

349-357 Beamish Street, Campsie

Section 4.55(8) Application to LEC 2017/32177

Modification to mixed use development


On behalf of
Metrocorp Developments and Construction Pty Ltd

15 August 2022



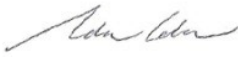
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A	15.08.22	For Lodgement	AC	

* This document is for discussion purposes only unless signed and dated by the persons identified. This document has been reviewed by the Project Director.

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1 Introduction

This Statement of Environmental Effects (SEE) report has been prepared on behalf of Metrocorp Developments and Construction Pty Ltd (the Applicant) to support a Section 4.55(8) application to modify Development Application DA256/2016 LEC 2017/32177 at 349-357 Beamish Street Campsie.

The SEE includes an assessment of the proposed works in terms of the matters for consideration as listed under Section 4.15 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and should be read in conjunction with information annexed to this report as outlined in the Table of Contents.

Specifically, the SEE includes the following information:

- Description of the site and its context
- Identification of the proposed works and description of key changes
- Assessment of the project against Section 4.55 of the EP&A Act, including a substantially the same quantitative and qualitative assessment
- Assessment of the proposal against relevant environmental planning instruments
- Assessment of all environmental impacts of the project

This proposal seeks to modify the approved six storey shop top housing development in the following manner:

- Reduce total number of units from 47 to 45 (decrease of 2) and amend unit numbering
- Reduce total GFA from 3,763m² to 3,701m² (decrease of 62m²)
- Amend the floor heights of levels 2 and above to enable clearances for services and ADG compliant floor to ceiling heights
- Increase building height by a typical 0.75m (roof line and top of planter box) and by 0.93m at the lift overrun
- Increase the size of residential lift shaft
- Relocate and resize fire stairs
- Delete 2 car parking spaces (44 and 45)
- Increase basement storage area
- Amend the residential waste room bin capacity, increasing the number of recycling bins
- Minor layout amendments to units 4, 8, 14, 18, 23, 27, 32, 35 due to proximity to fire stairs
- Minor layout amendments to units 6, 7, 8, 10, 17, 20, 22, 26, 28, 31, 34, 35, 37, 39 and 42 to meet ADG storage requirements
- Amalgamate 2 x 1 bed units into single 3 bed unit (proposed unit 33)
- Amalgamate 2 x 1 bed units into single 2 bed unit (proposed unit 41)
- Amend 1 x 2 bed unit into a 1 bed unit (proposed unit 44)
- Reduce GFA of units 41, 42, 43 and 44
- Relocate skylights
- Amend roof layout

For ease of reference, proposed amendments to the approved DA plans are highlighted in red on the architectural plan set submitted with this application.

The SEE should be read in conjunction with the technical studies, plans and reports accompanying this modification, including:

- **Appendix 1** Architectural Plans, Urban Link
- **Appendix 2** BCA Compliance Advice, Certified Building Specialists
- **Appendix 3** Updated BASIX Certificate

1.1 Proponent and Project Team

The Development Application and SEE Report have been prepared on behalf of the applicant and **Table 1** below outlines the project team.

Table 1 – Project Team	
Item	Description
Town Planning	Mecone
Architecture	Urban Link
Project Management	Probject
BCA/Access	Certified Building Specialists

1.2 Background

1.2.1 LEC 2017/32177 (DA256/2016)

DA-256/2016 was submitted by Gee and Gee Pty Ltd to Canterbury Bankstown Council on 21 June 2016. The DA was for the construction of a six-storey mixed use development containing two ground floor commercial tenancies, 50 residential units and two levels of basement car parking.

On 19 January 2017, Canterbury Bankstown Council issued correspondence to the applicant raising a number of concerns with the DA and recommending that the application be withdrawn.

On 1 February 2017, the applicant commenced proceedings in Class 1 of the Land and Environment Court's jurisdiction appealing against the Council's deemed refusal of the DA.

The Statement of Facts and Contentions prepared by Council on 28 May 2017 highlighted the following contentions as reasons for refusal:

- **Streetscape**
Specifically the projection of balconies and walls beyond the 5m setback above the podium, the façade colour combination being inconsistent with the character of the area and the provision of solid masonry at ground level.
- **Building Height**
The application proposed a height of up to 3.77m beyond the 21m height control and did not include an adequate Clause 4.6 Variation Request. The proposed floor to floor heights were inadequate to provide the 2.7m ADG floor to ceiling height.
- **Inadequate Amenity for Future Residents**

Specifically around reduced building separation and opportunities for visual privacy, poor solar access, excessive no of apartments off a single lift core, balcony dimensions and cross ventilation.

- **Unacceptable Impacts Upon Adjoining Properties**

Including inadequate building separation to Unare Lane, shadow impacts to adjoining properties and inadequate shadow diagrams, visual and acoustic privacy between dwellings and communal open space.

- **Parking and Access**

General compliance matters regarding parking space sizes, configurations and aisle widths.

- **Waste**

The location and function of commercial bin storage areas, vehicle access for waste collection and demonstrating safe maneuvering.

- **Insufficient information**

Request for additional information and specific details to be provided including updates to the survey, plans, shadow diagrams, swept path diagrams, waste management and fire egress.

It is understood that in response to the issues raised by Council, several amendments were made to the plans, notably:

- Amendments to the unit schedule, including a reduction of 3 units (47 rather than 50)
- Reconfiguration of basement parking spaces
- The addition of a second passenger lift
- Relocation of fire stairs
- Ground floor commercial area reduced
- Reconfiguration of waste chutes, collection areas and service rooms
- Amendments to communal open space and private open space
- Reconfiguration of unit layouts
- All balconies amended to comply with ADG
- Additional survey information provided
- The addition of privacy screens to some units
- Delete lift access to roof and provide stair and chair lift access
- The addition of skylights
- L2-L4 floor heights amended
- L3- roof floor levels amended

It is understood that in the lead up to the conciliation conference, the architectural plans (Revision E) were reviewed by Council's External Planning Consultant, Kerry Gordan. In an email dated 19 July 2017, Kerry advised that the proposed height breach had *no detrimental impacts upon the streetscape or neighboring properties* and resulted in *an improved planning outcome* in terms of access to rooftop communal facilities. In forming her opinion, she had consideration for the fact that Council already approved a taller building over half of the site (historic DA) and that the adjoining property on Beamish Street had an RL of 54.44 at the Beamish Street frontage. Subject to an appropriately amended Clause 4.6 Variation Request, Kerry confirmed she would support the variation to the height control.

In preparation for the conciliation conference the applicant prepared an amended Clause 4.6 Variation Request, prepared by Urban Plan dated 26 July 2017, based on Revision E Plans. The variation request put forward the following planning grounds as justification for the breach:

- The proposal meet the objectives and controls of the EPI and DCP. The proposal acknowledged the site's location by maintaining consistent height

with the neighbours and ensuring that any impacts such as solar were as envisioned in the planning framework.

- The proposal resulted in a better outcome in terms of impact to the public domain and access to communal open space.
- Strict LEP compliance would result in the reduction of a full level which would effect the viability of the project not commensurate with the minor nature of the variation proposed. Location of height exceedance (lift) is primarily in the middle of the site which is unlikely to be perceived to the public domain.

The Clause 4.6 Variation request argued that a quality planning outcome would be achieved by:

- Reinvigoration of a low use site, which although in breach, responds to its surroundings and reduces impacts to neighbouring sites.
- The increased height would not result in or create additional floor space above that envisioned in the planning framework, in line with the desired future character.
- When viewed from the majority of the surrounds, the visible portion of the building is below the height control and would not dominate the streetscape.
- The proposal maximises opportunities to live and work in the community and access public transport.
- If not approved, the orderly and economic use of the land would be suboptimal and the site's capacity to provide commercial and residential variety and opportunities would not be fully utilised.

In demonstrating that the development standard was *unreasonable or unnecessary*, the Clause 4.6 Variation Request confirmed that there were no adverse impacts of the height breach (which was supported by Council's external planning consultant). The proposal met the internal solar access requirements and did not unreasonably overshadow neighbouring sites. The additional shadowing from the lift overrun fell within the roof footprint itself. In order to meet the height control, an entire level would need to be removed, a burden on the land owner which is disproportionate to any adverse consequences as a result of the non-compliant development.

A Structural Design Check and Certification by Australian Consulting Engineers Pty Ltd dated 18 July 2017 was also prepared for amended plans Revision E. The certificate confirmed the appropriate slab widths in certain locations. It is noted that the slab widths were not relied upon as a planning justification for the height breach within the Clause 4.6 Variation Request. From our review of the documentation available, the slab widths did not form part of the planning grounds to justify the height increase.

Following a conciliation conference on 11 August 2017, the NSW Land and Environment Court issued orders to uphold the appeal of Gee and Gee and issue development consent, subject to conditions.

As such, it can be concluded that the Court supported and upheld the planning grounds outlined in the Clause 4.6 Variation Request dated 19 July 2017 as part of their decision making, which would have formed part of the *reasons for granting development consent*.

1.2.2 Consent Expiry

Pursuant to section 4.53(1)(c) of the EPA Act, the original 5 year lapsing date of the consent has been extended for a further 2 years to **11 August 2024**.

2 The Site

2.1 Site Location

The subject site is known as 349-357 Beamish Street Campsie and is legally referred to as Lot 21 and Lot 22 DP 3970.

The site is located in the Canterbury Bankstown LGA. It has a combined site size of approximately 1367m² and a 30m frontage to Beamish Street. The site is currently utilised for residential purposes.

Figure 1 provides an aerial of the site.



Figure 1: Site Context

Source: Nearmaps modified by Mecone

An overview of the site, its interface and surrounding context is provided in **Table 3**.

Item	Description
Site Addresses	349-357 Beamish Street Campsie
Legal Description	Lot 21 and Lot 22 DP 3970
Total Area	1,365.8m ²
Frontage	30m to Beamish Street (west of subject site)

Table 2 – Site Description	
Item	Description
Site Description	The subject site is located on the eastern side of Beamish Street. The blocks are angled from the street frontage towards the north east (not perpendicular to street). Each lot includes an existing 3 storey brick residential flat building. The site has been cleared of native vegetation however some landscaping is observed in the front setback.
Surrounding development	The surrounding area is characterised by a mix of commercial and low- medium density residential uses. Notably, a six storey residential flat building adjoins the site directly south. The site benefits from a second street frontage to Unara Lane, a laneway at the rear of the property.
Transport Network	Rear access driveways currently provide vehicle access to each lot. It is understood proposed basement access will be provided by Unara Lane in a similar location. The nearest train station is Campsie (Bankstown Line), 500m north of the subject site. Bus services are also available along Beamish Street.

3 The Proposal

3.1 Development Overview

This Section 4.55(8) application seeks to modify LEC 2017/32177 DA256/2016 as per the following changes:

- Reduce total number of units from 47 to 45 (decrease of 2) and amend unit numbering
- Reduce total GFA from 3,763m² to 3,701m² (decrease of 62m²)
- Amend the floor heights of levels 2 and above to enable clearances for services and ADG compliant floor to ceiling heights
- Increase building height by a typical 0.75m (roof line and top of planter box) and by 0.93m at the lift overrun
- Increase the size of residential lift shaft
- Relocate and resize fire stairs
- Delete 2 car parking spaces (44 and 45)
- Increase basement storage area
- Amendment the residential waste room bin capacity, increasing the number of recycling bins
- Minor layout amendments to units 4, 8, 14, 18, 23, 27, 32, 35 due to proximity to fire stairs
- Minor layout amendments to units 6, 7, 8, 10, 17, 20, 22, 26, 28, 31, 34, 35, 37, 39 and 42 to meet ADG storage requirements
- Amalgamate 2 x 1 bed units into single 3 bed unit (proposed unit 33)
- Amalgamate 2 x 1 bed units into single 2 bed unit (proposed unit 41)
- Amend 1 x 2 bed unit into a 1 bed unit (proposed unit 44)
- Reduce GFA of units 41, 42, 43 and 44
- Relocate skylights
- Amend roof layout

For ease of reference, proposed amendments to the approved DA plans are highlighted in red on the architectural plan set. A comparison summary of the approved development against the proposed modification is provided in **Table 3**.

Table 3 – Development Summary		
Item	Approved	Proposed
GFA	3,763m ²	3,701m ² (- 62m ²)
Building height	Roof line RL 52.15 / 18.25m Top of planter box RL 53.15 / 19.25m Lift overrun RL 53.25 / 19.35m	Roof line RL 52.90 / 19m (+ 0.75) Top of planter box RL 53.90 / 20m (+0.75) Lift overrun RL 54.18 / 20.28m (+ 0.93)
Floor Levels	Roof RL 52.15 Level 5 RL 49.25 Level 4 RL 46.30 Level 3 RL 43.30 Level 2 RL 40.30	Roof RL 52.90 (+ 0.75) Level 5 RL 49.80 (+ 0.55) Level 4 RL 46.70 (+ 0.40) Level 3 RL 43.60 (+ 0.30) Level 2 RL 40.50 (+ 0.20)

Table 3 – Development Summary

Item	Approved	Proposed
	Level 1 RL 37.40 Ground RL 33.90	Level 1 RL 37.40 (unchanged) Ground RL 33.90 (unchanged)
Land Uses	47 x residential apartments 2 ground floor commercial tenancies (518m ² and 207m ²)	45 x residential apartments (- 2) 2 ground floor commercial tenancies (unchanged)
Apartment Mix	2 x studio (4%)	2 x studio (4%)
	16 x 1 bed (34%)	13 x 1 bed (29%)
	23 x 2 bed (inc. 5 adaptable) (49%)	23 x 2 bed (inc 5 adaptable) (51%)
	6 x 3 bed (13%)	7 x 3 bed (16%)
Parking	40 x residential (standard) 5 x residential (adaptable) 23 x commercial 1 x carwash bay 69 total spaces	38 x residential (standard) (- 2) 5 x residential (adaptable) 23 x commercial 1 x carwash bay 67 total spaces
	18 bicycle spaces	18 bicycle spaces
Solar Access	33 units (70.2 %) achieve 2 hours solar access mid winter 6 units (12.8%) receive no solar access mid winter ADG compliant	32 unit (71.1 %) achieve 2 hours solar access mid winter (+ 0.9%) 6 units (13.3%) receive no solar access mid winter (- 0.5%) ADG compliant
Cross Ventilation	29 units (61.7%) receive natural cross ventilation ADG compliant	28 units (62.2%) receive natural cross ventilation (+ 0.5%) ADG compliant
Deep Soil	0% (business zone)	0% (unchanged)
Communal Open Space	323m ²	323m ² (unchanged)
Apartment Storage	No storage schedule provided. Appears non-compliant with ADG for several units.	Storage amended for ADG compliance (improvement)
Balconies	Appear ADG compliant	ADG compliant as demonstrated on architectural plans.

3.2 Description of Key Changes

3.2.1 Amendments to Floor Levels and Overall Building Height

As outlined in **Table 3**, the proposal seeks to modify the approved finished floor levels or Levels 2 and above, ranging between a 0.1m – 0.2m increase per floor. These changes result in a total **overall height increase of 0.75m** to the roof level and top of planter box. In isolation, the lift overrun has increased by **0.93m** due to a resize of the proposed lift shaft to suit an appropriate passenger lift model.

The total maximum building height at the lift overrun is now 20.28m, a 12.67% variation to the 18m height control. However, to the roof line as it presents to the primary street frontage and the north and south elevation is now 19m, a 5.55% variation to the 18m height of building control. The top of planter box on the rooftop (set back from the street and adjoining properties) is 20m, a 11.11% variation to the height control. A summary table is provided below for ease of reference.

Table 4 – Height Variation Summary				
	Approved Development		Proposed Development	
Item	Height	Variation Extent (%)	Height	Variation Extent (%)
Roof Line	52.15 / 18.25m	1.39%	52.90 / 19m (+ 0.75)	5.55%
Top of planter	53.15 / 19.25m	6.94%	RL 53.90 / 20m (+0.75)	11.11%
Lift overrun	53.25 / 19.35m	7.5%	RL 54.18 / 20.28m (+ 0.93)	12.67%

The changes to the floor heights have been driven by necessity, in response to recent legislative changes to the National Construction Code (NCC). NCC 2019 requires all new class 2 and 3 buildings of four or more storeys to provide automatic fire sprinkler systems under the deemed to satisfy provisions. In order to provide clearances for these sprinkler systems and meet the 2.7m ADG minimum floor to ceiling heights, a minimum of 3.1m floor to floor height is required. Please refer to the BCA compliance advice and section provided at **Appendix 2**.

In the previous scheme, floor to floor heights were compressed and ranged between 2.9m and 3m on residential floors. While this may have been acceptable and technically feasible at the time, the legislative changes have resulted in a clear change of circumstances which must be responded to, to ensure legislative compliance, the safety of residents and appropriate internal amenity.

Despite some minor increases in height, the scheme as a whole has been improved and achieves:

- Overall reduction in GFA
- Improved internal separation distances
- Improved solar access (in terms of % compliance due to revised apartment number)
- Improved cross ventilation (in terms of % compliance due to revised apartment number)
- Improved solar access and reduced overshadowing impacts to neighbouring sites

- Reduced traffic generation due to a decrease in unit yield and parking spaces
- Improved waste management outcome and compliant bin provision
- Improved storage provision (fully ADG compliant)

Compared to the approved scheme, the proposed height increase will not result in any unacceptable environmental effects in terms of overshadowing or reduced solar access to neighbouring properties. The revised scheme reduces GFA on the top floor to improve internal separation distances, reducing opportunities for overlooking and visual and acoustic privacy concerns. See Environmental Assessment (Part 5) for further information.



Figure 2: Approved Beamish Street Elevation
Source: CD Architects



Figure 3: Proposed Beamish Street Elevation
Source: Urban Link

3.2.2 Basement Amendments

As a result of reduced dwelling yield, the parking requirement has consequently decreased. As shown in the car parking schedule in Figure 4 below, a total of 65 parking spaces is now required to meet the DCP minimum parking rates. The revised scheme provides 67 parking space, a reduction of 2 from the approved 69 parking spaces. As a result, the layout of the basement has been amended to increase storage areas.

CAR PARKING SCHEDULE FOR B2 ZONE - LARGE CENTRES			
UNITS	RATE	REQUIRED	PROPOSED
RESIDENTIAL (40 UNITS) NON - ADAPTABLES			
STUDIO (2)	0.25 SPACE / 1 UNIT	0.5	1
1 BED (13)	0.8 SPACE / 1 UNIT	10.4	11
2 BED (18)	1 SPACE / 1 UNIT	18	18
3 BED (7)	1 SPACE / 1 UNIT	7	8
ADAPTABLE UNITS (5 UNITS)			
2 BED (5)	1 SPACE / 1 UNIT	5	5
VISITORS	NOT REQUIRED	0	0
COMMERCIAL (744m ²)			
(120m ² - 1000m ²)	1 SPACE / 33m ²	23	23
CARWASH BAY		1	1
TOTAL		65	67
BICYCLE SCHEDULE FOR B2 ZONE - LARGE CENTRES			
UNITS	RATE	REQUIRED	PROPOSED
RESIDENTIAL (45 UNITS)	1 SPACE / 5 UNIT	9	10
VISITORS (45 UNITS)	1 SPACE / 10 UNIT	4.5	5
COMMERCIAL	1 SPACE / 300m ²	2.5	3

Figure 4: Proposed Parking Schedule

Source: Urban Link

Other basement amendments include the relocation and resizing of fire stairs and an increase in size of the residential lift shafts. **Figure 5** below provides an extract of proposed basement level 1, with key changes highlighted in red bubbles.

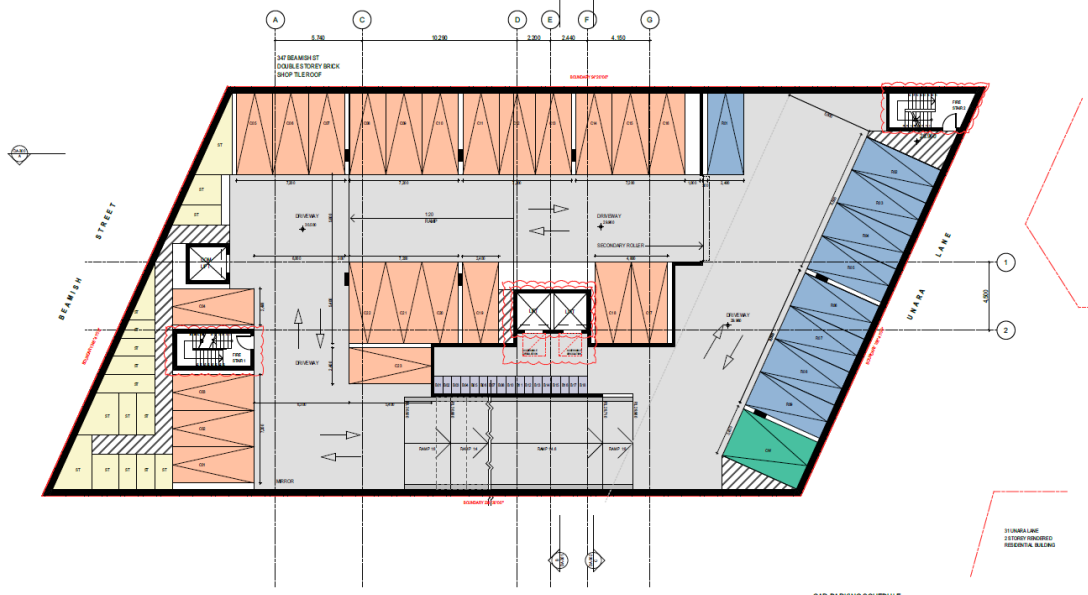


Figure 5: Proposed Basement 1 Floor Plan

Source: Urban Link

3.2.3 Internal Layout Amendments

The modification proposes minor internal amendments at each floor, primarily responding to the reconfiguration of fire stairs and lifts. For ease of reference, the changes have been highlighted in red on each floor plan, and a summary of the amendments provided as a key on each page.

Levels 4 and 5 include the amalgamation of apartments (proposed unit 33 on level 4 and proposed unit 41 on level 5) and changes to proposed unit 44 on level 5 from a 2 bedroom unit to a 1 bedroom unit. These changes have resulted in an overall decrease in GFA from 3,763m² to 3,701m² (decrease of 62m²). Minor amendments have also been made to some balconies to ensure ADG compliance is achieved.

In terms of street setbacks and setbacks to adjoining sites, the building envelope remains consistent with the approved plans. There are no instances where internal separation or building setbacks have been reduced. In some circumstances, internal building separation has been increased, which results in improved internal amenity and privacy. For example, on level 5 the separation between unit 42 balcony and the living room at unit 43 (previously unit 45) has increased from 10.18m to 11.6m at one point and from 12.195m to 13.619 at another point.

4 Planning Assessment

Mecone has undertaken an assessment of the proposal against the relevant planning and environmental legislation as discussed below, where the modification requires any re-assessment.

4.1 Section 4.55 of the Environmental Planning and Assessment Act 1979

This application is a modification under Section 4.55(8) of the EP&A Act. The modification proposes additional building height when compared to the approved development, and as such we have considered the provisions of Section 4.55(2) to be appropriate in this instance.

Section 4.55 of the EP&A Act sets out the general considerations for the modification of development consents. Section 4.55(2) states that the consent may be modified only if the modification results in “substantially the same development” as that approved.

(2) Other modifications A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if--

*(a) it is satisfied that the development to which the consent as modified relates is **substantially the same development** as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and*

(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and

(c) it has notified the application in accordance with--

(i) the regulations, if the regulations so require, or

(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and

(d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.

Subsections (1) and (1A) do not apply to such a modification.

4.1.1 Substantially the Same

The modification is substantially the same as the approved development. The modification is minor in nature and aims to facilitate compliance with the National Construction Code 2019.

Consideration of whether the development is substantially the same requires both a qualitative and quantitative assessment as espoused within *Moto Projects (No 2) Pty Ltd v North Sydney Council* [1999] NSWLEC 280.

The comparative task does not merely involve a comparison of physical features or components of the development as currently approved and modified where that comparison exercise is undertaken in some type of sterile vacuum. Rather, the comparison involves an appreciation, qualitative, as well as quantitative, of the development being compared in their proper contexts (including the circumstances in which the development consent was granted. (Bignold, J)).

Quantitative Assessment

The modification results in physical changes to the approved shop top housing development. However, the changes are largely bound to the established building form, with the exception of minor increases to the proposed building height to facilitate compliance with the National Construction Code and ADG floor to ceiling clearance requirements. Overall, the proposal will provide a form and scale very similar to that as originally approved as evident in the numerical assessment provided below.

A comparison of the original approval versus the proposed modification is provided in **Table 4** below, which demonstrates the minor numerical changes presented by the application.

Table 5 – Quantitative Assessment			
Item	Approved	Proposed	Change (%)
GFA	3,763m ²	3,701m ²	-62m ² (-1.6%)
Height	Roof line RL 52.15 / 18.25m	RL 52.90 / 19m	+ 0.75 (+4.1%)
	Top of planter box RL 53.15 / 19.25m	RL 53.90 / 20m	+ 0.75 (+3.9%)
	Lift overrun RL 53.25 / 19.35m	54.18 / 20.28m	+ 0.93 (+4.8%)
Land Use	47 apartments	45 apartments	-2 (-4.25%)
	2 ground floor commercial units	Unchanged	Unchanged
Parking	40 x residential (standard)	38	-2 (-5%)
	5 x residential (adaptable)	5	Unchanged
	23 x commercial	23	Unchanged
	1 x carwash bay	1	Unchanged
	69 total spaces	67 total spaces	-2 (-2.9%)
Setbacks	Unchanged		
Solar Access	33 units (70.2 %) solar compliant	32 unit (71.1 %)	(+ 0.9%)
	6 units (12.8%) no solar	6 units (13.3%)	(- 0.5%)
	ADG compliant	ADG compliant	

Cross Ventilation	29 units (61.7%) cross ventilated ADG compliant	28 units (62.2%) ADG compliant	(+ 0.5%)
Deep Soil	0% (business zone)	0%	Unchanged
Communal Open Space	323m ²	323m ²	Unchanged

As identified in **Table 5**, the key changes proposed are not substantial in nature and sit under a numerical threshold of 5%. The changes are minor within the context of the approved development and do not result in a substantial alteration in the design, form, and display of the approved development.

The development will still read as a 6 storey mixed use building. Key building envelope considerations, such as the approved separation between buildings (internal and along the north, west and south boundaries) remains unchanged. Overall, from a quantitative perspective, the proposed development is substantially the same.

Qualitative Assessment

A qualitative assessment of the modification demonstrates that the changes proposed will have no relative effect on the development and is substantially the same and represents a continuation of the approved development from a qualitative perspective.

Given the proposed increase in building height, updated shadow diagrams have been prepared to support the modification. The diagrams, prepared by Urban Link provide an hourly analysis between 9am and 3pm on 21 June to compare the extent of the approved and proposed shadowing to neighbouring properties. The analysis demonstrates that the proposed amendments will cause substantially the same shadowing impact than those of the approved development. In fact, when considering the shadowing impact to the communal open space of the neighbouring site, the shadowing impact is reduced. This is due to the reduced GFA and reduction of mass on the top floor of the amended scheme.

An additional 35m² of the communal open space at 363 Beamish Street will now receive solar access across the 9am-3pm period mid winter as a result of the proposed amendments. See Figures 5 and 6 below.



SHADOW DIAGRAM - 1pm, 21 JUNE

Figure 6: Shadow Analysis Diagram
Source: Urban Link

SOLAR ACCESS: NEIGHBOUR COS 363 BEAMISH STREET CAMPSIE			
	APPROVED	PROPOSED	ADDITION OF COS RECEIVING SOLAR
9am	31m ²	32m ²	+ 1m ²
10am	1m ²	7m ²	+ 6m ²
11am	80m ²	85m ²	+ 5m ²
12pm	95m ²	105m ²	+ 10m ²
1pm	43m ²	54m ²	+ 11m ²
2pm	1m ²	3m ²	+ 2m ²
3pm	0	0	0m ²

Figure 7: Shadow Analysis Calculations
Source: Urban Link

In addition to the shadow diagrams, a view from the sun analysis has also been undertaken to analyse the impact to neighbouring residents at 363 Beamish Street. The analysis reveals an improvement in solar access across the 9am-3pm period. Again, this is due to a reduction in the proposed GFA and reduced bulk to the top floor, despite the minor increase in height.

Improvements to the adjoining existing development are summarised as follows:

- 9am One additional first floor apartment receives solar access.
- 10am No change.
- 11am One additional second floor apartment receives solar access.

- 12pm One additional third floor apartment receives solar access.
- 1pm No change.
- 2pm One additional fifth floor apartment receives solar access.
- 3pm No change.

Based on the above analysis, a total of four individual apartments at the neighboring property would benefit from the reduced bulk and shadowing impacts of the amended design. No adjoining apartments will be worse off when compared to the approved scheme.

It is considered the external and internal changes will have minimal environmental impact with surrounding land uses as it does not result in a change to the essence of what has been originally approved, in use, scale and intensity. For the reasons above, the modification is substantially the same from a qualitative perspective.

As such, the modification does not require a new DA as the proposal is substantially the same as the approved development.

4.1.2 General Terms of Approval

The original application was not subject to any general terms of approval, as such no consultation is required with the Minister, public authority, or external approval body.

4.1.3 Notification

The modification will be notified to consider any new impacts to the approved development.

4.1.4 Submissions

The modification will include consideration of any submissions in accordance with Council's policies, if received.

4.1.5 Section 4.55 (3) Matters For Consideration

Section 4.55 (3) of the EP&A Act states that:

In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.

Matters for Consideration – General

This application has been prepared in accordance with Section 4.15 of the EP&A Act to provide a thorough assessment of general matters for consideration under 4.15(1). Part 4.2 Planning Assessment and Part 5 Environmental Assessment of this document provide a detailed analysis of those matters for consideration and a summary table is provided in Part 4.3 of this document.

Reasons for Granting of Development Consent

With regard to the reasons given by the consent authority for the grant of the consent that is sought to be modified, the consent authority was the NSW Land and Environment Court. The application was resolved in section 34 conciliation agreement, and as such, there is no formal record of the reasons for granting the consent.

It is understood from discussions with Canterbury Bankstown Council that a key element of the application being supported by the Court was due to the applicant's submission regarding the ability to build the structure as proposed at a maximum height of 53.25m AHD. In addition, another reason for the consent being granted was a better planning outcome which enabled access to the rooftop. This advice was received via email from Council's Senior Planner Warren Terry on 20 May 2022, following a Pre-DA meeting.

Mecone has reviewed a number of the Court files relating to LEC 2017/32177, including advice from Council's Consultant Town Planner Kerry Gordon, Clause 4.6 Variation Request prepared by Urban Plan dated 26 July 2017 and Structural Design Certificate by Australian Consulting Engineers dated 18 July 2017. There were several planning grounds and merit arguments put forward to justify the Clause 4.6 Variation Request, outlined in detail in Section 1.2.1 of this document. This request was ultimately upheld and supported by the Court. We note that buildability and slab thicknesses were not key considerations of the Clause 4.6 Variation Request.

The planning merits put forward in the Clause 4.6 Request continue to stand. In fact, shadowing impacts to adjoining properties have been further improved as demonstrated above. This application does not seek to question or dispute of the reasons for granting the consent. Rather, this application seeks to highlight that there has been a change in circumstances since the time of the consent being granted.

With consideration for buildability, the approved floor to floor heights range from 2.9 – 3.0m on residential floors 1-5. While technically this can be built as approved, recent amendments to the National Construction Code 2019 require the installation of automatic fire sprinkler systems to achieve compliance for certification purposes. To build the building as approved **and** enable clearance for concealed sprinkler systems within the ceiling services zones, would result in floor to ceiling heights in living spaces less than 2.7m, non-compliant with the ADG. Since the NCC changes in 2019, 3.1m floor to floor is now the widely accepted minimum height standard to enable clearances for services while still achieving a 2.7m internal floor to ceiling height for ADG compliance. Please refer to attached BCA advice at **Appendix 2**.

In terms of planning merit for the increase to the permissible building height, access continues to be provided to the rooftop for use as communal open space. The increased height does not provide any additional GFA than that envisioned in the planning framework for the desired future character. Rather a proposed reduction of 62m² is put forward to offset any perceived detrimental environmental impacts as a result of the height increase. The proposal continues to meet the objectives of the EPI and DCP and as demonstrated above, solar access to adjoining properties has been improved.

As noted above, the reason for consent being granted is a consideration by the consent authority. In this case, there has been a clear change in circumstances in that the National Construction Code was updated in 2019, meaning that the approved floor to floor heights would no longer enable compliance with the ADG minimum 2.7m floor to ceiling clearances. To enable compliance with both the NCC and the ADG, a minimum 3.1m floor to floor height is required, which has necessitated the proposed

height increase. It is requested that the consent authority reasonably consider the change in circumstances as well as the original reasons for the consent being granted.

Although the ability to build the structure may have been a consideration in the assessment process, it would not have been the primary environmental planning grounds for the height breach being supported. The planning grounds for the height breach primarily related to the improved amenity through providing access to rooftop communal open space, along with a lack of any negative environmental impacts of the proposed breach.

As has been demonstrated in the substantially the same test and the Environmental Assessment in this report, there are no negative environmental impacts which result from the height increase proposed in this modification. Although the ability to construct the building may have been a consideration in the assessment process, this is secondary to the amenity outcome as grounds for consent being granted. This, along with a clear change in legislative circumstances provide sufficient grounds for a consent authority to consider and grant consent for this modification under S4.55 of the Act.

We note that consideration for the reasons consent was granted under Section 4.55(3) is a separate matter for consideration than the *substantially the same* test under Section 4.55(2).

4.1.6 Section 4.55 (8) Modifications by the Court

Section 4.55 (8) of the EP&A Act states that:

Modifications by the Court *The provisions of this section extend, subject to the regulations, to enable the Court to modify a consent granted by it but, in the extension of those provisions, the functions imposed on a consent authority under subsection (1A)(c) or subsection (2)(b) and (c) are to be exercised by the relevant consent authority and not the Council.*

This enables a Class 1 appeal to be filed and lodged directly with the Court and the Court takes on the role of the consent authority. The Council still exhibits and assesses the modification application including preparing a Statement of Facts and Contentions as part of the Court proceedings. However, the proceedings are conducted in a similar way to any other Class 1 appeal in that the parties progress to a section 34 conciliation conference and if the matter isn't resolved, the matter proceeds to a hearing and each party puts on expert evidence.

This is the proposed planning pathway.

4.2 Environmental Planning Instruments

4.2.1 Canterbury Local Environmental Plan 2012

Table 6 provides a summary of the key development standards under Canterbury Local Environmental Plan (CLEP 2015) that apply to the site.

Table 6 – Canterbury Local Environmental Plan 2012		
Control	Provisions	Proposed

Zone	The site is zoned B2 Local Centre .	Complies Shop top housing is permissible within the B2 Zone.
4.3 Height of buildings	The site has a maximum building height of 18m .	Variation Proposed. The proposal provides a maximum building height of RL 54.18 or 20.28m to the lift overrun. This represents a 12.67% variation to the 18m height control. To the top of planter box, the proposed height is RL 53.90 or 20m, a 11.11% variation. To the roof line, the proposed height is RL 52.90 or 19m, a 5.55%.
4.4 Floor space ratio	No floor space ratio applies to the site	N/A
5.10 Heritage	The site is not a heritage item, adjoins a heritage item and is not located in. Heritage Conservation Area (HCA).	N/A
5.21 Flood Planning	The site is not contained within a flood planning area and flood storage.	N/A
6.1 Acid sulfate soils	The site is not contained within an acid sulfate soil area.	N/A

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

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (SEPP BASIX) provides objectives to encourage sustainable residential development.

An updated BASIX Certificate has been submitted with the application, which confirms the development is able to meet the NSW Government's requirements for sustainability if built in accordance with the commitments set out in the certificate.

4.2.3 State Environmental Planning Policy (Resilience and Hazards) 2021

The Hazards and Resilience SEPP (previously SEPP 55) states that a consent authority, in determining a DA, is to consider whether land is contaminated and is suitable, or can be remediated and made suitable, for the proposed development.

It is understood that this Clause was addressed as part of the original approval. As such, no further consideration of contamination is required.

4.2.4 SEPP 65 and Apartment Design Guide

The design of the proposed development has been assessed against the provisions of the State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development (SEPP 65).

Apartment Design Guide

An overview of compliance with the key criteria contained within the Apartment Design Guide (ADG) is provided below. Overall, the proposed modification maintains compliance with the ADG.

A summary of key ADG criteria is provided in **Table 7** below, with further assessment provided in the submitted DVS.

Table 7 – Apartment Design Guide Summary			
ADG Criteria	Required	Approved	Proposed
Solar Access	70%	70.2%	Complies 23 unit (71.1 %)
No Solar	Maximum 15%	12.8%	Complies 6 units (13.3%)
Cross Ventilation	60%	61.7%	Complies 28 units (62.2%)
Deep Soil Zones	7%	0% (business zone)	Unchanged
Communal Open Space	25%	323m ² (23.6%)	Unchanged
Building Separation	Up to four storeys: <ul style="list-style-type: none"> • 12m between habitable rooms/balconies • 9m between habitable and non-habitable rooms • 6m between non-habitable rooms Five to eight storeys <ul style="list-style-type: none"> • 18m between habitable rooms/balconies • 12m between habitable and non-habitable rooms • 9m between non-habitable rooms 	Variable with some minor non compliances	Unchanged with the exception of internal separation distances at Level 5 between unit 42 and 43 which have increased.

Table 7 – Apartment Design Guide Summary																		
ADG Criteria	Required	Approved	Proposed															
Storage	<table><thead><tr><th>Dwelling type</th><th>Storage size volume</th></tr></thead><tbody><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></tbody></table> <p>At least 50% of the required storage is to be located within the apartment</p>	Dwelling type	Storage size volume	Studio apartments	4m³	1 bedroom apartments	6m³	2 bedroom apartments	8m³	3+ bedroom apartments	10m³	No storage schedule provided. Several units appear non-compliant.	Complies Storage areas have been adjusted to meet minimum ADG requirements.					
Dwelling type	Storage size volume																	
Studio apartments	4m³																	
1 bedroom apartments	6m³																	
2 bedroom apartments	8m³																	
3+ bedroom apartments	10m³																	
Balconies	<p>All apartments are required to have primary balconies as follows:</p> <table><thead><tr><th>Dwelling type</th><th>Minimum area</th><th>Minimum depth</th></tr></thead><tbody><tr><td>Studio apartments</td><td>4m²</td><td>-</td></tr><tr><td>1 bedroom apartments</td><td>6m²</td><td>2m</td></tr><tr><td>2 bedroom apartments</td><td>10m²</td><td>2m</td></tr><tr><td>3+ bedroom apartments</td><td>12m²</td><td>2.4m</td></tr></tbody></table> <p>The minimum balcony depth to be counted as contributing to the balcony area is 1m</p>	Dwelling type	Minimum area	Minimum depth	Studio apartments	4m²	-	1 bedroom apartments	6m²	2m	2 bedroom apartments	10m²	2m	3+ bedroom apartments	12m²	2.4m	Appears to comply.	Complies All balconies have been adjusted to meet minimum ADG dimensions.
Dwelling type	Minimum area	Minimum depth																
Studio apartments	4m²	-																
1 bedroom apartments	6m²	2m																
2 bedroom apartments	10m²	2m																
3+ bedroom apartments	12m²	2.4m																

As demonstrated in **Table 7** the modification maintains compliance with the key provisions of the ADG and where the proposal represented a non-compliance, this remains unchanged or improved.

4.2.5 Canterbury Development Control Plan 2012

Canterbury Development Control Plan 2012 provides detailed planning and design guidance for new development, which supplements the provisions of Canterbury LEP.

A review of the DCP indicates the key chapters applicable to this development include:

- Part B General Controls
- Part C5 Shop Top Housing
- Part D Business Centres

A compliance assessment of the proposal against the relevant provisions of CDCP 2012 is discussed in **Table 8**, which demonstrates the proposal generally complies with the DCP and the operational aspects of the original approval.

Table 8 – Canterbury DCP 2012		
Control	Provision	Compliance
B1.3 Parking Rates	Residential: Shop top housing in B2 zones requires: <ul style="list-style-type: none"> • Studio: 0.25 spaces per dwelling 	Complies The proposal requires a total of 65 parking spaces and 67 have been provided. The proposal requires a total of 16 bicycle spaces and 18 have been provided.

Table 8 – Canterbury DCP 2012

Control	Provision	Compliance
	<ul style="list-style-type: none"> 1 bedroom: 0.8 spaces per dwelling 2 bedroom: 1 space per dwelling 3 bedroom or more: 1 space per dwelling <p>Visitor Parking: Not required</p> <p>One (1) car wash bay per 10 or more dwellings.</p> <p>Commercial</p> <ul style="list-style-type: none"> 1 space per 33m² GFA (120m² – 1,000m²). <p>Bicycle</p> <ul style="list-style-type: none"> Residential: Minimum 1 space per 5 dwellings. Residential Visitors: Minimum 1 space per 10 dwellings. Commercial Staff: 1 space per 300m² GFA Commercial Patrons: 1 space per 500m² GFA over 1,000m². 	Refer to Section 5.1 of this assessment for detailed breakdown.
B9 Waste Management	This section sets out the construction and operational waste management requirements and requires the submission of a waste management plan.	<p>Complies</p> <p>The waste management procedures remain unchanged from the original approval. The waste storage areas have been amended to accommodate the correct number of bins as required by the DCP. See section 5 of this document for further information.</p>
C5 Communal Open Space	Provide a minimum of 15% of the site area for the purposes of communal open space on redevelopment sites larger than 500m.	<p>Complies</p> <p>323m² of communal open space is provided, 23.6% of the site area.</p>
C5 Floor to Ceiling Heights	<ul style="list-style-type: none"> Provide a minimum 3.3m floor to ceiling height for the ground floor. Provide a minimum 2.7m floor to ceiling height for residential floors. 	<p>Complies</p> <p>The revised floor to floor heights enable the required floor to ceiling clearances. We note that if the floor to floor heights were to remain as per the original approval, internal clearances would not be met due to the additional clearances</p>

Table 8 – Canterbury DCP 2012

Control	Provision	Compliance
		required for concealed sprinkler systems.
C5. Setbacks	A minimum side boundary setback of 4.5m is required in the B5 zone. SEPP 65 separation requirements will apply for buildings with height of 4 storeys and above.	Unchanged Front, side and rear setbacks remain unchanged from original approval. Refer to SEPP 65 table.
C5. Dwelling Layout and Mix	10% Adaptable Units required.	Complies 5 out of 45 units are adaptable (11.1%).
C5. Solar Access and Overshadowing	<ul style="list-style-type: none"> Proposed development must retain a minimum of 3 hours of sunlight between 8.00am and 4.00pm on 21 June for existing primary living areas and to 50% of the principal private open space. 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. Sunlight to solar hot water or photovoltaic systems on adjoining properties must comply with the following: <ul style="list-style-type: none"> Systems must receive at least 3 hours of direct sunlight between 8.00am and 4.00pm on 21 June. If a system currently receives less than 3 hours sunlight, then proposed development must not reduce the existing level of sunlight. Clothes drying areas on adjoining residential properties must receive a minimum of 3 hours of sunlight on 21 June. 	Improved from Original Approval The amended design includes reduced GFA on the top floor, resulting in improved solar access to neighbouring units and communal open space during mid winter.
Part C5 Balconies and Private Courtyards	<ul style="list-style-type: none"> Must have a combined area of at least 10% of the dwelling floor space, for apartments with two or more bedrooms. Must provide a minimum area of <ul style="list-style-type: none"> 8m² for a primary balcony for one-bedroom apartment 12m² for primary balcony for apartments with two or more bedrooms 	Complies All balconies meet the meet the minimum size and dimension requirements.

Table 8 – Canterbury DCP 2012		
Control	Provision	Compliance
	<ul style="list-style-type: none"> Provide minimum depth of 2m for primary balcony. 	

4.3 Section 4.15 Compliance Assessment

The table below provides an assessment of the proposal against all provisions under Section 4.15 of the EP&A Act 1979.

Table 9 – Section 4.15 Summary		
Clause	Provision	Assessment
(1)	<p>Matters for consideration—general</p> <p>In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:</p>	
(a)(i)	<p>The provision of:</p> <p>Any environmental planning instrument, and</p>	The proposal is consistent with the provisions on CLEP 2012.
(ii)	<p>Any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and</p>	The proposal is subject to draft Canterbury Bankstown consolidated LEP. The land use zone remains unchanged. Shop top housing remains permissible with consent. The proposal is consistent with the provisions of the draft Canterbury Bankstown consolidated LEP.
(iii)	<p>Any development control plan, and</p>	The proposal will maintain general consistency with CDCP 2012 controls. There are not substantial changes to the scheme which impact DCP compliance.
(iiia)	<p>Any planning agreement that has been entered into under Section 93F, or any draft planning agreement that a developer has offered to enter into under Section 93F, and</p>	Not applicable to this application.

Table 9 – Section 4.15 Summary

Clause	Provision	Assessment
(iv)	The regulations (to the extent that they prescribe matters for the purposes of this paragraph), and	Not applicable to this application.
(v)	Any coastal zone management plan (within the meaning of the Coastal Protection Act 1979), that apply to the land to which the development application relates,	Not applicable to this application.
(b)	The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,	There will be no significant adverse impacts on the built or natural environments as a result of this application. As has been identified in this report, the proposal will enable legislative compliance with the National Construction Code 2019. It will also result in improved solar access, waste management and traffic outcomes (see Section 5 of this document).
(c)	The suitability of the site for the development,	The proposal is suitable for the site, being located in B2 Local Centre Zone.
(d)	Any submissions made in accordance with this Act or the regulations,	For consideration following notification of the development.
(e)	The public interest.	The development is in the public interest in that it provides a development consistent with the character and scale of the area, as evident in the adjoining six storey shop top housing development. The proposal will result in improved legislative compliance with the NCC and offer improved environmental outcomes in terms of solar access, waste management and traffic generation.

5 Environmental Assessment

5.1 Traffic and Parking

The modification will have minimal traffic and parking impacts, when compared to the original approval. The parking provision has been amended to reflect the revised unit schedule. A total reduction of 2 apartments and 2 associated parking spaces will marginally reduce trip generation and overall traffic impacts to the surroundings street network.

The proposed parking exceeds the minimum DCP requirements. This modification will not result in any detrimental environmental impacts from a traffic and parking perspective.

5.1.1 Parking Assessment

Approved Development

As per the CDCP 2012 parking rates, the original approval required a total of 69 car parking spaces to be provided. The approved car parking spaces is made up as follows:

- 40 x residential (standard)
- 5 x residential (adaptable)
- 23 x commercial
- 1 x carwash bay

The proposal also included 18 bicycle parking spaces.

Proposed Parking Summary

This modification proposes the provision of 67 car parking spaces, including:

- 38 x residential (standard)
- 5 x residential (adaptable)
- 23 x commercial
- 1 x carwash bay

The proposal also includes 18 bicycle parking spaces, unchanged from the original approval.

The proposed parking provision exceeds the CDCP 2012 minimum parking requirements, as demonstrated in the parking schedule below.

CAR PARKING SCHEDULE

FOR B2 ZONE - LARGE CENTRES

UNITS	RATE	REQUIRED	PROPOSED
RESIDENTIAL (40 UNITS) NON - ADAPTABLES			
STUDIO (2)	0.25 SPACE / 1 UNIT	0.5	1
1 BED (13)	0.8 SPACE / 1 UNIT	10.4	11
2 BED (18)	1 SPACE / 1 UNIT	18	18
3 BED (7)	1 SPACE / 1 UNIT	7	8
ADAPTABLE UNITS (5 UNITS)			
2 BED (5)	1 SPACE / 1 UNIT	5	5
VISTORS	NOT REQUIRED	0	0
COMMERCIAL (744m ²)			
(120m ² - 1000m ²)	1 SPACE / 33m ²	23	23
CARWASH BAY		1	1
TOTAL		65	67

BICYCLE SCHEDULE

FOR B2 ZONE - LARGE CENTRES

UNITS	RATE	REQUIRED	PROPOSED
RESIDENTIAL (45 UNITS)	1 SPACE / 5 UNIT	9	10
VISITORS (45 UNITS)	1 SPACE / 10 UNIT	4.5	5
COMMERCIAL	1 SPACE / 300m ²	2.5	3

Figure 8: DCP Parking Schedule

Source: Urban Link

Accessible Parking

The modification proposes 5 accessible car parking spaces, consistent with the 5 adaptable apartments proposed.

Motorcycle

The DCP does not stipulate a requirement for motorcycle parking spaces. No motorcycle parking has been provided, consistent with the original approval.

5.1.2 Car Park Design and Circulation

The car park design remains largely unchanged from the original approval, with the exception of 2 parking spaces being removed and replaced with storage areas at Basement Level 2 (pictured below). Lift shafts and fire stairs have also been marginally increased, however this does not impact to operation of the basement.

Basement entry, aisle widths, ramp locations and head clearances remain unchanged from the original approval. As such, vehicle circulation and turning paths will remain unchanged, enabling safe maneuvering within the basement and safe access and egress to Unara Lane.

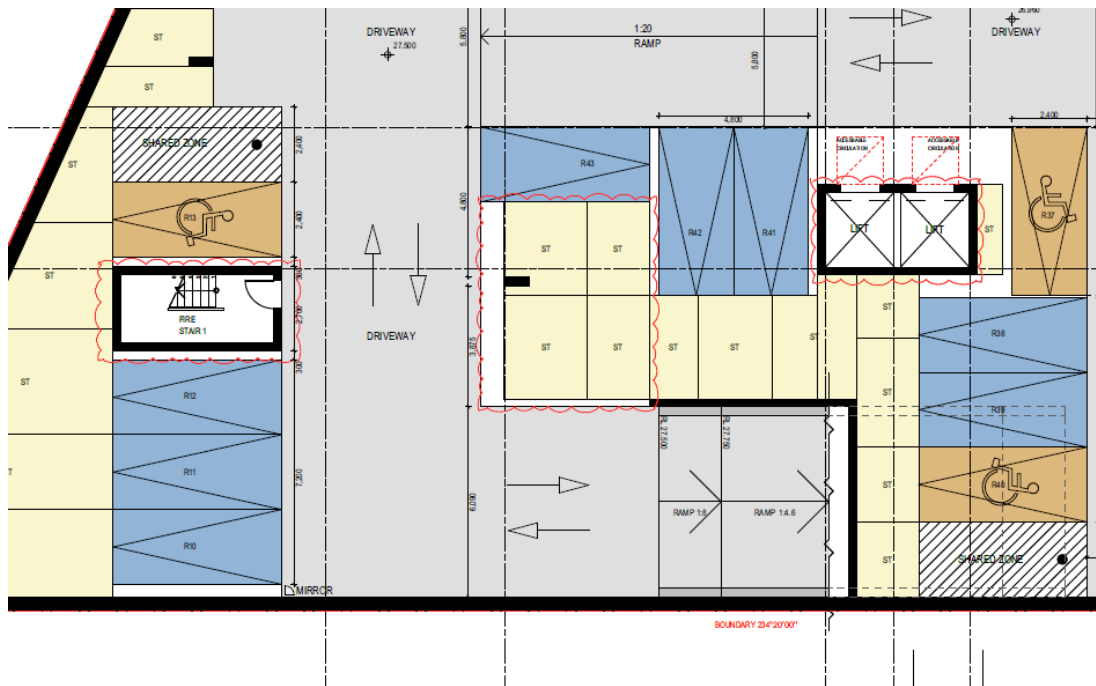


Figure 9: Basement Storage Areas Replacing Parking (Red Bubble)
Source: Urban Link

5.1.3 Traffic Impact

As noted above, a total reduction of 2 apartments and 2 associated parking spaces will marginally reduce trip generation and overall traffic impacts to the surrounding street network. This is an improved outcome when compared to the approved DA.

5.2 Overshadowing and Solar Access to Adjoining Residents

Although some minor increase in building height, the proposal will improve the overshadowing impacts and increase the solar access to the neighbouring property at 363 Beamish Street. This is achieved by reducing the GFA by 62m² and reducing building mass on the top floor.

Updated shadow diagrams have been prepared to support the modification. The diagrams, prepared by Urban Link provide an hourly analysis between 9am and 3pm on 21 June to compare the extent of the approved and proposed shadowing to neighbouring properties. The analysis demonstrates that the proposed amendments will cause substantially the same shadowing impact than those of the approved development. In fact, when considering the shadowing impact to the communal open space of the neighbouring site, the shadowing impact is reduced. This is due to the reduced GFA and reduction of mass on the top floor of the amended scheme.

An additional 35m² of the communal open space at 363 Beamish Street will now receive solar access across the 9am-3pm period mid winter as a result of the proposed amendments. Refer to **Figures 5 and 6** on Page 19 and 20 of this report.

In addition to the shadow diagrams, a view from the sun analysis has also been undertaken to analyse the impact to neighbouring residents at 363 Beamish Street. The analysis reveals an improvement in solar access across the 9am-3pm period. Again, this is due to a reduction in the proposed GFA and reduced bulk to the top floor, despite a minor increase in height.

Improvements to the adjoining existing development are summarised as follows:

- 9am One additional first floor apartment receives solar access.
- 10am No change.
- 11am One additional second floor apartment receives solar access.
- 12pm One additional third floor apartment receives solar access.
- 1pm No change.
- 2pm One additional fifth floor apartment receives solar access.
- 3pm No change.

A total of four individual apartments at the neighbouring property will benefit from the reduced bulk and shadowing impacts of the amended design. No adjoining apartments will be worse off when compared to the approved scheme.

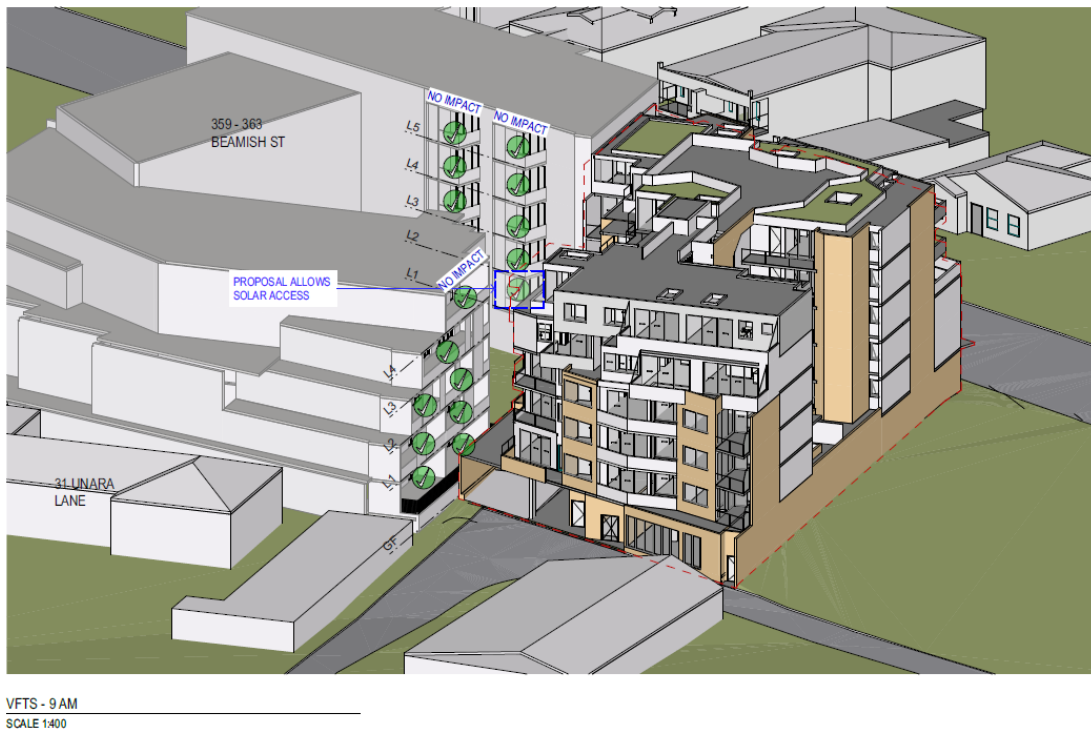


Figure 10: Extract of Views from the Sun Analysis: Additional First Floor Unit Achieving Solar Access

Source: Urban Link

As demonstrated above, this modification will result in reduced overshadowing impacts and improved solar access to neighbouring properties.

5.3 Visual Impact

To understand the visual impact of the proposed height increases, photomontages have been prepared by Urban Link. These images are provided below.



Figure 11: Beamish St, Looking South
Source: Urban Link



Figure 12: View From Unara Lane
Source: Urban Link

As demonstrated in the above images, the visual impact of the proposed height increase (shown in red) is negligible when viewed from the public domain at both Beamish Street and Unara Lane frontages. The development continues to present as a 6 storey building form, which is consistent with the adjoining building for at 363 Beamish Street. Variations in materiality have been provided, as well as a pronounced front setback for levels 4-6 to break up the built form.

As noted in the advice from Kerry Gordan (Council's external planning consultant) dated 19 July 2017, the adjoining property on Beamish Street had an approved RL of 54.44 at the Beamish Street frontage. The roof line of the proposed development at the Beamish Street frontage only has a proposed height of RL 52.9 and RL 53.9 to the top of planter box. The lift overrun provides a maximum height of RL 54.18, however this is concealed from the street view. With consideration for the adjoining development and neighborhood character, the proposal provides acceptable visual impact to the street.

5.4 BCA/Access

Addendum letter advice has been prepared by Certified Building Specialists which provides a review of the revised scheme with regard to BCA and Access requirements. Refer to **Appendix 2**.

As has been explained throughout this document, this modification has been driven by the requirement to comply with the 2019 National Construction Code, which requires the installation of automatic fire sprinkler systems to achieve compliance for certification purposes.

The approved floor to floor heights range from 2.9 – 3.0m on residential floors 1-5. While technically this can be built as approved, concealed sprinkler systems would result in floor to ceiling clearances less than 2.7m, causing a non compliance with the ADG.

This modification proposes 3.1m floor to floor heights for all residential floors. 3.1m floor to floor is now the widely accepted minimum height standard to enable clearances for services while still achieving a 2.7m internal floor to ceiling height for ADG compliance. This is confirmed by letter advice prepared by Steven Saad, A1 Accredited Certifier, provided at **Appendix 2**.

5.5 BASIX

An updated BASIX Certificate has been submitted with the application, which confirms the development is able to meet the NSW Government's requirements for sustainability if built in accordance with the commitments set out in the certificate.

5.6 Waste Management

This modification will result in no changes to the approved construction waste management approach.

In terms of operational waste management, minor amendments have been made to the waste storage area to provide an appropriate number of bins, as per the CDPC 2012. Additional provision of recycling bins will decrease the risk of waste overflow and provide an improved waste management outcome.

5.6.1 Residential

Volume and Provision




The proposed residential component (45 apartments) will generate:

- 5520L per week of general waste
- 2210L per week of green waste
- 3860L per week of recycling

The approved development only provided 4 x 660L recycle bins (bin schedule below notes 3 however the approved plans show 4) which was inadequate to accommodate the weekly recycling generation. This has been upgraded to 6 x 660L recycle bins to accommodate waste generated. This is an improved outcome as there is less likely to be recycling overflow.

WASTE CALCULATION

	RATE OF WASTE	TOTAL WASTE	BIN SIZE	REQUIRED	PROPOSED
RESIDENTIAL (50 UNITS)					
GENERAL WASTE	240L/2 UNITS/WEEK	6000L/WEEK	660L/WEEK	9	9
GREEN WASTE	240L/5 UNITS/WEEK	2400L/WEEK	660L/WEEK	4	4
RECYCLE	240L/3 UNITS/WEEK	4000L/WEEK	660L/WEEK	3	3
PROPOSED TOTAL				16	16
COMMERCIAL (744m ²)					
WASTE	50L/100m ² /DAY	2604L/UNIT/WEEK	240L/WEEK	11	11
RECYCLE	50L/100m ² /DAY	2604L/UNIT/WEEK	240L/WEEK	11	11
PROPOSED TOTAL				22	22

 GENERAL WASTE BIN
  RECYCLE BIN
  GREEN WASTE BIN

WASTE CALCULATION

	RATE OF WASTE	TOTAL WASTE	BIN SIZE	REQUIRED	PROPOSED
RESIDENTIAL (45 UNITS)					
GENERAL WASTE	240L/2 UNITS/WEEK	5520L/WEEK	660L/WEEK	9	9
GREEN WASTE	240L/5 UNITS/WEEK	2210L/WEEK	660L/WEEK	4	4
RECYCLE	240L/3 UNITS/WEEK	3680L/WEEK	660L/WEEK	6	6
PROPOSED TOTAL				19	19
COMMERCIAL (744m ²)					
GENERAL WASTE	50L/100m ² /DAY	2604L/WEEK	240L/WEEK	11	11
RECYCLE	50L/100m ² /DAY	2604L/WEEK	240L/WEEK	11	11
PROPOSED TOTAL				22	22




 GENERAL WASTE BIN
  RECYCLE BIN
  GREEN WASTE BIN

Figure 13: Approved (Above) v Proposed (Below) Bin Provision
Source: Urban Link

Bulky Waste

The bulky waste room remains unchanged.

5.6.2 Commercial

Commercial waste room layouts and bin provision remain unchanged.

6 Conclusion

This SEE has been prepared on behalf of Metrocorp Developments and Construction Pty Ltd (the Applicant) to support a Section 4.55(8) application to Canterbury Bankstown Council (Council) to modify Development Application DA256/2016 LEC 2017/32177 at 349-357 Beamish Street Campsie.

This statement describes the proposed works in the context of relevant planning controls and policies applicable to the form of the development proposed. In addition, the statement provides an assessment of those relevant heads of consideration pursuant to Section 4.15 of the Environmental Planning and Assessment Act 1979 (EPAA).

An environmental Assessment has been undertaken in Section 5 of this report, supported by additional architectural diagrams and consultant advice where appropriate. The environmental assessment found the associated impacts of the proposal are minimal and manageable.

The proposal includes minor design amendments which have been driven by a change in circumstances to enable compliance with both the NCC and the ADG. In summary, this modification:

- Presents a sensible and suitable outcome for the site
- Represents a continuation of the approved development
- Is compliant with the provisions of CLEP 2012
- Generally conforms with the provisions of CLEP 2012
- Provides reduced overshadowing impacts and improved solar access to neighbouring properties
- Reduces traffic impact by the reduction of dwelling and associated car spaces
- Provides a more compliant waste management outcome
- Provides compliant storage provisions (fully ADG compliant)
- Provides for increased housing choice and affordability

Therefore, we request that the consent authority grant approval for the proposed development.



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