear of the premises is an important element to the proposed development and for future development along this portion of Burwood Road. This will ensure the subject site and future development is adequately and safely serviced. The current lane width does not allow for a garbage truck to be stationary and serviced in the laneway whilst allowing the passage of another vehicle, which could be a passenger car or a deliver vehicle.

Furthermore, the outstanding matters raised by Council's Traffic, Engineering, Infrastructure Specialist Waste and Urban Design teams would likely result in further and likely significant redesign of the proposal to achieve compliance and a satisfactory development and design outcome.

RECOMMENDATION

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

REASONS FOR REFUSAL

1. Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the development application has not provided an updated Design Verification Statement to comply with Clause 50(1AB)(b)(i) and (ii) of the Environmental Planning and Assessment Regulation 2000 that:
 - (i) addresses how the design quality principles are achieved, and
 - (ii) demonstrates, in terms of the Apartment Design Guide, how the objectives in Parts 3 and 4 of that guide have been achieved.
2. Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the development application is not consistent with State Environmental Planning Policy No 65- Design Quality of Residential Apartment Development with respect to Schedule 1 Design Quality Principles. The proposed development does not meet Principle 1: Context and Neighbourhood Character, Principle 2: Built Form and Scale, Principle 3: Density, Principle 5: Landscape, Principle 6: Amenity, Principle 7: Safety, Principle 8: Housing Diversity and Social Interaction and Principle 9: Aesthetics.
3. Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the development application fails to satisfactorily demonstrate compliance with the Apartment Design Guide in accordance with Clause 28(2)(c) of State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development for the following:
 - a) 3E Deep Soil: The development does not provide any deep soil planting.
 - b) 3F Visual Privacy: The separation between the habitable areas (interface conditions) within the development do not meet the requirements and will impact on the visual privacy between occupants within the development.
 - c) 3G Pedestrian Access and Entries: The proposal includes a residential lobby that is a narrow passageway, ramp and double sets of doors to get to the lift layout, which is not supported as short, straight line of site with generous circulation space is not achieved.
 - d) 3J Bicycle and Car Parking: The proposal does not meet the minimum car parking spaces as set out in Part B1 of the Canterbury Development Control Plan 2012.
 - e) 4D Apartment size and layout: The proposed development fails to comply with Objective 4D-3 Design criteria 3 and 4 of the Apartment Design Guide.
 - f) 4K Apartment Mix: The proposal does not provide a diverse range of dwelling mix to cater for the current and future needs of the locality and does not promote diversity, affordability and access to a variety of housing choice.
 - g) 4R Adaptative Reuse: The proposed façade design and built form massing (to the rear proposed building) does not respond in any discernible way to the character of the existing building to be retained, appearing discordant within the streetscape.
 - h) 4S Mixed use: The proposal includes a residential lobby that is a narrow passageway.

4. Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, it is considered that the proposed development does not satisfy the aims contained in the Canterbury Local Environmental Plan 2012:
 - (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,*
 - (i) *to protect and promote the environmental and cultural heritage values of Canterbury.*

5. Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, it is considered that the proposed development does not satisfy the objectives contained in the Canterbury Local Environmental Plan 2012 for development in the B2 Local Centre zone.

6. Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, it is considered that the proposed development does not satisfy the following Clauses of the Canterbury Local Environmental Plan 2012:
 - a) Cause 4.3 Height of Buildings: As the development fails to satisfactorily demonstrate that the proposal will not breach the 'Height of Buildings', in this case 18m.

7. Pursuant to the provisions of Section 4.15(1)(a)(ii) of the Environmental Planning and Assessment Act 1979, it is considered that the proposed development is not consistent with the Draft Canterbury Bankstown Consolidated Local Environmental Plan, Clause 6.14 'Design Quality'.

8. The proposed development is unsatisfactory, pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, as it does not comply with the provisions of the Canterbury Development Control Plan 2012, including:
 - a) Part B1.3.1, C1, Table B1.2 Parking Rates:
 - i. The proposal has a shortfall of one commercial car space.
 - ii. The proposal has a shortfall of a residential car wash bay as it is combined with the commercial car parking space.
 - b) Part B1.4 Design of Parking Facilities: The proposal does not allow for on-site manoeuvring so that all vehicles enter and leave the site in a forward direction.
 - c) Part B1.4.4, Car wash bay: The car wash bay is inconsistent with Controls C2 and C3 of Part B1.4.4 relating to the design of car wash bays.
 - d) Part B1.4.5 Service Vehicles: The proposed development does not allow service vehicles to enter and leave a site in a forward direction.
 - e) Part B3 Tree Preservation: An arborist report had not been provided to demonstrate that the tree on the adjoining site will not be impacted by the development.
 - f) Part B9 Waste: The proposed waste storage areas and design do not comply.

- g) Part B7 Crime Prevention and Safety: The development includes blind corners particularly in the ground floor circulation areas, parts of communal open space do not receive natural surveillance, and entries are not clearly visible.
 - h) Part C5.2.1.4 Layout and Orientation: The south eastern lift, circulation area and fire stairs will hinder on the future development and solar access to the adjoining property.
 - i) Part C5.2.3.1 Built Form: The accessway (on the ground floor) to the residential component does not allow all potential uses such as the transporting of furniture.
 - j) Part C5.2.3.2 Roof Design and Features: A Management Strategy Plan has not been provided for the proposed communal open space.
 - k) Part D1.2.1 Minimum Frontage: The subject site does not achieve the required 18m minimum frontage and as a result does not achieve the Objectives of this control which state:
 - O1 To ensure efficient vehicular access to parking and servicing and reduce driveway crossings.*
 - O2 To facilitate efficient building envelopes that achieve optimum density.*
 - l) Part D1.4.2 Ground Level Interface: The proposal includes a residential lobby that is a narrow passageway, ramp and double sets of doors to get to the lift layout, which is not supported.
 - m) Part D7.2 Belmore Local Centre: The proposal is inconsistent with Figure D7.1 of the Belmore Local Centre Structure Plan. A 3.0m wide lane dedication to the rear of the site, this has not been provided. The existing road reserve is 6.1m nominal. A 6.5m carriageway provides for a garbage truck to be stationary and serviced in the laneway whilst allowing the passage of another vehicle, which could be a passenger car or a deliver vehicle. The proposal in its current form will not allow the site to be serviced adequately and safely and will set an undesirable precedent for future development.
9. Pursuant to the provisions of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the development is unsatisfactory given the inadequate proposed means of access to and from the development site and the area available for the manoeuvring of vehicles.
10. Pursuant to the provisions of Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, the development is not suitable for the site on the basis that the proposal fails on the following:
- a) The proposal will result in vehicles that are only able to access car parking space 5 while executing a reverse manoeuvre, as it is too close to the entry where forward parking manoeuvre is impossible, then exiting from the space becomes impossible while negotiating a forward exit.
 - b) Vehicles will collide with bollards while reverse exit from dedicated space 1 following a forward entry.
 - c) The proposal fails to comply with Figure 3.3 of AS2890.1 as there are not clear sight lines.

- d) The proposed convex mirror is not supported and therefore parking spaces 1 and 2 must exit the property in a forward direction.
11. The proposed development, pursuant to the provisions of Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, is unsatisfactory and is likely to adversely impact on the privacy and amenity issues of the future residents of the development.
12. Having regard to the previous reasons noted above, pursuant to the provisions of Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, approval of the development application is not in the public interest.

-END-