

MAXIMUS DEVELOPMENTS AUSTRALIA

TOWN PLANNING / URBAN DESIGN / PROJECT MANAGEMENT

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STATEMENT OF ENVIRONMENTAL EFFECTS AND CLAUSE 4.6 EXCEPTION TO DEVELOPMENT STANDARD CLAUSE 4.1B MINIMUM LOT SIZES AND SPECIAL PROVISIONS FOR CERTAIN DWELLINGS

10-12 PARMAL AVENUE PADSTOW NSW 2211

DEMOLITION, CONSTRUCTION OF FOUR STOREY RESIDENTIAL FLAT BUILDING WITH BASEMENT



PROJECT DETAILS

Legal Description	Lot 6 and 7 DP23952	Property Address	10-12 Parmal Avenue, Padstow NSW 2211
Project Reference	2023-868		
Date	10 Oct 2023	Revision	B
Client	Sillvue Investments Pty Ltd	Land Owner	Sillvue Investments Pty Ltd

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ENGAGEMENT

Maximus Developments Australia has been engaged by Sillvue Investments Pty Ltd to prepare a Statement of Environmental Effects under the provisions of Section 4.15 of the Environmental Planning and Assessment Act 1979 (*as amended*) for the demolition, construction of a four storey residential flat building with basement parking on land known as 10-12 Parmal Avenue, Padstow NSW 2211.

The proposal has been considered in accordance with the Environmental Planning and Assessment Act 1979 (*The Act*), Environmental Planning and Assessment Regulation (*The Regulations*), applicable State Environmental Planning Policies (*SEPP's*) Canterbury Bankstown Local Environmental Plan 2023 (*CBLEP*) and Canterbury Bankstown Development Control Plan 2023 (*PDCP*). The site and immediate surrounding area have been inspected in preparation of this report. This report has been prepared based on documentation provided by the client and consultants.

PROPOSAL

The proposal seeks “works” defined within the Act for demolition, construction of a four storey residential flat building with basement parking on land known as 10-12 Parmal Avenue, Padstow NSW 2211.

In summary, the extent of works comprise of the following;

- Demolition of two (2) dwelling houses,
- Construction of four storey residential flat building comprising of twenty-two (22) two bedroom units and thirty-one (31) car parking spaces within the basement level,

This Statement of Environmental Effects (SEE) has been prepared in accordance with the Statutory considerations of Schedule 1 of the Environmental Planning and Assessment Regulation 2000 (as amended).

Report Summary

1. Strategic Context

Strategic Direction	Authority	Proposal meets objectives and spirit of plan
A Plan for Growing Sydney	NSW Department of Planning	Yes
Canterbury Bankstown Community Strategic Plan	Canterbury Bankstown Council	Yes
Canterbury Bankstown Local Environmental Plan 2023	Canterbury Bankstown Council	Yes

2. Evaluation Planning considerations

Planning Considerations	Compliance
Environmental Planning and Assessment Act 1979	Yes
State Environmental Planning Policies (SEPP's)	Yes
Canterbury Bankstown Local Environmental Plan 2023	Yes
Canterbury Bankstown Development Control Plan 2023	Yes

3. Key impacts and considerations

Consideration	Comment	Compliance
Character, bulk and scale	The proposal does not seek to result in any unreasonable character, bulk and scale impacts given the nature of the design. The proposal is not incompatible with visual immediate context which is currently evolving. The proposal does not result in any unreasonable material amenity impacts to adjoining residential properties given the nature of the proposal.	Yes
Car parking	Compliant car parking access and manoeuvrability in accordance with the Australian Standards within the basement level.	Yes
Trees and landscaping	No loss of significant trees are generated by the proposed works. Landscaping embellishment is proposed to replenish the site along the site boundaries and interface to the street.	Yes
Overshadowing / Solar access	Overshadowing as proposed by the proposed works are unlikely to result in any unreasonable adverse overshadowing impacts to any adjoining property given	Yes

	the orientation, sitting, design orientation regarding the immediate residential uses.	
Stormwater	The proposed works are to drain to the rear. A concept stormwater plan is submitted with the development application in support of the application.	Yes
Privacy	The proposal has been designed as to minimise overlooking impacts to adjoining properties with off setting of windows and privacy treatment.	Yes

Research Background

The development application has taken in consideration with the Environmental Planning and Assessment Act 1979 (*as amended*), Environmental Planning and Assessment Regulation 2000 (*as amended*), State Environmental Planning Policy (Hazards and resilience), State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development, State Environmental Planning Policy (Transport and Infrastructure) 2021, Canterbury-Bankstown Local Environmental Plan 2023 and Canterbury-Bankstown Development Control Plan 2023.

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PART A: SITE DESCRIPTION AND PROPOSAL

Description of subject site

The subject site is legally described as lots 6 and 7 DP23952 and is known as 10-12 Parmal Avenue, Padstow NSW 2211. The site forms a rectangular shaped allotment and is dimensioned as follows; 28.65m along the southern frontage to Parmal Avenue, 57.45m along the western side boundary, 28.65m along the northern rear splayed boundary, 60.54m along the eastern side boundary with a total site area of 1,690sqm. The site slopes from front to rear. The site is zoned R4 High Density Residential under the Canterbury Bankstown Local Environmental Plan 2023. Two (2) dwelling houses are located on site. Twenty-two (22) trees are located on site with one (1) tree located on the Council reserve. The site is not affected by heritage, flooding or bushfire. A sewer line traverses through the rear of the site.

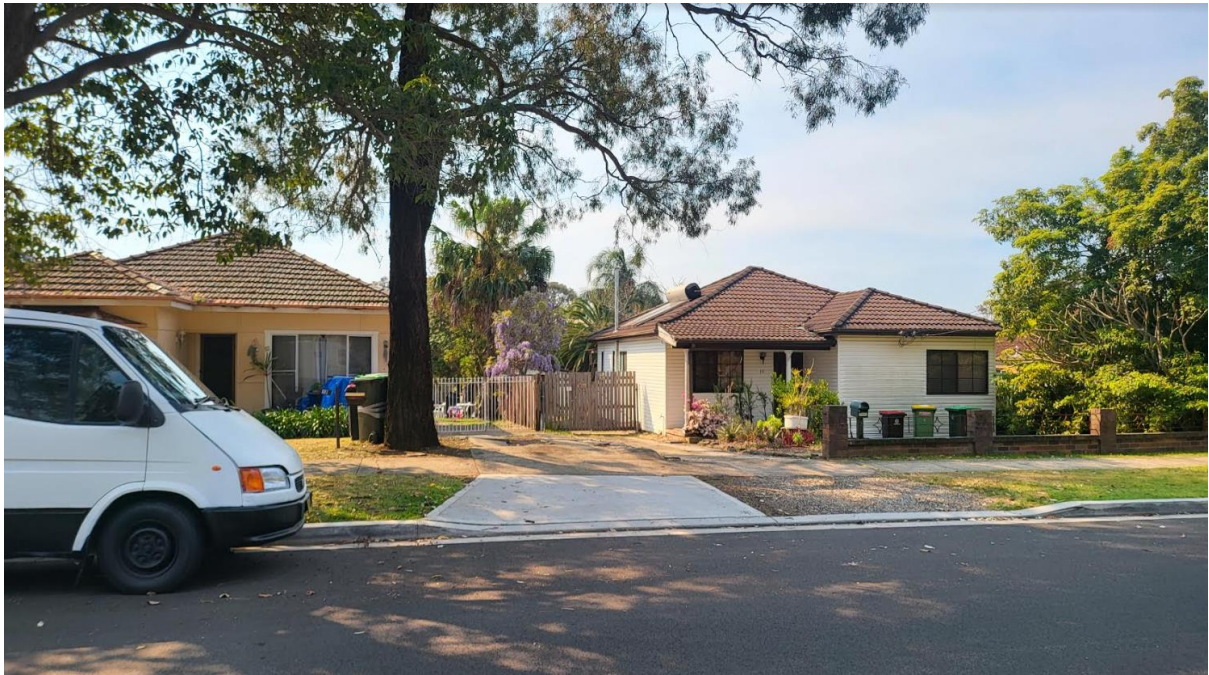


Fig 1. Photograph of subject site 10-12 Parmal Avenue, Padstow NSW 2211 which comprises of two dwelling houses (Source: Maximus Developments Australia, 2023)

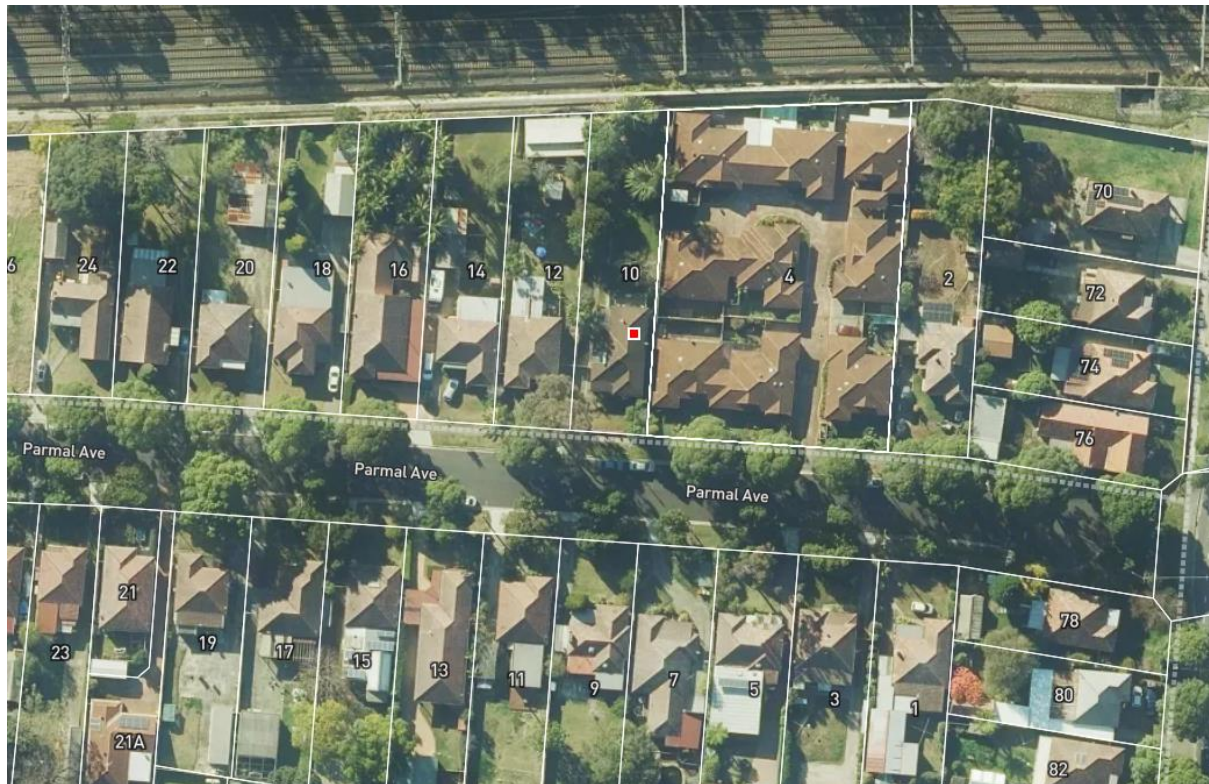


Fig 2. Aerial extract: Subject site; 10-12 Parmal Avenue, Padstow NSW 2211 and immediate surrounding area (Metromap, 2023).

Surrounding Context

The immediate surrounding area comprises predominantly dwelling houses of varying architectural styles and design. To the west, a dwelling house occupies 14 Parmal Avenue, Padstow and to the east, a cluster of nine (9) multi dwelling housing occupies 4-8 Parmal Avenue, Padstow. The East Hills Rail line is zoned SP2 Infrastructure adjoins the site to the north. The immediate surrounding area is zoned R4 High Density Residential under the Canterbury Bankstown Local Environmental Plan 2023.

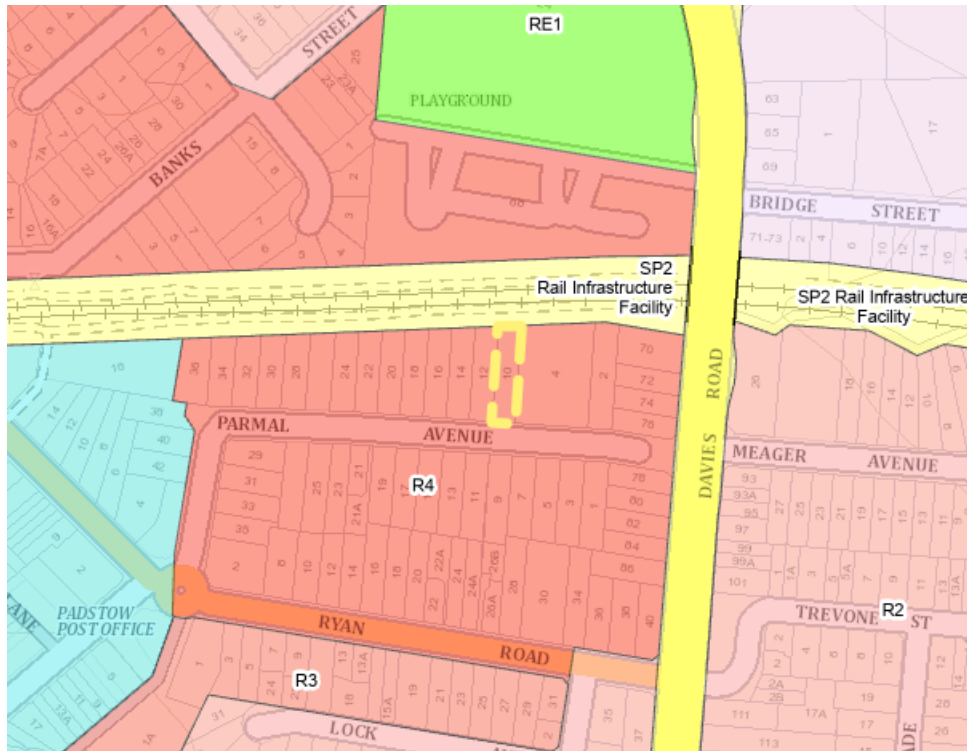


Fig 3. Zoning Extract of Subject site (10-12 Parmal Avenue, Padstow NSW 2211) which is identified as R4 High Density Residential (Source: Canterbury Bankstown Local Environmental Plan 2021).

Description of proposal

The proposal seeks “works” defined within the Act for demolition, construction of a four storey residential flat building on land known as 10-12 Parmal Avenue, Padstow NSW 2211.

Basement: 27 residential car spaces, 4 visitor spaces, (including 2 accessible spaces) storage compartments, lift, pump room and driveway ramp,

Ground Floor: entry, 6 x 2 bedroom units,

First Floor: 6 x 2 bedroom units

Second Floor: 5 x 2 bedroom units,

Third Floor: 5 x 2 bedroom units,

Associated building, driveway, engineering and landscaping works.

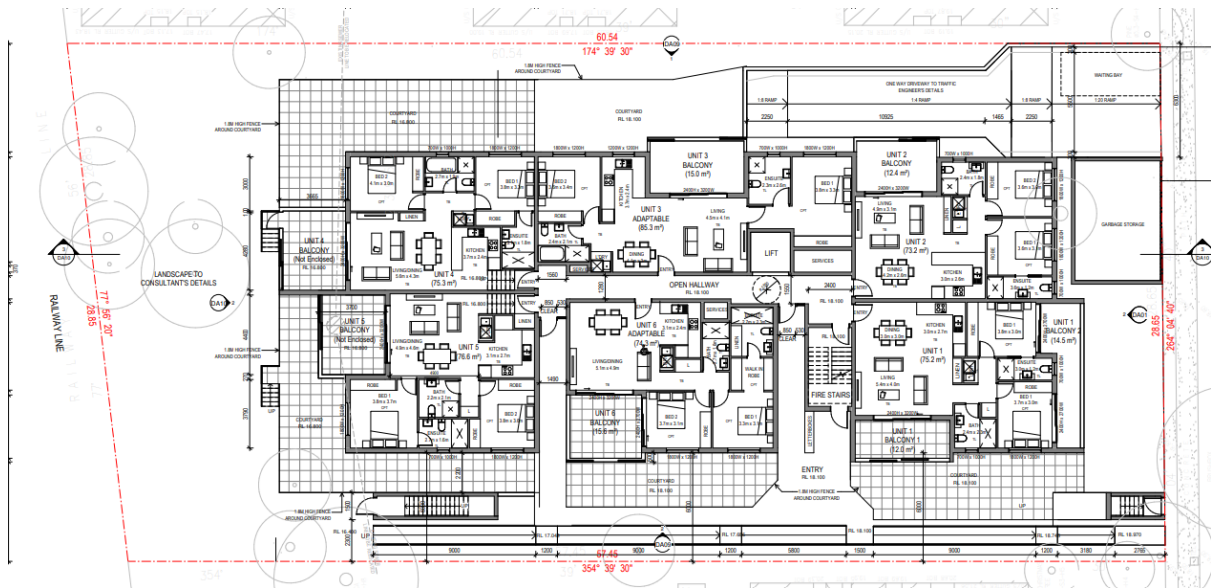


Fig 4. Extract of proposed ground floor plan (Source: Colin De Lore and Associates, 2023).

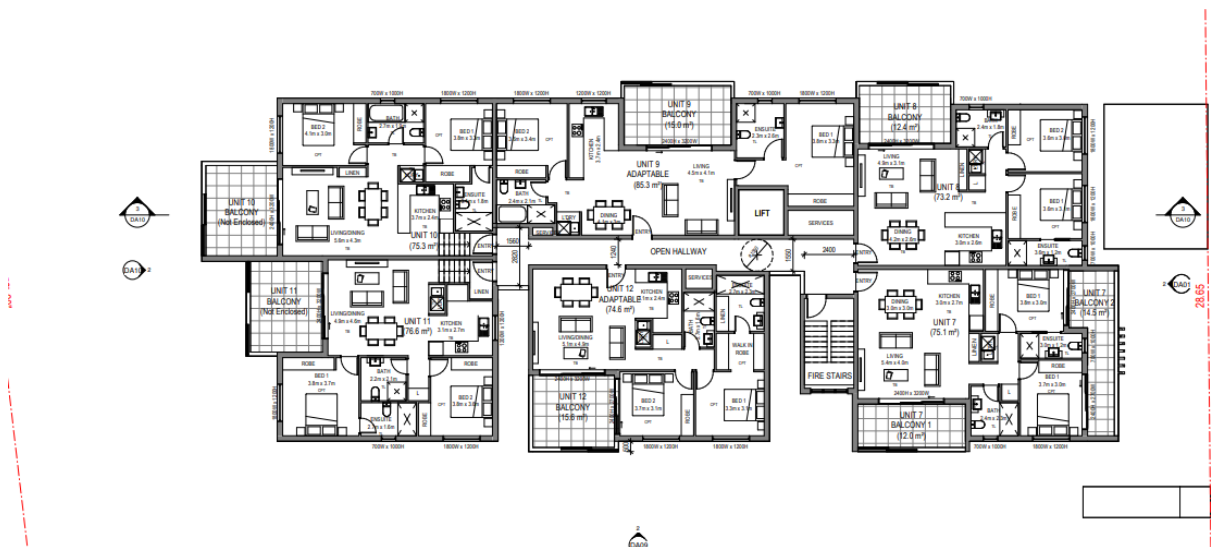


Fig 5. Extract of proposed level 1 (Source: Colin De Lore and Associates, 2023).

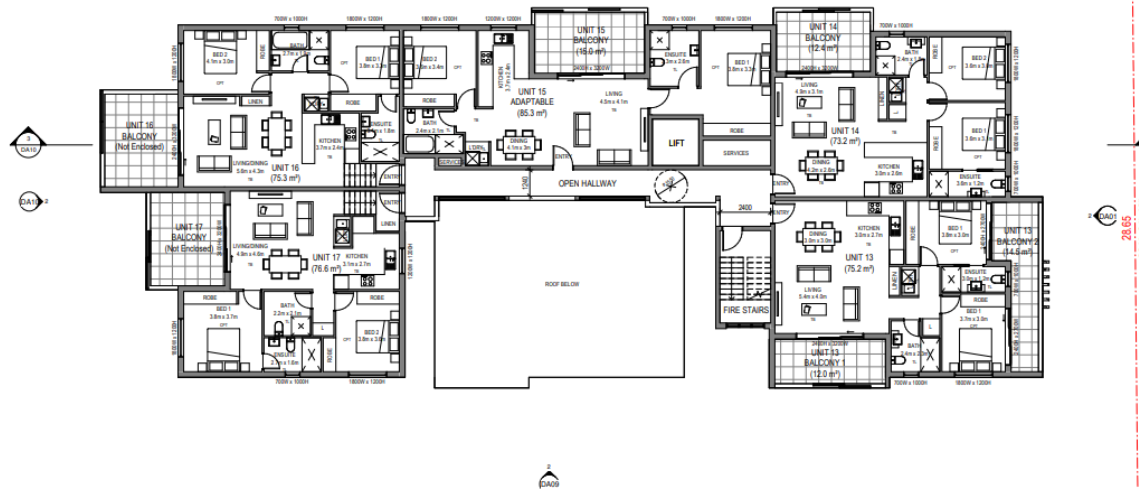


Fig 6. Extract of proposed level (floors 2-3 contain the same similar floor plate) (Source: Colin De Lore and Associates, 2023).

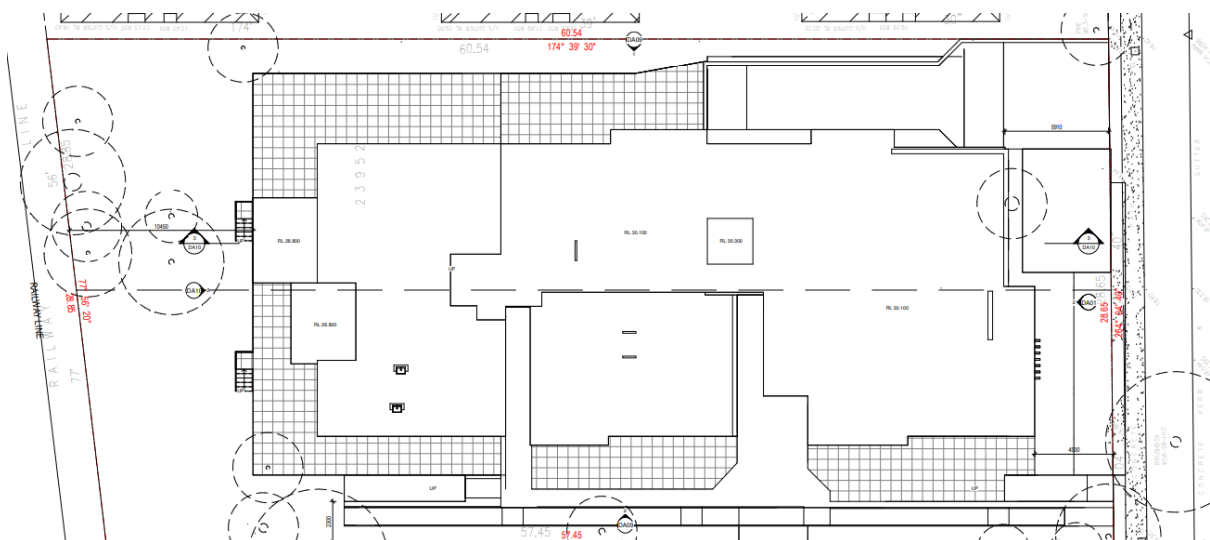


Fig 7. Extract of proposed roof plan (Source: Colin De Lore and Associates, 2023).

PART B: STATUTORY CONSIDERATIONS**PART 4 DIVISION 4.3 SECTION 4.15 (1)(A)(I) ANY ENVIRONMENTAL PLANNING INSTRUMENT****ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979**

The proposal has been considered against Section 1.3 Objects of the Act as per below;

Object Reference	Object	Comment	Satisfies objective
(a)	To promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources.	To the proposal is considered not to result in any adverse impacts in relation to natural and other resources given location surrounding context and scale of the development.	Yes
(b)	To facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment.	The proposed works adopt ecological sustainable development principles and complies with SEPP BASIX (2004) in relation to energy, thermal and water efficiency. A valid BASIX Certificate accompanies the application.	Yes
(c)	To promote the orderly and economic use and development of land.	The proposal results in an orderly and economic use of the land given the proposal seeks the construction of a residential flat building which forms a permissible use within the Canterbury Bankstown Local Environmental Plan 2023.	Yes
(d)	To promote the delivery and maintenance of affordable housing,	The proposed works do not relate to affordable housing as defined within "SEPP	N/A

		<i>affordable rental housing</i> " however the provision of a mixture of dwelling types is considered to provide a variety of housing stock which is considered to assist in housing affordability in the area.	
(e)	To protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats.	Appropriate landscaping embellishment proposed with revised landscape plan which accompanies this proposal which seeks to embellish the site.	Yes
(f)	To promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage).	The site is not identified as being affected by European or Aboriginal cultural heritage.	Yes
(g)	To promote good design and amenity of the built environment.	Appropriate design proposed which results in a generally compatible residential built form given the site and immediate surrounding context.	Yes
(h)	To promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State.	The proposed extent of works forms a local development.	Yes
(i)	To provide increased opportunity for community participation in environmental planning and assessment.	To be notified in accordance with the provisions of Council's Community Engagement Strategy as required.	Yes

As per the table above, the proposal is considered to reasonably satisfy the underlying intent of the Objects of the Act and results in a reasonable acceptable planning outcome for the site.

ENVIRONMENTAL PLANNING AND ASSESSMENT REGULATIONS 2000 (AS AMENDED)**STATE ENVIRONMENTAL PLANNING POLICY (HAZARDS AND RESILIENCE) 2021**

The subject site has not been used for any intensive industrial use whereby Council's records indicate that the site has been used for historically for residential purposes. In this regard, it is considered that the subject site is unlikely to be affected by any contamination in relation to the SEPP. The immediate surrounding area comprises of generally residential uses and is also unlikely result in contamination spreading onto the subject site. In this regard, due consideration has been applied in relation to the provisions of the SEPP.

STATE ENVIRONMENTAL PLANNING POLICY BASIX (2004)

A valid BASIX Certificate achieves a satisfactory pass mark and target for water, thermal comfort and energy accompanies this development application.

STATE ENVIRONMENTAL PLANNING POLICY (TRANSPORT AND INFRASTRUCTURE) 2021

The proposal has been considered in accordance with the provisions of the SEPP. The proposal is not a traffic generating development. The proposal is not considered inconsistent with the objectives of the SEPP and consideration criterion.

STATE ENVIRONMENTAL PLANNING POLICY NO 65 – DESIGN QUALITY OF RESIDENTIAL APARTMENT DEVELOPMENT**DESIGN QUALITY PRINCIPLES**

The proposal has been considered in consideration with the Design Principles relating to;

- Principle 1: Context and Neighbourhood Character
- Principle 2: Built Form and Scale
- Principle 3: Density
- Principle 4: Sustainability
- Principle 5: Landscape
- Principle 6: Amenity
- Principle 7: Safety
- Principle 8: Housing Diversity and Social Interaction
- Principle 9: Aesthetics

A design verification statement accompanies this submission.

Clause	Standard	Proposal	Complies
3 – Definitions	Compliant with definition of "Residential Apartment Development (RAD)".	The works meets this the definition of a "residential apartment development (RAD)".	Yes
4 – Application of Policy	Development involves the erection of a new RFB, substantial redevelopment or refurbishment of a RFB or conversion of an	The proposal relates to the construction of a new residential apartment development. The apartment development is	Yes

	existing building into a RFB. The definition of an RFB in the SEPP includes mixed use developments.	currently under construction at the time of preparation of this report.	
50 – Development Applications	Design verification statement provided by a qualified Registered Architect Name and Registration Number	Practicing/Active Registered architect: Tim Jim 11343	Yes

Apartment Design Guide

Clause	Standard	Proposal	Complies
Objective 3D-1	1. Communal open space has a minimum area equal to 25% of the site (see figure 3D.3) Site area = 1,690sqm 422.5sqm min	Communal open space on ground level at rear of site with more than 25% provided.	Yes
	2. Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter)	Acceptable levels of solar access to communal open space and to most private balconies of units which is more than 50% during Winter Solstice.	Yes
Objective 3E-1	1. Deep soil zones are to meet the following minimum requirements: Lot size: 1,690sqm min dimensions =6m Deep soil (7%)	More than 6m x 6m in dimension within the rear and side setback.	Yes
		More than 7%	Yes
Objective 3F-1	1. Separation between windows and balconies is provided to ensure visual privacy is achieved.		Yes

	<p>Minimum required separation distances from buildings to the side and rear boundaries are as follows:</p> <p>It is noted that adjoining buildings are side setbacks from the respective boundaries as follows;</p> <p>Up to 12m (4 storeys)</p> <p>Habitable rooms and balconies = 6m</p> <p>Non-habitable rooms = 3m</p>	<p>4 storeys</p> <p>6m to rooms 5.77m balconies to eastern and western side boundaries, negligible variation which is treated with screening on the balconies.</p> <p>6m to eastern and western side boundaries</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
Objective 3J-1	<p>1. For development in the following locations:</p> <ul style="list-style-type: none"> on sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan Area; <p>the minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less</p>	31 car spaces provided within the basement level	Yes

	31 car spaces		
Objective 4A-1	<p>1. Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas</p> <p>3. A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter</p>	<p>72.72% or 16/22 units. Living room and private open spaces receive compliant levels of solar access due to site orientation. Key rooms orientated to maximise solar access.</p> <p>0/22 units = 0%, given the north-south orientation of the site.</p>	<p>Yes</p> <p>Yes</p>
Objective 4B-3	<p>1. At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed</p> <p>2. Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line</p>	<p>16/22 units = 72.72%</p> <p>Less than 18m.</p>	<p>Yes</p> <p>Yes</p>
Objective 4C-1	1. Measured from finished floor level to finished ceiling	3.0m floor to floor	

	level, minimum ceiling heights are: Habitable rooms = 2.7m Non-habitable rooms = 2.4m	2,700mm 2,700mm	Yes Yes
Objective 4D-1	<p>1. Apartments are required to have the following minimum internal areas:</p> <p>2 bedroom = 75sqm</p> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each</p> <p>2. Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms</p>	<p>Range: 75.2sqm – 85.3sqm</p> <p>All units have a minimum two bathrooms.</p> <p>Window provided for each habitable room with appropriate glass area provided. Windows not less than 10% of the room area. The air is not borrowed from other rooms given the layout and configuration sought.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
Objective 4D-2	<p>1. Habitable room depths are limited to a maximum of 2.5 x the ceiling height.</p> <p>2. In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window</p>	<p>Within range.</p> <p>Open plan layouts area less than 8m from window.</p>	<p>Yes</p> <p>Yes</p>
	1. Master bedrooms have a minimum area of 10m ² and other bedrooms 9m ²	More than 10sqm in master bedrooms for all units.	Yes

	<p>(excluding wardrobe space)</p> <p>2. Bedrooms have a minimum dimension of 3m (excluding wardrobe space)</p> <p>3. Living rooms or combined living/dining rooms have a minimum width of:</p> <ul style="list-style-type: none"> • 4m for 2 and 3 bedroom apartments <p>4. The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts.</p>	<p>Other bedrooms greater than 9sqm for all units as per architectural plans.</p> <p>Dimensions are greater than 3m as per architectural plans.</p> <p>Greater than as per architectural plans.</p> <p>Greater than 4m as per architectural plans.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
Objective 4E-1	<p>1. All apartments are required to have primary balconies as follows:</p> <p>2 bedroom: Min area: 10sqm / min 2m depth</p> <p>The minimum balcony depth to be counted as contributing to the balcony area is 1m</p>	<p>More than 10sqm and min depth 2m.</p> <p>All balcony depths of sufficient size, greater than 1m in depth.</p>	<p>Yes</p> <p>Yes</p>
Objective 4F-1	<p>1. The maximum number of apartments off a circulation core on a single level is eight</p>	<p>GF = 6 1F = 6 2F = 5 3F = 5</p>	<p>Yes</p>
Objective 4G-1	<p>1. In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <p>2 bedroom: 8sqm</p>	<p>More than 8sqm</p>	<p>Yes</p>

	50% storage located within the apartment.	50% of storage located within apartment as indicated within the architectural plans.	Yes
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As stated above, the proposal achieves a high level of compliance with the Apartment Design Guide (ADG).

CANTERBURY BANKSTOWN LOCAL ENVIRONMENTAL PLAN 2023

The proposal has been considered against the key planning considerations as follows;

Control	Requirement	Proposal	Complies
2.1 Land Use	The site is zoned R4 High Density Residential. A residential flat building forms a permissible use on site.	The proposed works related to "residential flat building" which is a permissible use within the zone.	Yes
	<p>Objectives</p> <ul style="list-style-type: none"> • 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. • To enable certain activities to be carried out within the zone that do not adversely affect the amenity of the neighbourhood. • To permit residential flat buildings in locations close to public transport hubs and centres. 	The proposal provides an increase in density and a high quality design outcome with good levels of occupant amenity. The proposal as stated within the report overall achieves a high level of compliance.	Yes

Clause 4.1B Minimum Lot Sizes for Special Provisions for Certain Dwellings	<p>(2) Development consent must not be granted to development on land specified in Column 1 of the table to this subclause for a purpose specified in Column 2 unless—</p> <p>(a) the lot is at least the size specified in Column 3, and</p> <p>(b) the width of the lot at the front building line is at least the width specified in Column 4.</p> <p>Zone R4 Area 1 requires a minimum site area of 1,500sqm</p> <p>30m frontage</p>	<p>1,690sqm</p> <p>28.65m (shortfall of -1.35m)</p>	<p>Yes</p> <p>No, refer to Clause 4.6 Exception to Development Standard</p>
Clause 4.3 Height of Building	Height of building = 13m	13m (RL30.1), the proposal has been designed to step and follow the topography of the site which falls from front (high) to rear (low).	Yes
Clause 4.4 Floor Space Ratio	1:1 1,690sqm max	1:1 1,690sqm	Yes
Clause 4.5 – Calculation of Floor Space	Floor space to be calculated in accordance with Clause provisions regarding floor space.	Calculation of floor space has been calculated in accordance with this Clause. Floor space has been calculated as per the definitions.	Yes
Clause 4.6 Exceptions to Development Standards	Exception to Development Standards	The proposal seeks a variation to Clause 4.1B lot width at front of building line. This is due to the isolation of the site.	Yes
Clause 5.10 - Heritage Conservation	Heritage considerations to apply to heritage items and conservation areas.	The site is not identified as being affected by European or Aboriginal cultural heritage.	Yes

Clause 6.2 - Earthworks	Earthworks to be consistent with objectives of clause.	Earthworks required to accommodate basement which is commensurate with other residential flat buildings within the locality.	Yes
Clause 6.9 Essential Services	Development consent must not be granted to development unless the consent authority is satisfied that the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required— (a) the supply of water, (b) the supply of electricity, (c) the disposal and management of sewage, (d) stormwater drainage or on-site conservation, (e) waste management, (f) suitable vehicular access.	Essential services to be provided to accommodate residential development.	Yes

The above table demonstrates a relatively high level of compliance. A clause 4.6 Exception to Development Standard has been provided for the minor variation the lot width at the building line.

Clause 4.6 Exception to Development Standard Clause 4.1B Minimum lot sizes and special provisions for certain dwellings (R4 Residential Flat Building Lot Width)

Clause 4.1B states that;

(2) Development consent must not be granted to development on land specified in Column 1 of the table to this subclause for a purpose specified in Column 2 unless—

(a) the lot is at least the size specified in Column 3, and

(b) the width of the lot at the front building line is at least the width specified in Column 4.

Column 1	Column 2	Column 3	Column 4
Zone R4 in Area 1	Residential flat buildings	1,500m ²	30m

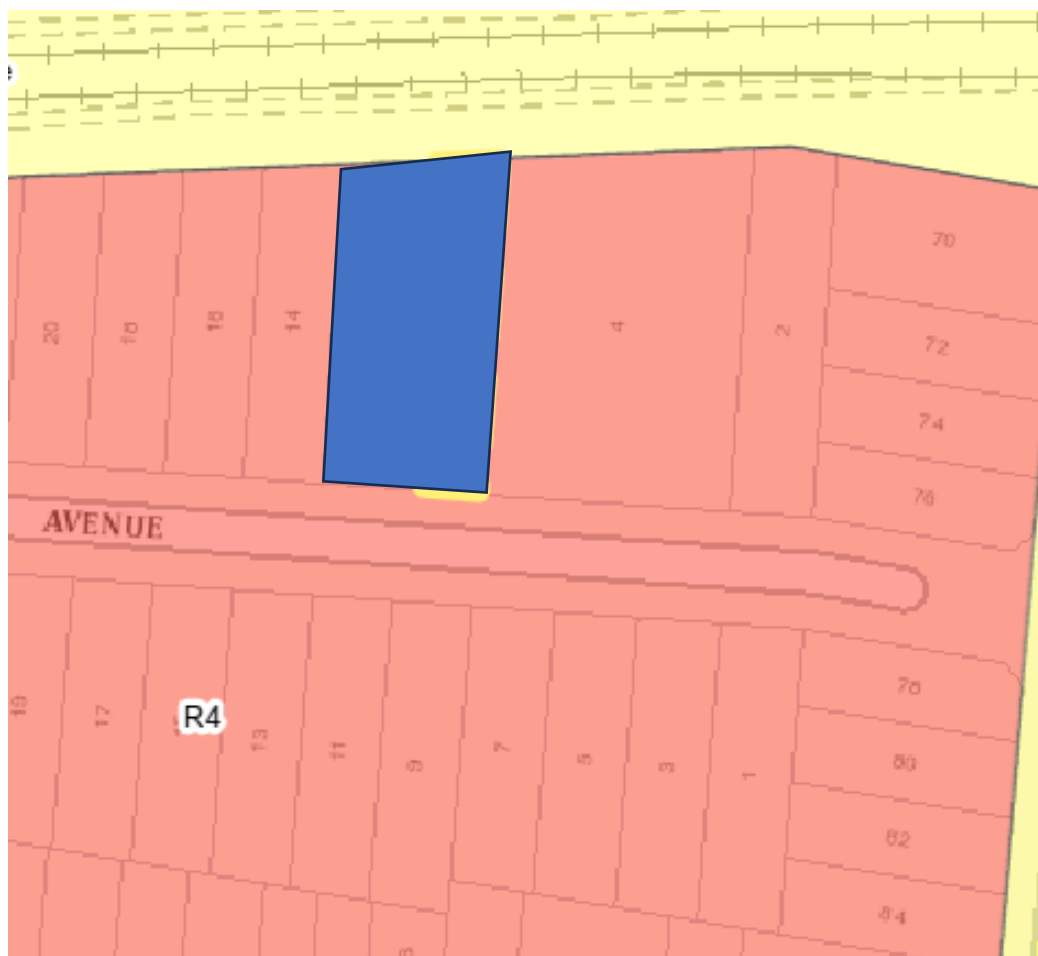


Fig.8 Extract of zoning map indicating that the subject site is zoned R4 High Density Residential of the Canterbury Bankstown Local Environmental Plan 2023 (Source: EPlanning Viewer, 2023).

The proposal seeks a variation to this clause with a lot width of 28.65m resulting in a minor variation of -1.35m.

CLAUSE 4.6 EXCEPTION TO DEVELOPMENT STANDARD

(1) The objectives of this clause are as follows:

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,**
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances**

Comment: The proposal has sought a Clause 4.6 Variation in accordance with the above objectives for Council's consideration. This Clause 4.6 Exception to Development Standard to Standard Clause 4.1B for the minimum lot width for Residential Flat Buildings of the Canterbury Bankstown Local Environmental Plan 2023 has been prepared in support for the variation to the minimum allotment width for a residential flat building.

(1) CLAUSE 4.6 VARIATION TO DEVELOPMENT STANDARD IN RELATION TO CLAUSE 4.1B

In supporting a variation to this Development Standard, the following consideration has been applied as follows.

Comment: The proposal seeks a departure from the prescribed numerical requirement whereby proposal results in the following;

CANTERBURY BANKSTOWN LOCAL ENVIRONMENTAL PLAN 2023

Control Map	Requirement	Proposal	Complies
Clause Standard Clause 4.1B Minimum lot width for Residential Flat Buildings	30m	28.65m (4.5%) variation	No, Clause 4.6 Exception to Development Standard submitted for Council consideration.

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

(a) to ensure lots for residential accommodation are large enough to accommodate proposed dwellings, setbacks to adjoining residential land, private open space and landscaped areas, driveways and vehicle manoeuvring areas,

(b) to ensure lots for non-residential accommodation are large enough to accommodate setbacks to adjoining land, private open space and landscaped areas, play areas, pedestrian access, set down and pick up areas, car parks, driveways and vehicle manoeuvring areas,

(c) to minimise the likely adverse impact of development on the amenity of the area,

(d) to require the consolidation of 2 or more lots where the area or width of an existing lot is inadequate,

(e) to ensure lots are large enough to protect special attributes, including natural or cultural features, heritage items, heritage conservation areas, trees and natural topographical features,

(f) to prevent fragmentation or isolation of land.

Comment: The proposed variation is considered to be consistent the above underlying objectives of the clause for the following reasons;

- The proposal achieves a high level of compliance in relation to floor space, height of building, setbacks, private open space and communal open space despite the numerical departure.
- The proposal results in the amalgamation of two allotments which can comfortably accommodate the development.
- The proposal does not result in any isolation of adjoining properties (whereby No.14-18 Parmal Avenue, Padstow investigations have identified that these properties will form a combined development site). 4-8 Parmal Avenue is occupied by multi-dwelling housing of which Council's DCP also envisages within the zone.

(2) DEVELOPMENT CONSENT MAY, SUBJECT TO THIS CLAUSE, BE GRANTED FOR DEVELOPMENT EVEN THOUGH THE DEVELOPMENT WOULD CONTRAVENT A DEVELOPMENT STANDARD IMPOSED BY THIS OR ANY OTHER ENVIRONMENTAL PLANNING INSTRUMENT. HOWEVER, THIS CLAUSE DOES NOT APPLY TO A DEVELOPMENT STANDARD THAT IS EXPRESSLY EXCLUDED FROM THE OPERATION OF THIS CLAUSE

Comment: A Clause 4.6 – Exception to Development Standard maybe sought for Council's consideration in relation to Clause 4.1B Minimum lot width for Residential Flat Buildings.

(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:

Comment: A written request as has sought for Council's consideration in the form of a Clause 4.6 Exception to Development Standard whereby reasonable planning justification has been provided as addressing a variation to minimum lot width. It is considered that on planning merit that the intent of the underlying objectives in relation to the variation have been reasonably satisfied of which is addressed further within this Clause 4.6 Exception to Development Standard.

(A) THAT COMPLIANCE WITH THE DEVELOPMENT STANDARD IS UNREASONABLE OR UNNECESSARY IN THE CIRCUMSTANCES OF THE CASE, AND

It is considered that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case. The proposed variation is sought on its merits on the basis that strict compliance with the development standard is unreasonable or unnecessary in this circumstance by virtue of the proposed design. Despite the numerical departure, the objectives of the development standard have been achieved despite non-compliance with the standard as follows;

The basis of this variation is due to unsuccessful attempts to amalgamate with No. 14 Parmal Avenue, Padstow.

Isolation

Several attempts have been made to acquire No. 14 Parmal Avenue, Padstow which directly adjoins the site the west to achieve the required minimum 30m lot width however have proven to be unsuccessful.

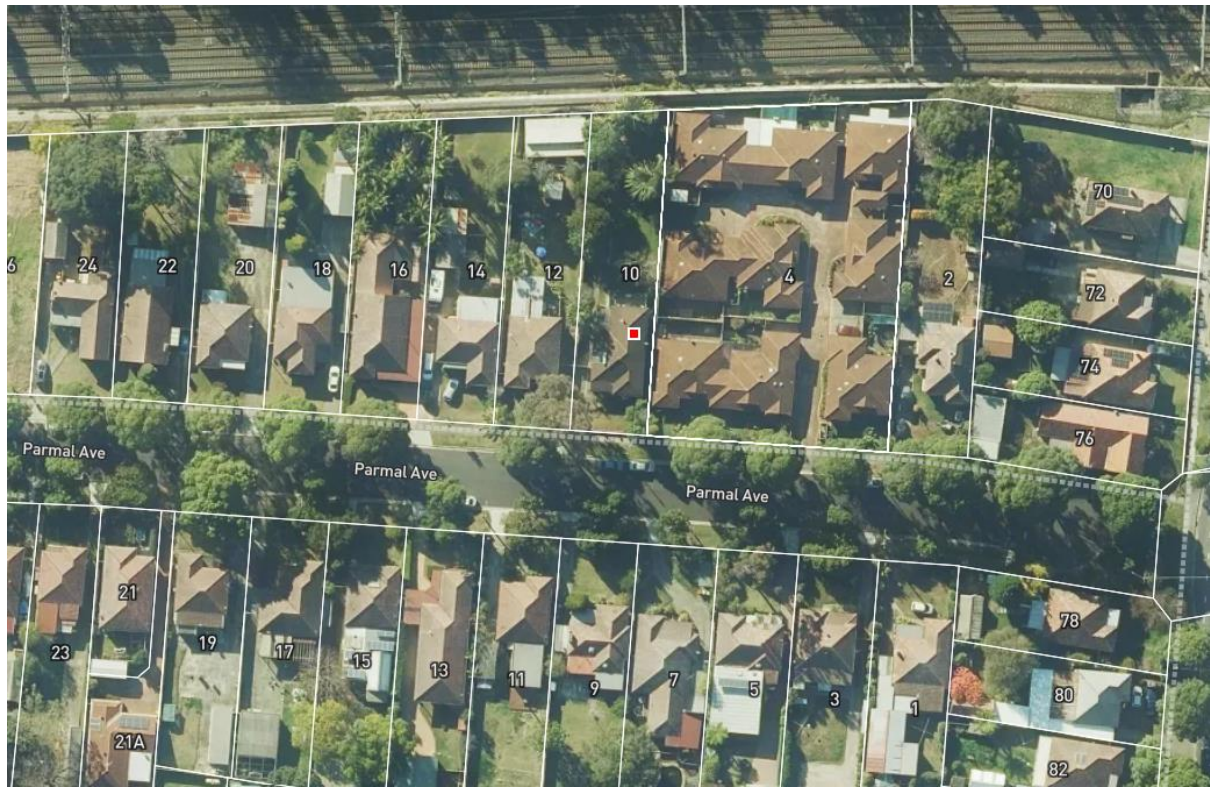


Fig.9 Aerial extract of subject site in relation to adjoining properties (Source: Metromap, 2023).

Documentation regarding negotiations accompanies this development application as per below. It is also noted that any amalgamation of No 14 Parmal Avenue, Padstow with the subject site would result in an allotment shortfall with Nos. 16-20 Parmal Avenue, Padstow.



To whom this may concern,

We have been discussing and liaising with the homes at "14,16,18 Parmal avenue, Padstow"
They have advised, they are all committed to selling in one line and together.

Kind Regards
LJ Hooker Padstow

L Pillay

Lush Pillay
Principal LREA J.P
Accredited Auctioneer

Fig.10 Letter from real estate agent in relation to attempts to acquire property (Source: LJ Hooker Padstow, 2023).

In consideration with Karavelas v Sutherland Shire [2004] NSWLEC 587, despite numerous attempts the owners have no interest in selling the individual property. These sites are zoned R4 High Density Residential under the Canterbury Bankstown Local Environmental Plan 2023, have a floor space ratio of 1.1:1 and height limit of 13m.

It is also noted that No 20-24 Parmal Avenue, Padstow forms a development site with a frontage of at least 30m which would mean that if No. 14 Parmal Avenue, Padstow were to be amalgamated with 10-12 Parmal Avenue, Padstow. This would result in allotment width of 16-18 Parmal Avenue of approximately 28.11m which is less than the 30m requirement.



Architek Architects (2023) Development Application 1481

20-24 Parmal Avenue - Padstow

Fig.9 Architectural concept of development site at 20-24 Parmal Avenue, Padstow (Source: Architek, 2023).

Furthermore, Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118 it was demonstrated by the Court that the correct approach to the consideration of clause 4.6 requests including that the clause **does not** require that a development that contravenes a development standard must have a neutral or better environmental planning outcome than one that does not. The following considerations within this judgement have been undertaken;

"The first and most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard: Wehbe v Pittwater Council at [42] and [43]."

Comment: It is considered that numerical compliance with the development standard is unreasonable or unnecessary as the objectives of the development standard have been achieved despite the numerical departure, as previously addressed within this report. Given this, the proposed extent of the variation has been designed thoughtfully as not compromise the amenity for future occupants or to adjoining properties. A concept for No 14-18 Parmal Avenue, Padstow has been provided which has demonstrated that a reasonable residential yield can be achieved given the allotment size, width, depth and area.

"A second way is to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary: Wehbe v Pittwater Council at [45]."

Comment: The proposed variation seeks minor numerical departure at (-1.35qm) 4.5%. The proposed variation does not offend the underlying intent of the Clause 4.1B Objectives which are intended to an appropriate built form within the context of the R4 High Density Residential zone.

"A third way is to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable: Wehbe v Pittwater Council at [46]."

Comment: Whilst the proposal seeks a variation to minimum allotment width, importantly a design has been achieved which is practical and well layout given the site, location, dimensions and topography. Strict compliance is not possible due to unsuccessful amalgamation attempts with No. 14-18 Parmal Avenue, Padstow.

"A fourth way is to establish that the development standard has been virtually abandoned or destroyed by the Council's own decisions in granting development consents that depart from the standard and hence compliance with the standard is unnecessary and unreasonable: Wehbe v Pittwater Council at [47]."

Comment: It is **not** considered that this development standard has been abandoned.

Furthermore, as previously mentioned the proposal is likely to result in negligible impacts in relation the shortfall of the allotment width regarding solar access and visual bulk and scale in comparison to strict numerical compliance. This is considered to result in a minor impact. Such impacts have been minimised in the consideration the design of which seeks a high level of compliance.

"A fifth way is to establish that the zoning of the particular land on which the development is proposed to be carried out was unreasonable or inappropriate so that the development standard, which was appropriate for that zoning, was also unreasonable or unnecessary as it applied to that land and that compliance with the standard in the circumstances of the case would also be unreasonable or unnecessary: Wehbe v Pittwater Council at [48]. However, this fifth way of establishing that compliance with the development standard is unreasonable or unnecessary is limited, as explained in Wehbe v Pittwater Council at [49]-[51]. The power under cl 4.6 to dispense with compliance with the development standard is not a general planning power to determine the appropriateness of the development standard for the zoning or to effect general planning changes as an alternative to the strategic planning powers in Part 3 of the EPA Act."

Comment: The zoning for the subject site is R4 High Density Residential, in this instance this is considered to be reasonable given the site and immediate context which form a residential character.

"These five ways are not exhaustive of the ways in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary; they are merely the most commonly invoked ways. An applicant does not need to establish all of the ways. It may be sufficient to establish only one way, although if more ways are applicable, an applicant can demonstrate that compliance is unreasonable or unnecessary in more than one way."

Comment: Given the above, it is considered that several reasons have been provided in support of the variation to the prescribed development standard. Strict numerical compliance in relation to the application of this clause is not considered is not possible due to failed amalgamation attempts. It is considered that contravention of the Development Standard will result in a proposal which is still consistent with the underlying objective of the control despite the numerical departure to Clause 4.1B Minimum Lot width for residential flat buildings. Furthermore, it is considered that the proposed shortfall to the Development Standard results in a minimal environmental impact.

Further that the extent of the variation is considered to be consistent with the R4 High Density Residential Zone objectives 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.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To allow for increased residential density in accessible locations to maximise public transport patronage and encourage walking and cycling.*
- *To promote a high standard of urban design and local amenity.*

It is considered that the extent of the variation still results in a built form that is compatible with a variety of uses being residential flat buildings and multi-dwelling housing.

(B) THAT THERE ARE SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS TO JUSTIFY CONTRAVENING THE DEVELOPMENT STANDARD.

Comment: As previously discussed, this extent of the variation is inconsequential and does not result in any unreasonable impact given that attempts to amalgamate the site into have been unsuccessful. More importantly, the proposed variation satisfies the objectives of the underlying intent of Clause 4.1B Minimum width for residential flat buildings.

- As previously discussed, attempts to amalgamate adjoining sites at No.14-18 Parmal Avenue have been unsuccessful on the key basis that these properties form a development site in a row which achieve at least a 30m width.
- The proposal results in a reasonable built form despite the shortfall lot width. A concept scheme for a residential flat building has been provided for No. 14-18 Parmal Avenue which demonstrates compliance with the key controls.
- The extent of the lot width variation is considered to be in the public interest as the proposal does not result in any adverse material impact to adjoining properties. As previously a residential flat building on Nos. 14-18 Parmal Avenue, Padstow results in a reasonable planning outcome.
- As previously discussed, the proposed extent of the variation regarding minimum allotment size adequately satisfies the underlying objectives of the controls of which do not result in any unacceptable impacts to the; built, natural, social or economic impacts for consideration under the Act.

- The extent of the variation in relation to minimum allotment width is not considered to be inconsistent with the Objects of the Act is considered to be satisfied regarding the merits of the variation sought as follows;

Object Reference	Object	Comment	Satisfies objective
(a)	To promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources.	The extent of the variation is not considered to result in any adverse impacts in relation to natural and other resources.	Yes
(b)	To facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment.	The extent of the variation is not considered to be inconsistent with economic, environmental and social considerations.	Yes
(c)	To promote the orderly and economic use and development of land.	The extent of the variation results in an orderly and economic use of the land by providing adequate occupant amenity on site.	Yes
(d)	To promote the delivery and maintenance of affordable housing,	The extent of the variation does not relate to affordable housing as defined within "SEPP affordable rental housing" or the Act.	N/A
(e)	To protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats.	N/A	N/A
(f)	To promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage).	The extent of the variation is not considered to result in any adverse impact to heritage items.	Yes
(g)	To promote good design and amenity of the built environment.	The extent of the variation results in a generally compatible built	Yes

		form for the site and isolated neighbouring site and immediate context.	
(h)	To promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State.	Noted.	Yes
(i)	To provide increased opportunity for community participation in environmental planning and assessment.	Noted.	Yes

It is considered that the above environmental planning grounds are particular to the circumstances of the site and support the proposed extent of variation to the maximum building height standard.

(8) THIS CLAUSE DOES NOT ALLOW DEVELOPMENT CONSENT TO BE GRANTED FOR DEVELOPMENT THAT WOULD CONTRAVENE ANY OF THE FOLLOWING:

(c) CLAUSE 5.4

Comment: 4.1B Minimum lot width for residential flat buildings is not a development standard expressed as excluded within Clause 5.4 within the Canterbury Bankstown Local Environmental Plan 2023. In this regard, a Clause 4.6 – Exception to Development Standard can be considered to the variation to this clause.

CONCLUSION – SUPPORT FOR VARIATION TO MINIMUM ALLOTMENT SIZE

For the reasons identified above, it is considered that supporting the Clause 4.6 – Exception to Development Standard in relation to Clause 4.1B Minimum lot width for residential flat buildings is reasonable and appropriately justified in accordance with the provisions within this subsection and planning considerations given that the merits of extent of the variation given that attempts to amalgamate have not been successful.

Strict numerical compliance is considered to be unnecessary and unreasonable given that the proposed variation sought is consistent with the underlying objectives of the control despite the numerical variation of which have been reasonably satisfied under the provisions of Clause 4.6. Given this due consideration of Initial Action Pty Ltd vs Woollahra Council have been adequately satisfied whereby the proposal does not necessary result in a better outcome that strict numerical compliance however results in a reasonable outcome with minimal impacts.

- **Natural Environment Impacts** - The proposed extent of the variation is not considered result in any material natural or environmental impacts given the sitting the variation on the portion of the building.
- **Built Environment Impacts** - The proposed extent of the variation is also considered to satisfy and meet the objectives of the planning controls. In this regard, the proposal is not

considered to result in any unacceptable unreasonable adverse built environment impacts by virtue of the design.

- **Economic Impacts** - The proposed extent of the variation is not considered to result in any unacceptable economic impacts given the proposed residential purpose sought. It is also considered that there will be economic generation due to the proposed collective works.
- **Social Impacts** - The proposed extent of the variation is not considered to result in any unacceptable social impacts by virtue of the design of the proposal and is compatible with the immediate surrounding context and aligns is compatible with the character of the area.

Given the above, due considerations of Initial Action Pty Ltd vs Woollahra Council have been adequately satisfied as the proposal has addressed several of the key points under the Wehbe v Pittwater Council test. As previously stated, the proposed variation to minimum allotment width is considered to be reasonable, impact is neutral and is not excessive and is not inconsistent with the objectives of Clause 4.1B Minimum lot width for residential flat buildings notwithstanding the numerical departure and therefore is considered worthy of support.

PART 4 DIVISION 4.3 SECTION 4.15 (1)(A)(II) ANY DRAFT ENVIRONMENTAL PLANNING INSTRUMENT/ DEVELOPMENT CONTROL PLAN

CANTERBURY BANKSTOWN DEVELOPMENT CONTROL PLAN 2021

The proposal has been considered in accordance with the following key provisions as per below;

Chapter 2.3 Tree Management

The proposal seeks the removal of fifteen (15) trees on site and seeks the retention of six (6) trees within the rear setback and one (1) tree within the front Council road reserve. A landscape plan forms part of the proposal which seeks to provide meaningful tree replacement on site. The proposal is considered to result in a net improvement in the quality of landscaping to be provided. In this regard, the proposal results in a reasonable planning outcome.

Chapter 3.1 Engineering Standards

The proposal seeks to drain on site given the slope of the site from front to rear and that the site adjoins a railway corridor to which there is no easement. This results in a reasonable outcome.

Chapter 3.2 Parking

The proposal has been considered in accordance with the key design controls as per below;

Clause	Control	Proposal	Complies
2.1 Off Street parking rate Residential Flat Buildings	Zones R4: Car spaces 1.2 spaces per 2 bedroom dwelling	27	Yes
	1 visitor space per 5 dwellings	4	Yes

	Bicycle space 1 visitor space per 10 dwellings	2	Yes
2.7 Accessible off-street parking rate	1 accessible parking space per 10 beds designed in accordance with the Australian Standard AS 2890.1	2 spaces provided within basement	Yes
3.11 Driveway width	5.5m two way	5.5m	Yes

The proposal meets the design requirements of contained within this subsection.

Chapter 3.3 Waste Management

A waste management plan accompanies the development application in relation to; demolition, disposal, re-use and recycling of materials for the construction. Adequate waste facilities have been provided on site which can be easily accessed for collection. In this regard, the proposal has reasonably satisfied the requirements within this subsection.

Chapter 3.4 Sustainable Development

A valid BASIX Certificate accompanies the development application. The proposal has been designed with sustainable durable contemporary materials with a relatively long life cycle requiring minimal maintenance. In this regard, the proposal is considered to reasonably satisfy the requirements of this subsection.

Chapter 3.7 Landscape

A landscape plan accompanies the development application whereby landscaping embellishment has been provided within the front, side and rear setbacks which complement the built form. Appropriate landscaping has been provided to allow for the meaningful growth of trees, shrubs and lawn areas on site. In this regard, the proposal is considered to reasonably satisfy the requirements of this subsection.

Chapter 5.1 Residential Accommodation – Former Bankstown LGA

The proposal has been considered in accordance with the following key controls as per below;

Clause	Control	Proposal	Complies
5.2.1 Site Planning Lot Size and Frontage	C.1 Residential flat buildings must have a street frontage.	The site contains a street frontage to	Yes
	C2 The minimum primary street frontage width for attached dwellings, multi dwelling housing and residential flat buildings up to three storeys is:	N/A	N/A

	(a) 27m for development along major roads; or (b) 20m for development along any local road.		
	C3 The minimum primary street frontage width for residential flat buildings four storeys or greater is 30m	Four storey, with a street frontage of 28.65m	No, previously addressed within report within Clause 4.6 Exception to Development Standard.
5.2.2 Isolated Sites	C1 Development on land within Zone R4 High Density Residential is not to result in a site adjoining such land having an area of less than 1,000m ² or a width of less than 20m at the front building line for the purpose of multi dwelling housing.	The site does not result in any adjoining property being less than 1000m ² with or a width less than 20m.	Yes
5.2.3 Open Space	C1 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 developments to which the SEPP relates. The ADG therefore sets the objectives and controls for balconies in the LGA for residential flat buildings to which SEPP 65 relates. Refer to the objectives, design criteria and design guidance outlined in 4E Private Open Space and Balconies of the ADG	The proposal provides open space in accordance with SEPP 65.	Yes
	C2 Residential flat buildings must provide communal	More than 25% provided on site.	Yes

	open space areas equivalent to at least 25% of the open space on a site that is created by the required setbacks and building separations.		
	C3 Communal open space may be provided on podiums, terraces, or in any deep-soil setback or separation between buildings in residential flat buildings.	Communal open space provided at the rear of the site.	Yes
	C4 At least one side must have a minimum 6m length for each area of communal open space.	6m min dimension	Yes
	C5 Consolidate communal open space into recognisable areas with reasonable area, facilities and landscape for the uses it will accommodate, and design to generate a variety of visible pedestrian activity.	Communal open space located towards the rear of the site.	Yes
	C6 Consolidate communal open space into recognisable areas with reasonable area, facilities and landscape for the uses it will accommodate, and design to generate a variety of visible pedestrian activity	Communal open space is located at the rear of the site and forms a usable dimension.	Yes
	C7 Provide communal open space in locations that are sunny, and are adjacent to, as well as visible from, the main building lobby	Communal open space is orientated to the north.	Yes
	C8 Provide windows that overlook	Windows from the rear north facing	Yes

	communal open space and approaches to the building to generate a variety of visible pedestrian activity in the main building lobby.	dwelling provide opportunities for natural passive surveillance.	
	C9 Screen walls surrounding any communal area are no higher than 1.2m, although screens with 50% transparency may be up to 1.8m high.	Screen walls are not more than 1.8m high.	Yes
5.2.4 Site Layout and Orientation	C1 Orientate development to maximise solar access and natural lighting, without unduly increasing the building's heat load.	The proposal has been designed to maximise solar penetration and provide shading.	Yes
	C2 Site the development to avoid casting shadows onto neighbouring dwelling's primary living area, private open space and solar cells.	Compliant level of solar access achieved given the orientation of the site.	Yes
	C3 Coordinate design for natural ventilation with passive solar design techniques.	The proposal has been designed to maximise passive solar design and breezeways	Yes
	C4 Site new development and private open space to avoid existing shadows cast from nearby buildings.	The proposal results in a compliant height, FSR and built form setbacks of which no unreasonable solar access impacts arise.	Yes
	C5 Site a building to take maximum benefit from cross-breezes and prevailing winds.	Designed to maximise cross ventilation.	Yes
	C6 Do not compromise the creation of casual surveillance of the street, communal space and parking areas, through the required orientation.	Casual surveillance opportunities created by the orientation and outlook of units to the public domain and to communal open space.	Yes

Building Envelope 5.2.5 Height	C1 Development for the purposes of residential flat buildings must not exceed the following numerical requirements: (a) Maximum three storeys and 10m maximum external wall height, where the height of buildings under the LEP is 11.5m.	N/A	N/A
	Basement and sub-floor projection C2 Any part of a basement or sub-floor area that projects greater than 1m above ground level comprises a storey.	The basement and sub-floor area does not project above 1m.	Yes
	Attics and roof terraces C3 Attics and mezzanine floors do not comprise a storey.	Not proposed as part of design.	Yes
	Basement and sub-floor C4 Basement parking may be suitable for residential flat buildings provided that compliance with Chapter 3.2 of this DCP can be demonstrated.	Compliant car parking provided within basement level.	Yes
	Retaining walls – Development without basement parking C5 Walls that would enclose a sub-floor area: (a) Maximum 2m height for steeply sloping land; and (b) Maximum 1m height for all other land.	Compliant with controls.	Yes
	C6 Retaining walls that would be located along, or immediately	Compliant with controls.	Yes

	adjacent to, any boundary: (a) Maximum 3m height for steeply sloping land, but only to accommodate a garage that would be located at street level; and (b) Maximum 1m height for all other land.		
	Cut and fill – Development without basement parking C7 Maximum 1m cut below ground level where it will extend beyond an exterior wall of the building.	1m cut and fill does not extent beyond the building.	Yes
	C8 No limit to cut below ground level where it will be contained entirely within the exterior walls of a building, however, excavated area is not to accommodate any habitable room that would be located substantially below ground level.	Excavation proposed to accommodate basement and driveway. No habitable room proposed below ground level.	Yes
	C9 Maximum 600mm fill above ground level where it would extend beyond an exterior wall of a building.	600mm maximum.	Yes
	C10 If proposed cut and fill, or a retaining wall, would be deeper or higher than 1m, structural viability must be confirmed by suitably qualified engineers' reports.	N/A	N/A
5.2.6 Setbacks	Front, side and rear C1 Development, including basement and sub-floor areas, fronting a major road must have	N/A	N/A

	a minimum front setback of 9m		
	<p>C2 Development must comply with the minimum setbacks as follows:</p> <p>(a) A minimum setback of 6m from the front and rear boundary.</p> <p>(b) A minimum setback of 4m from the side boundaries.</p> <p>(c) All buildings shall provide a building form comprising a podium base element and an upper element which provides an additional setback in accordance with the table below: No of storeys 4, podium base element 3 storey Upper storey element: 1 storey</p>	<p>Compliant with ADG</p> <p>The proposal comprises of a lower base levels G-1 with a smaller footprint for levels 2-3. It is noted that the setbacks are for mainly compliant with the setback controls prescribed within the ADG.</p>	<p>Yes</p> <p>Yes, acceptable on planning merit.</p>
	C3 A minimum width of deep soil alongside boundaries of 2m and minimum of 5m wide along front/rear boundaries	Minimum deep soil in part along western and eastern side boundaries. Deep soil provided within rear setback over 5m front setback contains a deep soil area of 4.5m.	Yes, acceptable on planning merit.
	<p>Exceptions and other requirements</p> <p>C4 External walls that enclose rooms, storage areas and/or garages are not to encroach beyond the specified setbacks.</p>	Noted.	Yes
	C5 Minimum setback of 1m from any side or rear boundary for swimming pools and associated terraces. Landscaping shall be provided in the setback area to screen the	1m landscaping provided along norther rear rail corridor.	Yes

	pool from neighbours.		
	C6 Swimming pools must not be located within any front setback	Not proposed.	N/A
	C7 One garage or carport may be constructed with a nil rear setback for sites that adjoin a rear laneway. The garage or carport must not comprise more than 50% of the rear boundary frontage to a lane and not be wider than 6m	Not proposed.	N/A
	C8 For a residential building that does not have basement parking lightweight carports may extend beyond the required side boundary setback.	Basement proposed.	N/A
	C9 Car parking structures must satisfy the Building Code of Australia requirements.	Car parking basement to satisfy BCA requirements.	Yes
	C10 The following minor building elements may project up to 1m into the minimum side setback area: (a) Roof eaves, awnings, pergolas and patios; (b) Stair or ramp access to the ground floor; (c) Rainwater tanks; and (d) Terraces above basement parking that are no higher than 1m above ground level (except dwelling houses, semi-detached dwellings and dual occupancy).	Eave project within setback area.	Yes

5.2.7 Building depth	C1 Building depth must not exceed a maximum of 25m.	Building depth at 43m, due to deep lot depth. Despite the depth proposed good amenity is provided for each unit.	Yes, acceptable on merit.
	C2 The building depth may be increased to 35m in the R4 Zone provided facades incorporate deep soil courtyards that are: (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 (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.	As stated above.	Yes, acceptable on merit.
	5.2.8 Building separation C1 Section 6A of SEPP 65 states that a DCP cannot be inconsistent with the provisions of the ADG made under that SEPP in relation to visual privacy (building separation) to which the SEPP relates. The ADG therefore sets the	The proposal is considered to be compliant with building separation, however a minor variation for the proposed balconies along the eastern and western side elevations does not result in any material privacy impact.	Yes

	objectives and controls for building separation in the LGA for residential flat buildings to which SEPP 65 relates. Refer to 3F Visual Privacy of the ADG for objectives, design criteria and design guidance		
	5.2.9 Floor to ceiling heights C1 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.	Compliant ADG minimum ceiling heights.	Yes
Building Design	5.2.10 General design Contemporary built form C1 Contemporary architectural designs may be acceptable if: (a) A heritage listing does not apply to the existing dwelling or to its immediate neighbours. (b) The proposed addition is not visually prominent from the street or from a public space. (c) Extensive remodelling of existing facades is proposed in accordance with controls of this DCP.	The proposal adopts a contemporary architectural design which is considered to result in a compatible built form within the locality.	Yes
	C2 New building forms and design features shall not mimic traditional features, but should reflect these in a contemporary design	The proposal adopts a contemporary modern design.	Yes
	C3 Access to upper storeys must not be via external stairs.	Internal fire stairs proposed.	Yes

	C4 All dwellings must contain one kitchen and laundry facility.	Laundry and kitchen provided in all units.	Yes
	C5 Retain and extend prominent elements of the existing roof (such as gables, hips or longitudinal ridges that run parallel to a street boundary).	Roof element is parallel with street boundary.	Yes
	C6 Contemporary roof forms may be acceptable on additions at ground floor level if concealed substantially behind the existing dwelling, and not visible from the street or other public space.	As above.	Yes
Building entries	C7 Entries to residential buildings must be clearly identifiable.	Entry is clear and direct which is situated parallel with the western side boundary.	Yes
	C8 Provide the main common entry and separate private ground floor apartment entries where it is desirable to activate the street edge or reinforce a rhythm along the street.	As above of which is considered to activate the street edge.	Yes
	C9 A minimum of one habitable room per dwelling must be orientated towards the street to promote positive social interaction and community safety.	Habitable rooms are orientated towards the street on levels G-3.	
	C10 Sight lines to the street from habitable rooms or entrances must not be obscured by ancillary structures.	Sight lines to the street from the habitable rooms are direct.	Yes
	C11 Ground level private terraces located within the front setback must be setback at least	Ground level terraces are located more than 1m from the front boundary.	Yes

	1m from the street boundary to accommodate a landscape strip which should remain in communal ownership		
	C12 Private open spaces accessed from the street must be clearly articulated.	No private open space directly accessed from the street.	N/A
Facade treatment	C13 Development on corner lots must address both street frontages through facade treatment and articulation of elevations	The site does not form a corner lot.	N/A
	C14 Facade design should reflect the orientation of the site using elements such as sun shading devices, light shelves and bay windows.	The facade contains balcony overhangs and eaves to provide shading.	Yes
	C15 Facades visible from the street should be designed as a series of articulating panels	The facade has been designed with a recess providing visual articulation.	Yes
	C16 Width of articulating panels should be consistent with the scale and rhythm characteristic of bungalows	The facade adopts reasonable proportions.	Yes
	C17 The width of articulating panels shall be in accordance with the numerical requirements below: Up to three storeys: street façade elevation 4m to 6m Side elevations 10m to 15m	The proposal seeks to provide sufficient modulation along the vertical and horizontal planes.	Yes
	C18 Avoid long flat walls along street frontages - stagger the wall alignment with a step (not a fin wall or other protruding feature) of	The proposal provides articulated walls along the street frontage and side elevations.	Yes

	at least 0.5m for residential buildings.		
	C19 Vary the height of modules so they are not read as a continuous line on any one street between 2 - 4 storeys, step-back to the middle component and again at the top	The proposal has been stepped as to follow the natural slope of the site. This results in visual modulation.	Yes
	C20 Incorporate contrasting elements in the facade - use a harmonious range of high quality materials, finishes and detailing		
	C21 Screen prominent corners with awnings, balconies, terraces or verandas that project at least 1 m from the general wall alignment.	The site is not located on a corner.	N/A
	C22 For residential flat buildings, layer and step facades in order to avoid building forms that are bland, bulky or over scaled by: (a) Complying with base and upper element setback controls; and (b) Incorporating balconies, staggered alignments for exterior walls and through contrasting design elements.	The proposal adopts a mixture of materials and tones to provide a range or architectural expression.	
Pavilions	C23 The top storey of any two-storey dwelling should be designed as a series of connected pavilion elements to minimise scale and bulk.	N/A	Yes
	C24 Facades that exceed 25m in length shall be indented to create the appearance of	The proposal is adequately recessed.	Yes

	multiple pavilion elements		
	C25 Pavilion elements shall have a depth between 10-15m.	The proposal is adequately recessed.	Yes
	C26 Articulate upper storey pavilions with an additional side boundary setback, and identify by separate roofs.	The proposal is adequately recessed.	Yes
	C27 Residential flat buildings up to three storeys facades that would be wider than 25m should be indented so that the new building would appear like a cluster of pavilion elements: (a) Width of each pavilion should be between 10-12m (b) Pavilion elements should be separated by courtyards that are less than 6m wide	The building façade is less than 25m in width.	N/A
	C28 Residential flat buildings four or more storeys: (a) Facades should be layered and stepped in order to avoid building forms that are bland, bulky and over scaled. (b) Layering of facades should incorporate the base and upper storey elements. (c) Layering of facades should incorporate the base and upper storey elements. (d) Stepping of facades should be provided by balconies, staggered alignments for exterior walls and by contrasting design elements.	The proposal has been appropriately designed and contains a mixture of design elements which result in a good architectural outcome.	Yes

Windows	C29 Large windows should be located at the corners of a building and may be designed as projecting bay-windows.	As the site forms a single aspect block. The windows are primarily orientated to the front and rear to minimise privacy impacts.	Yes
	C30 Large windows should be screened with blinds, louvres, awnings or pergolas.	Can be screened with blinds.	Yes
	C31 Windows must be rectangular	Windows are rectangular in shape.	Yes
	C32 Square, circle and semi-circle windows are acceptable in moderation.	Not proposed.	Yes
	C33 Vertical proportioned window openings can include multi-panel windows or multi-panel doors.	Appropriately designed and proportioned.	Yes
	C34 Windows and openings shall be appropriately located and shaded to reduce summer heat load and maximise sunlight in winter	Windows are appropriately located and sited to maximise thermal comfort.	Yes
	C35 Dormer windows on buildings in the residential zone do not appear as additional storey must comply with the following design requirements: Individual dormers are no wider than 1.5m in width; Provide a minimum 2.5m separation between dormers; and Dormers do not extend encroach above the ridgeline of the building.	No dormer windows proposed.	N/A
5.2.11 Roof Design and Features			
	Building four storeys or greater	Less than 10 degrees to maximise solar access to adjoining	Yes

	C11 Roofs must not exceed a pitch of 10 degrees.	properties and to reduce visual bulk.	
	C12 Emphasise building articulation with the shape and alignment of the roof.	The proposal provides articulation and variation with the stepping of the roof form which follows the sloping contour of the site.	Yes
	C13 Emphasise corner apartments or prominent balcony structures with raised roof elements	The site incorporates balconies within the front façade to provide articulation and modulation.	Yes
	C14 Relate roof design 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	The proposed roof incorporates modulation and articulation with a smaller building footprint on the upper levels of the proposal. This results in a form which is responsive to the allotment shape and size.	Yes
	C15 Respond to the orientation of the site, for example, by using eaves and skillion roofs to respond to sun access.	The proposal has been designed to maximise solar access.	Yes
	C16 Integrate service elements into the design of the roof - including lift over-runs, service plant, chimneys, vent stacks, telecommunication infrastructure, gutters, downpipes and signage.	Lift overrun does not exceed past the roof form.	Yes
Amenity	5.2.12 Solar access and overshadowing Section 6A of SEPP 65 states that a DCP cannot be inconsistent with the provisions of the ADG made under that SEPP in relation to solar and daylight	Compliant levels of solar access achieved.	Yes

	access (solar access and overshadowing in this DCP) and development to which the SEPP relates. The ADG therefore sets the objectives and controls for solar access and overshadowing in the LGA for residential flat buildings to which SEPP 65 relates. Refer to 4A Solar and Daylight Access of the ADG for objectives, design criteria and design guidance. Refer to an additional control below regarding common circulation areas including lift wells.		
	C1 Daylight is to be provided to all common circulation areas (including lift wells) that are above ground.	Daylight provided to circulation areas given the open nature of the design.	Yes
	Solar access to neighbouring development C2 Proposed development must retain a minimum of 3 hours of sunlight between 8.00am and 4.00pm on 21 June for existing primary living areas and to 50% of the principal private open space	At least 3 hour of solar access has been achieved.	Yes
	C3 If a neighbouring dwelling currently receives less than 3 hours of sunlight, then the proposed development must not reduce the existing level of solar access to that property.	3 hours solar access achieved due to orientation of Parmal Avenue.	Yes

	C4 Sunlight to solar hot water or photovoltaic systems on adjoining properties must comply with the following: (a) Systems must receive at least 3 hours of direct sunlight between 8.00am and 4.00pm on 21 June. (b) If a system currently receives less than 3 hours sunlight, then proposed development must not reduce the existing level of sunlight.	Compliant levels of solar access have been achieved which is assisted by the orientation of the site. It is noted that the area is zoned R4 and is envisaged for higher densities.	Yes
	C5 Clothes drying areas on adjoining residential properties must receive a minimum of 3 hours of sunlight on 21 June.	Compliant levels of solar access achieved due to orientation of site.	Yes
5.2.13 Acoustic privacy	C1 Protect sensitive rooms, such as bedrooms, from likely sources of noise such as major roads and neighbouring living areas.	The proposal has been designed to provide reasonable levels of amenity given its location and neighbouring context.	Yes
	C2 Above ground access to new dwellings must not include communal balconies that would be located immediately next to a bedroom window	No communal balconies located immediately next to a bedroom window.	Yes
	C3 Bedroom windows in new dwellings that would be located at or close to ground level are to be raised above, or screened from, any shared pedestrian pathway		
	C4 Screen balconies or windows in living rooms or bedrooms	Adequate screening and location of windows and balconies near	Yes

	that would face a driveway or basement ramp	driveway and basement ramp.	
	C5 Address all requirements in 'Development Near Rail Corridors and Busy Roads - Interim Guideline (2008)' published by the NSW Department of Planning.	Requirements satisfied.	Yes
Fences and ancillary development	5.2.14 Fences C1 Provide boundary definition by construction of an open fence or low hedge to the front street boundary.	No front fence proposed. Landscaping within the front fence back to provide visual embellishment.	Yes
	C2 Front fences within the front boundary setback are to be no higher than 1.2m.	No front fence proposed.	Yes
	C3 Side fences may be 1.8m high to the predominant building line. Forward of the building line, side fences must taper down to the height of the front fence at a height no greater than 1.2m	No side fences proposed forward of the building line.	Yes
	C5 Screen walls around private open spaces shall not be taller than 1.2m, although screens with 50% transparency may be up to 1.8m in height.	Not proposed.	Yes
5.2.15 Building Services	C1 All letterboxes be installed to meet Australia Post standards.	Letter boxes to meet Australia Post Standards	Yes
	C2 Design and provide discretely located mailboxes at the front of the property.	Letter box placement integrated into the design.	Yes
	C3 Integrate systems, services and utility areas (such as plant	Services integrated within the design and embellished with landscaping.	Yes

	rooms, hydrants, equipments and the like) with the design of the whole development – coordinate materials with those of the building and integrate with landscaping.		
	C4 Facilities should not be visually obtrusive and should not detract from soft-landscaped areas that are located within the required setbacks or building separations.	The proposal has been designed to contain significant landscaping within the front setback area.	Yes
	C5 The location and design of substations must be shown on the plans.	Suitable location for substation to be provided on site.	Yes
	C6 Substations should be located underground. Where not possible, substations are to be integrated into the building design and concealed from public view.	Substation to be located underground.	Yes
	C7 Substations must not be located forward of the front building line.	Substation not located forward of building line.	Yes
	C8 Appliances that are fitted to the exterior of a building, and enclosures for service meters, do not detract from the desired architectural quality of new building, or the desired green character of streetscapes.	Services are not predominantly visible from the street.	Yes
	C9 Unscreened appliances and meters should not be attached to any facade that would be	Services are not predominantly visible from the street.	Yes

	<p>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>(c) Locate meters in service cabinets.</p>		
	C10 Screen or treat air conditioning units, TV antennae, satellite dishes, ventilation ducts and other like structures so they are not visible on the street elevation.	Services are not predominantly visible from the street.	Yes
	C11 Coordinate and integrate building services, such as drainage pipes, with overall facade and balcony design.	Services integrated within façade and balcony design.	Yes
	C12 Location and design of service areas should include:	Service areas are appropriately designed and screened.	Yes
	<p>(a) Screening of clothes drying areas from public and semi-public places; and</p> <p>(b) Space for storage that is screened or integrated with the building design.</p>		
	C13 Minimise visual impact of solar hot water systems by:	Compliant levels of solar access achieved refer to solar access diagrams.	Yes
	<p>Placing the system as unobtrusively as possible, both to the street and neighbouring properties;</p> <p>Using a colour that is consistent with the colour of roof materials;</p> <p>Designing solar panels, where</p>		

	possible, as part of the roof; Setting the solar panels back from the street frontage and position below the ridgeline; and Separate the water storage tank from the solar collectors and place on a less visually obtrusive part of the roof, or within the building (for example, the roof space or laundry).		
	<p>5.2.16 Parking and Access</p> <p>C1 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. Under Part 3J of the ADG:</p> <p>(a) The minimum amount of car parking for residents and visitors for the shop top housing component of a development on sites that are within 800m of a railway station, is set out in the Roads and</p>	Compliant levels of car parking provided in accordance with Council's DCP requirements whereby 31 car spaces are provided in total.	Yes

	<p>Maritime's Guide to Traffic Generating Developments, or the car parking requirement prescribed in Chapter 3.2 of this DCP, whichever is the lesser.</p> <p>(b) 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 Chapter 3.2 of this DCP.</p>		
	<p>C2 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>	As above.	Yes
	<p>C3 Refer to the controls in this chapter of the DCP for engineering and technical requirements in relation to transport and parking.</p>	<p>The proposal is considered to satisfy the technical requirements of the DCP.</p>	Yes

As stated above, the proposal is considered to achieve a relatively high level of compliance with the requirements of this subsection.

SECTION 4.15 EVALUATION (3A)

(3A) Development control plans If a development control plan contains provisions that relate to the development that is the subject of a development application, the consent authority:

(a) if those provisions set standards with respect to an aspect of the development and the development application complies with those standards—is not to require more onerous standards with respect to that aspect of the development, and

(b) if those provisions set standards with respect to an aspect of the development and the development application does not comply with those standards—is to be flexible in applying those provisions and allow reasonable alternative solutions that achieve the objects of those standards for dealing with that aspect of the development, and

(c) may consider those provisions only in connection with the assessment of that development application.

In this subsection, standards include performance criteria

Comment: In relation to the above, the proposal is considered to result in minor variations to the DCP however despite the numerical departure the underlying objectives have been satisfied.

PART 4 DIVISION 4.3 SECTION 4.15 (1)(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

Natural Environment Impacts

The proposal seeks to provide compliant levels of landscaping and replacement planning on site. In this regard, no unacceptable unreasonable natural environmental impacts are generated by this proposal given the sitting and landscaping embellishment proposed.

Built Environment Impacts

The proposal is considered to satisfy and meet the underlying objectives, intent and requirements of the planning controls. In this regard, the proposal is not considered to result in any unacceptable unreasonable adverse built environment impacts by virtue of the design which achieves a relatively high level of compliance. The proposal adopts a reasonable built form for a residential flat building which is responsive to the allotment shape and context of the surrounding area which is considered to be acceptable.

Economic Impacts

The proposal is not considered to result in any unacceptable economic impacts given the proposed residential use. It is also considered that there will be economic generation due to the extent of the proposed works.

Social Impacts

The proposed works are not considered to result in any unacceptable social impacts by virtue of the design and relatively high level of compliance, this is considered to be reasonably compatible with the immediate surrounding context.

PART 4 DIVISION 4.3 SECTION 4.15 (1)(C) THE SUITABILITY OF THE SITE FOR THE DEVELOPMENT

Suitability of the site

The proposal is considered to be suitable for the subject site for the proposed works which is responsive given the; site orientation, adjoining context, dimensions and design. The proposal is considered to be reasonably appropriate as the design and function adequately satisfies and does not offend the underlying objectives of the applicable planning controls as stated within this report.

PART 4 DIVISION 4.3 SECTION 4.15 (1)(E) THE PUBLIC INTEREST

Public Interest

The proposed is considered to be in the public interest for the reasons contained within this report. As previously stated, the proposed works adequately satisfy the underlying planning objectives of the controls and reasonable resultant built form achieved on site which is responsive to the site and immediate context.

PART C: CONCLUSION

The proposal reasonably satisfies the underlying objectives of the Environmental Planning and Assessment Act 1979 (*as amended*), Environmental Planning and Assessment Regulation 2000 (*as amended*), State Environmental Planning Policy (Hazards and resilience), State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development, State Environmental Planning Policy (Transport and Infrastructure) 2021, Canterbury Bankstown Local Environmental Plan 2023, Canterbury Bankstown Development Control Plan 2023.

The proposed works do not offend the underlying objectives of the controls and is considered to be of minimal material planning impact. In this regard, it is considered that the proposal is worthy of approval subject to conditions of consent.

Reasons:

- The proposed is not considered to be inconsistent R4 Residential High Density Zone Objectives under Canterbury Bankstown Local Environmental Plan 2023.
- A Clause 4.6 Exception to Development Standard accompanies the application in support of the variation in frontage width is well founded and reasonable.
- The proposed works results in an outcome which is responsive to the site and immediate built form and natural context.
- The proposed works does not result in any adverse unreasonable impacts or place future limitations on adjoining properties.

Kind regards,

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- **Bachelor of Planning (Hons), University of New South Wales 2007**
- **Master of Urban Development and Design, University of New South Wales 2008**
- **Graduate Certificate in Project Management, University of Technology Sydney 2010**
- **Certificate IV in Real Estate Practice 2022**

Mark has over nineteen (19) years planning experience within the New South Wales Planning System and has held Senior positions in both public and private sectors with the following scope of projects.

- | | |
|-----------------------------------|-------------------------------------|
| • Boarding House | • Office Premises |
| • Business Premises | • Place of Public Worship |
| • Centre-based childcare facility | • Recreation Facility |
| • Change of use | • Registered Club |
| • Community Facility | • Residential Care Facility |
| • Depot | • Retail Premises |
| • Dual Occupancy | • School |
| • Dwelling House | • Service Station |
| • Educational Establishments | • Shop |
| • Function Centre | • Shop Top Housing |
| • General Industry | • Signage |
| • Group Home | • Subdivision |
| • Hardware and Building Supplies | • Small bar |
| • Health Services Facility | • Swimming Pool |
| • Hospital | • Transport Depot |
| • Jetty | • Truck Depot |
| • Light Industry | • Vehicle Body Repair Shop |
| • Medical Centre | • Vehicle Repair Station |
| • Mixed Use Development | • Vehicle Sales or Hire Premises |
| • Multi Dwelling Housing | • Warehouse and distribution Centre |
| • Neighbourhood shop | • Wholesale Supplies |

