



AGENDA FOR THE CANTERBURY BANKSTOWN LOCAL PLANNING PANEL MEETING

6 December 2021 - 6.00pm

ORDER OF BUSINESS

ORDER OF BUSINESS

APOLOGIES AND DECLARATIONS

CONFIRMATION OF MINUTES OF PREVIOUS MEETING

BUDJAR / CANTERBURY

- 1 DA-627/2020 - 65-69 Duntroon Street, Hurlstone Park**
Partial demolition of existing structure and construction and conversion re-use to provide for eight affordable rental housing dwellings pursuant to State Environmental Planning Policy (Affordable Rental Housing) 2009 3

BUNYA / REVESBY

- 2 DA-648/2021 - 272 & 274A Milperra Road & 439 & 441 Henry Lawson Drive, Milperra & 256A Henry Lawson Drive, Bankstown Aerodrome**
- Specific Works as Part of Stage 1A of Henry Lawson Drive upgrade Works - Designated Development
- Area 1 (Henry Lawson Dr opposite Tower Rd): road widening, fill embankments, extending stormwater culvert, outlet scour protection, additional stormwater drainage and vegetated swales, adjustments to existing shared path, and road furniture.
- Area 2 (Milperra Rd opposite Bankstown Airport): involves a new bus stop, new footpath to the bus stop, fill embankments, extending stormwater culvert, scour protection, additional stormwater drainage and road furniture.
- Area 3 (Henry Lawson Dr opposite Auld Ave): Removing ancillary structures, installing temporary fencing and erosion controls and use as ancillary facility 17

BUNMARRA / ROSELANDS

- 3 DA-794/2020 - 773-777 Canterbury Road, Belmore**
Demolition of existing structures and construction of a five storey residential flat building development containing 37 units above two levels of basement car parking, with associated landscaping and communal open space. The application also includes the subdivision of 137sqm of land along Wilson Lane to dedicate to Council for laneway widening. 53
- 4 DA-500/2020 - 892-906 Canterbury Road, Roselands**
Demolition of existing structures and the construction of a new six storey shop top housing development over two levels of basement car parking and the associated landscaping 133

Canterbury Bankstown Local Planning Panel - 06 December 2021

ITEM 1	DA-627/2020 - 65-69 Duntroon Street, Hurlstone Park Partial demolition of existing structure and construction and conversion re-use to provide for eight affordable rental housing dwellings pursuant to State Environmental Planning Policy (Affordable Rental Housing) 2009
FILE	DA-627/2020 – Budjar / Canterbury
ZONING	R2 Low Density Residential
DATE OF LODGEMENT	21 July 2020
APPLICANT	Bitar Projects
OWNERS	Euphoria Group Pty Ltd
ESTIMATED VALUE	\$1,789,452
AUTHOR	Planning

REPORT

This matter is reported to Council as the application seeks consent for a development which has received more than ten submissions.

Development Application No. DA-627/2020 proposes partial demolition of existing structure and construction and conversion re-use to provide for eight (8) affordable rental housing dwellings.

DA-627/2020 has been assessed against State Environmental Planning Policy No. 55 - Remediation of Land, State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, State Environmental Planning Policy (Affordable Rental Housing) 2009, and Canterbury Local Environmental Plan 2012, Canterbury Development Control Plan 2012 and Draft Canterbury Bankstown Local Environmental Plan.

Based on Council's assessment, the proposal is not permissible in the zone and cannot be supported. For completeness, the application has been considered against the controls of Canterbury Local Environmental Plan 2012 and Canterbury Development Control Plan 2012.

This application was appealed on the grounds of non-determination and a deemed refusal. However, the appeal was discontinued by the appellant in May 2021. Council contacted the applicant to ask if they also wished to withdraw this subject application but declined the opportunity asking for a determination instead.

The application was notified in accordance with the Canterbury-Bankstown Community Participation Plan and 63 responses were received.

It is therefore recommended that the Application be refused.

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

ASSESSMENT REPORT

BACKGROUND

On 27 February 2020, an exhibition commenced for revised heritage initiatives in Hurlstone Park. The draft planning documents that were on exhibition included a Revised Planning Proposal. Following an initial exhibition of the Planning Proposal in 2017, Council considered submissions and commissioned an external review. This has resulted in changes to the items to be heritage listed and the proposed Heritage Conservation Areas (HCAs). The revised Planning Proposal (PP_2016_CBANK_003) sought to:

- List 35 properties as local heritage items in Hurlstone Park (increased from 29).
- Identify 6 Heritage Conservation Areas in Hurlstone Park (increased area covered by HCAs, 2 new HCAs proposed and Tennent Parade HCA no longer proceeding).
- Rezone land in the HCAs from R4 High Density Residential and R3 Medium zoned land to R2 Low Density Residential (except 2–10 Marcia Street).
- Reduce the maximum building height in the B2 Local Centre zone in the HCAs from 14 metres to 11 metres and 9 metres.

Draft Amendments to Canterbury Development Control Plan 2012 (Chapter B8) were also made. The proposed changes included new controls that apply to all heritage items and places of heritage significance in the former Canterbury Council area, including the proposed Heritage Conservation Areas in Hurlstone Park.

The subject application was lodged with Council on 30 July 2020.

The Application was notified from 5 August 2020 to 18 August 2020, in accordance with the requirements of Part A3 of Canterbury Development Control Plan 2012. A total of 62 submissions were received.

On 13 October 2020 the applicant filed a deemed refusal appeal with the Land and Environment Court. One set of amended architectural plans were submitted as part of the filed appeal. However, no amended plans were submitted as part of the DA application. For this reason, the assessment set out in this report relies on the initial (and only) set of plans which were submitted as part of the DA application.

On 11 December 2020, the Hurlstone Park Heritage Planning Proposal was gazetted.

As part of the LEP amendment on 11 Dec 2020 (amendment 21), it included the removal of the Floor Space Ratio provision on some land (including the subject site). The amendment didn't comprise any savings provision and therefore the change applied to the subject application.

On 10 May 2021, the Applicant file a Notice of Discontinuance to the Euphoria Group Pty Ltd v Canterbury-Bankstown Council to the LEC and subsequently the application recontinued into assessment of the development application.

Council wrote to the Applicant on 5 July 2021 advising that since the Euphoria Group Pty Ltd v Canterbury-Bankstown Council appeal had been withdrawn, it has left Council with the pending development application DA-627/2020 to be determined. The Applicant was advised the application would be refused and reported to the Local Planning Panel for determination and were provided an opportunity to withdraw the subject development application.

On 12 July 2021, the Applicant wrote to Council advising they do not wish to withdraw the application.

SITE & LOCALITY DESCRIPTION

The subject site, legally known as Lot 2 in Deposited Plan (DP) 301007 is known as 65-69 Duntroon Street, Hurlstone Park. NSW 2193 and is legally identified as Lot 2, DP 301007. The Site has a primary frontage of 17.375m to Duntroon Street, a rear boundary of 17.375m, a northern boundary of 38.10m, a southern boundary of 38.10m and a total site area of 659.4m². The site is rectangular in shape and is located on the western side of Duntroon Street and on the corner of Marcia Street, with vehicular access from Marcia Street. The topography of the site falls from the street (RL 25.29) to the rear (RL 22.40) and is zoned R2 – Low Density Residential pursuant to Canterbury Local Environmental Plan 2012 (“LEP”).

Currently existing on site is a two storey brick building, which is currently being utilised as a dance studio. No consent exists for the use as a dance studio, which is not permissible in the zone. A single storey dwelling house directly adjoins the site to the west (the rear boundary) and to the north (side boundary) of the site. The local built environment is characterised by a mix of single dwellings, and a residential flat building. The immediate vicinity of the site is zoned R2 Low Density Residential pursuant to the LEP. South of the site is zoned R2 Low Density residential with a small pocket zoned R4 High Density Residential and further south a pocket of land zoned B2 Local Centre. A zoning extract, depicting the subject site in yellow, is provided at Figure 3:



Figure 1: Aerial of subject site outlined in red Source: NearMaps 2021



Figure 2: View of the subject site from the intersection of Marcia Street and Duntroon Street (source: google maps)

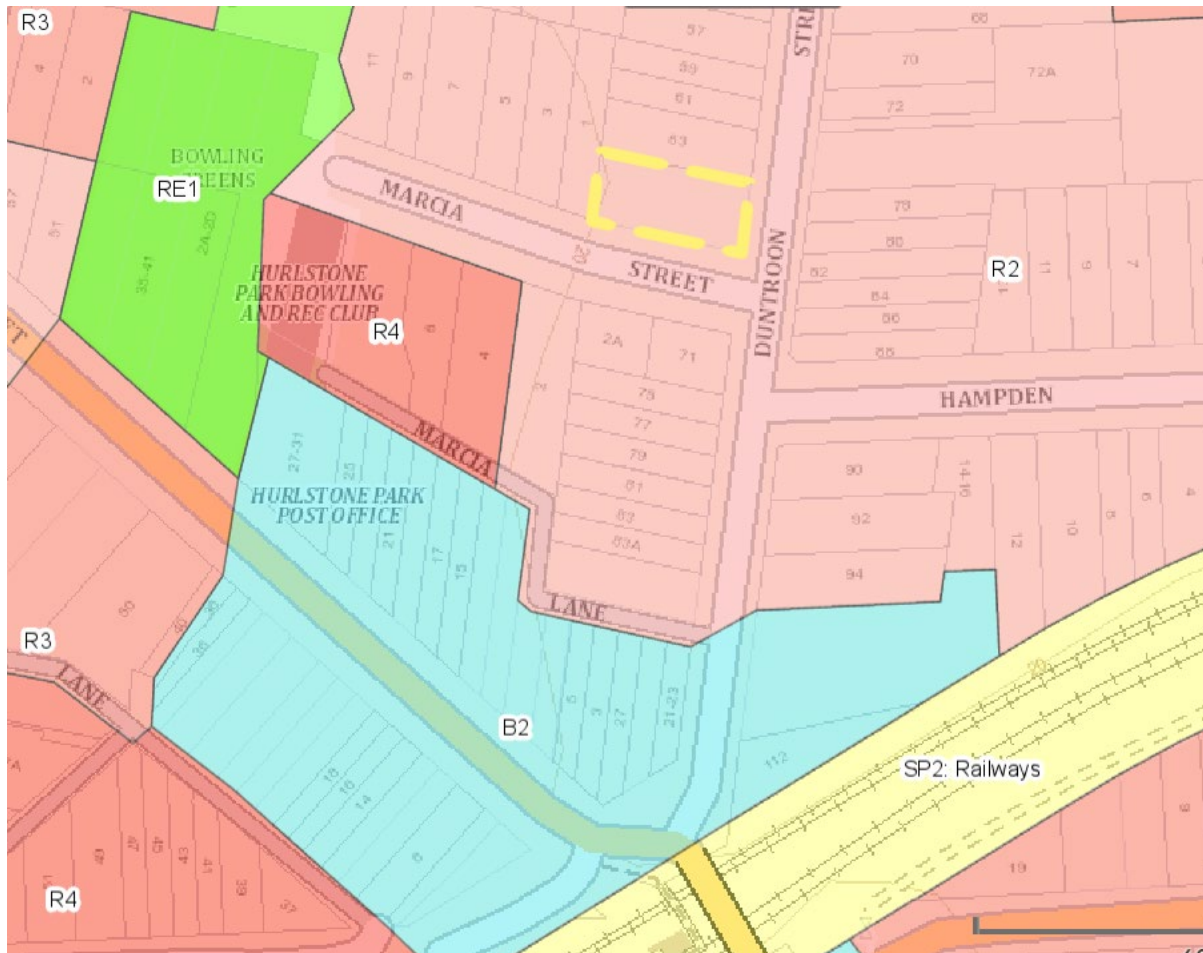


Figure 3: **Zoning map of the site outlined in yellow and surrounding area (Source: NSW E-Spatial Viewer based of Local Environmental Plan)**

PROPOSED DEVELOPMENT

The Development Application No. 627/2020 seeks development consent for the partial demolition of existing structures and the construction and adaptive re-use of the existing building to provide eight (8) affordable rental housing dwellings pursuant to the State Environmental Planning Policy (Affordable Rental Housing) 2009. The dwellings will be two storey and the dwelling mix comprises of 7 x 2 bedroom dwellings and 1 x 3 bedroom dwelling. No on-site parking is proposed.

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 (Infrastructure) 2007 (SEPP 2007)
- State Environmental Planning Policy (Affordable Rental Housing) 2009 (“SEPP”)
- 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)
- Planning Proposal _2016_CBANK_003
- Planning Proposal PP_2019_CBANK_005 (Draft Consolidated Local Environmental Plan) (“Draft Consolidated LEP”)

PERMISSIBILITY

Canterbury Local Environmental Plan 2012 Clause 2.3 Zone Objectives and Land Use Table

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

The objectives of the R2 zone are:

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

The following Section defines the permissible and prohibited uses in the R2 Low Density Residential Zone:

2. Permitted without consent

Home occupations

3. Permitted with consent

Bed and breakfast accommodation; Boarding houses; Building identification signs; Business identification signs; Business premises; Car parks; Centre-based child care facilities; Community facilities; Dual occupancies; Dwelling houses; Environmental protection works; Exhibition homes; Flood mitigation works; Group homes; Health consulting rooms; Home businesses; Home industries; Office premises; Oyster aquaculture; Places of public worship; Pond-based aquaculture; Recreation areas; Respite day care centres; Restaurants or cafes; Roads; Semi-detached dwellings; Shops; Tank-based aquaculture

4. Prohibited

Any development not specified in item 2 or 3

Multi-dwelling housing is defined in CLEP 2012 as 3 or more dwellings (whether attached or detached) on one lot of land, each with access at ground level, but does not include a residential flat building.

While the proposal meets the definition of multi-dwelling housing, it is not a permissible use in the R2 zone and is therefore prohibited.

The proposal for infill affordable housing development comprising multi dwelling housing is not permissible in the R2 Low Density Residential zone pursuant to Clause 10(1) of State Environmental Planning Policy Affordable Rental Housing 2009, since multi dwelling housing is not permissible in the zone under Canterbury Local Environmental Plan (CLEP) 2012.

With the development being prohibited, a full assessment against the requirements of Section 4.15 of the Environmental Planning and Assessment Act 1979 is not required. For completeness, it is noted that the proposed development would be contrary to a number of provisions contained within the Canterbury Local Environmental Plan 2012 and Canterbury Development Control Plan 2012, including in relation to height of buildings, heritage conservation, design, stormwater and engineering, car parking provision, open space provisions, building setbacks and solar access.

Submissions

The application was notified for a period of 5 August 2020 to 18 August 2020. A total of 63 submissions were received during this period, which raises concerns relating to:

Concern	Council comment
Parking <ul style="list-style-type: none"> Non-compliant with the provisions stated within the Canterbury Development Control Plan 2012. The development will result in an intensification of the site from its previous use, with no proposed on-site parking spaces. Limited number of street parking spaces for tenants and visitors, which create issues with the existing surrounding dwellings. 	<p>It is agreed that the proposed development offers no parking at all which is contrary to the parking requirements of the State Environmental Planning Policy (Affordable Rental Housing) 2009 and the parking requirements of Canterbury Development Control Plan 2012. This will form a reason for refusal.</p> <p>Council agrees with the statement that the proposed use as multi dwelling, will result in an intensification of the site.</p>
Heritage Conservation and Local Character <ul style="list-style-type: none"> Building falls under the proposed Heritage Conservation area, which is due to take effect in the near future to ensure the preservation of such buildings and the character of the suburb. Development is not consistent with the character of surrounding developments (scale and appearance) 	<p>It is agreed that the subject site is within a heritage conservation area and multi dwelling housing is not a permissible under the subject sites R2 zoning.</p> <p>Council's Heritage Advisor reviewed the application and agreed the proposal was not in keeping with the existing character of the area.</p>

<ul style="list-style-type: none"> Multi-dwellings will not be permissible when the proposed Heritage Conservation Area comes into effect. 	
Rezoning <ul style="list-style-type: none"> When the new Local Environmental Plan is in effect, the subject site will be rezoned, and not allow multi-dwelling developments – Development represents a departure from the shared vision of both Council and the community. 	<p>Council agrees with this statement and since the new Local Environmental Plan is now in effect and no savings provision was included with the amendment, multi dwelling housing is no longer permissible. This will form a reason for refusal.</p>
Floor Area <ul style="list-style-type: none"> Non-compliance with the permitted floor area standard (overdevelopment of site) 	<p>No FSR applies to the site. The LEP was amended on 11 Dec 2020 (amendment 21) which included the removal of the FSR provision on some land (including the subject site). The amendment didn't comprise any savings provision and therefore the change applies to the subject application although it was lodged after the gazettal date of the amended LEP</p>
Maximum Building Height <ul style="list-style-type: none"> Proposed development exceeds a building height of 8.5m 	<p>The proposed development included a clause 4.6 to vary the building height standard. The development however is not permissible in the zone and will be refused.</p>
Visual Privacy <ul style="list-style-type: none"> The private open space, living areas, bedrooms and bathrooms of adjoining properties are overlooked due to the proposed windows, decks and the proposed terraces on the second floor. Location and size of proposed decks on ground floor do not have any screening to avoid overlooking adjoining neighbours. 	<p>Insufficient information was submitted to Council to adequately assess visual privacy.</p>
Community <ul style="list-style-type: none"> The existing development is in a location which is close to public transport, and has been utilised for private parties, community meetings, cultural and educational activities, social events, church groups, government events etc. This development will result in the loss of a significant community and historical asset, in an area that is already lacking community assets. 	<p>These concern that there will be a loss of community culture resulting from the proposed change from a dance studio to multi dwelling housing is acknowledged. Council advises that the proposed use for multi dwelling housing is not permissible in the R2 zone and therefore the application is not supported.</p>

<ul style="list-style-type: none"> The loss of the dance school will affect the local businesses which surround this school, in addition to removing a facility which enable children to exercise and socialise. Hurlstone Park has recently lost a local bowling club which has not been replaced – Locals would like the subject property to be secured for local community members, and preserve this community space. The halls have been used for community purposes since they were first built in 1912 and 1915. 	
<p>Acoustic Privacy</p> <ul style="list-style-type: none"> Close proximity of Units, and decks to adjoining properties living and sleeping areas There are no physical barriers to reduce noise to surrounding dwellings from the proposed courtyard areas. 	The proposed multi dwelling is not permissible in the R2 zone. However, if the application was to be supported, which it is not, the acoustic amenity would be considered acceptable given that it is a residential use.
<p>General Design</p> <ul style="list-style-type: none"> The development does not comply with the design requirements for private open space, living room dimensions and the minimum bedroom dimensions. 	Council agrees that the proposal fails to meet these requirements.
<p>Safety</p> <ul style="list-style-type: none"> There will be an increase in vehicular movement on the street. 	This concern is acknowledged.
<p>Waste Storage</p> <ul style="list-style-type: none"> Unclear if this area is enclosed, and how this may potentially impact the adjacent dwellings. 	Council's Resource Recovery Officer has reviewed the proposal and is not satisfied with the proposed waste storage.
<p>Traffic Report</p> <ul style="list-style-type: none"> The calculations in the report appear to be incorrect and misleading as it does not accurately reflect the parking situation and requirements of this area. 	As stated earlier in this table, the proposal fails to provide any parking on site and the minimum parking requirements have not been met, therefore the proposal is not supported.
<p>Property Value</p> <ul style="list-style-type: none"> Property value of surrounding developments will drop. 	This is not considered a core planning matter and there is no evidence to suggest that this development will impact on property values

<p>Energy and Water Usage</p> <ul style="list-style-type: none"> Development will result in an increased demand for energy and water – sustainable energy and water usage is preferred 	<p>This concern is acknowledged. However, any proposed residential use requires a BASIX Certificate which provides an assessment against the water, energy and thermal comfort a building. The application was accompanied with a BASIX Certificate which is satisfactory.</p>
<p>Oversupply of small units and low-cost accommodation within the suburb – more developments should be created for larger families with children.</p>	<p>Noted, multi dwelling housing is not permitted in the R2 zone.</p>
<p>Requesting more information regarding Level 1 Plan, internal layouts in order for residents to assess the total impact of the proposal.</p>	<p>This concern is noted, however as noted earlier this application is being refused therefore no further information was requested from the applicant.</p>
<p>Increase in car dependence as approximately 300 students will have to travel farther to attend a different dance school.</p>	<p>Noted, the proposal is not supported.</p>

CONCLUSION

The Development Application has been assessed in accordance with the provisions of the *Environmental Planning and Assessment Act 1979*.

The proposal for multi dwelling housing is not permissible in the R2 Low Density Residential zone pursuant to CLEP 2012, and as such permission cannot be granted.

Reasons for Refusal

1. The proposed use is prohibited in the **R2 Low Density Residential** zoning of the site.

-END-

Canterbury Bankstown Local Planning Panel - 06 December 2021

ITEM 2	DA-648/2021 - 272 & 274A Milperra Road & 439 & 441 Henry Lawson Drive, Milperra & 256A Henry Lawson Drive, Bankstown Aerodrome Specific Works as Part of Stage 1A of Henry Lawson Drive upgrade Works - Designated Development Area 1 (Henry Lawson Dr opposite Tower Rd): road widening, fill embankments, extending stormwater culvert, outlet scour protection, additional stormwater drainage and vegetated swales, adjustments to existing shared path, and road furniture. Area 2 (Milperra Rd opposite Bankstown Airport): involves a new bus stop, new footpath to the bus stop, fill embankments, extending stormwater culvert, scour protection, additional stormwater drainage and road furniture. Area 3 (Henry Lawson Dr opposite Auld Ave): Removing ancillary structures, installing temporary fencing and erosion controls and use as ancillary facility
FILE	DA-648/2021 – Bunya / Revesby
ZONING	SP2 Infrastructure: Road Infrastructure Facility RE1 Public Recreation
DATE OF LODGEMENT	2 August 2021
APPLICANT	Transport For NSW
OWNERS	Department of Lands, Planning Ministerial Corporation, Marline Khoshaba, Canterbury Bankstown Council

ESTIMATED VALUE **\$1,271,531.41**

AUTHOR **Planning**

REPORT

In accordance with the Local Planning Panels Direction made by the Minister for Planning and Public Spaces, the Canterbury-Bankstown Local Planning Panel is required to determine applications that are defined as Designated Development as well as development on land that is owned by Council. The subject development triggers both of these referral criteria and as such, is reported to the Canterbury Bankstown Local Planning Panel for determination.

The subject Development Application, referred to herein as the 'Environmental Impact Statement (EIS) proposal' is an application that is being assessed concurrently with a Review of Environmental Factors (REF), referred to herein as the 'REF proposal' by Transport for New South Wales (TfNSW) under Part 5 of the Environmental Planning and Assessment Act 1979. While only the EIS proposal is being considered in this report, and by the Local Planning Panel, it is necessary to understand and appreciate the project as a whole.

Transport for NSW (TfNSW) proposes to upgrade a 1.3 kilometre length of Henry Lawson Drive between Keys Parade, Milperra, and Tower Road, Bankstown Aerodrome as part of the wider REF proposal, with the key features as follows:

- Widening Henry Lawson Drive from two to four lanes
- Upgrading the signalised intersection of Henry Lawson Drive and Tower Road, including:
 - An additional right turn lane from Tower Road onto Henry Lawson Drive
 - A new channelised short left-turn lane from Henry Lawson Drive (southbound) onto Tower Road
 - An additional right turn lane from Henry Lawson Drive (northbound) onto Tower Road
 - Retaining the pedestrian crossing across Henry Lawson Drive on the southern side of the intersection.
- Upgrading the signalised intersection of Henry Lawson Drive and Milperra Road/Newbridge Road including:
 - Additional right turn lane on the Milperra Road and Newbridge Road approaches to Henry Lawson Drive
 - An additional through lane on Henry Lawson Drive's southbound approach
 - The removal of the bus only lane on Milperra Road, to provide an additional right turn lane on Henry Lawson Drive's northbound approach.
- Removing the dedicated left turn slip lane into the retail strip on Henry Lawson Drive with access being retained via a standard property driveway.
- Retaining the existing bus stop on Milperra Road (eastbound) and moving the westbound bus stop 20 metres to the west
- Altering access to Auld Avenue to a "left in/left out" only configuration
- Constructing a two-lane road bridge on Henry Lawson Drive (over Milperra Drain) (the Auld Avenue bridge) to carry northbound traffic, and retaining the existing bridge for southbound traffic

- Constructing new footpaths on the eastern side of Henry Lawson Drive, which will connect Tower Road with the existing Milperra Road eastbound bus stop, as well as a new footpath connecting Henry Lawson Drive with the Milperra Road westbound bus stop
- Widening the shared pathway between Flower Power (Keys Parade) and Newbridge Road to three metres and reconstructing footpaths along the western side of Henry Lawson Drive, where required.
- Adjusting existing drainage, including lengthening culverts, installing new drainage infrastructure and water quality controls
- Relocating utilities, including electrical, gas, water and telecommunications
- Final roadworks, including pavement, kerb and gutters, signs, lighting and line marking
- Ancillary work for the project including, but not limited, to road furniture, tie-in works, landscaping, and earthworks
- Temporary ancillary compounds, stockpile sites and associated facilities.

It is worth noting that while the above outlines the proposed works of the REF proposal that this is still under assessment and aspects of the project may be subject to change.

Development Application No. DA-648/2021 (EIS proposal) incorporates works in 3 areas under Stage 1A of the Henry Lawson Drive Upgrade which are as follows:

Area 1 (Henry Lawson Dr opposite Tower Rd): road widening, fill embankments, extending stormwater culvert, outlet scour protection, additional stormwater drainage and vegetated swales, adjustments to existing shared path, and associated road infrastructure.

Area 2 (Milperra Rd opposite Bankstown Airport): involves a new bus stop, new footpath to the bus stop, fill embankments, extending stormwater culvert, scour protection, additional stormwater drainage and road furniture.

Area 3 (Henry Lawson Dr opposite Auld Ave): Removing ancillary structures such as fencing, outbuildings and the like, installing temporary fencing and erosion controls and use as ancillary facility. Potential uses for this ancillary facility include site staff parking, main site offices, materials storage, storage of topsoil, imported material, and green waste. TfNSW intend to use the existing dwelling as a site office if possible.

DA-648/2021 has been assessed against the relevant provisions contained within the Water Management Act 2000, Biodiversity Conservation Act 2016, Land Acquisition (Just Terms Compensation) Act 1991, Coastal Management Act 2016, State Environmental Planning Policy (Coastal Management) 2018, State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017, State Environmental Planning Policy (Infrastructure) 2007, State Environmental Planning Policy No 55 – Remediation of Land, State Environmental Planning Policy No 19 – Bushland in Urban Areas, Greater Metropolitan Regional Environmental Plan No 2—Georges River Catchment, Bankstown Local Environmental Plan 2015, Draft Consolidated Canterbury Bankstown Local Environmental Plan and the Bankstown Development Control Plan 2015.

The application was advertised for a period of 44 days with 28 submissions being received. It is relevant to note that of the 28 submissions received, that only three were relevant to the EIS proposal, with the others being relevant to the REF proposal. The relevant submissions raise concerns relating to tree removal, land acquisition, bus shelter location and landscaping.

The contents of the report addresses each of these concerns in detail and notwithstanding the matters raised, it is considered that the proposal is worthy of being supported.

POLICY IMPACT

The proposed development will not have any direct policy impacts.

FINANCIAL IMPACT

The proposed development will have no financial impacts.

RECOMMENDATION

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

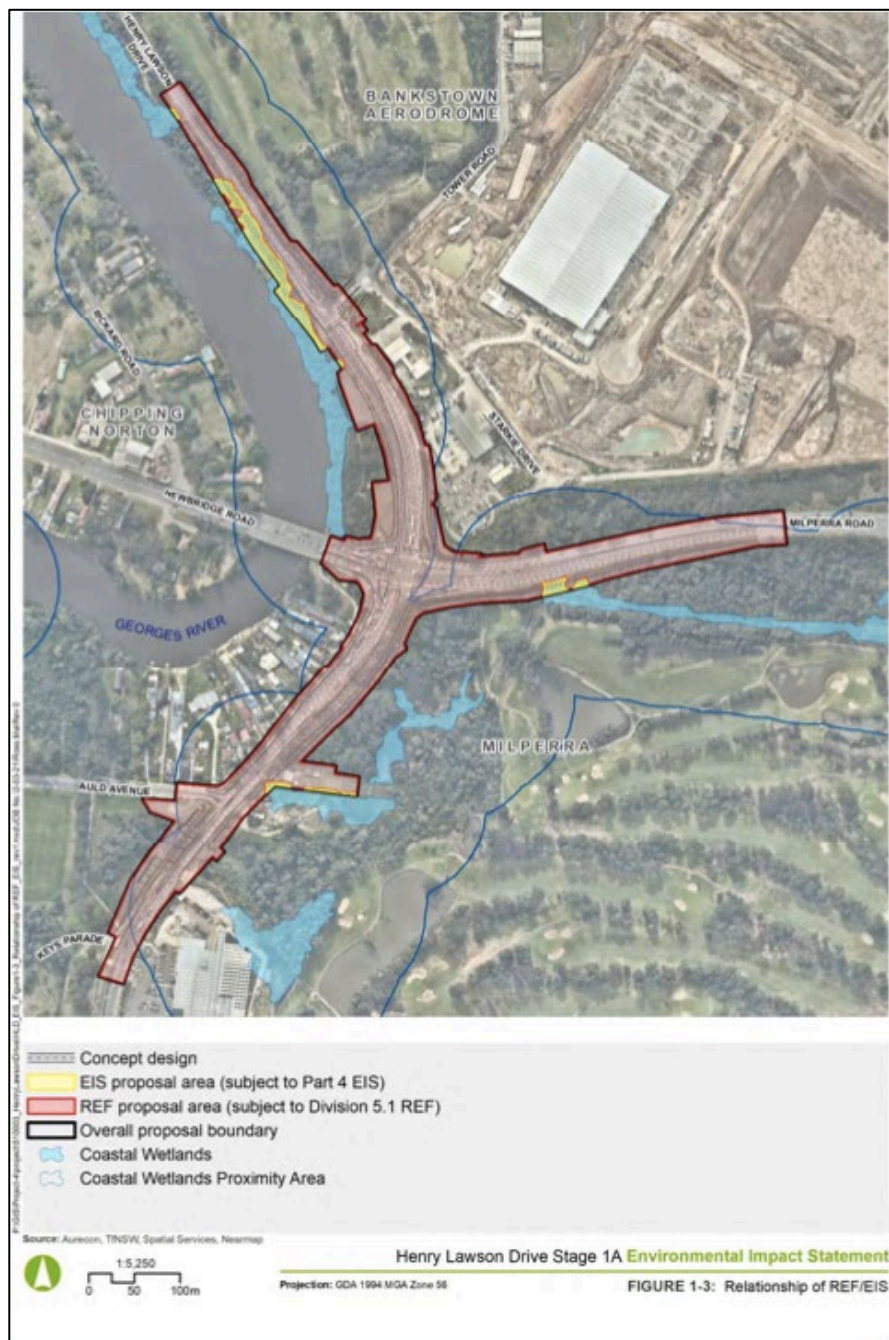
ATTACHMENTS

- A. Assessment Report
- B. Conditions of Consent

DA-648/2021 ASSESSMENT REPORT

SITE & LOCALITY DESCRIPTION

The wider project is referred to as the Henry Lawson Drive Upgrade Stage 1A, which involves the proposed upgrade of a 1.3 kilometre length of Henry Lawson Drive between Keys Parade, Milperra and Tower Road, Bankstown Aerodrome. The below map details the extent of the wider project, with the areas in red making up the REF proposal and the areas shaded yellow, forming part of the EIS proposal.



There are three specific areas that make up the EIS proposal that is being considered under this application. The areas, and the properties that make up these areas are as follows:

Area 1 (Henry Lawson Dr opposite Tower Rd)

Area 1 is made up of the property 256A Henry Lawson Drive, Bankstown Aerodrome which is in the ownership of Canterbury Bankstown Council. The site currently contains vegetation, a bike path and road infrastructure such as traffic lights, guards/barriers and the like. The site is bound to the west by the Georges River and to the east by Henry Lawson Drive.

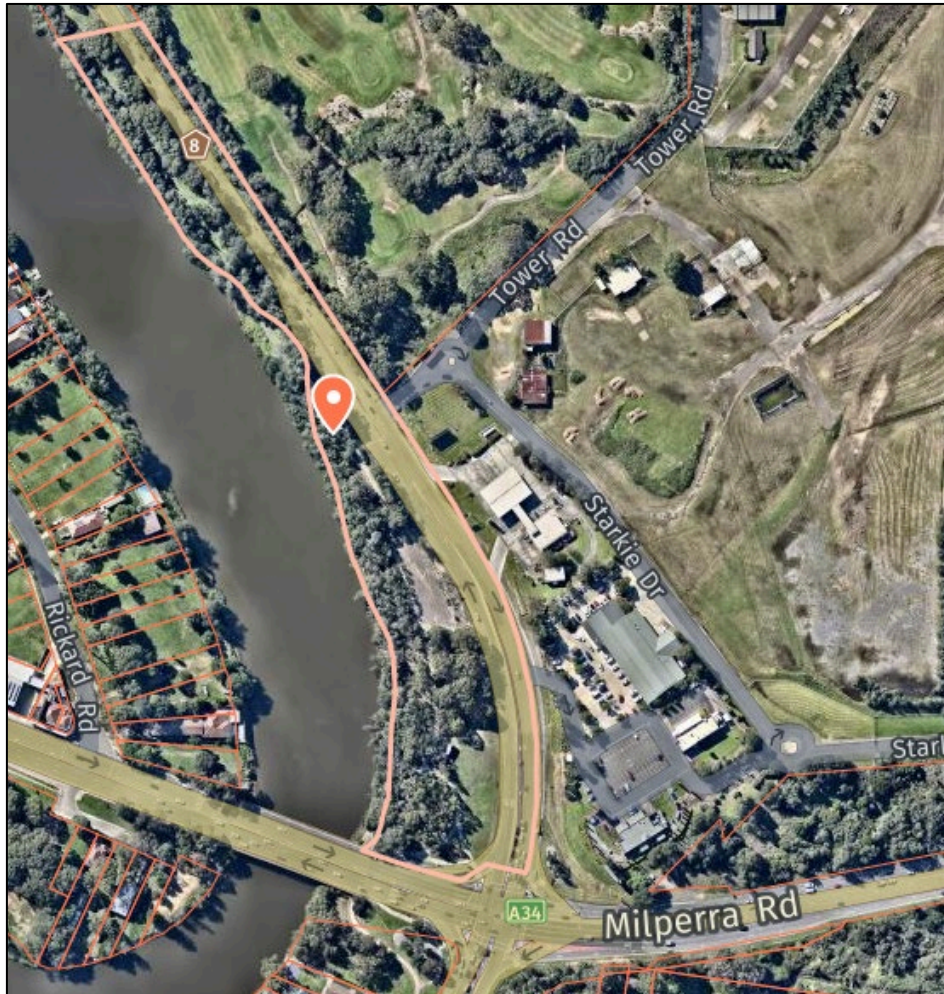


Figure 1 - Area 1 Aerial Image

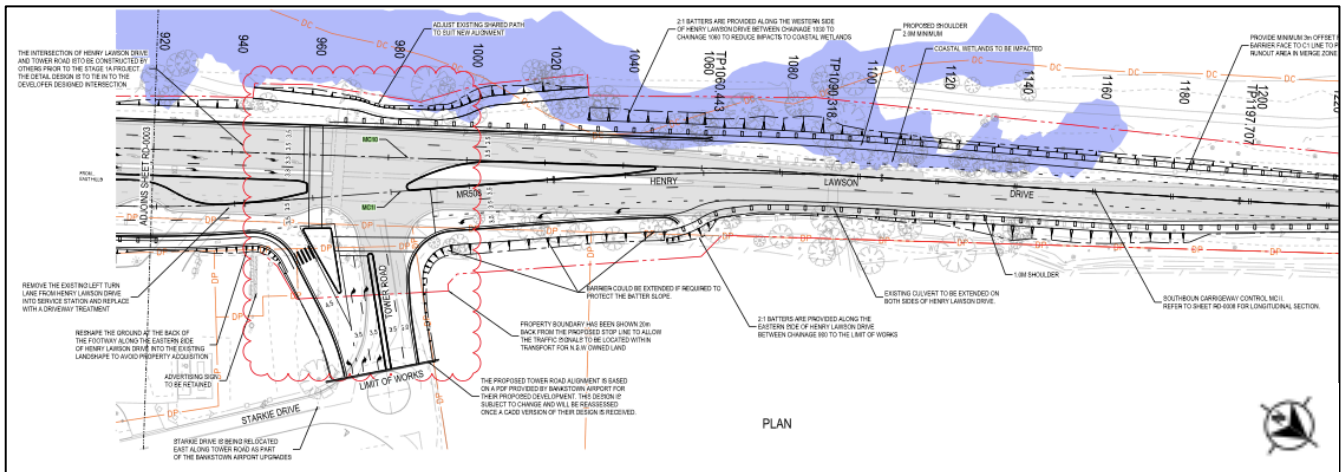


Figure 2 - Area 1 Scope of Works

Works proposed within Area 1 include road widening, fill embankments, extending stormwater culvert, outlet scour protection, additional stormwater drainage and vegetated swales, adjustments to existing shared path, and associated road infrastructure.

Area 2 (Milperra Rd opposite Bankstown Airport):

Area 2 is made up of two properties, 272 Milperra Road, Milperra (orange marker) which is Crown land and 274A Milperra Road, Milperra (blue marker) which is owned by TfNSW. The site currently contains a bus stop, grass verge, dense vegetation and a human modified natural drainage culvert.

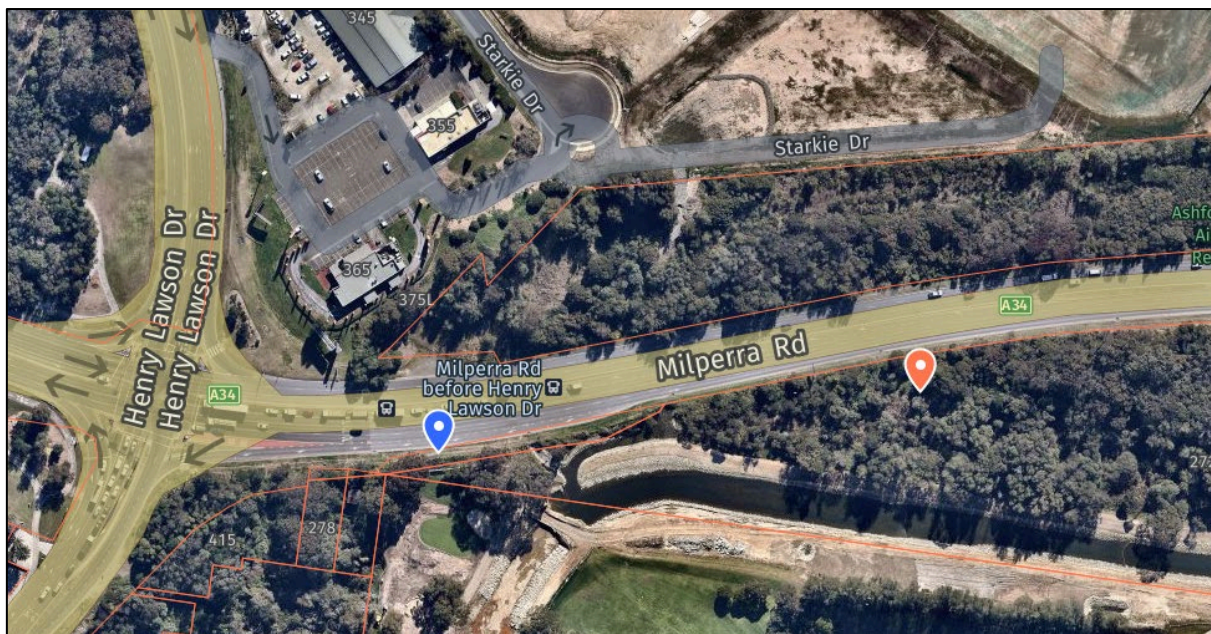


Figure 3 - Area 2 Aerial Image

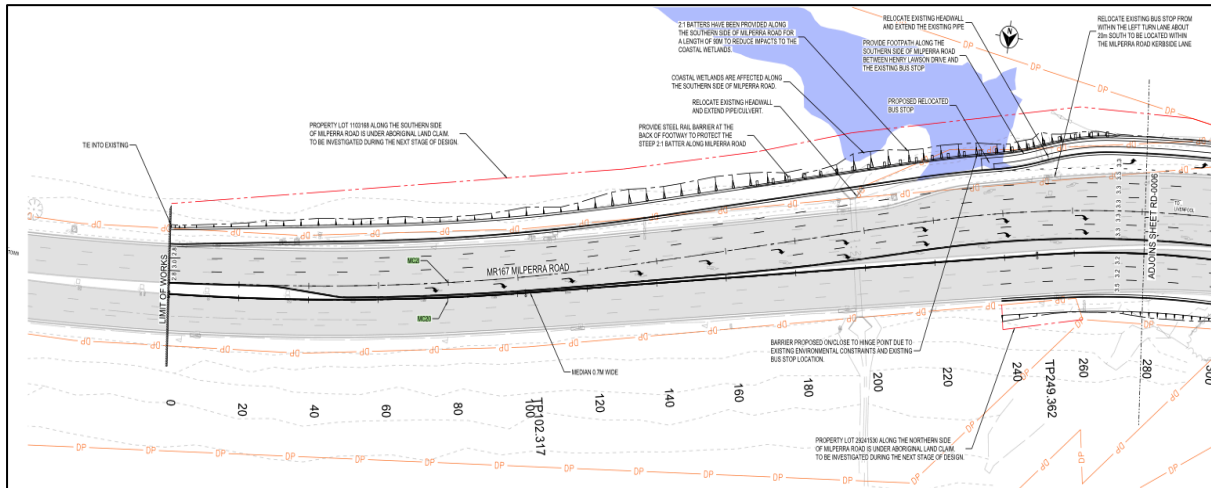


Figure 4 - Area 2 Scope of Works

Works proposed within Area 2 include a new bus stop, new footpath to the bus stop, fill embankments, extending stormwater culvert, scour protection, additional stormwater drainage and associated road infrastructure.

Area 3 (Henry Lawson Dr opposite Auld Ave):

Area 3 is made up of two properties, being No 439 Henry Lawson Drive, Milperra (blue marker) which is in private ownership and No 441 Henry Lawson Drive, Milperra (orange marker) which is owned by Canterbury Bankstown Council. No 439 Henry Lawson Drive currently contains a single dwelling house with a number of small outbuildings in the front portion of the site, before a large expanse of grass leading to a wetland. No 441 Henry Lawson Drive currently contains grass and dense vegetation, with no built structures existing on the site.



Figure 4 - Area 3 Aerial Image

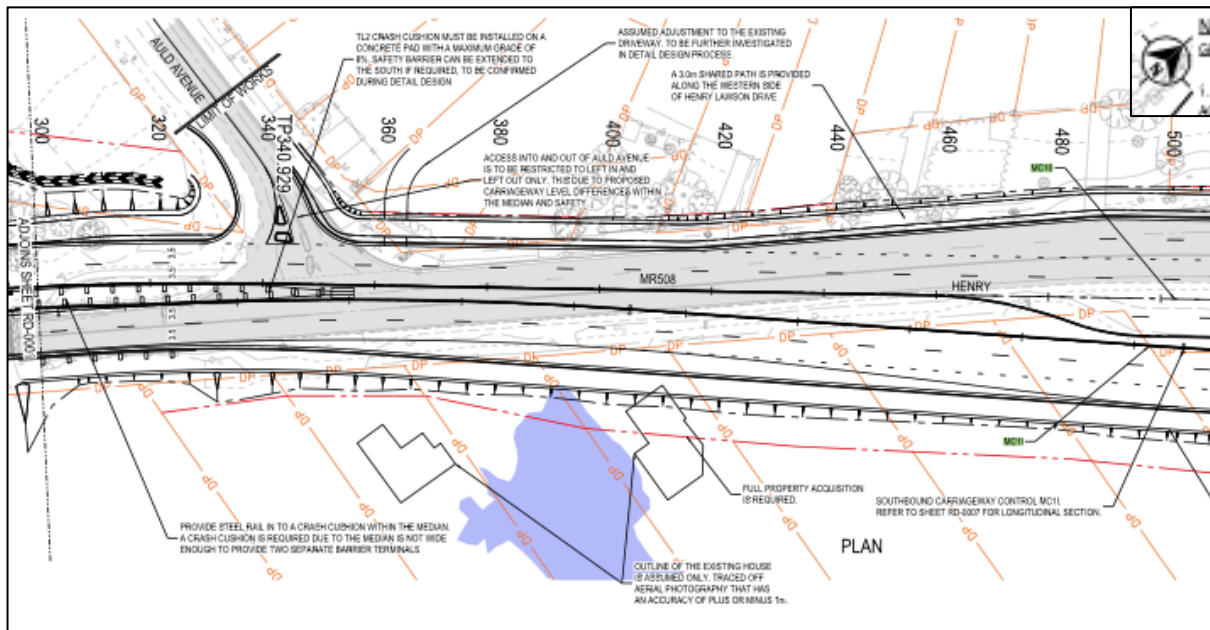


Figure 5 - Area 3 Scope of Works

Works proposed within Area 3 include removing ancillary structures such as fencing, outbuildings and the like, installing temporary fencing and erosion controls and use as ancillary facility. Potential uses for this ancillary facility include site staff parking, main site offices, materials storage, storage of topsoil, imported material, green waste. TfNSW intend to use the existing dwelling as a site office if possible.

DESIGNATED DEVELOPMENT

The areas highlighted in blue below form part of coastal wetlands as identified on the Coastal Wetlands and Littoral Rainforests Area Map. Clause 10 of SEPP (Coastal Management) 2018 states that any development undertaken on land identified as a coastal wetland requires development consent. Clause 10(2) also deems development on land within a coastal wetland as Designated Development in accordance with the EP&A Act 1979 and the EP&A Regulation 2000.

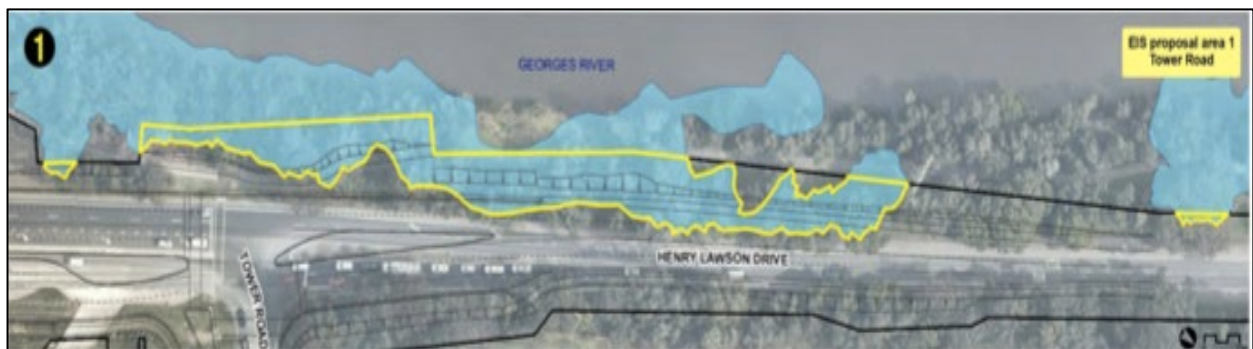


Figure 6 - Area 1 Coastal Wetlands (blue)



Figure 7 - Area 2 Coastal Wetlands (blue)

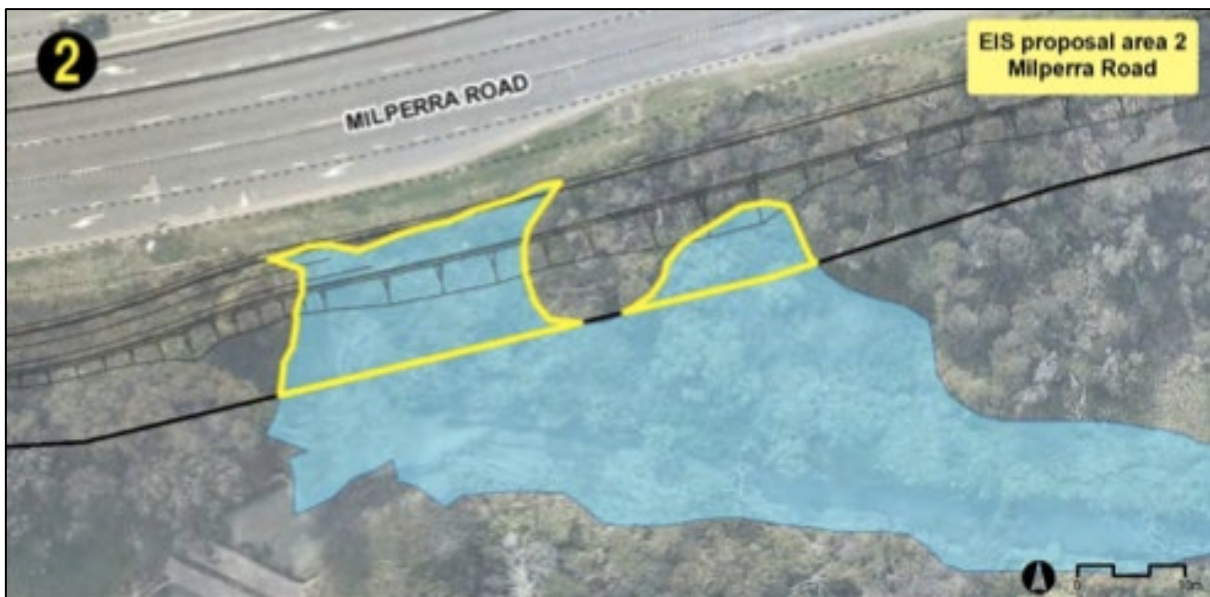


Figure 8 - Area 3 Coastal Wetlands (blue)

As such, prior to the preparation of an Environmental Impact Statement (EIS) the applicant applied to the NSW Department of Planning, Industry and Environment Planning Secretary for the environmental assessment requirements (SEARs) with respect to the proposed development. The required considerations of the SEARs have been addressed within the EIS submitted in support of the proposed development.

Only the works that impact the areas mapped as coastal wetlands are considered to be Designated Development, with any other works being assessed through the REF proposal.

LEGISLATIVE CONSIDERATIONS

The subject development requires assessment against a number of Act's that sit outside the matters for consideration within Section 4.15 of the Environmental Planning and Assessment Act 1979. These Act's are as follows:

- Biodiversity Conservation Act 2016
- Water Management Act 2000
- Land Acquisition (Just Terms Compensation) Act 1991
- Coastal Management Act 2016

Biodiversity Conservation Act 2016

A Biodiversity Development Assessment Report (BDAR) has been prepared in accordance with the Secretary's Environmental Assessment Requirements. The works associated with the EIS proposal will result in the impact on a number of threatened ecological communities (TEC's) identified in Schedule 2 of the Biodiversity Conservation Act 2016 (BC Act 2016). The TEC's are as follows:

- Freshwater Wetlands on Coastal Floodplains of the NSW North Coast, Sydney Basin and South East Corner Bioregions (Endangered)
- River-Flat Eucalypt Forest on Coastal Floodplains of the New South Wales North Coast, Sydney Basin and South East Corner Bioregions (Endangered)
- Swamp Oak Floodplain Forest of the New South Wales North Coast, Sydney Basin and South East Corner Bioregions (Endangered)

Of the three above TEC's listed by the BC Act 2016, two are also declared in the Environmental Protection Biodiversity Conservation Act 1999 (EPBC Act 1999) (Commonwealth Legislation) as being threatened ecological communities. These are:

- Coastal Swamp Oak (*Casuarina glauca*) Forest of New South Wales and South East Queensland ecological community (Endangered)
- River-flat eucalypt forest on coastal floodplains of southern New South Wales and eastern Victoria (Critically Endangered)

Prior to the selection of the proposed alignment for the wider project, two alternative alignments (being a separate 4 lane option and a 6 lane option) were considered in an effort to avoid and minimise impacts on biodiversity values. The investigation of alternative alignments was undertaken in order to satisfy Section 6.4 of the BC Act 2016, which requires that only after any steps taken to avoid or minimise those impacts can a Biodiversity Offset Scheme be considered. The preparation of two preliminary biodiversity assessments found that the option selected for the wider project had the least impact on biodiversity values in the area and as such, it is considered that the proposal has taken steps to avoid or minimise biodiversity impacts.

A total of 0.25 ha of BC Act 2016 listed TECs and 0.22 ha of EPBC Act 1999 TECs would require removal by the EIS proposal. Field surveys recorded one threatened fauna species within the study area, being *Myotis macropus* (Southern Myotis) (listed as Vulnerable under the BC Act 2016). Southern Myotis were found to be roosting in a culvert in the northern section of the overall proposal study area. It is therefore considered that there is potential for the species to utilise culverts and bridges that have waterbodies within proximity. They also may utilise hollow-bearing trees that are close to waterbodies within the area (i.e. areas near Georges River). The BDAR identifies that EIS proposal areas 1 and 2 are located within the Southern Myotis habitat.

The construction of drainage infrastructure within EIS proposal areas 1 and 2 would intersect with groundwater and thus may impact upon ground water dependent ecosystems (GDEs) particularly the Coastal Wetlands and Swamp Oak vegetation. Due to the relatively minor extent of excavations and the implementation of environmental groundwater safeguards it is unlikely that interception of groundwater flows would significantly affect groundwater dependent ecosystems within the EIS proposal area. The EIS proposal area is not expected to substantially interfere with subsurface or groundwater flows associated with the Georges River.

It has been assumed that three hollow-bearing trees (HBTs) will likely be removed as a result of the EIS proposal. All of these HBTs occurred within EIS proposal area 1. The total number of hollow-bearing trees to be impacted will be quantified during detailed design.

The estimate of biodiversity credits calculated using the BAM-C are preliminary as the detailed design has yet to be finalised. Detailed design would develop a Biodiversity Offset Strategy and this would be integrated with the Biodiversity Offset requirements for the REF proposal. Estimates of biodiversity credit requirements for the EIS proposal are summarised in the following table:

Biodiversity value requiring offsetting in accordance with BAM	Type of credit	Number of credits
Coastal Freshwater Lagoons of the Sydney Basin and South East Corner	Ecosystem	0
Forest Red Gum-Rough-barked Apple Grassy Woodland on Alluvial Flats of the Cumberland Plain, Sydney Basin	Ecosystem	1
Swamp Oak Swamp Forest Fringing Estuaries, Sydney Basin and South East Corner	Ecosystem	5
Swamp Paperbark - Swamp Oak tall shrubland on estuarine flats, Sydney Basin Bioregion and South East Corner Bioregion	Ecosystem	1
Southern Myotis	Species	8
Total number of ecosystem credits		7
Total number of species credits		8

Assessments of impacts of significance were conducted for all EPBC 1999 Act listed threatened species and ecological communities considered likely to be affected by the EIS proposal. These impact assessments determined that the EIS proposal is unlikely to lead to a significant impact on threatened species, populations, ecological communities or their habitats.

Key recommendations are as follows:

- limit the removal of native vegetation and threatened ecological communities where practical during detailed design and construction
- prepare and implement a Bat Management Plan during construction
- implement mitigation measures as outlined in Section 10 of the submitted Biodiversity Development Assessment Report to limit indirect and direct impacts to biodiversity values during detailed design and construction.

Council's Environmental Planner has reviewed the submitted BDAR as well as the overall proposal and determined that the methodology of the report and the recommendations contained within, to be sound and worthy of support, citing the relevant sections of the BC Act 2016 and the EPBC 1999 Act. It is considered that the proposed impact on the TEC's are able to be supported based on the information contained within the submitted BDAR subject to conditions of consent.

Water Management Act 2000

Section 91 of the Water Management Act 2000 requires an 'aquifer interference approval' to be issued for works that are considered to be an 'aquifer interference activity'. The works proposed under the subject Development Application are considered to include works that are an aquifer interference activity and ordinarily an aquifer interference approval would need to be issued by the Natural Resource Access Regulator (NRAR). In this instance however, an aquifer interference approval is not required as Section 41 of the Water Management Regulation 2018, provides an exemption for public authorities (such as Transport for New South Wales) from the need to obtain an aquifer interference approval. Notwithstanding this, the application was forwarded to NRAR and an opportunity to provide comments was provided. No comments were received.

Land Acquisition (Just Terms Compensation) Act 1991

The purpose of providing commentary here, relating to the Land Acquisition (Just Terms Compensation) Act 1991, is to provide a thorough understanding of the overall project. An assessment against the Act is not required in relation to the EIS proposal but it is in relation to the REF.

A number of properties require acquisition by TfNSW for the proposed development to proceed. A number of these properties are in the ownership of Council or the Crown, however one is in private ownership (439 Henry Lawson Drive, Milperra).

The property acquisition process would be undertaken in accordance with the *Land Acquisition Policy and the Land Acquisition (Just Terms Compensation) Act 1991* and Land Acquisition Reform 2016. Throughout the detailed design phase, the extent of property acquisition would be refined and consultation with relevant property owners would occur to develop property adjustment plans.

The acquisition and lease of these properties would be undertaken in accordance with the legislative requirements as listed in the *Crown Lands Management Act 2016*.

The proposal would require a partial property acquisition of a property that is subject to an Aboriginal land claim. TfNSW would continue to consult with Local Land Councils during the detailed design phase to minimise impacts to any Aboriginal land claim land.

SECTION 4.14 Assessment under the EP&A ACT 1979

Consultation and Development Consent – Certain Bush Fire Prone Land

Areas 2 & 3 of the EIS proposal are mapped as being bushfire prone land and as such, Section 4.14 of the Environmental Planning and Assessment Act 1979 is applicable. While a Bushfire Report has not been completed for this project as a separate document, the NSW RFS have indicated that as long as the matters they raised for consideration during the preparation of the EIS, are addressed in the EIS document, that they are satisfied that a separate report is not necessary.

The EIS document has addressed the bushfire safety concerns, and while there is limited risk due to the nature of the works, there may be concerns relating to the risk of bushfire during the construction phase and the risk to construction personnel. The EIS provides a number of environmental safeguards relating to bushfire protection that are recommended to be included in a development consent. Further, the NSW RFS provided a recommended condition of consent that at the time of writing this report, had been passed onto the applicant for discussion.

SECTION 4.15 Assessment under the EP&A ACT 1979

Evaluation

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

- State Environmental Planning Policy (Coastal Management) 2018
- State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy No 55 – Remediation of Land
- State Environmental Planning Policy No 19 – Bushland in Urban Areas
- Greater Metropolitan Regional Environmental Plan No 2—Georges River Catchment

- Bankstown Local Environmental Plan 2015 (BLEP2015)
- Bankstown Development Control Plan 2015 (BDCP 2015)

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

State Environmental Planning Policy (Coastal Management) 2018

Clause 5 of State Environmental Planning Policy (Coastal Management) 2018 states the policy applies to land within the coastal zone which is defined by the Coastal Management Act 2016 as the following areas:

- the coastal wetlands and littoral rainforests area,*
- the coastal vulnerability area,*
- the coastal environment area,*
- the coastal use area.*

The following areas within the EIS proposal are mapped as being coastal wetlands under State Environmental Planning Policy (Coastal Management) 2018 and as such, the SEPP and its relevant provisions apply to this application:

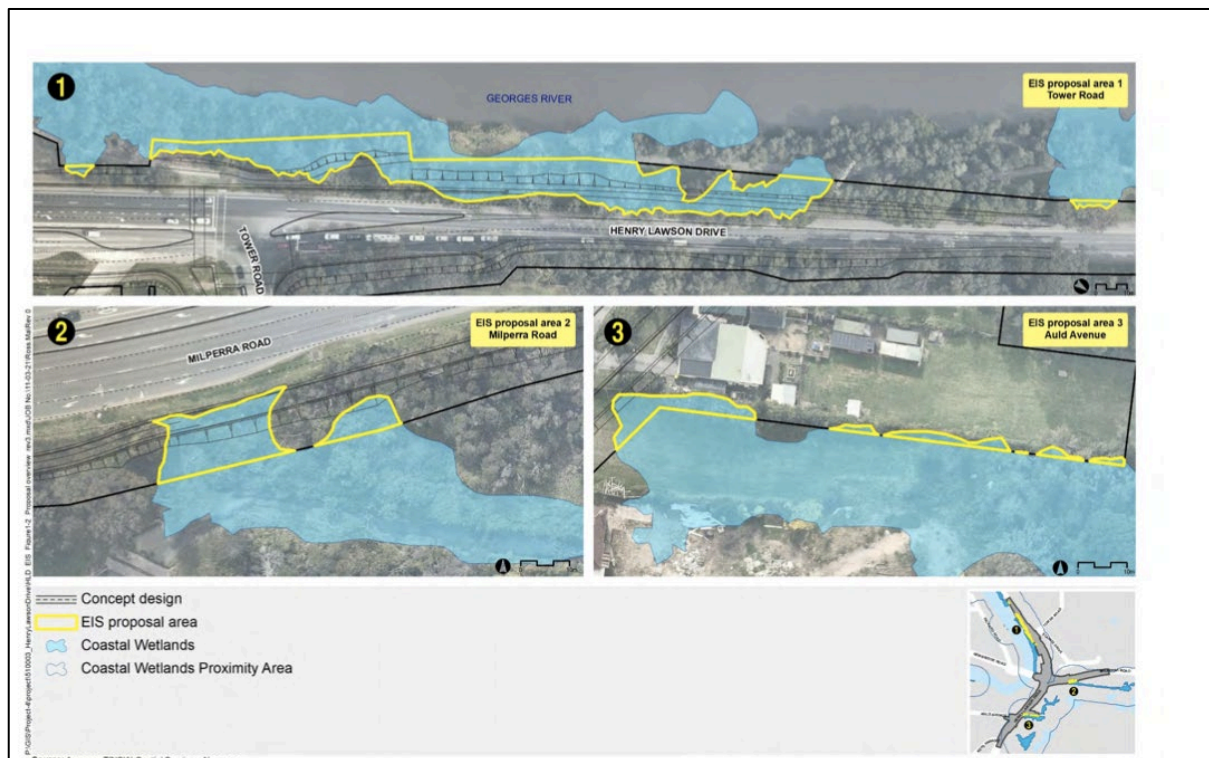


Figure 9 - Coastal Wetland Extent (blue)

Clause 10 of SEPP (Coastal Management) 2018 requires that any development undertaken on land identified as a coastal wetland requires development consent. Clause 10(2) also deems development on land within a coastal wetland as Designated Development in accordance with the EP&A Act 1979 and the EP&A Regulation 2000.

Clause 10(4) states that a consent authority must not grant consent for development on land within a coastal wetland unless the consent authority is satisfied that sufficient measures have been, or will be, taken to protect, and where possible enhance, the biophysical, hydrological and ecological integrity of the coastal wetland.

The submitted Environmental Impact Statement goes into depth the potential impacts of the proposal and the measures that have been and will be taken to protect and enhance the biophysical, hydrological and ecological integrity of the coastal wetland (refer to chapter 8 of the EIS).

Council's Environmental Planner, Team Leader Urban Policy and Planning and Catchment Manager Planner have reviewed the proposal and have had regard to the potential impacts the proposed works would have on the coastal wetland areas. It is considered that the proposed measures that have been taken and the measures that will be taken to protect and enhance the biophysical, hydrological and ecological integrity of the coastal wetland, provide for an appropriate response having regard to the presence of the coastal wetland and the nature of the work involved.

Clause 15 of SEPP (Coastal Management) 2018 requires that development consent not be granted in the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land. Coastal hazards are defined by the Coastal Management Act 2016 as follows:

coastal hazard means the following—

- (a) *beach erosion,*
- (b) *shoreline recession,*
- (c) *coastal lake or watercourse entrance instability,*
- (d) *coastal inundation,*
- (e) *coastal cliff or slope instability,*
- (f) *tidal inundation,*
- (g) *erosion and inundation of foreshores caused by tidal waters and the action of waves, including the interaction of those waters with catchment floodwaters.*

It is not considered that the works within the coastal zone will result in an increased risk of coastal hazards on the land or other land.

In light of the above, it is considered that the proposed development is consistent with the relevant provisions of SEPP (Coastal Management) 2018.

State Environmental Planning Policy (Infrastructure) 2007

Clause 94 of State Environmental Planning Policy (Infrastructure) 2007 allows for public authorities (such as TfNSW) to undertake development for the purpose of road infrastructure facilities (for which the proposed development relates to), to undertake the development without the need for consent. In this instance however, Clause 10 of SEPP (Coastal Management) 2018 prevails and development consent is required for the proposed development.

State Environmental Planning Policy No 55 – Remediation of Land

Clause 7 of State Environmental Planning Policy No 55 – Remediation of Land requires the consent authority to consider the following prior to granting consent:

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

A Preliminary Site Investigation (PSI) was undertaken by Aurecon across the wider REF area to determine if there was any contamination that required remediation. The PSI provided the following recommendations regarding contamination and remediation:

- As part of the detailed design phase of the proposal, a Detailed Site Investigation (DSI) should be undertaken near the Areas of Potential Environmental Concern (APECs) showing a moderate risk of Chemicals of Potential Concern (COPCs) at concentrations above the Tier I screening values. The scope of the DSI should be detailed in a Sampling Analysis and Quality Plan (SAQP) which should include collection of soil, groundwater and landfill gas samples near moderate risk APECS. The scope of the DSI should be in accordance with the NEPM 2013 and analytical results compared to the applicable Tier I screening values in Schedule B2 of the NEPM 2013.
- Analytical results from any spoil requiring off-site disposal should be compared to the concentrations in the *NSW EPA Waste Classification Guidelines Parts 1 to 4 and Addendum 1*. If natural soil is disturbed, it may meet the definition of Excavated Natural Material and the analytical data should be compared to the concentrations and requirements in the ENM Resource Recovery Order and Exemption under the Protection of Environmental Operations (Waste) Act 2000.
- A Construction and Environmental Management Plan (CEMP) should be prepared prior to construction commencing. The risk of potentially impacted soil migrating from site during construction, including dust generation and runoff can be minimised by utilising standard practices such as dust suppression, and erosion and sedimentation control. Other controls should include proper use of work health and safety (WH&S) equipment and monitoring of works where asbestos or other contamination is identified. The CEMP should also include an Unexpected Finds Protocol (UFP).
- If soils between 2 and 4 m are disturbed (within the REF proposal and all EIS proposal areas), an Acid Sulfate Soils Management Plan (ASSMP) should be included in the CEMP. The ASSMP should be informed by the results of the Detailed Site Investigation that would include the identification of presence and extent of ASS/PASS, particularly around the proposed bridge duplication works over Milperra Drain near Auld Avenue.
- Prior to any ground disturbance at investigation locations directly west of Bankstown Airport property boundary, investigation planning will incorporate an appropriate risk assessment to determine the likelihood of the presence of any unexploded ordinance and detail any additional management measures if required.

It is considered that the PSI and the recommendations contained within, adequately address the relevant provisions of State Environmental Planning Policy No – 55 Remediation of Land.

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

Clause 7 of State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 requires that Canterbury Bankstown Council issue a permit prior to any clearing of native vegetation.

In assessing the proposal to clear native vegetation, Clause 10(2) of State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 provides the following requirement:

A permit cannot be granted to clear native vegetation in any non-rural area of the State that exceeds the biodiversity offsets scheme threshold.

The proposed native vegetation to be cleared does not exceed the biodiversity offset scheme threshold and as such, can be considered.

Based on the information provided within the BDAR, it is considered that the proposed clearing of native vegetation can be supported.

State Environmental Planning Policy No 19 – Bushland in Urban Areas

Clause 6(1) of State Environmental Planning Policy No 19 – Bushland in Urban Areas states that a person shall not disturb bushland zoned or reserved for public open space purposes without the consent of the Council. Area 3 of the EIS proposal is made up of land zoned RE1 Public Recreation under the Bankstown Local Environmental Plan 2015, so while this clause would ordinarily apply to the subject development, subclause 2 states that development consent is not required for the purpose of constructing or maintaining a main road. Henry Lawson Drive would be considered a main road in accordance with Section 4 – Interpretations, of State Environmental Planning Policy No 19 – Bushland in Urban Areas, and as such development consent is not required under the policy.

Greater Metropolitan Regional Environmental Plan No 2—Georges River Catchment

The site is located within land identified as being affected by Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment, being a deemed SEPP under Clause 123 of Schedule 1 of the EP&A (Savings, Transitional and Other Provisions) Regulations 2017. The GMREP No.2 contains a series of general and specific planning principles which are to be taken into consideration in the determination of development applications. An assessment of the proposal indicates that the development is generally consistent with the aims and objectives of the plan, the general planning principles as set out in Section 8 and the relevant specific planning principals set out in Section 9 of the GMREP No.2.

Section 10 of the GMREP No.2 provides a planning control table, with specific considerations provided based on the type of development. The proposed development is consistent with the relevant planning controls.

Bankstown Local Environmental Plan 2015

An assessment of the Development Application revealed that the proposal complies with the provisions contained in the Bankstown Local Environmental Plan 2015. The relevant provisions that apply to the proposed development are produced below:

Provision/ Standard	Requirement	Proposal	Complies
Part 1 Preliminary			
1.2 Aims of the plan	Consistency with the aims.	Consistent with the relevant aims of the BLEP 2015	Y
1.3 Land to which plan applies	Area within the Land Application Map	The EIS area is located within the Land Application Map referred to in Clause 1.3 of the BLEP 2015.	Y
Part 2 Permitted or Prohibited Development			
2.1-2.3 Zoning	The land, being subject of this development application is zoned SP2 Infrastructure & RE1 Public Recreation	The proposed development is permitted with consent	Y
Part 5 Miscellaneous Provisions			
5.1 Relevant acquisition authority	Identify, for the purposes of section 3.15 of the Act, the authority of the State that will be the relevant authority to acquire land reserved for certain public purposes if the land is required to be acquired under Division 3 of Part 2 of the Land Acquisition (Just Terms Compensation) Act 1991 (the owner-initiated acquisition provisions).	The authorities identified on the land acquisition map included both Council for the RE1 Public Recreation zoned land and TfNSW for the SP2 Infrastructure zoned land.	This matter will be addressed through the REF
5.1A Development on land intended to be acquired for public purposes	Limit development on certain land intended to be acquired for a public purpose.	Development for the purpose of 'recreation area' is the only development permitted on the land zoned as RE1 Private Recreation. While development is proposed on the land for a purpose other than recreation facility, Clause 5.12 of the BLEP 2015 allows for the proposed development.	See Clause 5.12 below

Provision/ Standard	Requirement	Proposal	Complies
5.12 Infrastructure development and use of existing buildings of the Crown	This Plan does not restrict or prohibit, or enable the restriction or prohibition of, the carrying out of any development, by or on behalf of a public authority, that is permitted to be carried out with or without development consent, or that is exempt development, under State Environmental Planning Policy (Infrastructure) 2007.	<p>Although Clause 5.1A prohibits development in Area 3 for a purpose other than a recreation area, this Clause allows the proposed development to be undertaken, as Clause 94 of State Environmental Planning Policy (Infrastructure) 2007 allows for public authorities (such as TfNSW) to undertake development for the purpose of road infrastructure facilities (for which the proposed development relates to), without the need for consent.</p> <p>Although in this instance development consent is required, this is because of a separate legislative instrument and doesn't change the fact that development for road infrastructure facilities is permitted without consent under State Environmental Planning Policy (Infrastructure) 2007.</p>	Y

<p>5.21 Flood Planning</p>	<p>Development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development—</p> <ul style="list-style-type: none"> (a) is compatible with the flood function and behaviour on the land, and (b) will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and (c) will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and (d) incorporates appropriate measures to manage risk to life in the event of a flood, and (e) will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses. <p>In deciding whether to grant development consent on land to which this clause applies, the consent authority must consider the following matters—</p> <ul style="list-style-type: none"> (a) the impact of the development on projected changes to flood behaviour as a result of climate change, 	<p>While the submitted EIS was prepared prior to Clause 5.12 being adopted into the Standard Instrument LEP, the Flooding Assessment Report submitted with the application is considered to have demonstrated that the proposed development is consistent with the relevant provisions of Clause 5.12 of the BLEP</p>	<p>Y</p>
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Provision/ Standard	Requirement	Proposal	Complies
	(b) the intended design and scale of buildings resulting from the development, (c) whether the development incorporates measures to minimise the risk to life and ensure the safe evacuation of people in the event of a flood, (d) the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion.		
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.	A condition of consent requires an Acid Sulfate Soils Management Plan to be prepared prior to works commencing. The Acid sulfate soil plan shall be provided to Council prior to works commencing.	Y

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. 	The proposed earthworks are considered acceptable and consistent with this clause.	Y

6.6 Development in Areas subject to Aircraft Noise	<p>(2) Development consent may be granted to development that is the erection of a dwelling (other than a dwelling house) on land in the vicinity of the Bankstown Airport where the ANEF contour is between 20 and 25 only if the dwelling meets the standards specified in AS 2021—2000.</p> <p>(3) Development consent may be granted to development that is the erection of a dwelling house or seniors housing on land in the vicinity of the Bankstown Airport where the ANEF contour exceeds 25 only if the consent authority is satisfied that the nature of occupation or internal noise attenuation measures enable reasonable amenity for the occupants.</p> <p>(4) Development consent must not be granted to development for the purposes of a dual occupancy, multi dwelling housing, attached dwelling, boarding house or centre-based child care facility on land in the vicinity of the Bankstown Airport where the ANEF contour exceeds 25.</p> <p>(5) Development consent may be granted to development that is the erection of hotel or motel accommodation, office premises or a public administration building on land in the vicinity of Bankstown Airport where the ANEF contour for the</p>	<p>While the 3 areas of the EIS proposal are within the ANEF Contour and area affected by aircraft noise, no attenuation measures are required as the proposed development does not include any residential accommodation, child care centres, hotel, motel, office premises or public administration building.</p>	<p>Y</p>
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Provision/ Standard	Requirement	Proposal	Complies
	Bankstown Airport is above 25 only if the building meets the standards specified in AS 2021—2000		

SECTION 4.33 under the EP&A ACT 1979

Determination of Crown development applications

Section 4.33 of the Environmental Planning and Assessment Act 1979 reads as follows:

4.33 Determination of Crown development applications

(1) A consent authority (other than the Minister) must not—

- (a) refuse its consent to a Crown development application, except with the approval of the Minister, or*
- (b) impose a condition on its consent to a Crown development application, except with the approval of the applicant or the Minister.*

Pursuant to Clause 226 of the Environmental Planning and Assessment Regulation 2000, Transport for NSW is a Crown Authority. As a result, Section 4.33(1)(b) requires Council to obtain the consent of the applicant (TfNSW) to impose a condition on its consent.

Regular communication has occurred between Council and TfNSW in respect to the wording provided to the recommended conditions of consent. Due to the lead time in having to have this report finalised so as to make the December LPP agenda, Council had not yet received a response to a set of draft conditions that had been prepared and forwarded to TfNSW. As such, the recommended conditions of consent that accompany this report have not been agreed to by TfNSW. Communication will continue between now and when the matter is heard by the Panel in an attempt to obtain the Crown's approval.

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

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

With respect to the proposed development, the proposal is considered to be consistent with the draft instrument.

Development control plans [section 4.15(1)(a)(iii)]**Bankstown Development Control Plan 2015****Part B11 – Tree Preservation Order**

Part B11 of the Bankstown Development Control Plan 2015 (BDCP 2015) provides controls that relate to the protection of trees. The trees proposed to be impacted under this application are considered to be ‘prescribed trees’ by Part B11 of the BDCP 2015 as a prescribed tree is defined as, amongst other things, all trees, regardless of size, listed as Vulnerable or Endangered or a component of an Endangered Ecological Community listed under the Biodiversity Conservation Act 2016.

The removal of the prescribed trees has been assessed in the submitted BDAR which has been reviewed by Council’s Environmental Planner and Team Leader Urban Policy and Planning. The review of the BDAR found that subject to conditions, the removal of the prescribed trees can be supported.

Part B12 – Flood Risk Management

All three areas of the EIS proposal are affected by flooding, ranging from medium to high stormwater inundation as well as medium to high riverine flooding.

While Part B12 of the BDCP 2015 applies, there are no specific controls that relate to roads or the ancillary aspects of the EIS proposal.

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

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

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

The development is consistent with the applicable provisions contained in the *Environmental Planning and Assessment Regulation 2000*.

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

While the EIS proposal will have an impact on Coastal Wetlands and the associated biodiversity of the ecosystems, it is considered that this is worthy of support, when taking into consideration the positive impacts that the wider development (REF & EIS inclusive) will have. The project has been designed with the following objectives in mind:

- Improve travel times, journey time reliability and road safety outcomes for all road users
- Improve freight efficiency and reduce vehicle operating costs on the road network

- Support new development in the precinct by improving traffic flow and connectivity to
- Bankstown Airport, Milperra Industrial Estate and proposed residential development in the area and the surrounding road network in the south west of Sydney
- Improve connectivity and safety for pedestrians and cyclists.

The EIS proposal would support these objectives as part of the overall proposal. The increased capacity of roads would result in significant improvements in traffic delay and traffic volume throughput at the Milperra/Newbridge Road and Tower Road intersections. In conjunction with other stages of the Henry Lawson Drive upgrade, the proposal would ease existing traffic congestion issues and improve freight access between the M5 Motorway and Hume Highway. Extension of pedestrian and shared paths would improve connectivity and safety for active transport users.

Given the above, it is considered that the proposed development is worthy of support taking into consideration its likely impacts.

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

It is considered that the site is suitable for the proposed development.

Submissions [section 4.15(1)(d)]

The application was advertised for a period of (44 days as required by the Canterbury Bankstown Community Participation Plan, and in accordance with the additional requirements for Designated Development in the Environmental Planning and Assessment Act 1979 and the Environmental Planning and Assessment Regulation 2000.

Responses were received from 28 individuals. It should be noted that a large portion of the responses received were more relevant to the broader proposal, falling under the scope of the works assessed through the REF. The responses that were not specifically relevant to the EIS proposal was forwarded to TfNSW for their consideration of the REF proposal. Of the 28 submissions, three are relevant to the EIS proposal and are addressed below:

Submission: Tree removal

Response: Although the proposed development results in the removal of trees and other vegetation, it is necessary to ensure that the infrastructure can be delivered. TfNSW investigated the ability to avoid all of the Coastal Wetlands, however this was not possible and the development footprint selected took into account the following:

- Reduced acquisition impacts of residential properties compared to the other options.
- Reduced impacts on utilities along the western side of Henry Lawson Drive south of Newbridge Road.
- Improved geometry along Henry Lawson Drive compared to the other options.

The alignment would allow for future proofing of Henry Lawson Drive at the intersection with

- Newbridge Road and Milperra Road. This option allows for an additional through lane along Henry Lawson Drive northbound in the future with limited strip property acquisitions.

Further, the development application included a Biodiversity Development Assessment Report which was reviewed by Council's Environmental Planner and found to sufficiently justify the proposed tree removal. Offsetting of the removed vegetation will also be required in accordance with the Biodiversity Conservation Act 2016, with the details of the offsetting to be determined in consultation with Council once the detailed design is completed.

Submission: Bus shelter location

Response: A condition of consent requires that the bus shelter is required to be relocated outside of the coastal wetlands.

Submission: Landscaping

Response: Landscaping selections will be determined during the detailed design phase, with the selections to be in accordance with the following condition:

TfNSW are to consult with Council during detailed design and prior to works commencing, in regards to species selection that are representative of existing plant community types within the study area, street tree species and landscaping treatments.

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

It is considered that the proposed development, being part of the larger Henry Lawson Drive upgrade, is in keeping with the public interest.

CONCLUSION

The Development Application has been assessed in accordance with the provisions of Section 4.15(1) of the Environmental Planning and Assessment Act 1979. The assessment above has found that the proposed development is worthy of support, subject to the conditions attached to this report.

RECOMMENDATION

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

SCHEDULE 1 – DEFERRED COMMENCEMENT REQUIREMENTS

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

1. Deferred Commencement Conditions.

- 1.1. Prior to the activation of the development consent, Transport for New South Wales shall provide evidence that they have received approval for the Henry Lawson Drive Upgrade Stage 1A through the REF process.

SCHEDULE 2 – FORESHADOWED CONDITIONS

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

2. Approved Development.

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

Plan No.	Plan Name	Date	Revision	Prepared By
CO-0001	Cover Sheet	4/09/2020	A	Transport for New South Wales
LG-0000	Legends	31/08/2020	3	
TY-0001	Typical Cross Sections			
RD-0002	General Arrangement and Long Section			
RD-0003				
RD-0004				
RD-0005				
RD-0006				
RD-0008	Long Sections			
UT-0004	Utilities and Stormwater Plan			
UT-0005				
RC-0001	Cross Sections – Henry Lawson Drive MC10	2		
RC-0002				
RC-0004				
RC-0005				
RC-0015				
RC-0016				
RC-0017				
RC-0018				
RC-0019	Cross Sections – Milperra Road MC20			
RC-0026				
RC-0028				
RC-0029				

PW-0003	Property Works		3	
PW-0004				
PW-0005				

Document No.	Document Name	Date	Revision	Prepared By
21.158	Part 4 Environmental Impact Statement	July 2021	-	Aurecon and Transport for NSW
PS119522	Biodiversity Development Assessment Report	16/07/2021	D	WSP and Transport for NSW
20-596	Surface Water Assessment	7/07/2021	Final Rev 2	NGH
510003	Socio-economic Impact Assessment	19 May 2021	2	Aurecon
AM513	Flooding Assessment Report	July 2021	1.5	Lyall & Associates
510003	Statement of Heritage Impact	4 March 2021	2	Aurecon
1829	Aboriginal Cultural Heritage Assessment	8 September 2020	0.5	Kelleher Nightingale Consulting
-	Noise and Vibration Impact Statement	20 May 2021	3	Aurecon
P.0065812	Traffic and Transport Impact Assessment Report	17 May 2021	2	Transport for NSW and Aurecon
221-0015-00	Urban Design Report Including Landscape Character and Visual Impact Assessment	8 July 2021	4	Tract
510003	Groundwater Impact Assessment	20/05/2020	3	Aurecon
510003	Preliminary Site Investigation	8/03/2021	3	

Note: In the event of any inconsistency between the approved plans and the supporting documentation, the approved plans prevail.

3. Conditions to be Satisfied Before Works

- 3.1. Development Contributions of \$13,000 must be paid for this development before the commencement of any works. The contributions are levied and applied under the Bankstown Development Contributions Plan 2019-and Section 7.12 of the *Environmental Planning and Assessment Act 1979*. The contributions will be used to provide, extend or augment public amenities or public services.

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

No construction is to commence until payment of development contributions. Construction of the development may NOT commence until the development contributions are paid.

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

- 3.2. Crown building work must not be commenced unless the building work is certified by or on behalf of the Crown to comply with the technical provisions of the State's building laws.
- 3.3. Prior to works commencing, the Environmental Management Measures detailed in Table 10-1 of the submitted Environmental Impact Statement shall be adopted.
- 3.4. During detailed design and prior to works commencing, the recommendations contained with the specialists reports detailed in Condition 1.1 of this development consent, shall be adopted.
- 3.5. The Certifying Authority must ensure that any certified plans forming part of the detailed design are not inconsistent with this Development Consent and accompanying plans.
- 3.6. Prior to the commencement of works, any required property acquisition and leasing of land, must be undertaken in accordance with the relevant policies.
- 3.7. TfNSW are to consult with Council during detailed design and prior to works commencing, in regards to species selection that are representative of existing plant community types within the study area, street tree species and landscaping treatments.
- 3.8. TfNSW are to consult with Council during detailed design and prior to works commencing, regarding the offset of microbat habitat and are to provide the Bat Management Plan to Council for review.
- 3.9. TfNSW are to consult with Council during detailed design and prior to works commencing, regarding improvements to the extent and quality of the native PCTs in Airport Reserve to address offset obligations under the Biodiversity Offset Guidelines (RMS 2016).

- 3.10. TfNSW are to consult with Council during detailed design and prior to works commencing, regarding the relocation of the bus shelter outside of the coastal wetland.
- 3.11. The construction environmental management plan (CEMP) is to be provided to Council for review, prior to works commencing.
- 3.12. TfNSW are to consult with Council during detailed design and prior to works commencing regarding erosion and sediment control strategy.
- 3.13. TfNSW are to consult with Council during detailed design and prior to works commencing regarding operational WSUD options.
- 3.14. TfNSW are to consult with the NSW Rural Fire Service prior to works commencing and adopt any requirements stipulated during consultation.
- 3.15. Prior to the commencement of work, the person having the benefit of this Determination Notice must provide a temporary on-site toilet if access to existing toilets on site is not adequate/available. Temporary on-site toilet facilities must be installed and be adequately maintained throughout the construction period.
- 3.16. A sign must be erected in a prominent position on any site on which building work or demolition work is being carried out:
 1. showing the name, address and telephone number of the principal certifier for the work, and
 2. showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 3. stating that unauthorised entry to the work site is prohibited.

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

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

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

A PRIVATE CERTIFIER CANNOT ISSUE THESE PERMITS

WORKS REQUIRING A 'WORKS PERMIT'

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

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

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

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

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

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

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

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

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

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

3.18. A Work Permit shall be applied for and obtained from Council for the following engineering works in front of the site, at the applicant's expense:

- a) Drainage connection to Council's system.
- b) Concrete footway paving where required.
- c) Removal of all driveway surfaces, reinstatement of laybacks to kerb and gutter and reshaping of the footway, all associated with redundant VFCs.
- d) Repair of any damage to the public road including the footway occurring during development works.
- e) Reinstatement of the footway reserve and adjustment or relocation of existing public utility services to match the footway design levels as proposed on the approved Work Permit. Adjustment or relocation to any public utility services shall be carried out to the requirements of the public utility authority.

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

4. Conditions to be Satisfied During Works.

- 4.1. Building work must be carried out in accordance with the requirements of the BCA.
- 4.2. Building work, construction work or demolition work may only be carried out between 7.00 am and 6.00 pm on Monday to Friday, or between 8.00 am and 1.00 pm on Saturdays, and no construction is to be carried out at any time on a Sunday or a public holiday.
- 4.3. There must not be any stockpiling of building spoil, materials, or storage of equipment on the public road during the construction period. The footway and the road reserve must always be maintained in a safe condition. No work can be carried out on the public road, including the footway, unless a Work Permit authorised by Council has been obtained.
- 4.4. All civil and hydraulic engineering works on site must be carried out in accordance with Council's Bankstown Development Engineering Standards. All Civil and Hydraulic engineering works associated with Council's assets and infrastructure must be carried out in accordance with Council's Work Permit requirements and to Council's satisfaction.
- 4.5. TfNSW are to consult with Council regarding implementation of erosion and sedimentation strategy during construction with periodic review and findings.
- 4.6. TfNSW are to consult with Council regarding construction water quality before releasing to the wetlands and Georges River and TfNSW will monitor that treated/releasing water meets the Botany Bay and catchment water quality targets.
- 4.7. Community involvement and engagement through the construction phase for the overall proposal shall be undertaken by TfNSW and the construction contractor. Activities/notifications shall occur include:
 - Advanced/start of work notifications;
 - Traffic management notifications, including any lane closures;
 - Night time work notifications and consultation;
 - Quarterly project updates;
 - Responding to enquiries and complaints;
 - End of construction;
 - Ongoing construction communications.

5. Conditions to be Satisfied Before to Completion of Works.

- 5.1. Completion of works shall not be certified until all conditions relating to demolition, building and subdivision works have been satisfied and Council has issued a Work Permit Compliance Certificate (where applicable).

6. Ongoing Conditions.

- 6.1. TfNSW will be responsible for the maintenance of the landscape plantings installed as part of the proposal.
- 6.2. TfNSW will be responsible to maintain all WSUD assets and stormwater drainage infrastructure over their lifetime as per TfNSW and Council's asset management strategy.

-END-

Canterbury Bankstown Local Planning Panel - 06 December 2021

ITEM 3	DA-794/2020 - 773-777 Canterbury Road, Belmore Demolition of existing structures and construction of a five storey residential flat building development containing 37 units above two levels of basement car parking, with associated landscaping and communal open space. The application also includes the subdivision of 137sqm of land along Wilson Lane to dedicate to Council for laneway widening.
FILE	DA-794/2020 – Bunmarra / Roselands
ZONING	R4 High Density Residential
DATE OF LODGEMENT	9 September 2020
APPLICANT	Loucas Architects
OWNERS	Mr W Vasiliades, Mr P Vasiliades and Mr G Vasiliades
ESTIMATED VALUE	\$11,934,681.00
AUTHOR	Planning

REPORT

This matter is reported to Council as the application seeks consent for a development 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-794/2020 proposes the demolition of existing structures and the construction of a five (5) storey residential flat building development containing 37 residential apartments above two (2) levels of basement car parking, with associated landscaping and communal open space.

DA-794/2020 has been assessed against Water Management Act 2000, State Environmental Planning Policy No. 55- Remediation of Land, State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development, State Environmental Planning Policy (Infrastructure) 2007, State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, Canterbury Local Environmental Plan 2012, Canterbury Development Control Plan 2012 and Draft Canterbury Bankstown Local Environmental Plan.

Based on Council's assessment, the proposal complies with the relevant controls apart from the following:

- Part 3D - Communal and Public Open Space of the Apartment Design Guide, particularly regarding the solar access to the communal area.
- Part 3F – Visual Privacy within the Apartment Design Guide.
- Setback controls contained within Part C4.2.2.3 of Canterbury Development Control Plan 2012 (CDCP 2012) particularly regarding side setbacks and setbacks of upper levels.
- Front fence height control contained within Part C4.2.5.1 of CDCP 2012.

For the reasons outlined within the assessment report, the proposed variations to the abovementioned controls are considered acceptable, on merit, in this circumstance.

The application was initially notified for a period of 21 days. No submissions were received during this period. The amended application was re-notified for a period of 21 days. A total of two submissions (from the same household) were received during this period. In summary, the following concerns were raised in the two (2) submissions received:

- *Privacy impacts.*
- *Setback non-compliances.*
- *Overshadowing impacts.*
- *Traffic and Parking Impacts*

The application was re-advertised a third time for a further 21-day period (27 October 2021 – 16 November 2021). Two submissions (from different households to those submitted previously) were received during this period which raised the following additional concerns:

- *The proposal is inconsistent with the character of the site, its surroundings and the desired future character of the area.*
- *The proposal does not respect the heritage buildings along Canterbury Road.*
- *The development will detract from the beautiful Church next door. Developments adjoining cultural buildings should be designed by firms such as Smart Design Studios.*
- *The height imposes on the Church.*
- *Many of the developments that go up in the area are designed from the same Architects. Council should encourage developers to use different architects.*
- *The history of Canterbury Road should be respected.*
- *The construction and demolition phase will disrupt surrounding properties.*
- *Too many developers are building in the area and the proposed units will only add to the empty building syndrome already apparent in the surrounding area.*
- *The development will result in an increase in air and noise pollution and create further issues for children and families accessing the local school and church via Wilson Lane.*
- *The addition of a few trees in this planning development is tokenistic and will do nothing to address the real problem of increasing bad air quality due to pollution from increasing traffic along Canterbury Road.*

The above matters raised in the submissions are addressed within the body of the report.

It is therefore recommended that the Application be approved, subject to conditions.

POLICY IMPACT

This matter has no direct policy implications

FINANCIAL IMPACT

This matter has no direct financial implications

RECOMMENDATION

It is recommended that the application be approved, subject to the conditions stated in Attachment B.

ATTACHMENTS

- A. Assessment Report
- B. Conditions of Consent

DA-794/2020 ASSESSMENT REPORT

BACKGROUND

On 3 April 2014, the former Canterbury City Council's City Development Committee approved DA-261/2011 for the demolition of existing structures and construction of a mixed-use development containing two ground floor commercial units, 18 residential apartments with basement parking. This application was assessed under former controls which included controls that permitted mixed use developments.

On 9 September 2020, DA-794/2020 was submitted to Council by Loucas Architects for the construction of a five storey residential flat building development containing 39 units above 2 levels of basement car parking, with associated landscaping and communal open space. The Application was initially publicly advertised for 21 days. No submissions were received during this period.

On 26 February 2021, Council issued an additional information request letter raising the following concerns based on a preliminary assessment:

- Updated survey required.
- Additional information to determine whether the development triggered Integrated Development pursuant to the Water Management Act 2000.
- Additional information to address the requirements of Clauses 101 and 102 of the State Environmental Planning Policy (Infrastructure) 2007.
- Non-compliances with requirements of the Apartment Design Guide (ADG) including public domain interface communal open space, building separation, solar access, natural ventilation, apartment size and layout, storage and acoustic privacy.
- Non-compliance with the maximum floor space ratio (FSR) development standard outlined within Canterbury Local Environmental Plan 2012 (CLEP 2012).
- Additional information to determine compliance with the maximum building height control as well as the requirements outlined within Clause 6.6 – Essential Services within CLEP 2012.
- Non-compliances with controls outlined within Canterbury Development Control Plan 2012 (CDCP 2012) relating to car parking, crime prevention, layout and orientation, height, setbacks, building design, overshadowing, fences and building services.
- Concerns raised by Council's Traffic, Engineering, Waste, Urban Design, Infrastructure and Environmental Health Officers.
- Clarification required on various matters.

The above information was requested to be provided by 19 March 2021. A meeting and additional clarification was provided (via various emails) between the time that the letter was issued, and additional information was provided on 7 May 2021. The additional information was renotified.

Upon review of the additional information, a further additional information request letter was issued on 22 September 2021 providing the Applicant a further opportunity to address concerns raised by Council in relation to compliance with State Environmental Planning Policy (Infrastructure) 2007 (ISEPP), State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development (SEPP 65), relevant controls contained in CLEP 2012 and CDCP 2012 as well as comments raised by Council’s Urban Design, Waste, Traffic, Spatial Planning, Landscaping and Development Engineering Teams. This information submitted on 13 October 2021,

The amended application seeks consent for the demolition of existing structures and construction of a five (5) storey residential flat building development containing 37 apartments, two (2) levels of basement car parking and associated communal open space and landscaping. The application also comprises consolidation of the existing allotments and subdivision of a 3m wide extension (137m²) of the rear laneway to be dedicated to Council. The application was publicly re-advertised for a further 21 days between 27 October 2021 – 16 November 2021. Two submissions were received during this period (from different households to those submitted previously) and the matters raised within all the submissions received are discussed within the body of this report.

Additional information was requested of the Applicant on 8 November 2021 to address matters relating to waste, floor space ratio, development engineering and BASIX. The information was submitted on 9 November 2021. The nature of the proposal does not alter from that submitted on 13 October 2021.

The assessment below is based on the information currently before Council.

For the reasons outlined within this report, the proposal is recommended for approval, subject to conditions of consent.

SITE & LOCALITY DESCRIPTION

The subject site is known as 773-777 Canterbury Road, Belmore and is legally described as Lots 19, 20 and 21 in DP 4387. The site is an irregular allotment that is zoned R4 High Density Residential. It has a primary frontage to Canterbury Road of 45.955m and a secondary frontage to Wilson Lane of 45.815m and a total site area of 2,121.9m². It falls approximately 1.5m from the northern boundary to the southern boundary.

The subject site is currently used for the storage of building and landscaping supplies and is accessed via Canterbury Road.

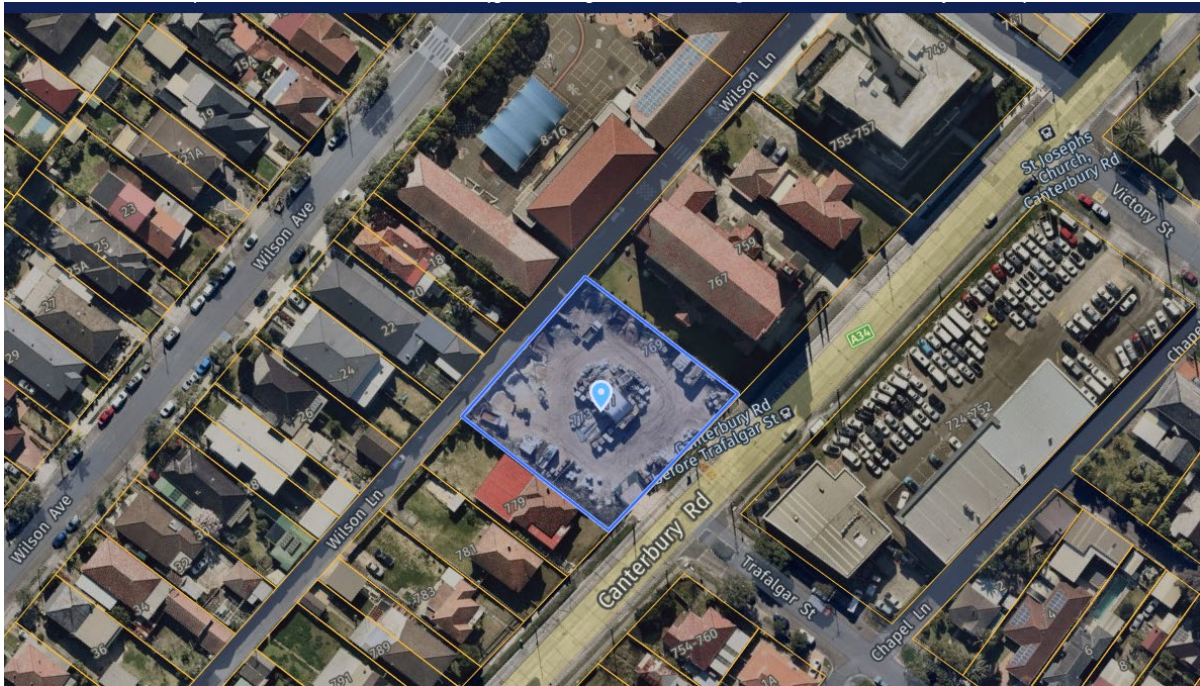


Figure 1: Aerial of subject site in blue.

Source: NearMaps 2020

In terms of surrounding land uses, a Church directly adjoins the site to the east. Directly to the west of the site are single storey residential dwellings. To the north of the site, on the opposite side of Wilson Lane is R3 Medium Density Residential zone comprising a range of developments including a Primary school, dwellings and dual occupancy developments. Directly to the south of the site, on the opposite side of Canterbury Road is R4 High Density Residential zoned land and B5 Business Development zone comprising of residential development and a vehicle showroom respectively.

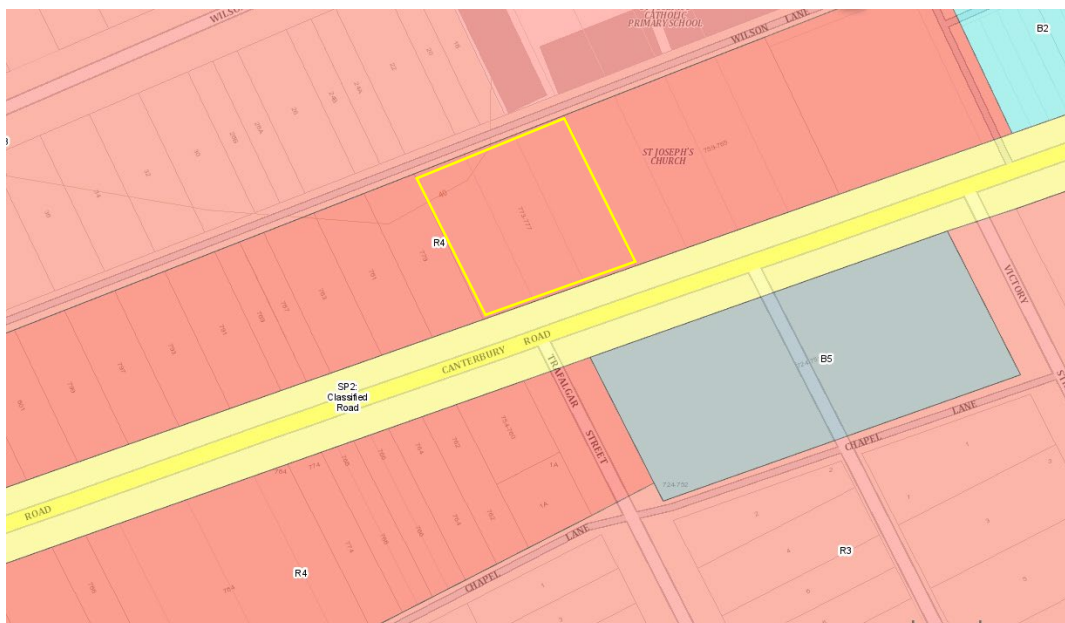


Figure 2: Zoning Map (subject site outlined in yellow)

Source: Planning Portal

PROPOSED DEVELOPMENT

The Development Application proposes the demolition of existing structures, and construction of a five storey residential flat building development containing 37 apartments, two levels of basement car parking and associated communal open space and landscaping. The application also comprises consolidation of the existing allotments and Torrens title subdivision of a 3m wide extension of the rear laneway to be dedicated to Council.

The specifics of the development are as follows:

Floor	Description
Basement Level 2	<ul style="list-style-type: none"> • 30 x residential car parking (including 2 x accessible parking spaces). • 1 x car wash bay. • 6 x bicycle spaces. • Storage. • Lift and stair access to upper levels.
Basement Level 1	<ul style="list-style-type: none"> • 16 x residential car parking spaces (including 2 x accessible parking spaces). • 12 x visitor parking spaces (including 1 x accessible parking space). • 6 x bicycle spaces. • Fire Hydrant Pump Room. • Main Distribution Board room. • Storage • Lift and stair access to other levels.
Ground Floor	<ul style="list-style-type: none"> • 2 x one-bedroom apartments with associated private open space (including 1 x adaptable apartment). • 4 x two-bedroom apartments (1 x adaptable apartment) with associated private open space. • Communal Open space area. • Gymnasium (50m²). • Landscaping. • Bin Storage area. • Lift and stair access to other levels. • Subdivision of land 3m wide (137m²) along the Wilson Lane frontage. This area is to be dedicated to Council.
Level 01	<ul style="list-style-type: none"> • 1 x one-bedroom apartment with associated private open space. • 6 x two-bedroom apartments with associated private open space. • 1 x three-bedroom apartment with associated private open space. • Lift and stair access to other levels.
Level 02	<ul style="list-style-type: none"> • 1 x one-bedroom apartment with associated private open space.

	<ul style="list-style-type: none"> • 6 x two-bedroom apartments (including 1 x adaptable) with associated private open space. • 1 x three-bedroom apartment with associated private open space. • Lift and stair access to other levels.
Level 03	<ul style="list-style-type: none"> • 1 x one-bedroom apartment with associated private open space. • 6 x two-bedroom apartments (including 1 x adaptable) with associated private open space. • 1 x three-bedroom apartment with associated private open space. • apartment with associated private open space. • Lift and stair access to other levels.
Level 04	<ul style="list-style-type: none"> • 1 x one-bedroom apartment with associated private open space. • 5 x two-bedroom apartments with associated private open space. • 1 x three-bedroom apartment with associated private open space. • Lift and stair access to other levels.

Statutory Considerations

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

- Water Management Act 2000
- State Environmental Planning Policy 55 – Contaminated 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)]**Water Management Act 2000**

The application was accompanied by a Groundwater Review Report prepared by Morrow Geotechnics Pty Ltd dated 5 May 2021. The report concluded that the groundwater level is greater than 6.5m below natural ground level and therefore the aquifer will not be intersected by the proposed basement of the development. Subsequently, the application does not trigger Integrated Development.

State Environmental Planning Policy 55 – Contaminated Land (SEPP 55)

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

Contamination was considered as part of the previous application for the site (DA-261/2011). The contamination information considered and accepted as part of the previous application (via condition) was resubmitted as part of this application. In summary, the information submitted by Aargus Pty Ltd confirmed that the site is suitable for residential development. Council's Environmental Health Officer reviewed this information and raised no objection, subject to conditions of consent.

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

Ausgrid

The proposed development involves works within 5m of overhead power and requires the installation of a new substation. In accordance with clause 45 of ISEPP 2007a 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 subject to conditions, which are incorporated in the recommended conditions of consent.

Transport for New South Wales (TfNSW)

The proposed application triggers a number of Clauses outlined within the State Environmental Planning Policy (Infrastructure) 2007 (ISEPP). An assessment against the relevant Clauses is provided below:

Frontage to Canterbury Road (Classified Road)

Clause 101 of ISEPP 2007 applies to development fronting a classified road. The Clause seeks to ensure that new development does not compromise the ongoing operation and functionality of classified roads as well as preventing potential traffic noise and emissions on development adjacent to classified road. Clause 101(2) of the ISEPP states the following:

- (2) *The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:*
- (a) *where practicable, vehicular access to the land is provided by a road other than the classified road, and*
 - (b) *the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:*
 - (i) *the design of the vehicular access to the land, or*
 - (ii) *the emission of smoke or dust from the development, or*
 - (iii) *the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
 - (c) *the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

Vehicular access along Canterbury Road is proposed to be removed as part of the subject application. A dual vehicle entry and exit point is proposed to be located along the Wilson Lane frontage (rear boundary).

In terms of impacts of traffic noise arising from the classified road on the proposed development, this is discussed further below. Overall, the building has been designed to ensure the relevant noise criteria is met and subsequently an appropriate level of amenity will be afforded to future residents of the site.

Air Quality

An Ambient Air Quality Test Report prepared by Tinitas Group dated 8 October 2021 was submitted as part of the application. The report undertook monitoring at the site for the following parameters:

- Carbon Dioxide.
- Carbon Monoxide
- Total Volatile Organic Compounds
- Nitrogen Dioxide
- Particulate Matter PM 10
- Particulate Matter PM 2.5

The findings of the report concluded that the PM 10 concentrations located adjacent to material storage bays in the north-east and north-west corners of the site were found to exceed the references Australian National Environment Protection (Ambient Air Quality). The report concluded that it is common for PM10 levels to be elevated as such when construction materials are located on site and in close proximity to the dust testing equipment which is reflective of the nature of the current use of the site. The report determined that once the environment changes and the proposed development is completed, the PM10 levels will no longer be an issue. The report outlines several recommendations for prior to construction and during construction to ensure the levels are suppressed accordingly. The report (including the recommendations) are imposed in the recommended conditions of consent.

Noise and vibration

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

An acoustic report prepared by Acoustic, Vibration and Noise Pty Ltd, accompanied the application. The report includes recommendations to achieve the acoustic levels outlined in Clause 102 of SEPP (Infrastructure). The recommendations include the following:

- Appropriate glazing to be applied to all elevations of the development as outlined within Section 4 of the report.
- In order to achieve indoor design sound levels required to habitable areas, it was assumed all windows and doors are closed. The report therefore recommend that mechanical ventilation is required for all apartments facing Canterbury Road. However, on the basis that the assumption was made for all apartments, it is considered that mechanical ventilation should be provided to all apartments to ensure compliance with noise criteria is achieved.
- All external air conditioning units are acoustically enclosed.
- Ensure maintenance and lubrication of motor bearings, door tracks and joints.
- The proposed security door fitted to the car parking area entrance must be independently mounted on rubber pads to prevent vibration noise transmission through the concrete walls and/or columns.
- Further acoustic assessment is carried out when the development has been approved and mechanical services plans have been prepared for the acoustic engineer's review.

The above report (including its recommendations) are imposed via condition of consent, should the application be recommended for approval.

Council's Environmental Health Officer has reviewed the application and raised no objection, subject to conditions of consent.

Traffic generation

The development does not constitute a traffic generating development pursuant to Clause 104 and Schedule 3 of the ISEPP as it has less than 75 dwellings.

Concurrence

The application was referred to TfNSW for concurrence pursuant to Section 138 of the NSW Roads Act 1993 given the proposal involved removing the existing vehicular access points along Canterbury Road. TfNSW raised no objection to the proposal, subject to conditions of consent. Such conditions are incorporated into the recommended conditions of consent.

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

In accordance with BASIX SEPP, a BASIX Certificate (Number 1109209M_03 dated 9 November 2021) accompanies this application. The Certificate makes a number of energy/resource commitments relating to water, energy and thermal comfort. The relevant commitments indicated on the BASIX Certificate have been shown on the plans in order to satisfy objectives of the SEPP. The BASIX Certificate requirements have been incorporated into the recommended conditions of consent.

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 (the Regs) 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.

A Design Verification Statement has been prepared by Jim Apostolou from Loucas Architects which addresses the requirements of Clause 50(1A) of the Regs. The principles are discussed as follows:

Principle 1: Context and Neighbourhood Character

In terms of the general design, Council is supportive of the proposed materials and finishes palette and considers them to be complementary to the existing and desired future character of the locality.

The site is consistent with the objectives of the zone as the development consists of a residential flat building development that provides for a range of housing types within a high-density residential environment.

Principle 2: Built Form and Scale

In terms of bulk and scale, as outlined within the body of the report below, variations to the minimum building separation requirements are considered acceptable on merit. Notwithstanding this variation, the proposed development complies with all other building envelope controls. The scale of the development is consistent with that envisaged by the planning controls and newly approved development in the immediate vicinity.

Appropriate articulation of the facades has been achieved through incorporating changes in the built form, appropriate landscaping and mixed palette of building materials and finishes. These elements also contribute to reducing the overall bulk and mass of the building.

The proposed development does not adversely impact on existing adjoining residential development as adequate solar access and privacy is maintained to such properties.

Therefore, the proposed design is considered appropriate in terms of scale and bulk.

Principle 3: Density

As outlined within the body of this report, the proposed design generally complies with the applicable development standards. Any variation proposed has been considered as part of this assessment and is considered acceptable on merit. Overall, the design is considered to achieve a high level of amenity for residents.

Furthermore, the proposed density is an appropriate response to the desired future character and built form of the locality.

Principle 4: Sustainability

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

The development is acceptable with respect to the applicable natural ventilation and solar access requirements. The development incorporates an appropriate mix of dwelling sizes consisting of one, two and three bedroom apartments, and will therefore provide a range of choice for future residents.

Principle 5: Landscape

The proposal incorporates landscaping at ground level and on the podium levels along the Canterbury Road elevation. The proposed deep soil area complies with the minimum requirements specified within the ADG.

Further, all the proposed apartments have access to private open space, in the form of balconies or terraces for those on the ground floor. The proposal satisfies the relevant landscaping requirements of the ADG and CDCP 2012.

Principle 6: Amenity

The proposed apartments will have considerable internal amenity as the design meets the minimum 70% solar access and 60% ventilation requirements. Their size, floor to ceiling height and room dimensions satisfy, and in some cases, exceed the minimum standards outlined within the ADG. As such, they will provide adequate space to meet the needs of future occupants.

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

Principle 7: Safety

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

Principle 8: Housing Diversity and Social Interaction

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

Principle 9: Aesthetics

The application is accompanied by a Design Verification Statement and confirms that the development satisfies the general design principles contained within SEPP 65.

The articulation of external facades and general compliance with the relevant built form standards reduces the perceived bulk of the building, whilst maintaining internal and external amenity. These elements contribute to the desired future character of the locality and enhance the existing surrounding streetscapes.

Apartment Design Guide

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

Section	Design Criteria	Proposed	Complies
Part 3 Siting the Development			
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. 	<ul style="list-style-type: none"> - Long blank walls are avoided through articulation and use of various materials. - Direct access is provided to the building from the front and rear boundaries. - Habitable rooms are orientated towards the street to improve safety and social interaction. - The communal open space on the ground floor is slightly lower than the ground floor apartments preserving privacy to adjoining apartments, whilst also promoting passive surveillance of common areas. - The elevated nature does assist with passive surveillance of the adjoining streetscapes. - Concealment opportunities are minimised through design. - Letterboxes provided adjacent to the street. 	Yes
3D Communal and Public Open Space	Communal open space has a minimum area equal to 25% of the site. Total site area is 2121.9m ² , requiring a minimum 530.475m ²)	The communal open space areas are incorporated along all boundaries of the site. The total area equates to 710.3m ² (33%).	Yes

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).	50% of the required communal open space area equates to 265m ² . The best-case scenario occurs between 11am-1pm where a total of 244-255m ² (46-48%) solar access is provided to the principal area.	No, however acceptable on merit – refer to comment [1] below												
3E Deep Soil Zones	Deep soil zones are to meet the following minimum dimensions:	7% of the site area equates to 148.5m ² . The proposal includes 195m ² (9%) (that meets the minimum 6m dimension).	Yes												
	<table><tr><th>Site Area</th><th>Minimum Dimensions</th><th>Deep Soil Zone (% of site area)</th></tr><tr><td>Less than 650m²</td><td>-</td><td rowspan="4">7%</td></tr><tr><td>650m² - 1,500m²</td><td>3m</td></tr><tr><td>Greater than 1,500m²</td><td>6m</td></tr><tr><td>Greater than 1,500m² with significant existing tree cover</td><td>6m</td></tr></table>			Site Area	Minimum Dimensions	Deep Soil Zone (% of site area)	Less than 650m ²	-	7%	650m ² - 1,500m ²	3m	Greater than 1,500m ²	6m	Greater than 1,500m ² with significant existing tree cover	6m
	Site Area			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:	North (distances below include half of the laneway width (3m)): Ground Floor: 11m Level one: 12m Level two: 12m Level three: 12m Level four: 12m	No, however acceptable on merit – refer to comment [2] below									
	<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	South: Ground Floor: 79mm Level one: 9m Level two: 9m Level three: 9m Level four: 9m
	Building Height	Habitable Rooms & Balconies		Non-habitable Rooms								
	Up to 12m (4 storeys)	6m		3m								
	Up to 25m (5-8 storeys)	9m		4.5m								
Note: An increased 3m building separation is required given the land to the north is a different zone (R3 Medium Density Residential) that permits lower density residential.	East: Ground Floor: Min 4.5m to balcony Level one: Min 4.5m to balcony Level two: Min 4.5m to balcony Level three: Min 4.5m to balcony Level four: Min 5m to balcony											
	West: Ground Floor: 6m Level one: Min 4.5m to balcony Level two: Min 4.5m to balcony Level three: Min 4.5m to balcony Level four: Min 5m to balcony											
	Internal: Ground Floor: 2.5m (blank wall) Level one: 2.4m (blank wall) Level two: 2.4m Level three: 2.4m Level four: 2.4m											

3J Bicycle and Car Parking	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.	The site is located further than 800m from the nearest railway station (Belmore) and therefore the rates in the CDCP 2012 are applicable and considered below.	Yes
	The car parking needs for a development must be provided off street.	Car parking is provided in the basement.	Yes

3G Pedestrian Access and Entries	<p>Multiple entries should be provided to activate the street edge.</p> <p>Entry locations relate to the street and subdivision pattern / existing pedestrian network.</p> <p>Building entries should be clearly distinguishable from private entries.</p> <p>Building access areas (lift lobbies, stairwells and hallways) should be clearly visible from public domain and communal spaces.</p> <p>Minimise ground floor and underground level changes along pathways and entries. Steps and ramps integrated into design.</p> <p>Provide way finding maps for large developments. Electronic access and audio/video intercoms required.</p> <p>Provide pedestrian links to streets and destinations with clear sight lines.</p>	<p>The two entry points to the site are provided along each street frontage and are clearly distinguishable and visible from the adjoining streets.</p> <p>Way finding signage have been included in the recommended conditions of consent.</p> <p>Ground floor level changes along pathways and entries has been minimised through the revised design.</p>	Yes – subject to condition of consent
Part 4 Designing the Building			
4A Solar and Daylight Access	<p>Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter.</p> <p>A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter</p>	<p>Based on Council's calculations, 26 of the 37 apartments (70%) proposed receive a minimum of 2 hours to the internal living area and private open space between 9am-3pm on 21 June.</p> <p>All apartments receive some level of solar access between 9am-3pm on 21 June</p>	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.	21 of the 38 apartments (57%) are naturally cross ventilated. The Applicant’s figures include three additional apartments (402, 404 and 405) that rely on operable skylights to receive cross ventilation. The inclusion of these apartments results in 23 of the 37 apartments (62%) being cross ventilated. The Applicant has provided details on the skylights and it has been demonstrated that these are operable and will facilitate ventilation and are therefore acceptable. The proposed skylight design is recommended to be conditioned.	Yes - subject to conditions of consent	
	Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	All apartments are less than 18m in depth.	Yes	
4C Ceiling Heights	Measured from finished floor level to finished ceiling level, minimum ceiling heights are:	Each floor comprises a minimum floor to floor height of 3.1m which will cater for a 2.7m floor to ceiling height.	Yes	
	Minimum Ceiling Height for Apartment and Mixed-Use Buildings			
	Habitable rooms			2.7m
	Non-habitable			2.4m
	For 2 storey apartments			2.7m main living area floor 2.4 for second floor, where its area does not exceed 50% of the apartment area
These minimums do not preclude higher ceilings if desired.				

4D Apartment Size and Layout	Apartment are required to have the following minimum internal areas:	All apartments comply with the minimum area requirements.	Yes										
	<table><tr><th>Apartment Type</th><th>Minimum Internal Area</th></tr><tr><td>Studio</td><td>35m²</td></tr><tr><td>1 bedroom</td><td>50m²</td></tr><tr><td>2 bedroom</td><td>70m²</td></tr><tr><td>3 bedroom</td><td>90m²</td></tr></table>			Apartment Type	Minimum Internal Area	Studio	35m ²	1 bedroom	50m ²	2 bedroom	70m ²	3 bedroom	90m ²
	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.													
Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.	Achieved	Yes											
In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.	All apartments with open plan layouts have a maximum depth of 8m from a window.	Yes											
Master bedrooms have a minimum area of 10m ² and other bedrooms 9m ² (excluding wardrobe space).	All master and secondary bedrooms comply with minimum dimension requirements.	Yes											
Bedrooms have a minimum dimension of 3m (excluding wardrobe space).	All bedrooms comply with minimum dimension of 3m.	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	The combined living rooms within each apartment comply with the minimum width requirements.	Yes											
The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts.	The width of cross-over or cross-through apartments are at least 4m internally.	Yes											

4E Private Open Space and Balconies	All apartments are required to have primary balconies as follows:			All balconies comply with the minimum area and dimension requirements.	Yes
	Dwelling type	Minimum Area	Minimum Depth		
	Studio apartments	4m ²	-		
	1 bedroom apartments	8m ²	2m		
	2 bedroom apartments	10m ²	2m		
	3+ bedroom apartments	12m ²	2.4m		
	The minimum balcony depth to be counted as contributing to the balcony area is 1m.				
	For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m ² and a minimum depth of 3m.	The apartments at ground level comply with the minimum private open space area and depth requirements.	Yes		
4F Common Circulation and Spaces	The maximum number of apartments off a circulation core on a single level is eight.			Maximum of 8 apartments proposed off the single circulation core.	Yes

4G Storage	In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:		All apartments comply with the minimum storage area and associated location requirements.	Yes – enforced via condition of consent
	Dwelling type	Storage size volume		
	Studio apartments	4m ³		
	1 bedroom apartments	6m ³		
	2 bedroom apartments	8m ³		
	3+ bedroom apartments	10m ³		
	At least 50% of the required storage is to be located within the apartment.			

<p>4H Acoustic Privacy</p>	<p>Adequate building separation is provided within the development and from neighbouring buildings/adjacent uses</p> <p>Noisy areas within buildings including building entries and corridors should be located next to or above each other and quieter areas next to or above quieter areas</p> <p>Rooms with similar noise requirements are grouped together</p> <p>Noise sources such as garage doors, driveways, service areas, plant rooms, building services, mechanical equipment, active communal open spaces and circulation areas should be located at least 3m away from bedrooms</p>	<p>Adequate separation is provided between neighbouring properties.</p> <p>Adequate acoustic attenuations measures are incorporated into the design to minimise noise impacts from Canterbury Road.</p> <p>Concern was raised regarding the potential acoustic impacts associated with the central void, the gymnasium as well as the proximity of the communal open space to residential apartments on the Ground Floor. A further Acoustic Statement was prepared by Acoustic Noise and Vibrations Solutions Pty Ltd dated 11 October 2021 was submitted and advised that all sensitive uses will comply with the relevant noise criterion through the incorporation of appropriate building design solutions as well as limitations on the use of the communal areas (including the gymnasium).</p> <p>There are bedroom windows and POS associated with apartment G.06 that adjoin the driveway. However, the acoustic report has considered this design and appropriate glazing and mechanical ventilation is incorporated into the design of the affected dwelling and appropriate noise mitigation measures are incorporated into the roller door to minimise noise impact.</p> <p>Considering the above, a suitable level of acoustic privacy will be afforded to residents of the site. The abovementioned recommendations outlined within the acoustic documentation submitted will be enforced via condition of consent.</p>	<p>Yes – subject to condition of consent</p>
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[1] Part 3D - Communal and Public Open Space

Part 3D-1 of the ADG specifies minimum communal open space area requirements as well as minimum solar access requirements to the communal open space. As outlined in the table above, the design complies with the minimum communal open space area however, a variation is sought to the minimum solar access requirement to the communal open space area. A maximum of 244-255m² (46-48% of the minimum communal open space area) receives solar access between 11am-1pm on 21 June which does not comply with the minimum 50% requirement.

The objective of Part 3D is:

An adequate area of communal open space is provided to enhance residential amenity and to provide opportunities for landscaping:

The site is impacted by greater setbacks than some R4 zoned land in the locality by virtue of the minimum 9m front setback requirement to Canterbury Road (main road) as well as the 3m additional setback to the rear boundary (Wilson Lane) by virtue of the laneway widening requirement. As a result, the communal open space area is spread around the development within the setback areas.

Although the communal area does not meet the minimum solar access requirements, the design is considered acceptable in this instance given the design still meets the objective of Part 3D as follows:

- The design complies with the minimum deep soil area requirements contained in the ADG and well as the landscaping controls contained in CDCP 2012.
- Council's Landscape Architect has reviewed the application and raises no objections, subject to conditions of consent.
- The design of the communal open space ensures solar access is provided to various parts of the area within the site throughout the day, so residents will be able to enjoy solar access throughout the day within the communal open space.
- The communal open space provides for a range of activities including gymnasium, communal garden, BBQ area and seating for residents to enjoy.
- The development complies with the minimum solar access requirements to the number of apartments proposed (including private open spaces).
- The ground floor design of the communal area ensures the design complies with maximum building height and is consistent with approved development in the immediate locality.
- The acoustic report submitted notes that the location of the communal open space will not result in any adverse acoustic impacts on adjoining residential apartments through the incorporation of appropriate acoustic measures which will form part of the consent, should the application be supported.
- The shortfall is minor (shortfall of between 10-21m²).

Considering the above, the communal open space meets the objective of Part 3D as residential amenity will be enhanced and adequate landscape area is provided. Therefore, the proposed variation is supported on this basis.

[2] Part 3F – Visual Privacy

Part 3F-1 of the ADG specifies minimum separation distances between windows and balconies of a development.

As outlined in the table above, the proposed design does not comply with the minimum building separation controls in the following instances:

- The northern facing balconies on each level of the development do not comply with the minimum building separation distances to the eastern and western boundaries. A minimum 4.5m building separation is proposed for Levels Ground to Level 3 and a minimum 5m building separation is proposed for Level 4. This does not comply with the minimum 6m for 1-4 storeys and 9m for 5+ storeys.
- The western facing window associated with apartment 2.04 is setback 2.4m from the blank wall which does not comply with the 6m building separation requirement.
- The western facing window associated with apartment 3.04 is setback 2.4m from the blank wall which does not comply with the 6m building separation requirement.
- The western facing window associated with apartment associated with apartment 4.04 is setback 2.4m from the blank wall which does not comply with the 9m building separation requirement.

The objective of Part 3F is:

Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy.

The proposed variation to the minimum building separation requirements from the northern facing balconies to the eastern and western boundaries is considered acceptable on merit given privacy screens are proposed to be incorporated in the design along the western and eastern facades of the relevant balconies. This design ensures visual privacy will still be afforded to future residents of the affected apartments as well as existing/future residents adjoining the site. It is important to note that the affected balconies are orientated to the north and the development complies with the minimum building separation requirements to the northern boundary of the site. Furthermore, despite the variation to the minimum building separation distances outlined in the ADG, the main building complies with the minimum 4m side setbacks for residential flat buildings contained in CDCP 2012.

There are already privacy screens incorporated into the design, however they currently do not run along the entire length of the affected western/eastern façade. Should the application be approved, the privacy screens would be enforced via condition of consent and the condition would require the privacy screens to run along the entire length of the affected western/eastern façade for a minimum height of 1.8m, measured from the finished floor level. The proposed materials and finishes of the privacy screen will also be conditioned to ensure they continue to appear integrated and complementary to the design of the building. This will mitigate any potential privacy impact associated with the proposed variation.

In terms of the proposed variation of the western facing window on Levels 2, 3 and 4, should the application be supported, a condition of consent could be imposed to bring the window associated with apartment 4.04 further north in line with the windows for apartments 2.04 and 3.04. It is noted that the Applicant has nominated these windows be highlight windows, which reduces the level of visual impact. However, the highlight design coupled with the relocation of the window further north (for apartment 4.04) would further improve the visual outlook for future residents of the affected apartment. The relocation would not result in any visual privacy of the apartment located opposite the affected apartment as a blank wall is proposed along the entire length of that façade. Therefore, despite the variation to the minimum building separation requirements, the design meets the objective of the visual privacy requirement through the incorporation of appropriate conditions.

Considering the above, Council is supportive of the design from a visual privacy perspective, despite the variation as it is considered the objective of the control is still met.

Canterbury Local Environmental Plan 2012 (CLEP 2012)

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

Clause 1.2 Aims of Plan

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

Clause 2.3 Zone objectives and Land Use Table

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

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

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

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

Provision/ Standard	Requirement	Proposal	Complies
Part 2 Permitted or Prohibited Development			
2.1-2.3 Zoning	R4 High Density Residential	Residential flat building proposed which is permitted with consent.	Yes

Provision/ Standard	Requirement	Proposal	Complies
2.7 Demolition requires development consent	The demolition of a building or work may be carried out only with development consent.	Demolition proposed.	Yes
Part 4 Principal Development Standards			
4.3 Height of Buildings	18m	Height = 17.84m max (RL60.35-NGL42.51)	Yes
4.4 Floor Space Ratio	1.6:1	<p>A total gross floor area of 3,391.9m² is proposed which results in an FSR of 1.6:1.</p> <p>NB: For the purposes of calculating the FSR, the entire site area was used as the site is not yet subdivided. This is consistent with how the FSR has been calculated for similar developments with laneway widening (including the development to the east at 749-757 Canterbury Road, Belmore and is consistent with the laneway requirements outlined within CDCP 2012.</p>	Yes

Provision/ Standard	Requirement	Proposal	Complies
Part 6 Local Provisions			
6.2 Earthworks	<p>Before granting consent to development including earthworks, the following must be considered:</p> <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>The Geotechnical Report submitted provides recommendations to ensure sufficient foundation and excavation supports are incorporated into the design to support the proposed development. Furthermore, the report recommended that further geotechnical investigations are to be carried out prior to construction to confirm the geotechnical conditions of the rock to a depth of 6 m. If no further investigations are carried out prior to construction, any excavation works carried out at a depth greater than 3 m below ground must be inspected by a geotechnical engineer.</p> <p>Such recommendations will be imposed via conditions of consent.</p> <p>Council's Environmental Health Officer has reviewed the proposal and raises no objection, subject to conditions.</p>	Yes – subject to conditions of consent.
6.4 Stormwater Management	<p>Consent must not be granted unless:</p> <ul style="list-style-type: none"> (a) Water permeable surfaces are maximized having regard to soil characteristics affecting on-site stormwater infiltration. (b) Includes on-site detention if practical as an alternative means of water supply. (c) Avoids significant impacts of run-off on adjoining land or the environment or minimises and mitigates impacts. 	<p>Council's Development Engineer has reviewed the proposal and raises no objection, subject to conditions of consent.</p>	Yes – subject to conditions of consent

Provision/ Standard	Requirement	Proposal	Complies
6.6 Essential Services	<p>Essential services must be available or adequate arrangements have been made to make them available, including:</p> <ul style="list-style-type: none"> - 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>Essential services including water, sewage management and residential vehicular access have been made available within the design.</p> <p>Council's Development Engineer raised no objection to the proposed stormwater drainage design.</p> <p>Council's Traffic and Waste Departments have raised no objection, subject to conditions of consent including condition in relation to service vehicle access to/from the site.</p> <p>In terms of electricity, the Applicant provided a letter from AA Power Engineering advising that a substation is not required and power can be obtained from a direct distributor cable from nearby substation S.77612 – Spare Panel No.3. The substation is located at 510-514 Burwood Rd and is available for use. This is acceptable.</p>	Yes – subject to conditions of consent

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

Draft Canterbury Bankstown Consolidated Local Environmental Plan

On 30 June 2020 the Canterbury Bankstown Local Planning Panel endorsed the Planning Proposal (PP_2019_CBANK_005) to proceed to the Department of Planning, Industry and Environment for finalisation and making. The Planning Proposal seeks to produce a single set of planning rules and align the Bankstown LEP 2015 and Canterbury LEP 2012 into a consolidated Local Environmental Plan.

The Planning Proposal however does not propose any change to the planning or development provisions relating to this site. As the Planning Proposal has been exhibited it must be considered under Section 4.15 (1)(a)(ii) of the Environmental Planning and Assessment Act, 1979. The 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, whether the development integrates a high quality landscape design with the built form,*
 - (g) 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 be in line with the envisaged design quality and would be consistent with the Draft CBLEP relating to the Draft Design Quality Clause.

The Draft CBLEP also seeks to insert a saving provision “*If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies, and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced*”.

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

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

Canterbury Development Control Plan 2012 (CDCP 2012)

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

Part B1 – Transport and Parking

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

Standard	Requirement	Proposal	Complies
Car Parking	<ul style="list-style-type: none"> • 1 bedroom: 1 space per dwelling (6 x 1 = 6 spaces required). • 2 bedroom: 1.2 spaces (the 0.2 space to remain as common property) per dwelling (27 x 1.2 = 32.4 (32) spaces required). • 3 Bedroom: 2 spaces per dwelling (4 x 2 = 8 spaces) • Visitor: 1 space per 3 dwellings 37/3 = 12.3 (12) spaces required). • Car wash bay: 1 car wash bay. <p>Total: 46 residential spaces, 12 visitor spaces plus 1 x car wash bay required.</p>	<p>The two levels of basement comprise:</p> <ul style="list-style-type: none"> - 46 residential spaces - 12 visitor spaces - 1 car wash bay. 	Yes
Bicycle Parking	<ul style="list-style-type: none"> • Residents: 1 space per 5 dwellings (7.4 (7)) spaces required). • Visitors: 1 space per 10 dwellings (3.7(4)) spaces required) <p>Total: 11 spaces required.</p>	12 spaces provided within the basement car park design.	Yes

In addition to the above, the application was reviewed by Council’s Traffic and Infrastructure Departments who raised no objection, subject to conditions.

Part B2 – Landscaping and Part B3 – Tree Preservation

Council's Landscape Architect and Tree Management Team have reviewed the application and raises no objection, subject to conditions of consent.

Part B4 – Accessible and Adaptable Design

The access report prepared by Access Solutions NSW Pty Ltd was submitted as part of the DA. The report concludes that the design is capable of compliance with the requirements of the benchmarks cited. On this basis, the design is considered acceptable from an accessible and adaptable design perspective. Furthermore, Council's Building Surveyor as reviewed the application and raises no objection, subject to conditions of consent.

Part B5 – Stormwater and Flood Management

Council's Development Engineer raised no objection to the application, subject to conditions of consent.

Part B7 – Crime Prevention and Safety

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

Standard	Requirement	Proposal	Complies
Crime Prevention through Environmental Design	Avoid blind corners	The proposal avoids blind corners. Should the application be supported, convex mirrors could be incorporated into the main pedestrian lobby area to further improve this area.	Yes – subject to condition of consent
	Provide natural surveillance for communal and public areas.	The design incorporates habitable rooms that are orientated towards the communal and public areas to facilitate natural surveillance.	Yes
	Provide clearly visible entries.	Entry points are clearly visible through design of paths leading to the doors as well as path being free of any landscaping.	Yes
	Design the fence to maximise natural surveillance from the street to the building.	The fence will not impact on surveillance from the street to the building.	Yes
	Avoid landscaping that obstructs natural surveillance.	The proposed landscape area does not obstruct natural surveillance.	Yes
	Ensure buildings are clearly identified by street numbers.	Can be achieved via condition of consent.	Yes – subject to condition of consent
	Use materials that reduce the opportunity for vandalism.	Materials used and placement of materials will	Yes

		reduce the opportunity for vandalism.	
	Provide an appropriate level of security for individual dwellings and communal areas through use of intercoms, self-closing doors and signage.	Restricted access is provided to the building using gates. An intercom system is included at the entrance to the basement car park.	Yes – subject to condition of consent

Part B9 - Waste

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

C4 - Residential Flat Buildings

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

Standard	Requirement	Proposal	Complies
C4.2.1.1 - Frontage	4+ storey building: Min 30m frontage	The site has a frontage to Canterbury Road of 45.955m.	Yes
C4.2.1.2 - Isolated Sites	Neighbouring properties are not to be isolated so that the property will be unable to reasonably accommodate coordinated development. Undertake negotiations with neighbouring owners to seek amalgamation and enable coordinated redevelopment. If adjoining owners do not agree on terms of amalgamation, provide evidence of reasonable offers and demonstrate that the isolated site is capable of reasonable redevelopment.	The site does not result in the isolation of adjoining sites. The site to the north-east (existing Church) comprises a frontage in excess of 60m. The site to the south-west can amalgamate with properties to the south to comprise a minimum 30m frontage, should it be redeveloped in the future.	Yes
C4.2.1.3 - Open space and balconies	Section 6A of SEPP 65 states that a DCP cannot be inconsistent with the provisions of the ADG made under that SEPP in relation to balconies and development to which the SEPP relates. An assessment against the minimum balcony provisions within the ADG has been undertaken earlier within this report. Furthermore, an assessment against the communal open space requirements specified within the ADG has also been undertaken earlier within this report.		
C4.2.1.4 – Layout and Orientation	Orientate development to maximise solar access and natural lighting.	The development has been orientated to maximise solar access whilst keeping consistent with the	Yes

		subdivision pattern of the street.	
	Site the development to avoid casting shadows onto neighbouring dwelling's primary living area, private open space and solar cells.	The development complies with the minimum overshadowing controls and therefore the siting of the development is considered acceptable.	Yes
	Site new development and private open space to avoid existing shadows cast from nearby dwellings.	The development has been sited to avoid existing shadows cast by nearby dwellings and buildings	Yes
	Site a building to take maximum benefit from cross-breezes and prevailing winds.	The development has been sited to maximise benefit from cross-breezes whilst keeping consistent with the subdivision pattern of the street.	Yes
C4.2.2.2 - Height	Basement that projects greater than 1m above ground level comprises a storey	The basement projects maximum 830mm above ground floor.	Yes
C4.2.2.3 - Setbacks	Development, including basement and sub-floor areas fronting a major road must have minimum 9m front setback.	9m	Yes
	Side: Min 4m	East: Minimum 4.5m West: Minimum 4.5m (building). The driveway to the basement is setback 2m.	No, however acceptable on merit - see comment [1] below
	Rear: Min 6m	Minimum 6.5m (from existing boundary) on ground floor and minimum 9m (from existing boundary) for upper floors. NB: The stairs in the rear setback are excluded given their design and pursuant to the definition of setback in CDCP 2012.	Yes
	<u>Deep Soil – Setbacks:</u> Front and Rear: Min 5m Side: Min 2m	Front: 5m Side: 2m Rear: Opportunity for 5m (However communal open space is located in rear setback. The area is to be entirely landscaped and therefore is considered acceptable)	Yes

C4.2.2.3 - Setbacks	<p>All buildings shall provide a building form comprising a podium base element and an upper element which provides an additional setback in accordance with the table below:</p> <table><tr><th>Total Storeys</th><th>Number of</th><th>Podium Element</th><th>Base</th><th>Upper Elements</th><th>Storey</th></tr><tr><td>4 storey</td><td></td><td>3 storey</td><td></td><td>1 storey</td><td></td></tr><tr><td>5 storey</td><td></td><td>3 storey</td><td></td><td>2 storey</td><td></td></tr><tr><td>6 storey</td><td></td><td>4 storey</td><td></td><td>2 storey</td><td></td></tr></table>	Total Storeys	Number of	Podium Element	Base	Upper Elements	Storey	4 storey		3 storey		1 storey		5 storey		3 storey		2 storey		6 storey		4 storey		2 storey		Only the 5 th storey (Level 4) comprises an additional setback along the southern, eastern and western elevations. The controls require a setback to all elevations to the 4 th and 5 th level of a 5-storey development.	No, however acceptable on merit – see comment [2] below.
Total Storeys	Number of	Podium Element	Base	Upper Elements	Storey																						
4 storey		3 storey		1 storey																							
5 storey		3 storey		2 storey																							
6 storey		4 storey		2 storey																							
C4.2.2.4 - Building Depth	<p>C1 Building depth must not exceed a maximum of 25m. C2 The building depth may be increased to 35m in the R4 Zone provided facades incorporate deep soil courtyards that are:</p> <p>a) Parallel to front or rear boundaries (or that have an orientation which is generally parallel to those boundaries) provided that the adjacent deep soil setbacks each accommodate at least three major canopy trees; or</p> <p>b) Parallel to side boundaries (or have an orientation that is generally parallel to side boundaries) provided that the facades will incorporate deep soil courtyards that each have a minimum area 6m by 6m and will each accommodate at least one major canopy tree.</p>	The development has a maximum building depth of 30m. This is acceptable as at least three major tree canopy trees are proposed to be located parallel to the front and rear boundaries.	Yes																								
C4.2.2.5 – Building Separation	Section 6A of SEPP 65 states that a DCP cannot be inconsistent with the provisions of the ADG made under that SEPP in relation to balconies and development to which the SEPP relates. An assessment against the minimum building depth and separation provisions within the ADG has been undertaken earlier within this report.																										
C4.2.2.6 - Floor to Ceiling	Section 6A of SEPP 65 states that a DCP cannot be inconsistent with the provisions of the ADG made under that SEPP in relation to balconies and development to which the SEPP relates. An assessment against the minimum floor to ceiling provisions within the ADG has been undertaken earlier within this report.																										

Part C4.2.3 – Building Design			
Contemporary Built Form	New building forms and design features shall not mimic traditional features.	The building form and design does not mimic traditional features.	Yes
	Access to upper storeys must not be via external stairs.	Access to upper storeys is not via external stairs.	Yes
	All dwellings must contain one kitchen and laundry facility.	Achieved.	Yes
Building Entries	Entries to residential buildings must be clearly identifiable.	Entry to building is clearly identifiable.	Yes
	A minimum of one habitable room per dwelling must be oriented towards the streets.	Achieved.	Yes
	Ground level private terraces located within the front setback must be setback at least 1m from the street boundary to accommodate a landscape strip which should remain in communal ownership.	Achieved via condition of consent.	Yes – via condition of consent.
Façade Design	Façade design should reflect the orientation of the site using elements such as sun shading devices etc.	Achieved.	Yes
	<u>Articulating Façade Panels:</u> Street Elevations: 6m to 8m Side Elevations: 10m to 15m	Achieved through use of varying materials and setbacks.	Yes
	Avoid long flat walls along street frontages – stagger the wall alignment with a step.	In terms of materials, each elevation comprises a range of materials which contribute to the visual appearance of having a base and upper storey element. Furthermore, each elevation comprises steps in the facades to avoid long, blank walls.	Yes
	Incorporate contrasting elements in the façade.		
	Layer and step facades in order to avoid buildings forms that are bland, bulky or over scaled.		
Pavilions	Facades should be layered and stepped in order to avoid building forms that are bland, bulk and over scaled.		
	Layering of facades should incorporate the base and upper storey elements.		
	Stepping of facades should be provided by balconies, staggered alignments for exterior walls and by contrasting design elements.		

Windows	Windows must be rectangular.	Windows are rectangular.	Yes.
	Windows and openings shall be appropriately located and shaded to reduce summer heat load and maximum winter sun.	Achieved.	Yes
Roof Pitch	Max 10 degrees.	Achieved.	Yes
C4.2.3.3 - Dwelling Layout and Dwelling Mix	Section 6A of SEPP 65 states that a DCP cannot be inconsistent with the provisions of the ADG made under that SEPP in relation to balconies and development to which the SEPP relates. An assessment against the minimum dwelling layout provisions within the ADG has been undertaken earlier within this report.		
	Min 10% of apartments to be adaptable or accessible	4/37 apartments (10.8%) are adaptable.	Yes
C4.2.4.1 - Solar Access and Overshadowing	Section 6A of SEPP 65 states that a DCP cannot be inconsistent with the provisions of the ADG made under that SEPP in relation to balconies and development to which the SEPP relates. An assessment against the solar access provisions within the ADG has been undertaken earlier within this report.		
Solar Access and Overshadowing – Adjoining Development	Development to retain a minimum of 2 hours of sunlight between 9am-3pm on 21 June for existing living areas and 50% of the principal private open space.	Solar access is maintained to the properties to the west (including living areas and private open space areas) between 11am and 4pm on 21 June (5hrs). The development directly to the east of the subject site is a Church and therefore these controls do not apply to this land use.	Yes
C4.2.4.2 – Acoustic Privacy	Address all requirements in 'Development Near Rail Corridors and Busy Roads (Interim Guideline') which has been published by the NSW Department of Planning.	Acoustic privacy has been assessed against the requirements of SEPP 2007 and the ADG earlier within this report.	Yes
C4.2.5.1 - Fences	Front fences within the front boundary setback are to be no higher than 1.2m	Max 1.6m provided along the front boundary	No, however acceptable on merit – refer to comment [3] below
	Screen walls around private open spaces shall not be taller than 1.2m, although screens with 50% transparency may be up to 1.8m in height.	The fence along the rear boundary around the communal open space comprises a 1m high solid wall with open screening provided above to a maximum height of 1.8m.	Yes

C4.2.5.2 - Building services	Integrate systems, services and utility areas within the design of the whole development.	Services and utility areas are incorporated into the design of the whole development.	Yes
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[1] Side Setbacks

Control C2(b) within Part 4.2.2.3 of CDCP 2012 states that development must have a minimum setback of 4m from side boundaries. The proposed development complies with this control with the exception of the driveway and associated awning over the driveway which is setback 2m (representing a 2m or 50% variation).

The objectives of the setback controls are as follows:

- O1 - To establish the desired spatial proportions of the street and define the street edge.*
- O2 - To limit the scale and bulk of development by retaining landscaped open space around.*
- O3 - To contribute to the natural landscape by retaining adequate space for new trees and conserving existing visually prominent trees.*
- O4 - To provide sufficient separation between buildings and adjacent land to limit the visual, environmental and likely potential amenity impacts of new development.*
- O5 - To minimise stormwater run-off by retaining deep soil areas that facilitate rainwater infiltration.*

Although the design seeks the above variation to the minimum side setback control, the proposal is considered to still meet the objectives of the setback controls given the following:

- The design complies with the minimum deep soil area requirements contained within the ADG.
- This portion of the development is setback 2m from the western boundary. The 2m setback is proposed to comprise deep soil which is consistent with the deep soil requirement outlined within control C3 of Part 4.2.2.3 of CDCP 2012.
- As a result of the above, adequate tree planting is proposed and sufficient landscaping is proposed around the development to limit the visual, environmental and potential amenity impacts of the new development.
- Council's Development Engineer is satisfied with the stormwater design proposed.

In light of the above, the proposed variation is considered acceptable, on merit based on the circumstances of this site.

[2] Setbacks

Control C2(c) of Part 4.2.2.3 of CDCP 2012 states the following:

C2(c) - All buildings shall provide a building form comprising a podium base element and an upper element which provides an additional setback in accordance with the table below:

Total Storeys	Number of Podium Base	Upper Elements
4 storey	3 storey	1 storey
5 storey	3 storey	2 storey
6 storey	4 storey	2 storey

Table C4.3: Upper Storey Setbacks

In line with the above control, given the development is 5 storeys, the 2 most upper levels (levels 3 and 4) are to have an additional setback to the 3-storey podium base below.

The proposed development solely seeks to setback the top floor (level 4) and therefore seeks a variation to this control which can be seen in the Figure below:



Figure 3: Southern Elevation
Source: Loucas Architects

For the reasons outlined in comment [1] above, the development is consistent with the objectives of the setback control.

In addition to the above, although the design seeks to vary the setback control in CDCP 2012, the design is still in keeping with the character of adjacent new development (e.g. the development to the east at 749-757 Canterbury Road). This is due to the design being generally consistent with the building separation controls contained in the ADG which require a certain distance for the first 4 storeys (rather than 3 storeys in the CDCP 2012). As a result of this, as shown in Figure 4 below, the proposed 4 storey podium with a recessed upper storey will be in keeping with the 6 storey approved development to the east which also comprises a four storey podium with recessed 5th and 6th storey in line with the ADG requirements.

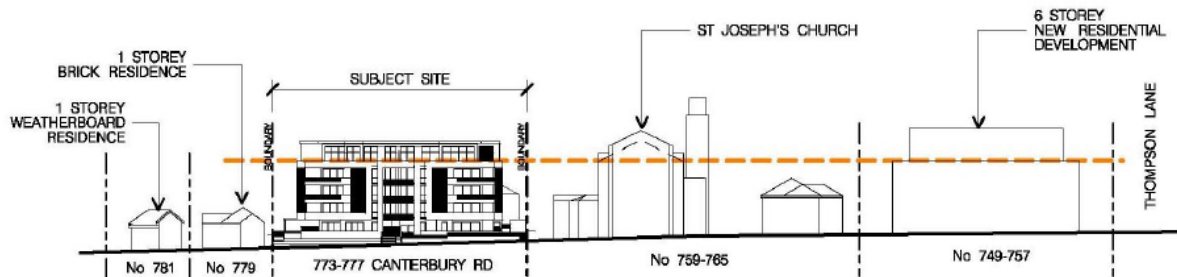


Figure 4: Streetscape Appearance

Source: Loucas Architects

Furthermore, through the use of difference materials and finishes, the proposed development achieves the aim of the control contained within Control C2(c) as the materials vary for the ground floor, levels 1-3 and level 4 which provide a base, podium and upper level appearance.

In light of the above, the proposed variation is considered acceptable, on merit in the circumstances of this site.

[3] Fences

Control C2 within Part C4.2.5.1 of CDCP 2012 states the following:

Front fences within the front boundary setback are to be no higher than 1.2m.

The proposed development incorporates a 900mm solid fence with open screening above up to a height of 1.6m around the communal open space area in the south eastern corner of the site (within the front setback area). This results in a 400mm variation (33%) to the 1.2m fence height control.

The objectives of the fencing controls are as follows:

- 01 - To ensure that fences are integrated into the architectural form and detail of a building and present an appealing streetscape appearance.*
- 02 - To reduce the impact of large areas of fencing that detract from other buildings and fences in the area.*
- 03 - To facilitate positive interaction between private and public domain.*

The height of the fence is required to ensure a suitable level of privacy is maintained to the future occupants of the site when utilising the communal areas.

The majority of the fence design comprises open screening which is considered to reduce the visual impact of the fence given it does not comprise a solid structure whilst also facilitate passive surveillance to and from the site. Furthermore, the fencing is proposed behind a 1m wide landscaping buffer located along the front boundary. This will also reduce the visual appearance of the fence when viewed from the street as the proposed planting are to grow to a maximum mature height of between 1.2-2.4m. Should the application be supported, it will be conditioned that the fence continues along the southern boundary within the south-western corner of the site as well. This will ensure the fence design is consistent along the front of the site and improves the streetscape presentation whilst also providing for sufficient privacy and safety to residents utilising the communal open space areas within the front setback.

In light of the above, the proposed fence is considered consistent with the objectives of the fencing controls, despite the variation to the maximum height control. Therefore, the variation to Control C2 within Part C4.2.5.1 of CDCP 2012 is considered acceptable on merit.

Canterbury Development Contributions Plan 2013 (Contributions Plan 2013)

The Canterbury Development Contributions Plan 2013 applies to the site. A calculation of the contributions applicable is provided in the table below:

Contribution Element 2013	Contribution
Community Facilities	\$47,826.22
Open Space and Recreation	\$467,462.62
Plan Administration	\$13,458.57
TOTAL PAYABLE:	\$528,747.41

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

There are no planning agreements associated with this application.

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

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

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

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

- ***Laneway Dedication***

The proposed dedication along the rear boundary to facilitate the widening of Wilson Lane was considered by Council's Traffic and Infrastructure Departments. No objection was raised, subject to conditions of consent.

- ***National Construction Code***

Council's Building Surveyor has reviewed the application and raises no objection, subject to conditions of consent.

- ***Proposed excavation works***

The proposed development involves excavation and construction works in close proximity to property boundaries and neighbouring properties. Should the application be approved, relevant conditions requiring the applicant to provide a dilapidation report for the adjoining properties, prior to the issue of the Construction Certificate could be included on any consent issued. Should any damage to adjoining properties result from the proposed excavation works at the subject site, the applicant would be required to rectify all damages.

- ***Sediment and Erosion Control***

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

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

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

The proposed development is permitted with consent on the subject site and represents a built form that is compatible with the existing and future character of the locality. The application has been assessed under Section 4.15 of the Act, and as demonstrated throughout the body of this report, the proposal generally complies with the relevant development controls. The proposed variations to the relevant ADG and CDCP 2012 controls regarding solar access to the communal open space area, building separation, setbacks and fence height have been assessed on merit and are acceptable for the reasons outlined within the body of the report.

Submissions [section 4.15(1)(d)]

The application was advertised twice during the assessment phase, each time for a period of 21 days. During the first advertising period (7-27 October 2020), no submissions were received. During the second advertising period (26 May – 15 June 2021), two submissions were received (from the same household). During the third advertising period (27 October 2021 – 16 November 2021), two submissions were received during this period from two different households.

The following concerns were raised in the submissions received:

Objection: *The proposed development will result in adverse privacy impacts to adjoining properties.*

Comment: The proposal complies with the relevant visual privacy building separation controls to the residential boundaries, via condition of consent. Therefore, should the application be supported, it would not be considered to result in adverse privacy impacts.

Objection: *Insufficient setbacks are provided between the proposal and the residential properties.*

Comment: The proposal seeks a minor variation to the minimum building separation controls in relation to the north facing balconies to the eastern and western boundaries. This non-compliance has been mitigated through incorporating privacy screens along the entire length of the relevant balconies, which is a measure that will be introduced to maintain adequate levels of privacy. In terms of building bulk, the building complies with the setback requirements contained in Canterbury Development Control Plan 2012. The remainder of the design complies with the relevant building separation and setback controls.

Objection: *The proposal will result in adverse solar access impacts on neighbouring residential properties.*

Comment: The proposal complies with the minimum overshadowing controls to adjoining properties outlined within Canterbury Development Control Plan 2012. Therefore, the proposal is not considered to result in any significant adverse overshadowing impacts on adjoining properties.

Objection: *The balconies orientated towards the residential properties should be removed.*

Comment: The proposed balconies orientated towards the residential properties comply with the minimum visual privacy building separation controls contained within the Apartment Design Guide. As outlined above, the balconies orientated to the north seek a minor variation to the minimum separation controls to the western and eastern boundaries. However, the proposed variation has been mitigated through incorporating a condition of consent which requires a 1.8m privacy screen to be erected along the entire eastern/western façade of the relevant balconies. Therefore, should the application be supported, the proposed balconies would not result in any adverse privacy impacts and are acceptable.

Objection: *The proposal will contribute to and create further traffic congestion and parking implications along Wilson Lane and surrounding road network..*

Comment: Council's Traffic Engineer has reviewed the application and raises no concern, subject to conditions of consent. Furthermore, the proposal includes widening the portion of the lane that adjoins the site to improve access to/from the site.

Objection: The proposal will adversely impact the structural foundations of adjoining properties.

Comment: The Applicant is required to prepare a dilapidation report for the properties directly adjoining the site to the east and west. Where damage occurs to adjoining property, all necessary repairs or suitable agreement for such repairs are to be undertaken by the applicant in consultation with, and with the consent of, the affected property owner prior to the issue of an Occupation Certificate. This requirement is enforced via condition of consent.

Objection: The proposal is inconsistent with the character of the site, its surroundings and the desired future character of the area.

Comment: The assessment of the application has found that the proposal is consistent with the existing and desired future character of the site/area through the generally compliant design. The proposed variations to the solar access to communal open space, building separation, setbacks and fence height have been considered within the report and are acceptable on merit.

Objection: The proposal does not respect the heritage buildings along Canterbury Road

Comment: The site does not directly adjoin any heritage buildings or sites and is not located within a heritage conservation area. Therefore, the design is not required to consider heritage conservation.

Objection: The development will detract from the beautiful Church next door. Developments adjoining cultural buildings should be designed by firms such as Smart Design Studios

Comment: The proposed development is compliant with the maximum building height and is generally compliant with the building separation requirements to the Church. A minor variation is sought to the building separation control for the north facing balconies to the eastern boundary, however as outlined within the report, the proposed variation is acceptable on merit and the objective of the building separation control is achieved. The design complies with the building setbacks to the eastern boundary and sufficient landscaping and deep soil is provided within the setbacks. As outlined above, the site (nor the Church) are heritage listed or located within a heritage conservation area and therefore there is no requirement for the proposal to consider the use of certain materials and finishes to be sympathetic with the heritage nature of such. Despite this, the proposal does incorporate face brick elements and muted colours of materials which as a result, do not detract from the design of the Church or other nearby buildings.

Objection: The height imposes on the Church

Comment: The height of the proposed development complies with the maximum building height standard that applies to the site.

Objection: Many of the developments that go up in the area are designed from the same Architects. Council should encourage developers to use different architects.

Comment: Council is not permitted or required to recommend certain consultants for Applicants to engage.

Objection: The history of Canterbury Road should be respected.

Comment: This portion of Canterbury Road is not identified as comprising heritage significance.

Objection: The construction and demolition phase will disrupt surrounding properties.

Comment: A condition of consent is imposed to ensure demolition and construction works occur solely between 7am-5pm Monday to Saturday and no construction is to occur on Sunday or Public Holidays. This is to ensure that any disruption on surrounding properties will be minimized.

Objection: Too many developers are building in the area and the proposed units will only add to the empty building syndrome already apparent in the surrounding area.

Comment: The site is zoned R4 High Density Residential pursuant to Canterbury Local Environmental Plan 2012. Residential Flat Buildings, such as that proposed are permitted on the site, with development consent. Therefore, the proposed use is suitable for the site.

Objection: The development will result in an increase in air and noise pollution and create further issues for children and families accessing the local school and church via Wilson Lane.

Comment: The proposed development is a permitted use on the site. The proposed Residential use is not considered to result in any adverse air or noise pollution. Council's Traffic Department has reviewed the design and raises no objection to the proposal in terms of traffic implications or safety, subject to conditions of consent.

Objection: The addition of a few trees in this planning development is tokenistic and will do nothing to address the real problem of increasing bad air quality due to pollution from increasing traffic along Canterbury Road.

Comment: The proposed design and number of trees complies with the requirements outlined within the Apartment Design Guide and Canterbury Development Control 2012. Council's Tree Management Team and Landscape Architect have reviewed the design and raise no objection, subject to conditions of consent.

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

The proposed development would not contravene the public interest. The development appropriate responds to the applicable environmental instruments and development controls, and the proposed development would contribute to housing diversity within the Canterbury-Bankstown LGA. The matters raised in public submissions have been satisfactorily addressed.

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 development control plans, codes and policies.

The proposed variations to the controls relating to solar access to communal open space, building separation, setbacks and fence height have been considered on merit and are determined to be acceptable in the instances of this case. The design of the proposed development is compatible with the future and desired local character of the area and represents a quality development that will positively contribute to the streetscape and the local built environment.

It is therefore recommended that the Application be approved, subject to conditions of consent.

RECOMMENDATION

It is recommended that the application be approved, subject to the conditions set out in Attachment B.

CONDITIONS OF CONSENT

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

1. Approved Development.

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

Plan No.	Plan Name	Date	Revision	Prepared By
A-0800	Basement 2 Floor Plan	9/11/21	J	Loucas Architects
A-0900	Basement 1 Floor Plan	9/11/21	J	Loucas Architects
A-1000	Ground Floor Plan	9/11/21	J	Loucas Architects
A-1100	First Floor Plan	13/10/21	I	Loucas Architects
A-1200	Second Floor Plan	13/10/21	I	Loucas Architects
A-1300	Third Floor Plan	13/10/21	I	Loucas Architects
A-1400	Fourth Floor Plan	13/10/21	I	Loucas Architects
A-1500	Roof Plan	9/11/21	J	Loucas Architects
A-2000	South Elevation Canterbury Road	9/11/21	J	Loucas Architects
A-2100	East Elevation	9/11/21	J	Loucas Architects
A-2200	North Elevation Wilson Lane	9/11/21	J	Loucas Architects
A-2300	West Elevation	9/11/21	J	Loucas Architects
A-2500	Section 1	13/10/21	I	Loucas Architects
A-2600	Section 2	13/10/21	I	Loucas Architects
A-3000	Adaptable Unit Details	13/10/21	I	Loucas Architects
A-3100	Adaptable Unit Details	13/10/21	I	Loucas Architects
A-5300	Driveway Section	13/10/21	I	Loucas Architects
A-5500	Bin Carting Route	9/11/21	J	Loucas Architects
A-5600	Subdivision Plan	13/10/21	I	Loucas Architects
IS0280DA1	Landscape Plan	12/10/21	C	Isthmus Pty Ltd
IS0280DA2	Landscape Plan	12/10/21	C	Isthmus Pty Ltd
000	Cover Sheet, Notes and Legend	27/4/21	D	ACE Civil Stormwater Services Pty Ltd
101	Stormwater Concept Plan Basement Level 2 Sheet 1 of 3	27/4/21	D	ACE Civil Stormwater Services Pty Ltd
102	Stormwater Concept Plan Basement Level 2 Sheet 2 of 3	27/4/21	D	ACE Civil Stormwater Services Pty Ltd
103	Stormwater Concept Plan Basement Level 2 Sheet 3 of 3	27/4/21	D	ACE Civil Stormwater Services Pty Ltd

104	Stormwater Concept Plan	27/4/21	D	ACE Civil Stormwater Services Pty Ltd
105	On-site Detention Details and Calculation Sheets	27/4/21	D	ACE Civil Stormwater Services Pty Ltd
106	Miscellaneous Details Sheet	27/4/21	D	ACE Civil Stormwater Services Pty Ltd

Document No.	Document Name	Date	Revision	Prepared By
-	Waste Management Plan			
A206347A	Traffic Report	October 2021	2B	Motion Traffic Engineers Pty Ltd
-	Ambient Air Quality Testing	8/10/21	2	Trinitas Group
2020-113	Acoustic Report	21/4/21	2	Acoustic Noise and Vibration Solutions Pty Ltd
-	RE: Council Letter for proposed gym within proposed development at 773-777 Canterbury Road, Belmore	11/10/21	-	Acoustic Noise and Vibration Solutions Pty Ltd
-	Re: Response to Council letter for proposed development at 773-777 Canterbury Road, Belmore	11/10/21	-	Acoustic Noise and Vibration Solutions Pty Ltd
-	Power Supply	19/4/21	-	AA Power Engineering
	Communal Open Space – Plan of Management	13/7/20	-	Chapman Planning Pty Ltd
-	Disability Access Report	9/6/20	-	Access Solutions NSW Pty Ltd
-	Geotechnical Report Review	17/7/20	-	WITT Consulting

Note: In the event of any inconsistency between the approved plans and the supporting documentation, the approved plans prevail.

- 1.1. Before the issue of a construction certificate, the principal certifier must ensure the approved construction certificate plans (and specifications) detail the following required amendments to the approved plans and supporting documentation stamped by Council.

- a. The building must comply with the Category 1 fire safety provisions as are applicable to the building's proposed use.

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

- b. Operable skylights are to be installed above the principal living areas of apartments 402, 404 and 405, as shown on the approved plans. The skylights are solar powered and are to comprise the same features as those shown at the following link:
<https://www.velux.com.au/products/skylights/vss%20solar%20skylight>
- c. The window on the western elevation of apartment 4.04 is to be setback from the northern elevation the same distance as the window on the western elevation of apartments 2.04 and 3.04 (setback 1m measured from the external face of the northern elevation).
- d. The entire eastern elevation of the north facing balcony associated with apartments 1.03, 2.03, 3.03 and 4.03 is to comprise a privacy screen measuring a maximum height of 1.8m when measured from the finished floor level. The materials and finishes of the privacy screen are to match those shown on the approved elevation plans.
- e. The entire eastern elevation of the north facing balcony associated with apartments G.06, 1.06, 2.06, 3.06 and 4.06 is to comprise a privacy screen measuring a maximum height of 1.8m when measured from the finished floor level. The materials and finishes of the privacy screen are to match those shown on the approved elevation plans.
- f. Convex mirrors could be incorporated into the main pedestrian lobby area to further minimise any potential blind corners.
- g. The building is to be clearly identified by street numbers.
- h. Intercoms and controlled access measures (e.g. roller doors, swipe door access) to be installed at the residential building entry points, main entry point to basement car park and entry point to residential component of basement car park.
- i. The 1.6m high fence (900mm solid with open screening above to a height of 1.6m) proposed to be erected along the southern boundary to the east of the pedestrian entry is to be replicated along the entire southern boundary to the west of the pedestrian entry. The fence to the west of the pedestrian entry is to be setback 1m from the southern boundary to ensure it is in keeping with the fence to the east of the pedestrian entry. The fence is to be the same material as that provided along the southern boundary to the east of the pedestrian entry. The 1m wide landscape strip in front of the fences is to remain in communal ownership.
- j. The inclusion of an electrical substation within the site has not been approved as part of this development application.

- k. Storage within each dwelling must be provided as follows:
- Minimum 6m³ in one bedroom apartment;
 - Minimum 8m³ in two bedroom apartments;
 - Minimum 10m³ in three+ bedroom apartments;
 - At least 50% of the required storey is to be located within the apartment.

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

- 2.1. Development Contributions of \$528,747.41 must be paid for this development before the issue of any construction certificate. The contributions are levied under Canterbury Development Contributions Plan 2013 and Section 7.11 of the Environmental Planning and Assessment Act 1979. The contributions will be used to provide, extend or augment public amenities or public services required due to additional demand for these facilities created by the new development. The development contribution will be allocated to the following purposes under the contributions plan:

Community Facilities	\$47,826.22
Plan administration	\$13,458.57
Open Space	\$467,462.62

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

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

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

- 2.2. A detailed landscape plan prepared by a qualified landscape architect or qualified landscape designer must be approved by the principal certifier prior to the issue of a construction certificate. The landscape plan must be prepared according to the submitted landscape plan (drawn by isthmus Pty Ltd, drawing no. IS0280DA1 and IS0280DA2 Rev C, submitted to council on 19 October 2021) except where amended by the conditions of consent and in accordance with Canterbury DCP 2012 and must include the following features, notations and specifications:

- a. The location of existing and proposed structures on the subject property/properties, including existing and proposed trees, impermeable areas, landscaped areas, deep soil zones, fixed furniture, shade structures, lighting, and other features,
 - b. Details of earthworks and soil depths, including mounding and retaining walls and planted boxes,
 - c. The location, number, pot size and type of chosen plant species. Details of planting procedures and long-term maintenance (if any),
 - d. Details of drainage and watering systems (if any),
 - e. A Landscape maintenance schedule period of 12 months is to be applied to this development. During this maintenance period, the landscaping must be maintained in accordance with the details specified on the submitted landscape plan,
 - f. All the tree supply stocks shall comply with the guidance given in the publication Specifying Trees: a guide to assessment of tree quality by Ross Clark (NATSPEC, 2003).
- 2.3. All scheduled plant stock shall be pre-ordered, prior to issue of Construction Certificate or 3 months prior to the commence of landscape construction works, whichever occurs sooner, for the supply to the site on time for installation. Written confirmation of the order shall be provided to Council's Landscape Architect (Contact no: 9789 9438), prior to issue of any Construction Certificate. The order confirmation shall include name, address and contact details of supplier; and expected supply date.
- Written confirmation of the order shall be provided to Council's Landscape Architect (Contact no: 9707 9604), prior to issue of any Construction Certificate. In addition to the details in the above table, the order confirmation shall include name, address and contact details of supplier; and expected supply date.
- 2.4. All proposed trees are to be minimum 75ltr pot size. These trees are to be maintained at all times to the Council's satisfaction. (This is to satisfy the residential tree planting requirement of Canterbury Development Control Plan 2012.)
- 2.5. Approval in accordance with Council's Tree Management Order (TMO) is granted to lop or remove only those trees identified to be lopped or removed on the approved plans. If not indicated on the approved plans, separate approval must be obtained to prune or remove trees on adjoining properties or other trees located on the site. A person(s) who contravenes or causes or permits the TMO to be breached shall be guilty of an offence and liable for prosecution.
- 2.6. Before the issue of a construction certificate or, the person having benefit of this Determination Notice is to ensure that an erosion and sediment control plan is prepared in accordance with the following documents before it is provided to and approved by the certifier:

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

The person having benefit of this Determination Notice must ensure the erosion and sediment control plan is kept onsite at all times during site works and construction.

- 2.7. Before the issue of a construction certificate, the person having benefit of this Determination Notice is to ensure that a waste management plan is prepared in accordance with the EPA's Waste Classification Guidelines and the following requirements before it is provided to and approved by the certifier:

- a. Council's Waste Management Development Control Plan

- 2.8. Before the issue of the relevant construction certificate, the person having benefit of this Determination Notice must submit the following written evidence of service provider requirements to the certifier:

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

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

Refer to www.sydneywater.com.au/tapin for Sydney Water's Guidelines for building over or next to assets, visit www.sydneywater.com.au 'Plumbing, building & developing' then 'Building Plan Approvals' or call 13000 TAPINTM.

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

- 2.10. All fees, levies, bonds and/or contributions as required by this Determination Notice must be paid to the relevant authority/entity.
- 2.11. A long service levy payment which is calculated to be 0.35% of the total cost of the construction work must be paid to the Building and Construction Industry Long Service Payments Corporation. Payment can be made via the [Long Service Portal](https://www.longservice.nsw.gov.au) at <https://www.longservice.nsw.gov.au>.
- 2.12. The person having benefit of this Determination Notice shall apply for a Work Permit and obtain approval from Council, for any of the following applicable engineering works in front of the site, at their own expense:
- a. A heavy duty VFC of maximum width of 5.5 metres at the property boundary for the basement access ramp.
 - b. Drainage connection thorough an above ground on site storm water detention system discharging under gravity to Council's system.
 - c. Removal of all driveway surfaces, reinstatement of laybacks to kerb and gutter and reshaping of the footway, all associated with redundant VFCs.
 - d. Repair of any damage to the public road including the footway occurring during development works.
 - e. Reinstatement of the footway reserve and adjustment or relocation of existing public utility services to match the footway design levels as proposed on the approved Work Permit. Adjustment or relocation to any public utility services shall be carried out to the requirements of the public utility authority.

Note: Council is required to prepare a site survey and design in order to determine the necessary information. The person having benefit of this Determination Notice should make application and payment for the Work Permit at least twenty-one (21) days prior to the information being required and prior to the issue of the construction certificate. The Work Permit must be approved prior to any works commencing within the Council Road Reserve or on Council's assets.

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

- 2.14. Before the issue of the relevant construction certificate, a suitably qualified engineer must review the plans which relate to parking facilities and provide written evidence, to the certifier's satisfaction, that it complies with the relevant parts of AS 2890 Parking Facilities- Off- Street Carparking and Council's development control plan.
- 2.15. Where Council approved cut or fill exceeds 200mm and stable batter of 1 vertical to 3 horizontal maximum grade cannot be achieved, then a masonry or other proprietary material retaining wall, intended and suitable for that purpose, shall be constructed within the development site. Note, filling of the site needs specific approval from Council.
- a. The retaining wall shall be located so that it will not impede or obstruct the natural flow of stormwater. Retaining walls exceeding 600mm in height shall be designed by an appropriately qualified person as defined in the Building and Development Certifiers Regulation 2020. Plans and details prepared and signed by an appropriately qualified person as defined in the Building and Development Certifiers Regulation 2020 are to be submitted to the Principal Certifier prior to the issue of the construction certificate.
 - b. All works associated with the construction of the wall, including backfilling and drainage, is to be located wholly within the allotment boundaries.
- 2.16. An all weather pavement shall be designed to withstand the anticipated wheel loads for all areas subjected to vehicular movements. Internal pavements specification prepared and certified by all qualified professional Civil Engineer to comply with the relevant Australian Standards, shall be submitted to the Principal Certifying Authority (PCA) for approval prior to the issue of a construction certificate.
- 2.17. Stormwater drainage from the development shall be designed so as to comply with Council's Canterbury Development Control Plan 2012 Part B5 and the requirements of the BASIX Certificate. A final detailed stormwater drainage design shall be prepared by an appropriately qualified person as defined in the Building and Development Certifiers Regulation 2020 in accordance with the above requirements and shall generally be in accordance with the approved concept stormwater plan as shown in the table below. The final plan shall be certified by the an appropriately qualified person as defined in the Building and Development Certifiers Regulation 2020 that it complies with Council's Canterbury Development Control Plan 2012 Part B5, the BASIX Certificate and the relevant Australian Standards.

Plan Number	Plan Name	Date	Revision	Prepared By
000	Cover Sheet, Notes and Legend	27/4/21	D	ACE Civil Stormwater Services Pty Ltd

101	Stormwater Concept Plan Basement Level 2 Sheet 1 of 3	27/4/21	D	ACE Civil Stormwater Services Pty Ltd
102	Stormwater Concept Plan Basement Level 2 Sheet 2 of 3	27/4/21	D	ACE Civil Stormwater Services Pty Ltd
103	Stormwater Concept Plan Basement Level 2 Sheet 3 of 3	27/4/21	D	ACE Civil Stormwater Services Pty Ltd
104	Stormwater Concept Plan	27/4/21	D	ACE Civil Stormwater Services Pty Ltd
105	On-site Detention Details and Calculation Sheets	27/4/21	D	ACE Civil Stormwater Services Pty Ltd
106	Miscellaneous Details Sheet	27/4/21	D	ACE Civil Stormwater Services Pty Ltd

- 2.18. Stormwater runoff from within the property shall be collected and controlled by means of an above ground on site stormwater detention system (OSD) in accordance with Council's Development Engineering Standards. The runoff from the detention storage shall be conveyed to an inspection pit to be located at the south western corner of the site and from there to the Council's system in Canterbury Road. Stormwater runoff from areas naturally draining to the site shall be collected, conveyed and piped to the inspection pit downstream of the detention storage basin.

A final stormwater drainage and on site detention system plan, shall be prepared by a qualified professional Civil Engineer in accordance with the above requirements and the requirements contained in Council's Development Engineering Standards. The final stormwater drainage plan shall also be generally in accordance with the concept plan no: 200322 sheet nos: 101 to 106, Revision – D dated 27/04/2021 prepared by ACE Civil Storm Water Services Pty Ltd.

The final plan shall be certified by the design engineer that it complies with Council's Development Engineering Standards and the relevant Australian Standards.

- 2.19. The Construction Certificate plans shall include details of the garbage receptacle area. The garbage receptacle area shall not be visible from the street. The garbage receptacle area shall be located within the building or screened from the street by dense landscaping.
- 2.20. A Construction Traffic Management Plan (CTMP) / Site Pedestrian Traffic Management Plan (SPTMP) shall be required to be submitted six months prior to the commencement of works on the site, for both demolition and construction phases of the development / project. Prior to the issue of any Construction Certificate for this development, the applicant must obtain approval from Council's Traffic Section for a Construction Traffic Management Plan (CTMP)/Site, Pedestrian and Traffic Management Plan (SPTMP). This Plan must address the measures that will be implemented for pedestrian safety and traffic management as specified below.

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This plan shall include details of the following:

- a. Proposed ingress and egress points for vehicles to and from the construction site;
- b. Proposed protection of pedestrians, adjacent to the construction site;
- c. Proposed pedestrian management whilst vehicles are entering/exiting the construction site;
- d. Proposed measures to be implemented for the protection of all public roads and footway areas surrounding the construction site from building activities, crossings by heavy equipment, plant and materials delivery and static load from cranes, concrete pumps and the like;
- e. Proposed method of loading and unloading excavation machines, building material, construction materials and waste containers during the construction period;
- f. Proposed traffic control measures such as advanced warning signs, barricades, warning lights, after hours contact numbers etc. are required to be displayed and shall be in accordance with Council's and the NSW Roads and Maritime Services requirements and AS1742.3.
- g. Proposed route for transportation of bulk and excavation materials to and from the development site.
- h. Proposed traffic control measures such as advanced warning signs, barricades, warning lights, after hours contact numbers etc. are required to be displayed and shall be in accordance with Council's and the NSW Roads and Maritime Services requirements and AS1742.3.

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

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

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

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

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

This plan shall include details of the following:

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

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

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

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

- 2.22. A soil erosion and sediment control plan must be prepared by a suitably qualified professional in accordance with Council's Demolition and Construction Guidelines and Development Engineering Standards and submitted to the certifier for approval prior to the issue of a construction certificate.
- 2.23. As any works within, or use of, the footway or public road for construction purposes requires separate Council approval under Section 138 of the *Roads Act 1993* and/or Section 68 of the *Local Government Act 1993*, Council requires the person having benefit of this Determination Notice to obtain a Works Permit and or a Roadway / Footpath Building Occupation Permit prior to issue of any construction certificate for this development being issued where one or more of the following will occur, within, on or over the public footway or public road:

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WORKS REQUIRING A 'WORKS PERMIT'

- a. Dig up, disturb, or clear the surface of a public footway or public road,
- b. Remove or interfere with a structure or tree (or any other vegetation) on a public footway or public road,
- c. Connect a road (whether public or private) to a classified road,
- d. Undertake footway, paving, vehicular crossing (driveway), landscaping or stormwater drainage works within a public footway or public road,
- e. Install utilities in, under or over a public road,
- f. Pump water into a public footway or public road from any land adjoining the public road,

- g. Erect a structure or carry out a work in, on or over a public road,
- h. Require a work zone on the public road for the unloading and or loading of vehicles,
- i. Pump concrete from within a public road,
- j. Stand a mobile crane within a public road,
- k. Store waste and recycling containers, skips, bins and/or building materials on any part of the public road,
- l. The work is greater than \$25,000, and
- m. Demolition is proposed.

The person having benefit of this Determination Notice shall construct all works approved within the public road and footway under the supervision and to the satisfaction of Council and shall arrange for necessary inspections by Council whilst the work is in progress.

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

- 2.24. 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 the Australian Standard AS 2890 parking series.
- 2.25. The pump out drainage system for the driveway/access ramp and car parking area/open space area shall be provided in accordance with Council's Canterbury Development Control Plan 2012 Part B5. The Engineer must design the Pump out drainage system to be in accordance with the Australian Standards AS 3500. Engineering details and manufacturers specifications for the pumps, switching system and sump pit shall be submitted to the Principal Certifier for approval prior to issue of any Construction Certificate. The Engineer must certify that the Hydraulic design complies with the above relevant standards.
- 2.26. The basement of the development is located adjacent to a Council Public Road Reserve. Separate approval and Work Permit is to be obtained from Council for any temporary or permanent anchoring works under Council's Public Road.
- 2.27. Engineering details and manufacturers specifications for the pumps, switching system and sump pit shall be submitted to the Principal Certifying Authority (PCA) for approval prior to issue of any Construction Certificate.

2.28. A vacant land charge form is to accompany any Construction Certificate (CC) application for the removal of all council garbage and recycling bins.

<https://www.cbcity.nsw.gov.au/council/forms/waste-recycling>

2.29. A design certificate and detailed plans are to accompany any CC application which demonstrate that the waste storage room has been designed to be constructed in accordance with the following requirements:

- a. Floors must be constructed of concrete at least 75mm thick and graded and drained to a Sydney Water approved drainage fitting.
- b. The floors must be finished so that is non-slip and has a smooth and even surface.
- c. The room is to be integrated within the building, a minimum 2.1m unobstructed room height is required in accordance with the Building Code of Australia;
- d. The walls must be constructed of solid impervious material.
- e. The ceilings must be finished with a smooth faced non-absorbent material capable of being cleaned.
- f. Walls, ceiling and floors must be finished in a light colour.
- g. Is to be provided with an adequate supply of hot and cold water mixed through a centralised mixing valve with hose cock.
- h. A self-closing door openable from within the room.
- i. Must be constructed to prevent the entry of birds and vermin.
- j. Be provided with adequate light and ventilation. Light source must be through controlled light switches located both outside and inside the room.
- k. Any doorways must be 2m wide.
- l. Designed to fit 7 x 660L recycling bins
- m. Designed to fit 8 x 660L garbage bins

2.30. A design certificate and detailed plans are to accompany any CC application which demonstrate that the bin carting route from the waste storage room to nominated collection point has been designed to be constructed in accordance with the following requirements:

- a. Direct and less than 10 metres,
- b. Minimum 2m wide hard surface;
- c. Non-slip, free from obstacles and steps;
- d. Not within a driveway or carpark, this is considered a conflict point for vehicles and collection staff; and
- e. A maximum grade of 1:30 (3%);
- f. Layback installed at the nominated collection point.

2.31. A design certificate and detailed plans are to accompany any CC application which demonstrate that the bulky waste storage room has been designed to be constructed in accordance with the following requirements:

- a. Floors must be constructed of concrete at least 75mm thick and graded and drained to a Sydney Water approved drainage fitting.
 - b. The floors must be finished so that is non-slip and has a smooth and even surface.
 - c. The walls must be constructed of solid impervious material.
 - d. The room is to be integrated within the building, a minimum 2.1m unobstructed room height is required in accordance with the Building Code of Australia;
 - e. The ceilings must be finished with a smooth faced non-absorbent material capable of being cleaned.
 - f. Walls, ceiling and floors must be finished in a light colour.
 - g. Is to be provided with an adequate supply of hot and cold water mixed through a centralised mixing valve with hose cock.
 - h. A self-closing door openable from within the room.
 - i. Must be constructed to prevent the entry of birds and vermin.
 - j. Be provided with adequate light and ventilation. Light source must be through controlled light switches located both outside and inside the room.
 - k. Any doorways must be 2m wide.
 - l. Designed with a minimum floor space of 4m²
- 2.32. The land dedication to Council described on Plan A – 5600 of Project Pn-20008 by Loucas Architects dated 13/10/21 shall be utilised to provide the widening of Wilson Lane.
- 2.33. The works shall include widening of the existing carriageway to provide a minimum of a 6.5m carriageway and approximately 1.8m wide shall concrete footpath adjacent to the new boundary of the site. The laneway widening shall be designed to Council's standards and specifications and the design shall be submitted to the Director of City Assets and approved by Council prior to the issue of a Construction Certificate. The levels of the approved laneway widening shall be incorporated in the design levels of the development.
- 2.34. All cost involved in the design and construction of the lane widening shall be borne by the applicant.
- 2.35. No structure attached to the site shall exist above or below the land dedication.
- 2.36. The Applicant is required to submit to Council the manufacturer's specifications, design and operation of the 'traffic signal' facility to be installed along the driveway access ramp to the basement level and shall be illustrated on the plan to be submitted with the construction certificate application. The Applicant / Owner shall be responsible for the installation, operation and maintenance of the 'traffic signal' facility at no cost to Council.

- 2.37. The Applicant is to be required to apply for an extension of the No Stopping zone that is associated with the pedestrian crossing near the school from its current position to about 3 car lengths (18 metres) to the east of Wilson Lane (near the wider section of the laneway) to further enhance traffic safety particularly when a 12.5 metres waste truck is carrying out the waste collection on this laneway. This is subject to Traffic Committee approval processes and the Applicant is to apply through Council's Team Leader- Traffic and Transport at least 3 months prior to issue of the construction certificate.
- 2.38. The combined entry and exit driveway to the basement car park is to have a minimum clearance of 2 metres from the side boundary to comply with the Canterbury Bankstown Council's Vehicular Footway Crossings (VFC) Policy and Standard Location for VFCs and Property Drainage (Dwg S-004 dated 20/10/2020). The entry and exit sides of the driveway are to be marked on the pavement with directional arrows. This shall be illustrated on plans submitted with the construction certificate.
- 2.39. The proposed intercom within the driveway access ramp is to be positioned in accordance with Clause 3.3(b) – Vehicular Control Point of AS 2890.1:2004. This shall be illustrated on plans submitted with the construction certificate.
- 2.40. Sight triangle is to be marked on Ground floor plan (Dwg A-1000 Issue I dated 13/10/2021) and provided on the exit side driveway, in accordance with AS 2890.1:2004 *Figure 3.3 – Minimum Sight Lines for Pedestrian Safety*. A splay extending 2 metres from the driveway edge along the front boundary and 2.5 metres from the boundary along the driveway shall be provided to give clear sight lines of pedestrians from vehicles exiting the site and is to be kept clear of any obstacles. This shall be illustrated on plans submitted with the construction certificate.
- 2.41. All buildings and structures, together with any improvements integral to the future use of the site are wholly within the freehold property unlimited in height or depth along the Canterbury Road boundary.
- 2.42. The redundant driveways on Canterbury Road should be replaced with kerb and gutter to match existing. The design and construction of the kerb and gutter on Canterbury Road shall be in accordance with Transport for New South Wales (TfNSW) requirements. Details of these requirements should be obtained by email to developerworks.sydney@rms.gov.au.

Detailed design plans of the proposed kerb and gutter are to be submitted to TfNSW for approval prior to the issue of a Construction Certificate and commencement of any road works. Please send all documentation to development.sydney@rms.nsw.gov.au.

A plan checking fee and lodgement of a performance bond is required from the applicant prior to the release of the approved road design plans by TfNSW.

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

Please refer to www.sydneywater.com.au/tapin

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

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

- 2.44. The Construction Certificate plans must demonstrate compliance with the performance requirements of the Building Code of Australia BCA/NCC, the disability access report prepared by Access Solutions Pty Ltd dated 25/05/2020, and the acoustic report prepared by Acoustic, Vibration & Noise Pty Ltd ref. 2020-113 dated 03/07/2020. Details of any Fire Engineered Solutions and deemed-to-satisfy provisions must be provided in full for approval prior to the issue of a construction certificate.
- 2.45. The development is to be carried out in accordance with the commitments shown in the BASIX Certificate. The BASIX commitments approved with the development application are to be reflected in the construction certificate plans and specifications.
- 2.46. A certificate from a professional engineer certifying the structural capacity of the development will be appropriate to the building's proposed use or is capable of supporting the loads imposed by the structure must be provided to the certifier prior to the issue of a construction certificate.
- 2.47. All precautions must be taken to prevent any damage likely to be sustained to adjoining properties. Adjoining owner property rights must be observed at all times. Where damage occurs to adjoining property, all necessary repairs or suitable agreement for such repairs are to be undertaken by the applicant in consultation with, and with the consent of, the affected property owner prior to the issue of an Occupation Certificate.
- a. The applicant shall prepare a dilapidation report/photographic survey prepared by an appropriately qualified consultant for the adjoining properties at 759-767 Canterbury Road and 779 Canterbury Road, Belmore detailing the physical condition of the properties, both internally and externally, including items such as walls, ceilings, roof, structural members and other similar items, shall be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

3. Conditions to be Satisfied Before Construction.

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

This Determination Notice does not authorise building work until a Principal Certifier has been appointed as the Principal Certifier for the work by (or with the approval of) the person having the benefit of this Determination Notice.

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

- a. the principal certifier has, no later than 2 days before the building work commences, notified the Consent Authority and the Council (if the council is not the Consent Authority) of his or her appointment as the principal certifier,
 - b. the principal certifier has, no later than 2 days before the building work commences, notified the person having the benefit of this Determination Notice of any inspections that are required to be carried out in respect of the building work,
 - c. the person carrying out the building work has notified the principal certifier that the person will carry out the building work as an owner-builder, if that is the case,
 - d. the person having the benefit of this Determination Notice, if not carrying out the work as an owner-builder, has:
 - i. appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential building work is involve, and
 - ii. notified the principal certifier of the appointment, and
 - iii. unless that person is the principal contractor, notified the principal contractor of any inspections that are required to be carried out in respect of the building work,
 - e. the person having the benefit of this Determination Notice has given at least a 2-day notice to the Council, and the principal certifier if not the Council, of the person's intention to commence the erection of the building.
- 3.2. In the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.
- 3.3. Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the principal certifier for the development to which the work relates (not being the council) has given the council written notice of the following information —

- a. In the case of work for which a principal contractor is required to be appointed—
 - i. the name and licence number of the principal contractor, and
 - ii. the name of the insurer by which the work is insured under Part 6 of that Act,
- b. In the case of work to be done by an owner-builder—
 - i. the name of the owner-builder, and
 - ii. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

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

- 3.4. Before the commencement of any site or building work, the principal certifier must ensure the measures for tree protection detailed in the construction site management plan are in place.
- 3.5. Before the commencement of any site or building work, the principal certifier must be satisfied the erosion and sediment controls in the erosion and sediment control plan, (as approved by the principal certifier) are in place until the site is rectified (at least 70% ground cover achieved over any bare ground on site).
- 3.6. Council's warning sign for Soil and Water Management must be displayed throughout the construction period at the most prominent point of the site, visible to both the street and site.
- 3.7. Prior to the commencement of work, the person having the benefit of this Determination Notice must provide a temporary on-site toilet if access to existing toilets on site is not adequate/available. Temporary on-site toilet facilities must be installed and be adequately maintained throughout the construction period.
- 3.8. A Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be obtained from Sydney Water. It is recommended that the person having the benefit of this Determination Notice apply early for the certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design.

Application can be made through an authorised Water Servicing Coordinator. For help either visit www.sydneywater.com.au > Plumbing, building and developing > Developing > Section 73 Compliance Certificates or telephone 13 20 92.

- 3.9. A fence must be erected around the area of the development site, except where an existing 1.8 metres high boundary fence is in good condition and can secure the area. Any new fencing must be temporary and at least 1.8 metres high. All fencing must be maintained throughout the construction period to ensure that the work area is secured.

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

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

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

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

- 3.11. The developer is to submit design drawings and documents relating to the excavation of the site and support structures to TfNSW for assessment, in accordance with Technical Direction GTD2020/001.

The developer is to submit all documentation at least six (6) weeks prior to commencement of construction and is to meet the full cost of the assessment by TfNSW. Please send all documentation to development.sydney@rms.nsw.gov.au.

If it is necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on the consent shall ensure that the owner/s of the roadway is/are given at least seven (7) days notice of the intention to excavate below the base of the footings. The notice is to include complete details of the work.

- 3.12. Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system are to be submitted to TfNSW for approval, prior to the commencement of any works. Please send all documentation to development.sydney@rms.nsw.gov.au.

A plan checking fee will be payable and a performance bond may be required before TfNSW approval is issued.

- 3.13. 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.
- 3.14. The proposed development will generate additional pedestrian movements in the area. Pedestrian safety is to be considered in the vicinity.
- 3.15. All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping. A construction zone will not be permitted on Canterbury Road.
- 3.16. A Road Occupancy Licence (ROL) should be obtained from Transport Management Centre for any works that may impact on traffic flows on Canterbury Road during construction activities. A ROL can be obtained through <https://myrta.com/oplinc2/pages/security/oplincLogin.jsf>
- 3.17. Crown building work must not be commenced unless the building work is certified by or on behalf of the Crown to comply with the technical provisions of the State's building laws.
- 3.18. Written notice must be given to adjoining residents seven (7) days prior to the commencement of demolition advising of the commencement date.

Written notice is to be given to Council for inspection prior to demolition. Such written notice is to include the date when demolition work will commence and details of the name, address, contact telephone number and licence number of the demolisher.

The following inspections must be undertaken by Council:

- a. A pre-commencement demolition inspection when all site works required as part of this consent are installed on the site and prior to demolition work commencing; and

- b. A final demolition inspection when the demolition works have been completed to ensure that the site is left in a satisfactory manner, in accordance with the conditions of this consent.

Payment of an inspection fee at Council's current rate will be required prior to inspection. Council requires 48 hours notice to carryout inspection.

Prior to demolition work, a sign must be erected at the front of the property with the demolishers name, licence number and contact phone number.

Demolition work may only be carried out between 7.00am and 5.00pm on Monday to Saturday and no demolition work is to be carried out at any time on a Sunday or a public holiday.

All demolition work must be carried out in accordance with Australian Standard 2601-2001 - The demolition of structures.

Where asbestos containing materials are to be removed, demolition is to be carried out by contractors who have a current SafeWork NSW licence in asbestos removal.

An asbestos clearance certificate issued under the Work Health and Safety Act 2011 must be submitted to Council after the completion of demolition work.

Hazardous and intractable wastes arising from the demolition process must be removed and disposed of in accordance with the requirements of SafeWork NSW and the NSW Environment Protection Authority.

Demolition procedures must maximise the reuse and recycling of demolished materials in order to reduce the environmental impacts of waste disposal.

A copy of the final demolition inspection report is to be submitted to the principal certifier prior to the commencement of building work.

4. Conditions to be Satisfied During Construction.

- 4.1. Building work must be carried out in accordance with the requirements of the BCA.
- 4.2. The principal certifier must ensure that building work, demolition or vegetation removal is only carried out between:
 - a. 7.00 am and 5.00 pm on Monday to Saturday.
 - b. No construction is to be carried out at any time on a Sunday or a public holiday.

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

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

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

- 4.3. An identification report by a registered surveyor must be submitted to the principal certifier prior to the ground floor slab being poured to verify the buildings wall setback and floor level conform to the approved plans.
- 4.4. All excavations and backfilling must be executed safely and in accordance with the relevant Australian Standards.
- 4.5. There must not be any stockpiling of building spoil, materials, or storage of equipment on the public road during the construction period. The footway and the road reserve must always be maintained in a safe condition. No work can be carried out on the public road, including the footway, unless a Work Permit authorised by Council has been obtained.
- 4.6. While building work is being carried out, a registered surveyor is to measure and mark the positions of the following and provide them to the principal certifier —
 - a. All footings/ foundations
 - b. At other stages of construction – any marks that are required by the principal certifier.
- 4.7. All civil and hydraulic engineering works on site must be carried out in accordance with Council's Canterbury Development Control Plan 2012 Part B5. All Civil and Hydraulic engineering works associated with Council's assets and infrastructure must be carried out in accordance with Council's Work Permit requirements and to Council's satisfaction.
- 4.8. If soil conditions require it, retaining walls or other approved methods of preventing movement of the soil must be provided, and adequate provisions must be made for drainage. Separate approval may be required for retaining walls should they be required.
- 4.9. While building work is being carried out, the principal certifier must be satisfied all soil removed from or imported to the site is managed in accordance with the following requirements:

- a. All excavated material removed from the site must be classified in accordance with the EPA's Waste Classification Guidelines before it is disposed of at an approved waste management facility and the classification and the volume of material removed must be reported to the principal certifier.
 - b. All fill material imported to the site must be Virgin Excavated Natural Material as defined in Schedule 1 of the Protection of the Environment Operations Act 1997 or a material identified as being subject to a resource recovery exemption by the NSW EPA.
- 4.10. If the development involves an excavation that extends below the level of the base of the footings of a building, structure or work on adjoining land (including any structure or work within a road or rail corridor), the person having the benefit of the development consent must, at the person's own expense —
- a. Protect and support the building, structure or work from possible damage from the excavation, and
 - b. Where necessary, underpin the building, structure or work to prevent any such damage.
- This condition does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.
- 4.11. All boundary fencing behind the building line shall be replaced by a 1.8m high lapped and capped timber or sheet metal fence, or as stipulated in a flood study prepared for the site, or as determined in consultation with the adjoining property owners at the developer's expense. Fencing forward of the building line shall be no higher than 1m unless otherwise approved by Council.
- 4.12. The stormwater drainage system shall be constructed in accordance with Council's Canterbury Development Control Plan 2012 Part B5 and the engineering plans and details approved by the Principal Certifier. Should the person having benefit of this Determination Notice encounter any existing, live, underground stormwater drainage pipes, which carry flow from upstream properties, then they must maintain the stormwater flow and re-route the stormwater pipes around the subject building or structures at their own expense.
- 4.13. The wastewater from the car wash bay shall be collected and disposed of, in accordance with the requirements contained in Council's Development Engineering Standards.
- 4.14. A suitably qualified Professional Civil or Structural Engineer shall be engaged by the developer to carry out inspections relating to construction of internal driveways and parking areas. The work shall be carried out in accordance with the approved plans and specifications and certification from the Civil or Structural Engineer is to be provided upon completion.

4.15. Requirements of the approved WMP shall be complied with during all site preparation works, demolition (if proposed) and throughout all construction works. When implementing the WMP the developer is to ensure:

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

4.16. In the instance works cause the generation of odours or uncovering of unexpected contaminants works are to immediately cease, Council is to be notified and a suitably qualified environmental consultant appointed to further assess the site. The exposed material/excavation is to be evaluated by the supervising environmental consultant and an appropriate response determined in consultation with the applicant, which is agreed to by Council.

Council may also request that an NSW EPA Accredited Site Auditor is involved to assist with the assessment of any unexpected finds, review any contamination information and prepare a Site Audit Report and Site Audit Statement. The applicant must adhere to any additional conditions which may be imposed by the NSW EPA Accredited Site Auditor.

- 4.17. All soils and material, liquid and solid, to be removed from the site must be analysed and classified by an appropriately qualified and experienced environmental consultant, in accordance with the Protection of the Environment Operations (Waste) Regulation 2014 and related guidelines, the 'Waste Classification Guidelines' (NSW EPA, 2014), prior to off-site disposal.
- 4.18. All waste generated on the site is to be stored, handled and disposed of in such a manner as to not create offensive odour, offensive noise or pollution of land and/or water as defined under the *Protection of the Environment Operations Act 1997*. All waste generated must be removed and disposed of by an authorised waste removal contractor. A copy of the waste removal agreement and receipts must be made available to Council on request.
- 4.19. All excavations must be kept free from the accumulation of water.
- 4.20. The designated car wash bay(s) must be designed and constructed to ensure that waste water is discharged to the sewer in accordance with the requirements of Sydney Water.

5. Conditions to be Satisfied Before Occupation.

- 5.1. The occupation or use of the building must not commence unless an occupation certificate has been issued.
- 5.2. An occupation certificate must not be issued until all conditions relating to demolition, building and subdivision works have been satisfied and Council has issued a Work Permit Compliance Certificate (where applicable).
- 5.3. An identification report by a registered surveyor must be submitted to the principal certifier to verify the buildings wall and roof eaves setback, floor level and height conform to the approved plans.
- 5.4. Prior to the issue of any Occupation Certificate a design verification from a qualified designer shall be submitted to the Principal Certifying Authority. The design verification is a statement in which the qualified designer verifies that the development has been constructed as shown in the plans and specifications in respect of which the Construction Certificate was issued, having regard to the design quality principles set out in Schedule 1 of SEPP No. 65.
- 5.5. 59 off street car spaces being provided in accordance with the submitted plans. This shall comprise:
 - a. 46 x residential spaces (including 5.4 (5) spaces to remain as common property)
 - b. 12 x residential visitor spaces
 - c. 1 x car wash bay

5 of the above car parking spaces (4 x residential spaces and 1 x visitor space) are to be provided for people with mobility impairment in accordance with AS 2890.1. All car parking spaces shall be allocated and marked according to these requirements.

- 5.6. Before the issue of an occupation certificate, the principal certifier must be satisfied that all landscape and tree-works, including pruning in accordance with AS 4373-2007 Pruning of amenity trees and the removal of all noxious weed species, have been completed in accordance with the approved plans and any relevant conditions of this consent.
- 5.7. A suitably qualified Professional Civil Engineer shall certify that the driveways, parking bays, and service areas have been constructed in accordance with the approved plans and specifications. Such Certification shall be submitted prior to the issue of the Occupation Certificate or occupation of the site.
- 5.8. Lighting must be provided to the entries of the dwellings, driveways and parking areas to promote a high level of safety and security at night and during periods of low light. All lighting must be hooded, shielded or directed away from neighbouring dwellings to minimise glare and associated nuisances to residents.
- 5.9. The dwellings/buildings must be readily identified from the street with the allocated house numbers. An official "house numbering" letter is issued to the person having benefit of this Determination Notice indicating the proposed numbering of the new development. House numbering without Council's written approval is not permitted.
- 5.10. The Section 73 compliance certificate under the *Sydney Water Act 1994* must be submitted to the Principal Certifier prior to the issue of an occupation certificate.
- 5.11. The developer shall register, on the title of the subject property, a Restriction on the Use of Land and Positive Covenant, in accordance with the standard terms for "Registration of OSD on title", as outlined in Council's Bankstown Development Engineering Standards and in accordance with the appropriate provisions of the Conveyancing Act.

Where subdivision is not proposed, the surveyor shall show the location of the "On-Site Stormwater Detention System" on an A4 size site plan attached to the Section 88E Instrument to be registered, on the title of the subject property, prior to the issue of the Final Occupation Certificate. Alternatively, where subdivision is proposed, the developer shall register, on the title of the subject property, a Restriction on the Use of Land and Positive Covenant, in accordance with the standard terms for "Registration of OSD on title", as outlined in Council's Bankstown Development Engineering Standards and in accordance with the appropriate provisions of the Conveyancing Act. The surveyor shall show the location of the "On-Site Stormwater Detention System" on the plan of

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

- 5.12. Before the issue of the relevant occupation certificate, the person having the benefit of this Determination Notice must submit, to the satisfaction of the principal certifier, works-as-executed plans, any compliance certificates and any other evidence confirming compliance with Canterbury Development Control Plan 2012 Part B5.

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

- 5.13. Final registration of land dedication to Council for lane widening shall be finalised prior to the issue of any Construction Certificate.

- 5.14. Prior to the issue of any Occupation Certificate (OC), an authorised Council waste officer is to inspect and approve all waste management facilities to ensure they comply with the development approval, Waste Management Plan. Specifically, the path of travel for all waste, from unit to point of waste collection, waste storage room sizing, access to water and sewer connections, finished materials, access and door way dimensions, truck turntables, and that all waste facilities are fit for purpose.

- 5.15. Prior to the issue of any OC, the developer is to enter into a formal agreement with Council for the utilisation of Council's Domestic Waste Collection Service. This is to include Council being provided an easement for unimpeded access to and from the waste collection locations for council and its contractors to enter and exit for the purpose of waste and recycling collection. The development is also required to indemnify council and its contractors against claims for loss or damage or wear and tear of access roads or to other parts of the building. A positive covenant shall be placed on the property title, such as section 88B certificate.

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

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

- 5.16. The lane way widening shall be constructed and certified to the satisfaction of the Canterbury Bankstown Council's Director of City Assets prior to the issue of the Occupation Certificate.

- 5.17. Any redundant driveway along Canterbury Road and Wilson Lane at the front and rear of the development to be removed and reinstated with kerb and gutter and verge to match with remaining at the Applicant's cost.

- 5.18. The footpath along Wilson Lane is to be constructed (1.8metres wide) and at the front of the development along Canterbury Road is to be re-constructed at the Applicant's cost.
- 5.19. The waste classification report, including the results of testing, must be compiled, or reviewed and approved by an appropriately qualified and certified consultant, and must be submitted to and approved by the Principal Certifying Authority before off-site disposal. A copy of the waste classification report must be submitted to Council prior to issuing of an Occupation Certificate.
- 5.20. All waste material must be disposed of at an appropriately licensed waste facility for the specific waste. Receipts for the disposal of the waste must be submitted to Council prior to issuing of an Occupation Certificate.

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

- 5.21. The acoustic report submitted in support of this application prepared by Acoustic Noise and Vibration Solutions Pty Ltd titled, 'Acoustic Report – Traffic and Environmental Noise – for proposed development at 773-777, Canterbury Road, Belmore', reference number 2020-113 Rev 2, dated 21 April 2021 and all recommendations stated within the report, form part of the development consent. In addition, all recommendations outlined in the correspondence prepared by Acoustic Noise and Vibration Solutions Pty Ltd, dated 11 October 2021, forms part of the development consent.

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

- 5.22. The design must comply with relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice for construction works near existing electrical assets. The "as constructed" minimum clearances to Ausgrid's infrastructure must not be encroached by the building development. It also remains the responsibility of the developer and relevant contractors to verify and maintain these clearances onsite. Ausgrid's Network Standards can be sourced from Ausgrid's website, www.ausgrid.com.au. Should you have any enquiries, please contact Ausgrid at Development@ausgrid.com.au.

- 5.23. On completion of the excavation and building works and prior to the issue of an Occupation Certificate, a certificate from an appropriately qualified engineer stating to the effect that no damage has resulted to adjoining properties is to be submitted to the Principal Certifying Authority. If damage is identified which is considered to require rectification, the damage shall be rectified or a satisfactory agreement for rectification of the damage is to be made to the affected person/s as soon as practical and prior to the occupation of the development. All costs associated with achieving compliance with this condition shall be borne by the applicant.
- 5.24. Appropriate way findings signage is to be erected within the site.
- 5.25. The residential entry points are to be clearly numbered with the dwellings accessible through that entry.
- 5.26. All works and methods nominated and materials and plants specified on the approved landscape plan are to be completed prior to the issue of an occupation certificate. The landscaping shall be maintained for the life of the development.

6. Conditions for Ongoing Use of the Site

- 6.1. The approved gymnasium within the development is to be solely accessed by residents of the site only. It is not to operate as a separate use.
- 6.2. The ongoing management section of the Waste Management Plan (WMP) are to be included in the by-laws of the strata property. This will ensure that the approved WMP is fully implemented and followed by residents and property managers.
- 6.3. The development must operate in full compliance with Council's Waste Management collection requirements.
- 6.4. The nominated collect and return collection point is to be utilised to facilitate the collection of waste and recycling bins for the development.
- 6.5. Contracts (or agreements) with cleaners, building managers and tenants must clearly outline the waste management and collection system and must clearly identify everyone's role and responsibility. This is to include:
- a. Responsibility for cleaning and maintaining waste storage bins and containers
 - b. Responsibility for cleaning and maintaining waste storage room
 - c. Responsibility for the transfer of bins to the nominated collection point
 - d. Method of communication to new tenants and residents concerning the developments waste management system.
 - e. Cleaning up and management of bulky waste
 - f. Responsibility for maintaining the compost bin or wormfarm

Where the development incorporates strata title subdivision, the by-laws are to clearly set out the management responsibilities for the developments waste and recycling system.

- 6.6. No waste storage bins are to be located or placed outside the approved waste storage room at any time except for collection purposes.
- 6.7. Signage can be provided by Council that clearly identifies which bins (and containers) are to be used for general waste and recycling and what materials can be placed in each bin. The signs provided must be maintained by the site manager.
- 6.8. All vehicles associated with the development are to enter and exit the site in a forward direction.
- 6.9. The operation of the traffic signal control system and intercom are to be continuously maintained by the applicant at no cost to Council.
- 6.10. The operation of the development must not adversely affect the amenity of the neighbourhood or interfere unreasonably with the comfort or repose of a person who is outside the premises by reason of the emission or discharge of noise, fumes, vapour, odour, steam, soot, ash, dust, waste water, waste products, grit, oil or other harmful products.
- 6.11. Any lighting of the premises must be installed in accordance with AS/NZS 4282-2019, 'Control of the obtrusive effects of outdoor lighting', to avoid annoyance to the occupants of adjoining premises or glare to motorists on nearby roads. Flashing, moving or intermittent lights or signs are prohibited. The intensity, colour or hours of illumination of the lights must be varied at Council's discretion if Council considers there to be adverse effects on the amenity of the area.

7. Conditions to be Satisfied Before Subdivision Certificate

- 7.1. Prior to the issue of the Subdivision Certificate, the following items are to be complied with:
 - a. The person having benefit of this Determination Notice shall create the following easements, where necessary over the relevant lots, on the plan of subdivision under provisions of the Conveyancing Act 1919. A statement shall be placed on the Section 88B Instrument that nominates Canterbury-Bankstown Council as the authority empowered to release, vary or modify the easements created:
 - i. Easements to drain water (for inter-allotment drainage).
 - ii. Easement for services (for utilities).
 - iii. Right of carriageway (for internal driveway, vehicle manoeuvring).

- b. Easement for overhang (for eaves and gutters).
The following information shall be submitted to Council or accredited certifier (where applicable) with an application for a Subdivision Certificate:
 - iv. Original plan of subdivision prepared and signed by a qualified surveyor, plus five (5) copies,
 - v. Copy of the relevant development consent, including all Section 4.55 Modifications if applicable.

7.2. Prior to the issue of a subdivision certificate for the development, the principal certifier must ensure that easements have been created where necessary over the relevant lots on the plan of subdivision under provisions of the Conveyancing Act 1919 as follows:

- a. Easements to drain water (for inter-allotment drainage),
- b. Easement for services (for utilities),
- c. Right of carriageway (for internal driveway, vehicle manoeuvring), and
- d. Easement for overhang (for eaves and gutters).

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

-END-

Canterbury Bankstown Local Planning Panel - 06 December 2021

ITEM 4	DA-500/2020 - 892-906 Canterbury Road, Roselands Demolition of existing structures and the construction of a new six storey shop top housing development over two levels of basement car parking and the associated landscaping
FILE	DA-500/2020 - Bunmarra / Roselands
ZONING	B2 Local Centre
DATE OF LODGEMENT	8 July 2020 (Amended Plans/Documents Received 31 May 2021, 2 June 2021 and 23 August 2021)
APPLICANT	Architecture Design Studio (NSW) Pty Ltd
OWNERS	Rouse Stone Pty Ltd/Roselands Star Pty Ltd
ESTIMATED VALUE	\$16,168,428.00
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 it is four or more storeys in height.

Development Application No. DA-500/2020 seeks consent for the demolition of the existing buildings on the subject site and construction of a six storey shop top housing development containing two levels of basement car parking, a ground floor commercial component and five storeys of residential units. The 50-unit residential component will contain 12 x one-bedroom units, 34 x two-bedroom units and 4 x three-bedroom units. The existing allotments will be amalgamated into a single allotment as part of the proposal.

DA-500/2020 has been assessed against the relevant provisions of State Environmental Planning Policy No. 55- Remediation of Land, State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development, State Environmental Planning Policy (Infrastructure) 2007, State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, Canterbury Local Environmental Plan 2012, Canterbury Development Control Plan 2012 and the draft consolidated Canterbury Bankstown Local Environmental Plan.

The key issues are summarised below:

- An Apartment Design Guide (ADG) assessment by the qualified designer in accordance with Clause 50(1AB)(b)(ii) of the Environmental Planning and Assessment Regulation 2000 explaining how the development demonstrates compliance in terms of the Apartment Design Guide and in particular how the objectives in Parts 3 and 4 of the guide have been achieved has not been provided.
- A Remediation Action Plan has not been provided and therefore, it has not been demonstrated that the site is suitable for the purpose of the proposed development. as per Clause 7 of SEPP 55.
- 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, namely Principle 1: Context and Neighbourhood Character, Principle 2: Built Form and Scale, Principle 3: Density, Principle 4: Sustainability, Principle 6: Amenity and Principle 9: Aesthetics.
- The proposal does not address a number of 'Design Criteria' and 'Design Guidance' contained in the Apartment Design Guide, namely 3C Public Domain Interface, 3D Communal and Public Open Space, 4A Solar and daylight access, 4B Natural ventilation, 4C Ceiling heights, 4D Apartment size and layout, 4E Private open space and balconies, 4H Acoustic Privacy.
- The Clause 4.6 Request submitted under Clause 4.6 of Canterbury Local Environmental Plan 2012 to vary Clause 4.3(2) 'Height of buildings' is not well founded, and it has not been adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.
- The proposal fails on a number of DCP Controls namely, shortfall of bicycle spaces, insufficient information to assess the solar access to the adjoining properties, non-compliances with setbacks, floor to ceiling heights, A Management Strategy Plan has not been provided for the proposed roof top communal open spaces, insufficient shop depth and ground level interface.
- Internal referrals from various stakeholders have raised issues from the Development Engineer, Environmental Health Officer, Resource Recovery and Traffic Unit.
- Concurrence from WaterNSW has not yet been received.

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

The first notification was between 22 July 2020 and 11 August 2020. Two submissions were received during the first notification period.

Amended Plans and documents were received on 31 May 2021, 2 June 2021 and 23 August 2021 and the application was re-notified for 28 days as the application is Integrated Development and requires approval from WaterNSW under the Water Management Act 2000. The second notification period was between 29 September 2021 and 26 October 2021. No submissions were received during the second notification period.

Summary of submissions:

- *Loss of solar access and sunlight due to height abutting the boundary.*
- *Privacy and amenity issues due to balconies facing adjoining neighbours.*
- *Mis-description of proposed development.*

POLICY IMPACT

The matter being reported has no direct policy implications.

FINANCIAL IMPACT

The matter being reported 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-500/2020 ASSESSMENT REPORT

SITE & LOCALITY DESCRIPTION

The subject site is known as 892-906 Canterbury Road, Roselands. It is a regular allotment and is zoned B2 Local Centre under the Canterbury Local Environmental Plan 2012.

The site contains a number of two storey and single storey buildings which are currently being used for commercial purposes being a uniform shop, signboard business and a café. The surrounding development consists of varying development types with mixed use development along Canterbury Road and to the rear is residential developments consisting of a residential flat building directly to the south and single storey dwellings further south in Flora Street.



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

BACKGROUND

On the 12 January 2018, the Land and Environment Court (LEC) approved by way of a Deferred Commencement DA-122/2015 for the demolition of existing structures and construction of mixed-use development with basement parking. The matters that required to be addressed under Part A of the Deferred Commencement are outlined below.

Deferred Commencement Conditions

1. *An updated landscape plan consistent with the plans referred to in Condition 5 of Part B of this consent is to be provided to the Council for approval. The landscape plan is to include details of the following:*

- a) *The protection of the existing street tree 1 x Lophostemon Confertus (Common name: Brush Box) located in the grass verge to Flora Street.*
 - b) *One street tree is to be provided on the nature strip to Flora Street adjoining the development. This tree is to be of a Lophostemon confertus (common name Brushbox) species and be provided in 75ltr size (container size).*
 - c) *Details of the surface finish including detail to the children's play area within the common open space to the first floor.*
 - d) *Details of selected materials to the seating, shelters, barbecues and outdoor gym shown to communal areas.*
 - e) *The top of wall heights to ALL raised planter beds to indicate the appropriate soil depth has been provided for the proposed planting.*
 - f) *An increase in the scheduled density of planting. The landscape designer is advised to utilise a strategy of mass planting of individual species in groups to achieve a more amenable design outcome rather than a scattering of different species across the site.*
 - g) *A greater variety of tree species is to be included in the design to provide variation in height colour and texture to landscaped areas.*
 - h) *A Maintenance Schedule is to be provided including:*
 - i. *A Replacement strategy for failures in plant materials and built works,*
 - ii. *Maintenance schedule for watering, weeding and fertilizing during the establishment period,*
 - iii. *A maintenance period of a minimum of six (6) months.*
2. *A schedule of materials and finishes consistent with the plans referred to in Condition 5 of Part B of this consent is to be submitted to the Council for approval.*
 3. *Amended stormwater concept plans and details consistent with the plans referred to in Condition 5 of Part B of this consent are to be submitted to the Council for approval. The stormwater concept plans must show the location of the required on-site detention facility. Calculations in support of this facility and in particular, bypass flows must be submitted. The amended stormwater concept plans and design must demonstrate compliance with the requirements of Part 6.4 - Development Engineering, Flooding and Stormwater of Canterbury Development Control Plan 2012 (prior to its amendment on 30 January 2017).*
 4. *Details of privacy screening to the windows of the bedrooms of units 01-04, 01-05, 01-09, 01-10, 01-13, and to the balconies and south easterly facing windows of units 02-12, 02-13, 03-12, 03-13, 04-12 and 04-13 shown on the plans referred to in Condition 5 of Part B are to be provided to the Council for approval.*
 5. *Amended plans demonstrating the widening of the narrow areas of the terraces for units 01-08, 02-08 and 03-08 are to be provided. Amended plans must also show an increase in the area to the terraces on the boundary with Flora Street for units 01-10, 02-10 and 03-10 to be compliant with the 12sqm area requirement of clause 3.3.3 of Canterbury Development Control Plan 2012 (prior to its amendment on 30 January 2017).*

6. *A Statement of Consistency with the access provisions of Part 6.1 of the Canterbury Development Control Plan 2012 (prior to its amendment on 30 January 2017) is required to be provided to Council for approval.*
7. *A waste management plan is required to be provided to Council for approval demonstrating compliance with the requirements of Part 6.9 - Waste Management of Canterbury Development Control Plan 2012 (prior to its amendment on 30 January 2017).*

The matters outlined under Part A of the Deferred Commencement were not addressed within the 12 months from the date of consent and therefore the application lapsed.

Although, the current application is of a similar proposal to that approved under DA-122/2015, the previous application was considered under different planning controls, such as the Residential Flat Design Code (RFDC). DA-122/2015 was also approved by the LEC with a height breach and also included seven double storey units with the upper level ceiling heights of at 2.4m.

PROPOSED DEVELOPMENT

The Development Application seeks consent for the demolition of the existing buildings and construction of a six storey mixed use development containing two levels of basement car parking, a ground floor commercial component and five storeys of residential units on a podium. The 50-unit residential component will contain 12 x one-bedroom units, 34 x two-bedroom units and 4 x three-bedroom units. The existing allotments will also be amalgamated into a single allotment.

The specifics of the development are as follows:

Floor	Description
Basement Level 2	<ul style="list-style-type: none"> • 52 x car spaces (including 2 accessible spaces) • 1 x car wash bay • Storage areas • Lift and stairs
Basement Level 1	<ul style="list-style-type: none"> • 53 x car spaces (including 4 accessible spaces) • 11 x bicycle spaces • Storage areas • Lift and stairs
Ground Floor	<ul style="list-style-type: none"> • 6 x retail premises • Two access points via Canterbury Road to residential lobbies • 10 x retail parking spaces plus a loading dock • Services/sprinkler room • Waste storage rooms and bulky waste (commercial and residential) • Substation (facing Flora Street)

Level 01	<ul style="list-style-type: none"> • 3 x one bed units (including 1 adaptable) • 8 x two bed units (including 2 liveable units) • 1 x three bed unit (liveable unit) • Communal open space
Level 02	<ul style="list-style-type: none"> • 3 x one bed unit (including 1 adaptable) • 8 x two bed units (including 2 liveable units) • 1 x three bed unit (liveable unit)
Level 03	<ul style="list-style-type: none"> • 3 x one bed unit (including 1 adaptable) • 8 x two bed units (including 2 liveable units) • 1 x three bed unit (liveable unit)
Level 04	<ul style="list-style-type: none"> • 2 x one bed units (including 1 adaptable) • 5 x two bed units • 1 x three bed unit (liveable)
Level 05	<ul style="list-style-type: none"> • 1 x one bed unit • 5 x two bed units • Communal open space

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:

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

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)]**Water Management Act 2000**

The Geotechnical Investigation Report prepared by GEOENVIRO dated 6 August 2021, was submitted with the amended documentation. The report noted that groundwater seepage was encountered and concluded that a long-term groundwater monitoring plan be implemented as groundwater levels have the potential to elevate and dissipate during daily or seasonal influences such as heavy rainfall, damaged services, flooding.

The application was referred to WaterNSW pursuant to Clause 90(2) of the Water Management Act 2000. Council has not yet received any correspondence or the concurrence of WaterNSW at the time of writing this report.

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

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

A Detailed site investigation has been provided and has concluded that a Remediation Action Plan is required, which has not been provided to Council for assessment.

Therefore, there is insufficient information to determine and demonstrate that the site is suitable for the purpose of the proposed development in accordance with SEPP 55 – Remediation of Land.

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

Transport for New South Wales (TfNSW)

Vehicle access

As the site has a frontage to a classified road Clause 101 of the SEPP is relevant and requires Council to be satisfied that vehicular access to the land is provided by a road other than the classified road where practical.

The application was referred to the Transport for NSW (TfNSW) formally known as Roads and Maritime Services (RMS), who provided concurrence. The terms of approval, including conditions, could be complied with via a condition of consent if the development application was being recommended for approval. The objectives of this clause have been satisfied.

Noise and vibration

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

A Traffic and Environmental Noise Assessment prepared by Acoustic Noise & Vibration Solutions Pty Ltd, accompanied the application. The report includes recommendations to achieve the acoustic levels outlined in Clause 102 of SEPP (Infrastructure).

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

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. The BASIX Certificate requirements can be incorporated into conditions of consent if the application was 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. These principles are discussed as follows:

Principle 1: Context and Neighbourhood Character

The site is located on the corner of Canterbury Road and Flora Street, adjoining the site to the west at 908-916 Canterbury Road, Roselands is a four-storey mixed-use development and detached shop with units. To the rear of the site is a R3 Medium Density Residential zone which is predominately occupied by low residential development and a two-storey residential flat building directly to the south of the site.

Relevant to this design principle, the proposal seeks variations to the height of building requirements of the Canterbury Local Environmental Plan 2012 and building height plane requirements of the Canterbury Development Control Plan 2012 which are discussed in detail further in this report.

Principle 2: Built Form and Scale

The proposal seeks a variation to the maximum building height control permitted for the site pursuant to Canterbury Local Environmental Plan 2012. For the reasons outlined later within this report, the Clause 4.6 variation statement submitted is not supported.

In addition to the height variation, the proposed design in its current form seeks variations to the ADG and the CDCP 2012. At this point and on the basis of information as submitted by the applicant, the design is not supported.

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 the proposal.

39 out of the 50 apartments (78%) receive the required solar access as per 4A-1, Design Criteria 1 of the ADG. However, only 24 units out of 50 apartments (48%) are naturally cross ventilated and therefore does not meet the 60% requirement as per objective 4B-3, Design Criteria 1 of the ADG.

Principle 5: Landscape

The design quality principle states that good landscape should enhance a positive image and contextual fit of well-designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.

Further to the above, the design quality principle states that good landscape design optimises usability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity, provides for practical establishment and long-term management. The communal open space satisfactorily achieves these requirements and in the context of a shop-top development will contribute to the landscaping character of the streetscape.

However, the proposal fails to meet the minimum communal open space requirements of Objective 3D-1, Design Criteria 1 of the ADG. Based on a site area of 2219.6m², the proposal requires 554.9m² of communal open space (i.e. 25% of site area), the proposal provides 468.3m² a shortfall of 86.6m².

Principle 6: Amenity

The proposed development fails to provide the required apartment size requirements to a majority of the apartments. The apartments have bedrooms which do not meet the minimum width dimensions nor the minimum area for a master bedroom or secondary rooms.

The balconies do not meet the minimum area requirements as outlined in Objective 4E-1, Design Criteria 1 of the ADG and will further be compromised with the placement of the air-conditioning units. The proposal also fails to provide the required communal open space as required by the ADG.

Storage is provided within all units with additional storage within the allocated basement car parking spaces. Lift access has been provided from the basement throughout the building, thereby providing full accessibility for all residents and visitors.

Overall, the design in its current form, does not provide for adequate amenity for the future occupants of the development.

Principle 7: Safety

The applicant has considered Crime Prevention through Environmental Design (CPTED) principles as outlined in CDCP 2012 in the design of the project. The proposal provides increased activation and passive surveillance of the surrounding streets and private open space areas on the site. Residential entry and lobby areas are to be secured and well lit, this could be confirmed with a condition of consent (if the application was being recommended or approval).

Principle 8: Housing Diversity and Social Interaction

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

The proposed development provides 12 x 1 bedroom apartments, 34 x 2 bedroom apartments, 4 x 3 bedroom apartments. In addition, a total of 5 apartments have been nominated as adaptable units which meets the minimum 10% requirement under the Canterbury Development Control Plan 2012. The development also proposes 10 liveable apartments which meets the Housing Guideline's.

Principle 9: Aesthetics

The proposed use of pattern, texture, form and colour seeks to produce a design aesthetic that reflects the quality of residential accommodation provided. However, owing to the non-compliance with the height breach and principle relating to amenity, the proposal fails to adequately address this principle.

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			
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. 	The street RL's are relative to the ground floor shops and clear glazing is provided to the ground floor shops and residential entry lobbies which provides surveillance.	Yes
		The substation has been integrated into building design and is located along the Flora Street frontage.	Yes
		Letter boxes located 4m from the front of building entry. They can be designed to be closer to the frontage and more accessible for mail delivery.	No
		Pedestrian entrances to residential components are accessed via Canterbury Road. The lobby areas vary from 2.8m-4.8m in width.	Yes

Section	Design Criteria	Proposed	Complies
3D Communal and Public Open Space	Communal open space has a minimum area equal to 25% of the site. Total site area is 2219.6m ² , requiring a minimum 554.9m² Min 3m dimension.	296.2m ² – First floor COS 172.1m ² – Fifth floor COS Total proposed: 468.3m²	No
	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). 50% of the required communal open space area equates to 277.5m² . Therefore, 277.5m² for a minimum of 2 hours between 9am and 3pm on 21 June is required.	The solar access to the roof-top communal area (fifth floor only) is as follows: 9am - 31.4m ² 10am – 72.6m ² 11am – 92.3m ² 12pm – 104.8m ² 1pm – 113.6m ² 2pm – 100.1m ² 3pm – 63.3m ² Therefore, the proposal fails to meet the required 277.5m² for a minimum of 2 hours between 9am and 3pm on 21 June.	No.

Section	Design Criteria	Proposed	Complies												
3E Deep Soil Zones	Deep soil zones are to meet the following minimum dimensions:	129.7m ² of deep soil is provided along the southern boundary with a minimum 3m dimension.	Yes.												
	<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% (155.3 m²)</td></tr><tr><td>650m² - 1,500m²</td><td>3m</td></tr><tr><td>Greater than 1,500m²</td><td>6m</td></tr><tr><td>Greater than 1,500m² with significant existing tree cover</td><td>6m</td></tr></table>	Site Area		Minimum Dimensions	Deep Soil Zone (% of site area)	Less than 650m ²	-	7% (155.3 m ²)	650m ² - 1,500m ²	3m	Greater than 1,500m ²	6m	Greater than 1,500m ² with significant existing tree cover	6m	The proposed development is considered to be acceptable as it includes non-residential uses on the ground floor and alternative methods of planting are achieved throughout the development and within the 3m strip along the southern boundary which is in line with the Design Guidance for the deep soil controls of the ADG.
	Site Area	Minimum Dimensions		Deep Soil Zone (% of site area)											
	Less than 650m ²	-		7% (155.3 m ²)											
	650m ² - 1,500m ²	3m													
	Greater than 1,500m ²	6m													
	Greater than 1,500m ² with significant existing tree cover	6m													
	Achieving the design criteria may not be possible on some sites including where:														
	<ul style="list-style-type: none">the location and building typology have limited or no space for deep soil at ground level (e.g. central business district, constrained sites, high density areas, or in centres)there is 100% site coverage or non-residential uses at ground floor level Where a proposal does not achieve deep soil requirements, acceptable stormwater management should be achieved and alternative forms of planting provided such as on structure														

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: <table border="1"><thead><tr><th>Building Height</th><th>Habitable Rooms & Balconies</th><th>Non-habitable Rooms</th></tr></thead><tbody><tr><td>Up to 12m (4 storeys)</td><td>6m – 9m</td><td>3m</td></tr><tr><td>Up to 25m (5-8 storeys)</td><td>9m – 12m</td><td>4.5m</td></tr><tr><td>Over 25m (9+ storeys)</td><td>12m</td><td>6m</td></tr></tbody></table> Note: An increased 3m building separation is required given the land to the south is a different zone (R3 Medium Density Residential) that permits lower density residential.	Building Height	Habitable Rooms & Balconies	Non-habitable Rooms	Up to 12m (4 storeys)	6m – 9m	3m	Up to 25m (5-8 storeys)	9m – 12m	4.5m	Over 25m (9+ storeys)	12m	6m	For the purposes of the assessment below, reference to the floors is as shown on architectural plans. <u>To southern boundary – 1 Flora St (lower density zone +3m)</u> - Level 1: 9m - Level 2: 9m - Level 3: 9m - Level 4: 11m NH – 12.009m H - Level 5: 11m NH – 12.009m H H-Habitable NH -Non-habitable <u>Western boundary</u> - Level 1: 14.8m-16.1m - Level 2: 14.8m-16.596m - Level 3: 14.8m-16.1m - Level 4: 15.6m - Level 5: 15.4m	Yes <
	Building Height	Habitable Rooms & Balconies	Non-habitable Rooms												
Up to 12m (4 storeys)	6m – 9m	3m													
Up to 25m (5-8 storeys)	9m – 12m	4.5m													
Over 25m (9+ storeys)	12m	6m													

Section	Design Criteria	Proposed	Complies
3G Pedestrian Access and Entries	Multiple entries should be provided to activate the street edge.	Entry points to the residential and to the shops are located along the Canterbury Road and Flora Street frontage.	Yes.
	Entry locations relate to the street and subdivision pattern / existing pedestrian network.	Sufficient entry locations relate to existing pedestrian network.	Yes.
	Building entries should be clearly distinguishable from private entries.	Residential entry point is separated from commercial.	Yes.
	Building access areas (lift lobbies, stairwells and hallways) should be clearly visible from public domain and communal spaces.	The residential lifts are visible from the public domain.	Yes.
	Minimise ground floor and underground level changes along pathways and entries. Steps and ramps integrated into design.	The buildings have been designed to ensure the entrance to the tenancy / residential entry points aligns, where possible, with the pathway it adjoins. In the instance where this is not possible ramps and steps have been integrated within the design to allow easy access.	Yes.
	Provide way finding maps for large developments. Electronic access and audio/video intercoms required.	Can be conditioned.	This could be complied with via a condition of consent (if the development application was being recommended for approval).

Section	Design Criteria	Proposed	Complies
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.	39 out of 50 apartments (78%).	Yes.
	A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter	Insufficient information shown on the solar diagrams to determine the number of apartments that will not receive direct sunlight between 9 am and 3 pm at mid-winter.	No.
4B Natural Ventilation	At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartment at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.	24 out of 50 apartments are naturally cross ventilated i.e. 48%. 21 apartments do not receive natural cross ventilation and the following apartments 01-04, 02-04, 03-04, 04-03 and 05-03 have not been included as the inlet and outlet of the windows on opposite sides do not have the same area, to allow the air to be drawn through the apartment.	No.
	Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	All cross through apartments included in the above calculations are less than 18m when measured glass line to glass line.	Yes.

Section	Design Criteria	Proposed	Complies										
4C Ceiling Heights	<p>Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</p> <table><tr><th colspan="2">Minimum Ceiling Height for Apartment and Mixed Use Buildings</th></tr><tr><td>Habitable rooms</td><td>2.7m</td></tr><tr><td>Non-habitable</td><td>2.4m</td></tr><tr><td>Mixed use</td><td>3.3m for ground floor</td></tr></table> <p>These minimums do not preclude higher ceilings if desired.</p>	Minimum Ceiling Height for Apartment and Mixed Use Buildings		Habitable rooms	2.7m	Non-habitable	2.4m	Mixed use	3.3m for ground floor	<p>Residential: Floor to ceiling shown as 2.7m (floor to floor heights of 3m).</p> <p>Commercial: 3.3m.</p>	<p>No.</p> <p>Detailed sections showing slab thickness, ceilings, services, floor finishes and the like within the designated 3m space have not been provided. A qualified practicing structural engineer has not certified that such a design can be constructed based on the floor plates proposed.</p>		
	Minimum Ceiling Height for Apartment and Mixed Use Buildings												
Habitable rooms	2.7m												
Non-habitable	2.4m												
Mixed use	3.3m for ground floor												
4D Apartment Size and Layout	<p>Apartment are required to have the following minimum internal areas:</p> <table><tr><th>Apartment Type</th><th>Minimum Internal Area</th></tr><tr><td>Studio</td><td>35m²</td></tr><tr><td>1 bedroom</td><td>50m²</td></tr><tr><td>2 bedroom</td><td>70m²</td></tr><tr><td>3 bedroom</td><td>90m²</td></tr></table> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each.</p> <p>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each.</p>	Apartment Type	Minimum Internal Area	Studio	35m ²	1 bedroom	50m ²	2 bedroom	70m ²	3 bedroom	90m ²	<p>Achieved.</p> <p>The required minimum internal areas for the relevant apartment type have been met.</p>	<p>Yes</p>
	Apartment Type	Minimum Internal Area											
Studio	35m ²												
1 bedroom	50m ²												
2 bedroom	70m ²												
3 bedroom	90m ²												
	<p>Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.</p>	<p>Achieved.</p>	<p>This could be complied with via a condition of consent (if the development application was being recommended for approval).</p>										

Section	Design Criteria	Proposed	Complies
	In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.	Units: 01-01, 02-01, and 03-01 exceed 8m to closest point on furthest kitchen bench.	No.
	Master bedrooms have a minimum area of 10m ² and other bedrooms 9m ² (excluding wardrobe space).	The proposal fails to provide all units with the required master bedrooms with a minimum area of 10m ² and all other bedrooms with a minimum area of 9m ² (excluding wardrobe space).	No.
	Bedrooms have a minimum dimension of 3m (excluding wardrobe space).	The proposal fails to provide all bedrooms with a minimum dimension of 3m (excluding wardrobe space).	No.
	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 	Units: 01-02, 01-05, 01-10, 02-02, 02-05, 02-10, 03-02, 03-05, 03-10, 04-02 and 05-02. Minimum room widths are not achieved.	No.
	The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts.	All cross through apartments are at least 4m internally.	Yes.

Section	Design Criteria	Proposed	Complies															
4E Private Open Space and Balconies	All apartments are required to have primary balconies as follows:	36 out of 50 apartments have balconies that do not meet the minimum area required.	No.															
	<table><tr><th>Dwelling type</th><th>Minimum Area</th><th>Minimum Depth</th></tr><tr><td>Studio apartme nts</td><td>4m²</td><td>-</td></tr><tr><td>1 bedroo m apartme nts</td><td>8m²</td><td>2m</td></tr><tr><td>2 bedroo m apartme nts</td><td>10m²</td><td>2m</td></tr><tr><td>3+ bedroo m apartme nts</td><td>12m²</td><td>2.4m</td></tr></table>	Dwelling type		Minimum Area	Minimum Depth	Studio apartme nts	4m ²	-	1 bedroo m apartme nts	8m ²	2m	2 bedroo m apartme nts	10m ²	2m	3+ bedroo m apartme nts	12m ²	2.4m	Note - The balustrades are excluded from calculation and the air-conditioning units have not been shown on the plans which will further reduce the minimum balcony area.
	Dwelling type	Minimum Area		Minimum Depth														
	Studio apartme nts	4m ²		-														
	1 bedroo m apartme nts	8m ²		2m														
	2 bedroo m apartme nts	10m ²		2m														
3+ bedroo m apartme nts	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 apartments are located at the ground level or on a podium.																		
N/A.																		

Section	Design Criteria	Proposed	Complies
4F Common Circulation and Spaces	<p>The maximum number of apartments off a circulation core on a single level is eight.</p> <p>Where design criteria 1 is not achieved, no more than 12 apartments should be provided off a circulation core on a single level</p>	<p>The following levels will be serviced more than 8 units off a circulation core:</p> <p>Levels 1-3 – 9 units</p> <p>Further to the above, the building is divided into two sections and is provided with a third lift that services the apartments from Levels 1-5 with the maximum number of apartments being 3 off a circulation core.</p> <p>Although the apartments exceed 8 units off a circulation core, the ADG allows for up to 12 apartments. The proposal will not exceed 12 units off a single circulation core and the proposal provides two lift cores and would adequately service the development.</p>	Yes.

Section	Design Criteria	Proposed	Complies										
4G Storage	In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:	The storage areas have been shown on the plans.	This could be complied with via a condition of consent (if the development application was being recommended for approval).										
	<table><tr><th>Dwelling type</th><th>Storage size volume</th></tr><tr><td>Studio apartments</td><td>4m³</td></tr><tr><td>1 bedroom apartments</td><td>6m³</td></tr><tr><td>2 bedroom apartments</td><td>8m³</td></tr><tr><td>3+ bedroom apartments</td><td>10m³</td></tr></table>			Dwelling type	Storage size volume	Studio apartments	4m ³	1 bedroom apartments	6m ³	2 bedroom apartments	8m ³	3+ bedroom apartments	10m ³
	Dwelling type			Storage size volume									
	Studio apartments			4m ³									
	1 bedroom apartments			6m ³									
	2 bedroom apartments			8m ³									
	3+ bedroom apartments			10m ³									
At least 50% of the required storage is to be located within the apartment.													

Section	Design Criteria	Proposed	Complies
4H Acoustic Privacy	Adequate building separation is provided within the development and from neighbouring buildings/adjacent uses	Building separation is satisfactory.	Yes.
	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	Corridors are located directly above each other on each floor. Bedrooms have been grouped together where possible.	Yes.
	Rooms with similar noise requirements are grouped together	Rooms with similar noise requirements are grouped together, where possible.	Yes.
	Noise sources such as garage doors, driveways, service areas, plant rooms, building services, mechanical equipment, active communal open spaces and circulation areas should be located at least 3m away from bedrooms	The proposal has bedrooms directly adjoin the communal open space. The acoustic report (Dated 19 May 2021) has not mentioned or considered any likely impacts that the use of communal outdoor areas may have on the residents and neighbouring properties.	No.

Section	Design Criteria	Proposed	Complies
4Q Universal Design	<p>Developments achieve a benchmark of 20% of the total apartments incorporating the Livable Housing Guideline's silver level universal design features.</p> <p>Total number of residential units in the development = 20% of 50 = 18 Livable units required.</p>	Units 01.07, 01.08, 01.09, 02.07, 02.08, 02.09, 03.07, 03.08, 03.09 and 04.07 are nominated as the Liveable units.	Yes.
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>The development has been designed to appropriately address the street, particularly at ground level, to activate the street frontage. The design doesn't incorporate any blank walls at ground level.</p> <p>The residential and commercial uses are adequately separated. There are two residential lobbies via Canterbury Road.</p> <p>Two landscaped residential communal areas have been provided.</p>	<p>Yes.</p> <p>Yes.</p> <p>Yes.</p>

Canterbury Local Environmental Plan 2012

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

Clause 1.2 Aims of Plan

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

- (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,*
- (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,*

Clause 2.3 Zone objectives and Land Use Table

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

The objectives of the B2 Local Centre Zone are as follows:

- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*

- *To encourage employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*
- *To facilitate and support investment, economic growth and development for active, diverse and well-designed centres.*

The proposed development meets the objectives of the B2 zone as it provides for residential housing within a residential flat building. The design comprises a mix of residential types through incorporating one, two and three bedroom apartments to contribute to the needs of the community.

Provision/ Standard	Requirement	Proposal	Complies
Part 2 Permitted or Prohibited Development			
2.1-2.3 Zoning	B2 Local Centre	Shop top housing.	Permissible.
2.7 Demolition requires development consent	The demolition of a building or work may be carried out only with development consent.	Demolition of existing structures proposed.	Yes.
Part 4 Principal Development Standards			
4.3 Height of Buildings	18m	19.077m.	No ^[refer to note 1 below]
4.4 Floor Space Ratio	Nil	Not applicable.	N/A.
4.6 Exception to development standard	Clause 4.6 lodged for height breach refer to discussion below.		
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.	The site is not affected by Acid Sulfate Soils and therefore an acid sulfate soils management plan was not required as part of this development.	N/A.

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>A Detailed Site Investigation prepared by Australian GEOENVIRO dated 12 August 2021 has been provided and has concluded that a Remediation Action Plan is required, this has not been provided to Council for assessment.</p> <p>Therefore, there is insufficient information to determine and demonstrate that the site is suitable for the purpose of the proposed development.</p>	No.

Provision/ Standard	Requirement	Proposal	Complies
6.3 Flood Planning	<p>This clause applies to land at or below the flood planning level.</p> <p>Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:</p> <ul style="list-style-type: none"> (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. 	The subject site is not flood affected.	N/A.

Provision/ Standard	Requirement	Proposal	Complies
6.4 Stormwater Management	Consent must not be granted unless: (a) Water permeable surfaces are maximised having regard to soil characteristics affecting on-site stormwater infiltration. (b) Includes on-site detention if practical as an alternative means of water supply. (c) Avoids significant impacts of run-off on adjoining land or the environment or minimises and mitigates impacts.	Council's Development Engineer reviewed the application and has found it to be unsatisfactory which is further discussed under Part B5 of Canterbury Development Control Plan 2012 (CDCP 2012).	No.
6.6 Essential Services	Essential services must be available or adequate arrangements have been made to make them available, including: - the supply of water; - the supply of electricity (substation); - the disposal and - management of sewage; - stormwater drainage or on-site conservation; - suitable vehicular access.	The substation is integrated into the design and located along Flora Street. Fire booster shown on plans and are located along the Canterbury Road frontage.	Yes.

^[1]*Clause 4.3 – Height of Buildings*

The proposal complies with the development standards contained in CLEP 2012, with the exception of Clause 4.3(2), which reads as follows:

(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.

The subject site has a maximum building height of 18m.

The proposed variation

The application proposes to contravene the building height standard of clause 4.3(2) of the CLEP 2012.

The variation sought is 1.077m (5.98%), the area of encroachment onto the height control is shown in figure 1 below.

Figure 1: Building Height Variation

Source: Extract from architectural drawing No. 1501 (Rev Q) – North Elevation and SEE

The application is accompanied by a Clause 4.6 Request to Vary a Development Standard relating to the 'height of buildings' pursuant to the Canterbury Local Environmental Plan 2012. Council is of the view that the actual height breach would be greater than that indicated by the Applicant given that the ground to floor ceiling height has not taken into consideration ceiling finishes, and the proposal is relying on 200mm thick slabs. The applicant has not provided a statement from a practicing structural engineer certifying the proposed minimal slab thicknesses can be achieved through structural design solutions. Therefore, the Clause 4.6 to vary the height of buildings is not a true and accurate reflection of the actual height breach.

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating—

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

An extract from the applicant's submission (in part) with respect to this point is provided below:

The discussion provided below demonstrates how the proposal is consistent with the objectives of Clause 4.3.

Therefore, compliance with the development standard is unreasonable and unnecessary where, in the particular circumstances of the case, there are sufficient environmental planning grounds to justify the proposed non-compliance.

The objectives of the height of buildings principal development standard are:

- (a) to establish and maintain the desirable attributes and character of an area,*
- (b) to minimise overshadowing and ensure there is a desired level of solar access and public open space,*
- (c) to support building design that contributes positively to the streetscape and visual amenity of an area,*
- (d) to reinforce important road frontages in specific localities.*

It is considered that the proposed development achieves the objectives of the standard for the following reasons:

- the proposed scale and massing of the building is consistent with both the existing and the anticipated desired future character of the locality;*
- the extent of the non-compliance does not seek to increase the number of storeys or density of the development. As such, there is no tangible nexus between the height variation and the overall land use intensity;*
- the degree of non-compliance will not result in any unreasonable adverse impacts on the adjoining land uses with respect to overshadowing, loss of privacy, inappropriate scale etc;*
- Despite the breach to the building height standard, the building will make a positive contribution to the streetscape character and visual amenity of the area. The non-compliant height does not contribute to an unreasonable visual impact or a loss of privacy to adjoining properties.*
- As noted in the planning principle adopted in Project Venture Developments v Pittwater Council [2005] NSW LEC 191, compatibility isdifferent from sameness. Further, that it is generally accepted that buildings can exist together in harmony without having the same density, scale or appearance, though as the difference in these attributes increases, harmony is harder to achieve. Likewise, while compatibility in architectural style and materiality is certainly one aspect of making a subjective assessment as to the compatibility of a building with the character of an area, it is considered that the relationship of a particular built form to surrounding space created by building height, setbacks and landscaping are also significant contributors to urban character. In this regard, it is considered that despite the height breach, the proposed building will make a positive contribution to the streetscape and visual amenity through a built form and appearance that is in harmony with the scale and density of surrounding development.*

Response:

As stated earlier in the report, given the floor to ceiling height of the proposal will likely be required to be increased to achieve compliance and a satisfactory development outcome, the breach to the building height will be greater than that proposed. Therefore, the full extent of impacts are unknown at this stage and the proposal may also result in further loss of solar access to adjoining properties and public places.

The justification provided by the applicant above states *“the proposed scale and massing of the building is consistent with both the existing and the anticipated desired future character of the locality”*., this would be expected of any development.

The applicant’s Clause 4.6 has not adequately addressed the objectives of Clause 4.3 of the CLEP 2012. The applicant has not explored all opportunities to meet the height standard, this could also involve changes to the communal open space on the fifth floor. Therefore, given the above, it has not been demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case as required by 4.6(3)(b) which provides as follows.

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

An extract from the applicant’s submission with respect to this point is provided below:

Based on the discussion above, it is considered that there are sufficient environmental planning grounds to justify contravening the development standard. Key environmental planning grounds to support the variation include:

- Despite the proposed building exceeding the height of buildings principal development standard, the overall bulk and scale of the building is considered to be acceptable in terms of its scale and built form and the relationship of the building to the adjoining and surrounding residential and non-residential development;*
- The additional height of the building does not constitute an additional storey and maintains a building of a scale and form that is appropriate for the location, providing visual interest and a varied building profile.*

Response:

The applicant’s submission states that the maximum proposed variation is 1.077m and that *“the extent of the non-compliance does not seek to increase the number of storeys or density of the development. As such, there is no tangible nexus between the height variation and the overall land use intensity”*. The statement does not demonstrate that there are sufficient environmental planning grounds to justify the contravention.

The proposal will likely result in a greater variation to the building height than that outlined in the applicant’s variation submission in order to achieve the desired outcomes. However, compromising the floor to floor heights to the proposal to alleviate a greater height breach is not supported.

Therefore, given that there is insufficient information to determine the actual height breach and the potential impacts it has not been demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.

Clause 4.6(4) Development consent must not be granted for development that contravenes a development standard unless—

(a) the consent authority is satisfied that—

(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

With regard to the above, it is considered that the applicant's written submission under Clause 4.6 of CLEP 2012 to vary the building height is not well founded, and the variation sought will likely be greater than that proposed. It has not been adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case. The submission has not provided sufficient environmental planning grounds to justify the contravention to the building height.

The written submission has not adequately addressed the matters required by sub-clause (3).

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and

LEP Clause	Objective	Applicants submission	Council Response
Clause 4.3 Height of Buildings	<i>a) To establish and maintain the desirable attributes and character of an area.</i>	In line with the Canterbury Road Structure Plan, this section of the Canterbury Road Corridor is anticipated to be revitalised to create an attractive, vital and vibrant mixed-use environment via a rich network of publicly accessible spaces, walkable streets and places. Despite the non-compliance, the scale and form of the building is considered to be consistent with the intended redevelopment potential of the land and the existing and anticipated desired future character of the locality.	The Canterbury Road Structure Plan states that "Urban Centres (B2 – Local Centre): <i>Comprise lower scale buildings, ranging in height from three to five storeys</i> ". The proposal seeks a six storey building and this is a result of compromised floor to floor ceiling heights. The proposal is not considered to have met this objective.
	<i>b) To minimise overshadowing and ensure there is a desired level of solar access and public open space.</i>	The proposed building will result in a degree of overshadowing to the adjoining property to the south. However, this is considered to be acceptable in the context of a B2 Local Centre zone and an appropriate setback to the adjoining residential zone has been provided to provide for a transition between the two zones. The adjoining property to the south will still	Insufficient information has been provided to determine the degree of solar loss to the adjoining properties. The loss of solar access maybe greater if the

		receive an acceptable level of solar access during mid-winter.	
	<i>c) To support building design that contributes positively to the streetscape and visual amenity of an area.</i>	<p>As noted above, despite the non-compliance, the scale and intensity of the building is consistent with the intended redevelopment potential of the land and the existing and desired future character of the locality.</p> <p>Further, the non-compliant height does not contribute to an unreasonable visual impact or a loss of privacy to adjoining properties.</p> <p>As noted in the planning principle adopted in <i>Project Venture Developments v Pittwater Council</i> [2005] NSW LEC 191, compatibility isdifferent from sameness. Further, that it is generally accepted that buildings can exist together in harmony without having the same density, scale or appearance, though as the difference in these attributes increases, harmony is harder to achieve.</p> <p>Likewise, while compatibility in architectural style and materiality is certainly one aspect of making a subjective assessment as to the compatibility of a building with the character of an area, it is considered that the relationship of a particular built form to surrounding space created by building height, setbacks and landscaping are also significant contributors to urban character.</p> <p>In this regard, it is considered that despite having a more modern architectural style and appearance than much of the existing development in the locality, the proposed building will make a positive contribution to the streetscape and visual amenity through a built form and appearance that is in harmony with the scale and density of surrounding development.</p>	There is insufficient environmental planning grounds to the breach in building height. A building with a compliant height would still contribute positively to the streetscape and visual amenity of the area.

	<i>d) To reinforce important road frontages in specific localities.</i>	Noted – This section of Canterbury Road is part of the Canterbury Road Structure Plan which seeks to create attractive, vital and vibrant mixed-use environments via a rich network of publicly accessible spaces, walkable streets and places	Further to the applicant's submission the Canterbury Structure Plan also refers to " <i>lower scale buildings, ranging in height from three to five storeys</i> " in the B2 Local Centre zones. This objective has not met.
B2 Local Centre Zoning Objectives	<i>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.</i>	The proposed development will provide six new commercial/retail tenancies that will suit a wide range of businesses, in a location with good access to public transport, other shops, facilities and recreational opportunities. The additional residential accommodation and housing choice will support the increased economic activity and assist in revitalising the locality.	It is agreed that "six (6) new commercial/retail tenancies that will suit a wide range of businesses, in a location with good access to public transport, other shops, facilities and recreational opportunities. The additional residential accommodation and housing choice will support the increased economic activity and assist in revitalising the locality". However, the proposal is not in the public interest, as the objectives of the Height of Building have not been met and a building with a compliant height would still meet the objectives of the B2 Local Centre zone.
	<i>To encourage employment opportunities in accessible locations.</i>	The proposed six (6) ground floor tenancies will provide opportunities for a range of businesses to establish, therein creating employment opportunities. The location is considered to be accessible, having access to bus services on Canterbury Road and the surrounding road network and being approx. 900m south of Lakemba Railway Station.	
	<i>To maximise public transport patronage and encourage walking and cycling.</i>	As noted above, the site has excellent access to bus services on Canterbury Road and the surrounding road network and being approx. 900m south of Lakemba Railway Station. This will encourage walking and cycling as people will be likely to walk to the bus stops and walk or cycle to the station to connect with public transport services.	
	<i>To facilitate and support investment, economic growth and development for active, diverse and well designed centres.</i>	The six (6) new commercial/retail tenancies will suit a wide range of businesses, that once operational, will contribute to the economic growth and diversity of the locality. Likewise, the additional residential population will contribute to economic growth and viability by utilising the shops and services that will be established in the ground floor tenancies.	

(b) the concurrence of the Planning Secretary has been obtained.

The concurrence of the Director General is assumed having regard to previous advice received from the Department of Planning and Environment in Circular PS 20-002, dated 5 May 2020.

Conclusion

Based on the foregoing, the requested contravention of the development standards relating to the height of buildings is not well founded and is not supported for the following reasons:

- I. an appropriate degree of flexibility has not been applied and better outcomes are not achieved by the contravention of the building height.
- II. the circumstances of the proposal do not warrant contravention of the standard,
- III. there are not sufficient environmental planning grounds to warrant contravention,
- IV. the proposal is not in the public interest, as the development is not consistent with relevant objectives of the standard and the zone, and
- V. there is a public benefit in maintaining the standard, in the circumstances of the subject application.

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, whether the development integrates a high quality landscape design with the built form,*
- (g) *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 and would be inconsistent with the Draft CBLEP relating to the Draft Design Quality Clause.

The Draft CBLEP also seeks to insert a saving provision *“If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies, and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced”*.

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

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

Canterbury Development Control Plan 2012 (CDCP 2012)

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

Part B1 – Transport and Parking

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

Standard	Requirement	Proposal	Complies
Residential Car Parking	<p>Studio: 0.67 spaces per dwelling (nil) 1 bedroom: 1 space per dwelling (12) 2 bedroom: 1.2 space per dwelling (the 0.2 space to remain as common property) (40.8) 3 bedroom or more: 2 spaces per dwelling (8)</p> <p>Visitor Parking: 0.2 spaces per dwelling (10) TOTAL: 71 spaces</p> <p>1 carwash bay</p>	<p>71 residential/visitor spaces (including 1 common space and 5 accessible car spaces).</p> <p>1 carwash bay.</p>	<p>Yes.</p> <p>Yes.</p>
Residential Bicycle Parking	<ul style="list-style-type: none"> Residents: 1 space per 5 dwellings (10 spaces required). Visitors: 1 space per 10 dwellings (5 spaces required) <p>Total: 15 spaces required.</p>	11 spaces provided in the upper basement level.	No.
Retail Car Parking	<p>1 space per 40m2 GFA (< 120m2). 1 space per 30m2 GFA (120m2 – 1,000m2). 572.99sqm/30sqm =19 spaces 1 space per 22m2 GFA (> 1,000m2).</p> <p>Visitor parking for shops (excluding local shops) shall be provided at the following rate 80% of parking rate to be allocated for visitors and short stay parking. 20% of the parking rate is to be allocated for staff and long-stay parking</p>	<p>10 retail parking spaces proposed on ground level plus a loading dock, 9 spaces in basement TOTAL: 19 spaces plus a loading dock (including 1 accessible car space).</p> <p>This allocation could be complied with via a condition of consent (if the development application was being recommended for approval).</p>	<p>Yes.</p> <p>Yes</p>
Retail Bicycle Parking	Staff: Minimum 1 space per 300m2 = 2 spaces	No bicycle spaces provided.	No.

	Patrons: Minimum 1 space per 500m2 GFA over 1,000m2 = 0 space TOTAL: 2 spaces		
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The proposal provides a total of 115 car spaces. A total of 90 car spaces is required to service the development. If the application was being approved the allocated of commercial and residential car spaces would be conditioned.

Furthermore, the application was referred to Council's Traffic Unit who raised the following issues that require attention:

1. Traffic Impact Assessment

- *The Applicant did not specify the existing traffic volume currently being generated by the existing uniform shop, signboard business and the café and has not included it in the calculation of net development traffic generation.*
- *Given that the proposal includes more car parking than required. The traffic report has not factored the additional trip generation calculation.*
- *The Applicant is to re-assess the traffic impact taking into consideration the above 2 dot points and re-submit the report.*

2. Driveway

The driveway to the basement is not compliant with Council's Vehicle Crossing Policy and needs to be at least 1m from the boundary – the off-set distance from the boundary is shown on the plan is nil which is not acceptable. See also Item 3.

The report shows the turning path of an SRV which is 6 metres in length.

- *Is this the largest service vehicle that will be accessing the site?*
- *Where will the commercial delivery take place?*
- *Where will the residential movers park, loading and unloading activity take place?*
- *The Applicant is to justify how many commercial delivery trips and residential courier / movers trip be generated and accordingly determine off-street commercial parking requirement.*
- *Applicant to submit turning paths both internal and at the driveway location and amended vehicular crossing arrangement for the largest truck size accessing the property with minimal impact on on-street parking.*

TPIA Response	Traffic Unit comments
<ul style="list-style-type: none"> • The TPIA has not addressed the driveway location, configuration and description. • The TPIA has not addressed the issues raised in the previous comment dated 12/10/2020. 	<ul style="list-style-type: none"> • The revised Ground Floor Plan (Dwg 1201 - Revision Q dated 28/05/2021) shows a combined entry and exit driveway is provided towards the southern-end of the property boundary via a driveway / future lane (7 metres wide) off Flora Street. The driveway /

	<p>future lane has an approximately 2 metres clearance from the side property boundary which complies with Council's VFC Policy and Standard Drawing S-004. The ramp access driveway to the basement levels is along the driveway / future lane located on the western end of the property boundary.</p> <ul style="list-style-type: none"> • The Applicant is to address the issues raised in the previous comment dated 12/10/2020.
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3. Pedestrian Sight Triangles

Pedestrian sight distance triangle is shown at the exit from the underground carparking at the driveway, however it is not clear if it complies with Fig 3.3 of Australian Standard 2890.1:2004 as dimensions are not shown. The sight triangle location will change if the driveway configuration is revised based on Item 2. Plan 1201 needs to be revised. See also Item 2.

Part B2 – Landscaping and Part B3 – Tree Preservation

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

Part B4 – Accessible and Adaptable Design

The Access Report prepared by Design Right Consulting dated 31 May 2021 was submitted to Council as part of the application. 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 further design details being provided at the relevant Construction Certificate stage. On this basis, the design is considered acceptable from an accessible and adaptable design perspective. The recommendations of the report will be incorporated into conditions of consent, if the application was being recommended for approval.

Part B5 – Stormwater and Flood Management

The application was referred to Council's Development Engineer who raised objection with the current design. The amended architectural plans Rev O, dated 9/6/2021 and the amended stormwater plan Rev H, dated 24/5/2021 were reviewed by Council's development engineer who advised that all outstanding issues previously remain unchanged and are as follows:

- *The proposed On-Site Detention (OSD) location in the first level within the building footprint does not comply with AS3500.3 OSD General Criteria and Canterbury Council DCP2015, therefore; it will not be supported.*
- *Proposed area of 92m² draining into the pump system in the basement does not comply with Canterbury Council's DCP2012, Cl B 5.4.3 C1 which limits areas draining into basement pump system to a maximum 50m².*

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 design avoids blind corners and the residential lobbies are visible from the public domain.	Yes.
	Provide natural surveillance for communal and public areas.	The ground floor retail design allows for natural surveillance of Canterbury Road and Flora Street. At least one habitable room of each of the residential apartment located on the upper floors are orientated towards the adjoining street fronts and/or internal communal open area to facilitate natural surveillance.	Yes
	Provide clearly visible entries.	The entry points to the retail components are clearly defined along the ground floor. The residential entry point are also clearly visible from the public domain.	Yes.
	Design the fence to maximise natural surveillance from the street to the building.	No fence proposed.	N/A.
	Avoid landscaping that obstructs natural surveillance.	Landscaping on the ground floor and on upper levels will not obstruct natural surveillance.	Yes.
	Ensure buildings are clearly identified by street numbers.	This could be complied with via a condition of consent (if the development application was being recommended for approval).	Yes.
	Use materials that reduce the opportunity for vandalism.	This could be complied with via a condition of consent (if the development application was being recommended for approval).	Yes.

	Provide an appropriate level of security for individual dwellings, car parks and communal areas through use of intercoms, self closing doors and signage.	This could be complied with via a condition of consent (if the development application was being recommended for approval).	Yes.
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Part B9 - Waste

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

- 1. Council does not permit private contractor collections for domestic waste. All residential garbage and recycling is to be collected by Council. It is noted the applicant's waste management plan still makes reference to use of private contractors.*
- 2. Council will not service bins from Canterbury Road. Garbage and recycling bins will be serviced by collection staff as a 'collect and return' service directly from the bin storage area via Flora Street. The bin storage area must be located within 15 metres of the street kerb and be accessible from Flora St to facilitate access to this service. The proposal does not meet this requirement.*

Where this cannot be provided, the applicant must provide a temporary bin presentation area within 15 metres of the kerbside as above. This also applies to Council provided commercial waste and recycling collection services.

Waste Services considers the above to be critical issues that are required to be addressed and may necessitate significant redesign. Consequently, it is requested that the applicant provide amended plans in compliance with Council's requirements for further review and prior to further comments being provided.

It is also noted that the proposal now also includes the use chutes as part of the proposed waste management system. Waste chutes must be designed and constructed in accordance with Appendix 2 – Waste Requirements of the DCP. Additionally:

- Waste chutes must be used for the transfer of general waste only*
- Waste chute rooms must be designed to store 2 x 240L floor recycling bins co-located with the chute hopper.*
- Waste chute outlets are to terminate directly into bins in the bin storage area, and be designed with sufficient height to allow maneuvering of 660L/1100L bins underneath.*
- There is to be no compaction equipment used on the discharged waste.*
- Floor recycling is to be consolidated into 660L bulk recycling bins by a building caretaker/manager for collection.*

The applicant is requested to provide an updated waste management plan reflecting the inclusion of a chute system.

Part C5 - Shop Top Housing

The table below provides an assessment of the proposed design against the relevant controls outlined in Part C5 of CDCP 2012.

Standard	Requirement	Proposal	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 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	Orientate development to maximise solar access and natural lighting.	Adequate.	Yes.
	Site the development to avoid casting shadows onto neighbouring dwelling's primary living area, private open space and solar cells.	Insufficient information provided on the solar diagrams to determine any impacts to the adjoining properties.	No.
	Site new development and private open space to avoid existing shadows cast from nearby dwellings.	Achieved.	Yes.
	Site a building to take maximum benefit from cross-breezes and prevailing winds.	As addressed earlier in this report, 24 units out of 50 apartments (48%) are naturally cross ventilated and therefore does not meet the 60% requirement as per objective 4B-3, Design Criteria 1 of the ADG.	No.
	Do not compromise the creation of active street frontage or casual surveillance of the street, communal space and parking areas, through the required orientation.	The proposal provides for an active street frontage and allows for casual surveillance.	Yes
C5.2.2.1 – Floor Space Ratio	The development is to comply with the maximum FSR development control stipulated within CLEP 2012.	N/A.	N/A.
C5.2.2.2 – Floor to Ceiling Height	Refer to 4C Ceiling Heights of the ADG made under SEPP 65 for objectives, design criteria and design guidance in relation to minimum ceiling heights.		

	Clause C5.2.2.2 of the CDCP is therefore not relevant to the assessment of this application and the ceiling height matters have been assessed against part 4C of the ADG (as detailed in the table above).		
C5.2.2.3 - Setbacks	The development is assessed against the relevant setback controls outlined within Part D1 of CDCP 2012 pursuant to Part C5.3.2.3(C1) of CDCP 2012.		
C5.2.2.4 – Building Depth	The ADG sets the objectives and controls for building depth in the LGA for shop top housing to which SEPP 65 relates. Refer to 4B Natural Ventilation of the ADG for objectives, design criteria and design guidance.		
C5.2.2.5 – Building Separation	<p>The ADG sets the objectives and controls for building separation in the LGA for shop top housing to which SEPP 65 relates. Refer to 3F Visual Privacy of the ADG for objectives, design criteria and design guidance.</p> <p>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>		
Part C5.2.3 – Building Design			
Building Entries	Provide accessible entries for all potential use such as the transporting of furniture.	Adequate.	Yes.
	Face habitable rooms towards the street, private open space, communal space, internal driveways etc in order to promote passive social interaction and community safety.	Habitable rooms have been designed to face the street, private open spaces and communal areas.	Yes.
Façade Treatment	The development is assessed against the relevant façade treatment controls outlined within Part D1 of CDCP 2012.		
C5.2.3.2 – Roof Design and Features	Roof terraces are permitted with consent in all business zones except the B1 zone.	Two roof terraces proposed.	Yes.
	A management strategy is required and must be approved by Council as part of the development application, for any proposed roof terrace.	A management strategy has not been provided for assessment. Furthermore, Council’s Environmental Health Officer raised concern that the acoustic report has not addressed any impacts that the use of communal outdoor areas may have on residents and neighbouring properties.	No.
	Supplement open space on roof terraces by providing space and appropriate building systems to support the desired landscape design, incorporating shade structures and windscreens to encourage use of roof top open space.	Communal open space provides for a variety of furniture and facilities for the enjoyment of all residents including an outdoor fitness circuit.	Yes.

	Demonstrate that roof terrace has been designed so as to protect the privacy, solar access and amenity of adjoining buildings. Measures to minimise overlooking of adjoining properties include screening or planting between properties and preventing rooftop users from standing at the edge of roof terraces that look into adjoining properties through planting and screens.	The roof top terraces have provided screen planting to protect the privacy of adjoining neighbours.	Yes.
	Allow for views and passive surveillance of streets and public open space from roof terraces.	The location of the communal open space does not allow for the passive surveillance of streets however given their location above ground level.	No. However, no objection is raised as the location of COS in regard to passive surveillance.
C5.2.3.3 - Dwelling Layout and Dwelling Mix	Min 10% of apartments to be adaptable or accessible	5/50 apartments are nominated as adaptable (10%).	Yes.
C5.2.3.4 - Building services	All letterboxes be installed to meet Australia Post Standards	Letterboxes provided at entries. However, are considered to be setback to far into the building and are not easily accessible.	No.
	Design and provide discretely located mailboxes at the front of the property.	Achieved.	Yes.
	Integrate systems, services and utility areas within the design of the whole development.	The substation is integrated into the built form and is located along the Flora Street elevation (adjacent to the driveway). The hydrant booster is located along the Canterbury Road frontage.	Yes.
C5.2.4.1 - Solar Access and Overshadowing	The ADG sets the objectives and controls for solar access and overshadowing in the LGA for Shop Top Housing to which SEPP 65 relates. Refer to 4A Solar and Daylight Access of the ADG for objectives, design criteria and design guidance.		
Solar Access and Overshadowing – Adjoining Development	Daylight is to be provided to all common circulation areas (including lift wells) that are above ground.	Daylight is provided to all common circulation areas above the ground level.	Yes

	<p>Development to retain a minimum of 3 hours of sunlight between 8am-4pm on 21 June for existing living areas and 50% of the principal private open space.</p> <p>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>Sunlight to solar hot water or photovoltaic systems on adjoining properties must comply with the following:</p> <p>(c) Systems must receive at least 3 hours of direct sunlight between 8.00am and 4.00pm on 21 June.</p> <p>(d) If a system currently receives less than 3 hours sunlight, then proposed development must not reduce the existing level of sunlight.</p> <p>Clothes drying areas on adjoining residential properties must receive a minimum of 3 hours of sunlight on 21 June.</p>	<p>The shadow diagrams provided have not clearly demonstrated (in both plan and elevation view) the extent of existing and proposed shadow impacts to the adjoining properties.</p> <p>No solar hot water or photovoltaic systems on adjoining properties.</p> <p>The shadow diagrams provided have not clearly demonstrated the location of the clothes drying areas of adjoining residential properties.</p>	<p>No.</p> <p>N/A.</p> <p>No.</p>
Acoustic Privacy	Communal balconies are not to be located directly adjoining bedroom window.	Communal areas adjoin bedroom windows.	No.
	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.	N/A.	N/A.
	Screen balconies or windows in living rooms or bedrooms that would face a driveway or basement ramp	This could be complied with via a condition of consent (if the development application was being recommended for approval).	Yes.
	Deign to address all requirements in 'Development Near Rail Corridors and Busy Roads- Interim Guideline'	An acoustic report was submitted with the application.	Yes.

Parking and Access	<p>A development must have regard to the objectives, design criteria and design guidance of the Apartment Design Guide (ADG) under State Environmental Planning Policy No. 65 – Quality of Residential Apartment Development (SEPP). Under clause 30 of the SEPP, a development application cannot be refused based on car parking if the development complies with the minimum amount of car parking specified in Part 3J of the ADG.</p> <p>Under Part 3J of the ADG:</p> <ul style="list-style-type: none"> • The minimum amount of car parking for residents and visitors for the shop top housing component of a development on sites that are within 800 metres of a railway station, is set out in the Roads and Maritime's Guide to Traffic Generating Developments, or the car parking requirement prescribed in Section B1.3 of this DCP, whichever is the lesser. • The minimum amount of car parking for residents and visitors for shop top housing component of a development on sites located further than 800m from a railway station is as per Section B1.3 of this DCP. The minimum amount of car parking required under Part 3J is reiterated above as it was included in the ADG at the time that this DCP came into effect. Applicants are requested to review the ADG on the Department of Planning and Environment's website to confirm the minimum amount of car parking required in the ADG. Applicants are also requested to refer to the Guide for Traffic Generating Developments as provided on the Roads and Maritime's website. <p>Refer to the controls in this section of the DCP for engineering and technical requirements in relation to transport and parking.</p>	Refer to detailed assessment under Part B1 of the CDCP 2012.
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D1 – Business Centres - General

Control	Requirement	Proposed	Complies
Minimum frontage	C1 Where redevelopment is proposed in a B1 or B2 Zone of the LEP a minimum frontage of at least 18m shall be provided.	44.34m.	Yes.
Site isolation	Neighbouring properties are not to be isolated so that the property will be unable to reasonably accommodate redevelopment.	No isolation.	Yes.

Floor to Ceiling Height	Floor to ceiling heights Ground Floor: 3.3m	3.3m	No Detailed sections showing slab thickness, ceilings, services, floor finishes and the like within the designated floor to ceiling space have not been provided. A qualified practicing structural engineer has not certified that such a design can be constructed based on the floor plates proposed.
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Control	Requirement	Proposed	Complies
	Residential Floors: 2.7m	2.7m	No. Detailed sections showing slab thickness, ceilings, services, floor finishes and the like within the designated floor to ceiling space have not been provided. A qualified practicing structural engineer has not certified that such a design can be constructed based on the floor plates proposed.
Front Setback	B2 Zone along Canterbury Road and any secondary frontage: 1-4 storeys minimum setback of 3m from street boundary Basements to be 3m from street boundary Above 4 storeys an additional 5m	From Canterbury Rd: Basements 3m from street boundary.	Yes.
Side setback		Levels 1-4 = 3m (minor encroachment of balcony near north-east corner) Levels 5 & 6 = 7.7m-9.750m <u>From Flora Street</u> Basements 3m from street boundary. Level 1 = 2.9-3.003m Levels 2-4= 2.7m-3m (parts of balconies encroach) Levels 5 & 6 = 7.6m-8m (parts of balconies encroach).	No. No. Yes. No. No. No.
Rear setbacks (on boundary with residential zone)	<ul style="list-style-type: none"> Establish a 45° height plane projected at 6 m from the residential zone boundary. 	Elements projecting into building height plane	No.

Control	Requirement	Proposed	Complies
	<ul style="list-style-type: none"> • Provide minimum 6m setback to the residential zone boundary. • A two-storey limit on the boundary with residential zone applies. (Refer to Figure D1.2) • A setback to a rear lane is not required 		
Building depth	Minimum 10m – commercial Maximum street frontage wall length of 50m	<p>Shop 4 has a portion of the shop less than 10m (8.2m proposed to part of shop) and shop 1 has a depth of 8.7m. All other shops meet this requirement.</p> <p>The street frontage is less than 50m.</p>	<p>No.</p> <p>Yes.</p>
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; Posted awnings or colonnades will not be support.</p>	<p>The entries are located along Canterbury Road and Flora Street and relate to the existing sub-division pattern of the area.</p> <p>Ground level awning 3-3.3m height and 3m in depth.</p>	<p>Yes.</p> <p>No.</p>

Control	Requirement	Proposed	Complies
Façade treatment	<p>To encourage articulated building design to reduce the appearance of scale, enhance visual interest and ensure a diversity of built form.</p> <p>To encourage vertical and horizontal building elements that contribute to streetscape modulation and enhance the pedestrian experience.</p> <p>Define a base, middle and top.</p>	Achieved.	Yes.
	<p>Period Facades:</p> <p>(a) Traditional facades should be integrated into the overall design of new development.</p> <p>(b) Pre-1950 shop front facades are to be maintained in the parts of the B2 Zone where building height is five storeys or less (infill development is permitted behind so that the traditional main street character of the centres is maintained).</p> <p>(c) Where the permitted height is greater than five storeys, facades do not need to be retained.</p>	The proposal seeks the demolition of the existing structures, there has been no attempt to retain the existing facades. This is not required as this is a greater than five storey development.	Yes.
	Adopt requirements of 'Development near rail corridors and busy roads – Interim Guideline' (NSW Dept. of Planning and Environment)	An updated acoustic report has been provided which address the requirements of the 'Development near rail corridors and busy roads – Interim Guideline'.	Yes.
Roof design	<p>C1 Must not exceed a pitch of 10°</p> <p>C2 Maintain the existing parapet line where it contributes to the early to mid twentieth century character of the traditional main streets.</p> <p>C3 Emphasise building articulation with the shape and alignment of the roof.</p>	< 10°.	Yes.

Control	Requirement	Proposed	Complies
	<p>C4 Relate to the size and scale of the building, the building elevations and three dimensional building forms – including the design of any parapet or terminating elements, and the selection of roof materials.</p> <p>C5 Respond to the orientation of the site, for example, by using eaves and skillion roofs to maximise solar access.</p> <p>C6 Relate roof design to the desired built form and context.</p> <p>C7 Integrate service elements into the design of the roof - including lift over-runs, fire hydrants, service plant, chimneys, vent stacks, telecommunication infrastructure, gutters, downpipes and signage.</p> <p>C8 The location of ventilation that may be required for potential future food shops and restaurants in commercial premises must be considered in the roof design.</p> <p>C9 Facilitate the use or future use of the roof for sustainable functions, for example:</p> <ul style="list-style-type: none"> (a) Provide rainwater tanks for water conservation. (b) Orient and angle roof surfaces suitable for solar applications; and (c) Allow for future innovative design solutions, such as water features or green roofs. <p>C10 Do not use dormer windows.</p>		

Control	Requirement	Proposed	Complies
D1.4.7 Building Services	<p>C1 Integrate systems, services and utility areas (such as plant rooms, hydrants, equipment and the like) with the design of the whole development – coordinate materials with those of the building and integrate with landscaping.</p> <p>C2 Facilities should not be visually obtrusive.</p> <p>C3 The location of substations is to be shown on plans.</p> <p>C4 Substations should be provided underground where possible. Where not possible, substations are to be concealed and incorporated into the overall building design.</p> <p>C5 Substations located at ground level must be setback as far from the street frontage as possible, not be located in between the building form and the street frontage and must be screened with landscaping.</p> <p>C6 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 character of streetscapes.</p> <p>C7 Unscreened appliances and meters should not be attached to any facade that would be visible from a street or driveway within the site:</p> <p>(a) Screen air conditioning units behind balcony balustrades;</p> <p>(b) Provide screened recesses for water heaters rather than surface - mounting them on exterior walls; and</p>	<p>The substation has been integrated into the building and faces Flora Street.</p> <p>The fire booster is located within a cupboard and also integrated into the built form along Canterbury Road.</p>	Yes.

Control	Requirement	Proposed	Complies
	<p>(c) Locate meters in service cabinets.</p> <p>C8 Screen or treat air conditioning units, TV antennae, satellite dishes, ventilation ducts and other like structures so they are not visible on the street elevation.</p> <p>C9 Coordinate and integrate building services, such as drainage pipes, with overall façade and balcony design.</p> <p>C10 Minimise visual impact of solar hot water systems by:</p> <p>(a) Placing the system as unobtrusively as possible, both to the street and neighbouring properties;</p> <p>(b) Using a colour that is consistent with the colour of roof materials;</p> <p>(c) Designing solar panels, where possible, as part of the roof;</p> <p>(d) Setting the solar panels back from the street frontage and position below the ridgeline; and</p> <p>(e) 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).</p>		

D6 Canterbury Road Structure Plan

Controls

- C1 Development of the Canterbury Road Corridor is to be in accordance with the characteristics of the following five-character areas:

(b) Urban Centres (B2 – Local Centre):

Comprise lower scale buildings, ranging in height from three (3) to five (5) storeys, and will likely be infill sites, additions to existing or heritage buildings, or buildings in sensitive locations. Urban development will provide an active mix of retail, employment, community and residential, with major areas of activation on cross streets. Active retail is desirable at ground level with commercial and residential above. Open space takes the form of regularly shaped streets, plazas, piazzas, paths and promenades. Transit nodes may include an open space feature where it provides significant public transport connections between Canterbury Road and the cross-street bus network. Small floor space showrooms may be appropriate in secondary retail frontages to the movement economy.

Comment:

As outlined earlier in the report, the B2-Local Centre zone along Canterbury Road envisages a lower scale of development of 3-5 storeys. The proposal is for a 6 storey shop top housing development with 6 shop tenancies on the ground floor. Four facing Flora Street and two facing Canterbury Road.

The typical road structure is to create new laneways to the rear of the site to improve the access and circulation and ensure services can be accommodated to the rear of the site away from Canterbury Road. The subject site is located on the corner of Canterbury Road and Flora Street, and to the west of the site is an established shop top housing development which does not provide a dedication for a future lane. Given the location of the subject site it is considered that the waste services can be collected from Flora Street, however as outlined by Council's resource recovery the location of the residential bin room is not consistent with the CDCP 2012. Therefore, the proposal in its current form cannot be serviced.

The application was referred to the relevant external and internal stakeholders. Their comments are outlined within the table below:

External Referrals	Comments Received
WaterNSW	Awaiting concurrence.
Transport for NSW	No objections – Subject to conditions.
Ausgrid	No objections – Subject to conditions.
Internal Referrals	Comments Received
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	<p>a) Remedial Action Plan (RAP)</p> <ol style="list-style-type: none"> 1. Prior to further assessment of this development application, a Remedial Action Plan (RAP), which addresses the contamination identified in <i>Job No: AG-662_1, Report Title: Detailed Site Investigation prepared for Architecture Design Studio NSW Pty Ltd, Address 892, 889-902 Canterbury Road, Roselands NSW, Prepared By: Australian Geoenviro, Dated: 12 August 2021</i>, must be prepared and submitted to Council. The process must be carried out in accordance with: <ol style="list-style-type: none"> (a) Council's Contaminated Land Policy, (b) Relevant EPA Contaminated Land Management Guidelines, and (c) National Environment Protection (Assessment of Site Contamination) Measure (ASC NEPM, 1999 as amended 2013). 2. The RAP must identify that the site can be made suitable for the proposed land use as six-storey, mixed use residential unit block with excavated two (2) levels of basement car park with the implementation of the RAP. 3. The RAP must be prepared or reviewed and approved by an appropriately qualified and certified environmental consultant. The front cover of the report must include the details of the consultant's certification. 4. The RAP provided to Council must be accompanied by a report summary, presenting (as a minimum) project background, scope, objectives, key issues, investigation findings, conclusions and recommendations. <p>b) Plan of Management</p> <p>The acoustic report (Dated 19 May 2021) made no mention on any impacts from the use of communal outdoor areas may have on residents and neighbouring properties.</p> <p>Provide Council with a Plan of Management that mitigates any noise impacts on residences, including neighbouring residents from the use of communal areas.</p>
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 relevant provisions of the Environmental Planning and Assessment Regulation, 2000 particularly clause 50(1AB)(b)(ii) relating to the design verification statement.

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

The likely impacts of the development as proposed are significant and therefore the application is not supported in its current form and is therefore recommended for refusal.

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

The application has been assessed under Section 4.15 of the Act and as demonstrated throughout the body of this report, the design seeks a number of variations to key development controls which cannot be supported.

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 22 July 2020 and 11 August 2020. Two (2) submissions were received during the first notification period and are addressed below.

Amended Plans and documents were received on the 31 May 2021, 2 June 2021 and 23 August 2021 and the application was re-notified for twenty-eight (28) days as the application is Integrated Development and requires approval from WaterNSW under the Water Management Act 2000. The second notification was between 29 September 2021 and 26 October 2021. No submissions were received during the second notification period.

Objection: The description of development is: *“Demolition of existing structures and the construction of a **new 6 shop top housing development** over 2 levels of basement car parking and the associated landscaping.”*
Respectfully, the proposed development has not been described correctly in that there is no description of the extent of the development in terms of its height. In our opinion, any subsequent approval could potentially be void due to this error.

Comment: The proposed description includes the number of shops being 6 and that the development is for a shop-top housing development. Insufficient information has been submitted to Council and therefore an assessment to the exact building height of the proposal could not be determined.

Objection: The height of the building that is abutting our property it will block the sunlight, casting a shadow over our property. This will reduce our enjoyment of our house and our quality of life.

Comment: Insufficient information has been provided to ensure that the proposal will not exceed the proposed height has currently shown. Therefore, the impacts on any solar loss to the adjoining neighbours could not be assessed and ensure compliance with Canterbury Development Control Plan.

Objection:- The plan has multiple windows and balconies which are facing our property which affects our privacy and our ability to enjoy our living space.

Comment: The proposed development complies with the building separation requirements of the Apartment Design Guide and therefore it is not considered that it will result in a loss of visual privacy to adjoining properties.

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.

The proposal seeks to depart from Clause 4.3 relevant to the 'height of buildings' standard under the CLEP 2012, with the highest breach nominated as 1.077m. The applicant's written submission under Clause 4.6 of CLEP 2012 has been assessed and it is considered that the breach to the development standard relating to the building height is not well founded and not acceptable in the circumstances.

The current design also seeks a departure from a number of planning controls including controls relating to apartment design which are considered to impact on the amenity afforded to future residents of the site.

Furthermore, the outstanding matters raised by Council's Environmental Health Officer, Traffic, Development Engineer and Waste would likely result in further redesign of the proposal to achieve compliance and therefore the proposal is not supported in its current form.

RECOMMENDATION

It is recommended that the development application DA-500/2020 be **REFUSED**, for the reasons outlined in **Appendix 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 is not consistent with Clause 7 of the State Environmental Planning Policy 55 – Remediation of Land as a Remediation Action Plan has not been provided and therefore, it has not been demonstrated that the site is suitable for the purpose of the proposed development.
3. Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not satisfy Clause 4.3(2) of The Canterbury Local Environmental Plan 2012 relating to ‘Height of buildings’ as the development-exceeds the allowable height of building of 18m.
4. Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the Request submitted under Clause 4.6 of Canterbury Local Environmental Plan 2012 to vary Clause 4.3(2) ‘Height of buildings’ is not well founded and it has not been adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.
5. 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 4: Sustainability, Principle 6: Amenity and Principle 9: Aesthetics.
6. 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) 3C Public Domain Interface: The location of the letter boxes are set back from the street and are not clearly identifiable.
 - b) 3D Communal and Public Open Space: The proposal does not provide the required communal open space and solar access to the principal useable part of the communal open space as required by Objective 3D-1, Design criteria 1 and 2.

- c) 4A solar and daylight access: Insufficient information has been provided to determine if a maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at mid-winter as required by Objective 4A-1, Design criteria 3.
 - d) 4B Natural ventilation: The proposal fails to achieve 60% of apartments as naturally cross ventilated as required by Objective 4B-3, Design Criteria 1.
 - e) 4C Ceiling heights: the development application fails to comply with the ceiling heights as outlined by Objective 4C-1, Design criteria 1.
 - f) 4D Apartment size and layout: The proposed development fails to comply with Objective 4D-2, Design criteria 2 and Objective 4D-3, Design Criteria 1, 2 and 3.
 - g) 4E Private open space and balconies: The proposal fails to provide all apartments with the minimum area of primary balcony per dwelling type as outlined under Objective 4E-1, Design criteria 1.
 - h) 4H Acoustic Privacy: The proposed development is inconsistent with Objective 4H-1, Design guidance as there are bedrooms that adjoin the communal open space.
7. 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,*
 - ...
 - (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,*
 - ..
8. Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not satisfy Clause 6.2 of the Canterbury Local Environmental Plan 2012 relating to earthworks as a Remediation Action Plan has not been provided.
9. Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not satisfy Clause 6.4 of the Canterbury Local Environmental Plan 2012 relating to stormwater management.
10. 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'.
11. 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 6 bicycle spaces.

- b) Part B1 Transport and parking: The proposed development fails to provide sufficient information in regards to the Traffic Impact Assessment, driveway to the basement is not compliant with Council's Vehicle Crossing Policy and it is unclear if the pedestrian sign lines comply with AS2890.1:2004.
 - c) Part B5 Stormwater and Flood management: The proposed development does not satisfy the stormwater management for the proposed development.
 - d) Part B9 Waste: The proposed waste storage areas and design do not comply and there is insufficient information provided to allow a proper and thorough assessment of the application against the relevant waste controls outlined within Part B9 of CDCP 2012.
 - e) Part C5.2.1.4 and Part C5.2.4.1, controls C1, C2 and C4 relating to solar access. Insufficient information has been provided to ensure the solar access to the adjoining properties would comply with the requirements of the CDCP 2012.
 - f) Part C5.2.3.2 Roof Design and Features: A Management Strategy Plan has not been provided for the proposed roof top communal open spaces.
 - g) Part C4.2.4.2 Acoustic Privacy: The bedroom windows to some of the apartments adjoin the communal open space.
 - h) Part D1.3.3, C1(a) relating to the floor to ceiling heights.
 - i) Part D1.3.4, C2, C7 and C9 relating to the front, secondary side and rear setbacks.
 - j) Part D1.3.5 Building Depth as some of the retail tenancies have a depth of less than 10m.
 - k) Part D1.4.2 ground Level Interface: The ground level awnings do not comply with control C7 which requires a cantilevered awning height to be in the range of 3.2m-4.2 from the natural ground level.
12. Pursuant to the provisions of Section 4.15(1)(b) and Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, insufficient information has been provided by the applicant to allow a proper and thorough assessment of the impacts of the proposed development and the suitability of the site for the development.
13. 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 of the future residents of the development.
14. 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-