

Statement of Environmental Effects

October 2024

143-145 Highland Avenue, Yagoona

Demolition of All Existing Structures and Construction of a Six Storey Shop-Top Housing Development with Commercial on the Ground Floor and Co-Living Housing Above Comprising Forty-Three Rooms, thirteen Car Parking Spaces, and Associated Landscaping and Site Works.

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1. INTRODUCTION

This Statement of Environmental Effects (SEE) has been prepared in support of an application for the demolition of all existing structures on the subject site and construction of a six-storey shop top housing development at No. 143-145 Highland Avenue, Yagoona. The proposed development comprises a ground-level car parking/servicing area, 2 x ground-level commercial premises fronting Highland Avenue, and 43 x co-living rooms above. The application is lodged under the co-living housing component of State Environmental Planning Policy (Housing) 2021.

GAT & Associates has been engaged to prepare a SEE to accompany the development application for Canterbury-Bankstown Council's consideration.

A pre-development application meeting was held on 16 February 2023 to discuss an alternative proposal, being construction of a six-storey shop-top housing development with 40 residential units.

The Council raised several issues regarding the previous proposal and queried the suitability of the site for development with numerous studios/one (1) bedroom apartments. In response to these comments, a co-living housing development in the form of shop-top housing with commercial and car parking on the ground floor is proposed. It is considered that a co-living housing development better suits the Client's vision for the site and will add a new type of housing within a highly accessible area.

The proposed development has taken onboard key comments, specifically regarding the improvement of the visual interest of both street-facing facades and providing appropriate levels for the commercial areas.

This SEE is based on information and details shown on the following plans prepared by Pagano Architects, dated 29.07.2024.

Sheet List			
Sheet No	Sheet Name	Revision	Current Revision Date
00	Cover Page	A	29/07/2024
01	Survey Plan	A	29/07/2024
02	Site Analysis Plan	A	29/07/2024
03	Demolition Plan	A	29/07/2024
04	Site & Ground Floor Plan	A	29/07/2024
05	Level 1 Floor Plan	A	29/07/2024
06	Level 2 Floor Plan	A	29/07/2024
07	Level 3 Floor Plan	A	29/07/2024
08	Level 4 Floor Plan	A	29/07/2024
09	Level 5 Floor Plan	A	29/07/2024
10	Section 1	A	29/07/2024
11	Section 2	A	29/07/2024
12	Section 3 & Letter Box Detail	A	29/07/2024
13	Elevations East & West	A	29/07/2024
14	Elevations South & North	A	29/07/2024
15	Highland Street Scape Elevation	A	29/07/2024
16	Streetscape Elevation The Crescent	A	29/07/2024
17	FSR Calculations	A	29/07/2024
18	Room Calculations	A	29/07/2024
19	Shadow Diagrams	A	29/07/2024
20	Sun Eye Diagrams June 21st 8am - 12pm	A	29/07/2024
21	Sun Eye Diagrams June 21st 1pm - 4pm	A	29/07/2024
22	Height, Cut & Fill Diagrams	A	29/07/2024
23	External Finishes Schedule	A	29/07/2024

In addition to the above plans, the following reports and documents have also been considered and should be read in conjunction with this SEE:

- BCA & Access Indicative Compliance Report prepared by Building Innovations Australia dated 09.04.2024.
- Development Application Cost Plan prepared by MCG Quantity Surveyors dated 06.03.2024.
- Landscape Plan prepared by RFA Landscape Architects dated 22.07.2024.
- Noise Impact Assessment prepared by Reverb Acoustics dated April 2024.
- Plan of Management prepared by GAT & Associates, dated 15.10.2024;
- Stormwater Compliance Certificate prepared by Engineering Studio Civil & Structural dated 05.08.2024.

- Stormwater Plans prepared by Engineering Studio Civil & Structural dated 05.08.2024.
- Survey Plan prepared by Urbanex Surveyors dated 20.03.2024.
- Traffic Impact Assessment prepared by MLA Transport Planning dated October 2024.
- Waste Management Plan prepared by Loka Consulting Engineers dated 30.07.2024.

This Statement of Environmental Effects has been prepared in support of the proposed application. This report is based on the submitted plans, inspections of the site and general knowledge of the site and locality, with the aim of:

- Assessing the proposal against relevant statutory controls.
- Determining whether the proposal is acceptable within the existing and likely future context of the area.
- Considering whether the proposal is acceptable within the broader planning controls.
- Addressing any likely environmental and external impacts (positive and negative).

The proposed development has been assessed in relation to:

- Section 4.15 Evaluation under the Environmental Planning & Assessment Act, 1979.
- State Environmental Planning Policy (Biodiversity & Conservation) 2021.
- State Environmental Planning Policy (Housing) 2021.
- State Environmental Planning Policy (Resilience and Hazards) 2021.
- State Environmental Planning Policy (Sustainable Buildings) 2022.
- State Environmental Planning Policy (Transport and Infrastructure) 2021.
- Canterbury-Bankstown Local Environmental Plan (CBLEP) 2023.
- Canterbury-Bankstown Development Control Plan (CBDCP) 2023.

2. SITE CONTEXT

The subject site is commonly known as No. 143-145 Highland Avenue, Yagoona and is legally defined as comprising Lots 4 and 5 in Deposited Plan 18310. The subject site is located on the north eastern corner of Highland Avenue and The Crescent. Refer to Figure 1 – Site Location Map, which illustrates the location of the subject site.

The site is generally rectangular in shape, with a frontage of 22.857m to Highland Avenue and 38.71m to The Crescent. The northern side boundary measures 40.235 metres, whilst the eastern side boundary measures 24.38 metres. The total area of the site is 973.8m².

The topography of the site provides for a moderate fall from the south eastern corner of the site to the north western corner of the site, measuring NS 47.25 to NS 45.18, respectively, representing a fall of 2.07m.



Figure 1: Site Location Map (Source: <https://maps.six.nsw.gov.au/>)

Currently located on the site are two x single-storey brick and fibro dwellings with tiled roofs and associated outbuildings.

Development in the wider context is predominantly low-density residential in nature comprising of one and two storey detached dwellings that are generally of an older housing stock. There are, however, examples of newer high-density forms in the immediate vicinity of the site, including a residential flat building at No. 1 The Crescent and a mixed-use development at No. 124 Dutton Street, Yagoona.

Adjoining the subject site to the north at No. 147 Highland Avenue, Yagoona, is a single-storey rendered dwelling with a tiled roof. To the east, at No. 10 The Crescent, Yagoona is a two (2) storey brick dwelling with a tiled roof. At the northern end of Highland Avenue, development transitions to commercial properties where it meets the Hume Highway.

The subject site is located in proximity to areas of public open space, with Pullen Reserve located approximately 300m (walking distance) to the south and Gazzard Park, approximately 450m (walking distance) to the north. Further to the north is O'Neill Park and Playground, approximately 1.2kms walking distance. These spaces are suitable for facilitating a range of both active and passive recreation opportunities for residents within the community.

The site is also located in proximity to local schools and amenities, with Yagoona Public School and Just Little Kidz Long Day Child Care located to the east and south of the site, respectively. Smaller-scale retail and commercial premises are also accessible along the nearby Hume Highway.

In terms of public transport, Yagoona Station is located within 180m walking distance to the south of the site, with bus services available on nearby Hume Highway, offering connections to a more expansive public transport network and nearby suburbs.

2.1 Photographs of the Street and Surrounds



Figure 2: Existing single-storey dwellings on the subject site as viewed from Highland Avenue (L-R – No. 145 & 143 Highland Avenue).



Figure 3: The subject site viewed from the secondary street frontage of The Crescent.



Figure 4: Neighbouring properties to the north of the subject site (L-R – No. 149 & 147 Highland Avenue).



Figure 5: Neighbouring development on the opposite side of Highland Avenue to the west at No. 114 Highland Avenue, Yagoona.



Figure 6: Neighbouring development on the opposite side of The Crescent to the south, of the subject site, at No. 141 Highland Avenue.



Figure 7: Neighbouring development to the east at No. 11 The Crescent.



Figure 8: A recently constructed residential flat building at No. 1 The Crescent, approximately 50m from the subject site.



Figure 9: A recently constructed shop top housing development and residential flat building at No. 124 Dutton Street, approximately 200m from the subject site.

3. PROPOSAL

The proposal before the Council seeks approval for the demolition of all existing structures on the subject site and construction of a six-storey shop top housing development at No. 143-145 Highland Avenue, Yagoona. The proposed development comprises a ground-level car parking/servicing area, 2 x ground-level commercial premises, and 43 x co-living rooms above.

The proposed works will include:

Demolition

All existing structures on site are to be demolished as per the submitted demolition plan within Sheet No. 3 of the Architectural Plans prepared by Pagano Architects, submitted under separate cover.

Ground Floor

The ground floor of the development is proposed to be utilised for commercial tenancies, car/motorcycle parking, and servicing components of the development.

Two (2) commercial spaces are proposed on the ground floor, both accessed via Highland Avenue, which is identified as an active street frontage under the CBLEP 2023. Each tenancy will have a unisex accessible toilet. The commercial spaces will have direct access to the service area and car parking on the ground floor. The commercial spaces will be subject to future first-use DA/CDC applications.

Entry for the co-living development is provided via an entry foyer with access to a common lift core via The Crescent. A Manager's workspace is located within the entry foyer, which is secured by shutters after hours.

The proposed parking area includes the following:

- Thirteen car parking spaces
 - The car parking spaces are inclusive of one accessible parking space.
- Nine motorcycle parking spaces.
- One loading bay.

The proposed car park is accessed via a driveway from The Crescent.

The proposal also seeks separate commercial and residential bin rooms, and several plant rooms within the ground floor area.

New deep soil landscaping is proposed along the side setback with No. 11 The Crescent.

Level 1

Level 1 consists of eleven (11) double lodger rooms. One (1) room has been nominated as an adaptable room (Unit 101). Each room, apart from Unit 106, has a private open space in the form of a balcony. A 35m² communal living room is proposed, with access to a 63.5m² area of common open space area in the form of a podium terrace.

A lift and stair core is located internally which links level 1 to other levels of the development.

Landscaping is proposed within planter boxes along the external edges of the communal open space area.

Level 2

Level 2 consists of eleven (11) double lodger rooms. One (1) room has been nominated as an adaptable room (Unit 201). Each room, apart from 206 & 207, has a private open space in the form of a balcony. A 37.1m² communal living room is proposed, with access to a balcony.

A lift and stair core is located internally which links level 2 to other levels of the development.

Level 3

Level 3 consists of eleven (11) double lodger rooms. One (1) room has been nominated as an adaptable room (Unit 301). Each room, apart from 306 & 307, has a private open space in the form of a balcony. A 37.1m² communal living room is proposed.

A lift and stair core is located internally which links level 3 to other levels of the development.

Level 4

Level 4 consists of five (5) double lodger rooms. Each room, apart from 404, has a private open space in the form of a balcony. A 133.8m² communal open space area is proposed on the rooftop of the ground to level 3 podium.

A lift and stair core is located internally which links level 4 to other levels of the development.

Landscaping is proposed within planter boxes along the external edges of the communal open space area.

Air-conditioning condenser units are proposed on the other side of the rooftop.

Level 5

Level 5 consists of five (5) double lodger rooms. Each room, apart from 504, has a private open space in the form of a balcony.

A lift and stair core is located internally which links level 1 to other levels of the development.

Design intention

The proposed building has been designed as a landmark building on a highly visible corner of a Local Centre zone. The proposed building has been designed to Council's desired envelope through general compliance with DCP setback, and ADG separation, other than those suitably justified, resulting in a desired form. The form has then been articulated with numerous balconies, fenestration, and changes in materials and finishes.

It is considered that the design of the building exhibits high design excellence.

4. SECTION 4.15 EVALUATION

The following section provides an assessment of the proposed development in accordance with the provisions of Section 4.15 of the Environmental Planning and Assessment Act, 1979.

(1) Matters for consideration – general

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.

The provisions of:

4.1 Any Environmental Planning Instruments

4.1.1 State Environmental Planning Policy (Biodiversity & Conservation) 2021

4.1.1.(a) Chapter 2 Vegetation in Non-Rural Areas

Chapter 2 of the State Environmental Planning Policy (Biodiversity and Conservation) 2021 relates to the clearing of vegetation in non-rural areas.

The subject site is generally void of significant vegetation, including trees, as demonstrated in the Survey Plan prepared by Urbanex Surveyors. No tree removal is proposed on site, which requires development consent from the Council.

The landscape plan prepared by RFA Landscape Architects and submitted under separate cover indicates new plantings to upgrade the overall landscaping appearance of the site.

No further consideration is required under Chapter 2.

4.1.1.(b) Chapter 6 Water Catchments

Chapter 6 of the State Environmental Planning Policy (Biodiversity and Conservation) 2021 relates to the protection of certain Water Catchments, including the Georges River Catchment. As the subject site is identified within the Georges River Catchment, Chapter 6 of this SEPP applies.

When a consent authority determines a development application, general controls are to be applied. Accordingly, a table summarising the matters for consideration in determining development applications and compliance with such is provided below.

Division 2 Controls on development generally	Comment
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6.6 Water quality and quantity	<p>Reference should be made to the stormwater plans & certification prepared by Engineering Studio Civil & Strutural and submitted under separate cover.</p> <p>The stormwater plans demonstrate that stormwater on the site will be appropriately disposed to Council's systems.</p> <p>An erosion and sediment control plan also forms part of the stormwater package and demonstrates that appropriate measures will be engaged during construction to ensure the waterways of the Georges River and its quality are protected.</p>
6.7 Aquatic ecology	<p>The subject site is not located within close proximity to any watercourse.</p> <p>As such, the development as proposed will have no adverse impact on aquatic ecology.</p>
6.8 Flooding	Council's mapping does not identify the subject site as being flood-prone land.
6.9 Recreation and public access	Not applicable.
6.10 Total catchment management	Precinct Planning consideration through CBLEP 2023 has considered the impact of the residentially zoned land within the overall catchment.

It is considered that the proposal satisfies the provisions of the Biodiversity and Conservation SEPP, subject to appropriate sedimentation and erosion controls being implemented during construction.

The proposal is, therefore, not contrary to the provisions of Chapter 6.

4.1.2 State Environmental Planning Policy (Housing) 2021

This proposal has been designed to meet the provisions of the State Environmental Planning Policy (Housing) 2021. Accordingly, **Appendix A** provides for an assessment of the proposal against the controls contained under Part 3 Co-living Housing.

The comments below relate to specific clauses that require further discussion.

4.1.2.(a) Character of the Area

Clause 69(2)(f) states:

"Development consent must not be granted for development for the purposes of co-living housing unless the consent authority considers whether - the design of the building will be compatible with—

(a) the desirable elements of the character of the local area or

(b) for precincts undergoing transition—the desired future character of the precinct."

There are a number of examples in case law which demonstrate that the character test found in Clause 30A of that SEPP (and now continued in SEPP Housing 2021 under Clause 69(2)(f)) is “one of compatibility not sameness”, (*Gow v Warringah Council [2013] NSWLEC 1093*) and that compatibility is widely accepted to mean “capable of existing together in harmony” (*Project Venture Developments v Pittwater Council [2005] NSWLEC 1029*). It had also been found that in measuring the “compatibility” of both the existing and future character of the local area needs to be taken into account (*Sales Search Pty Ltd v The Hills Shire Council [2013] NSWLEC 1052* and *Redevelop Projects Pty Ltd v Parramatta City Council [2013] NSWLEC 1029*).

Further, in *Redevelop Projects Pty Ltd v Parramatta City Council [2013] NSWLEC 1029*, Commissioner Morris concluded that the “local area” includes both sides of the street and the “visual catchment” as the minimum area to be considered in determining compatibility.

With regards to the subject site, the visual catchment would include both sides of Highland Avenue and both sides of The Crescent.

Of key importance to the character test, it is identified that the local area that the site is a part of is undergoing a transition from single and two (2) storey dwellings to more intense developments such as multi-level shop-top housing, and commercial developments. It is also noted that the surrounding area, to the east and south of the site, is zoned for a higher density (R4 High-Density Residential). Consequently, these areas are envisioned for a transition from single to two-storey dwellings to residential flat buildings, shop top housing and multi-dwelling housing developments.

As a result, the character test carried out below will determine whether the design of the building is compatible with the desired future character of the area/precinct.

Locality and Street Character:

- The site is located within a B2 Local Centre and is surrounded by an R4 High-Density zone to the south and east. Existing built form in the majority of the area consists of one (1) – two (2) storey dwellings, with one (1) to (2) storey commercial premises along Hume Highway in the B2 zone. More recent developments in the locality are for six-storey residential flat buildings and shop top housing developments at No. 1 The Crescent, and No. 124 Dutton Street, respectively.
- While the subject site is located in a streetscape currently characterised by low-scale commercial and remnant dwelling house development, the proposed co-living development reflects the desired future character of the area based on the zoning, zone objectives and prescribed controls.
- Existing built forms surrounding the site are generally of an older stock that does not currently achieve the planning parameters applicable to the B2 Local Centre zone or neighbour R4 High-Density zone. The applicable provisions to both zones have recently been increased within gazettal of the CBLEP 2023 in June 2023; the B2 Zone now has an FSR of 2.5:1 and a Height of 19m/20m, the R4 zone (which was previously zoned R2 Low Density) now has an FSR of 1:1 and a Height of 13m.
- The subject site will be one of the first redevelopments made in this area under these controls. As such, the proposal has been designed to be consistent with the development standards and controls of the CBLEP & CBDCEP 2023, which dictate the future desired character of the area.

Landform:

- The built form of the proposal has responded to the key controls of the CBLEP and CBDP 2023, which outline the expected desired future character of the locality. Adequate building articulation and separation have been provided to mitigate any perceived bulk and scale concerns when viewed from the public and private domains.
- Landscape planters have been included throughout the structure, assisting in reducing the appearance of any perceived building bulk from the street or adjoining sites.

Street patterns:

- The existing character of the locality consists of one (1) and two (2) storey mixed streetscape of commercial premises and remnant residences. There is an expected uplift for development throughout the immediate area, given its zoning and permissible floor area and height. There is an expectation that most developments would consist of commercial or shop-top housing typologies. Therefore, it is reasonable to expect that nil setbacks, as applicable for commercial developments, would be applied to future development within the street.

Views and Vistas:

- There are no notable views to be affected by the proposed development.
- The proposal has been carefully designed to respect the desired future streetscape character while also responding to the expected character of the subject and surrounding land zonings.

Conclusion:

In conclusion, based on the above, it is considered that the proposed development is in keeping with the desired future character of the area. The proposal has been well articulated through the proposed materials and finishes, along with recessions and protrusions of built elements, which alleviate any perception of a monotonous built form and promote a desirable degree of articulation. Landscaping, detailed within the proposed landscape plan, also assists in visually softening and providing high biodiversity value of the site to the streetscape and locality. The proposed development is a positive example of contemporary development that respects the expected emerging character of the area while providing a modern design that will set a positive precedence for future high-density developments along Highland Avenue and The Crescent.

4.1.3 State Environmental Planning Policy (Resilience and Hazards) 2021.

Chapter 4 of the State Environmental Planning Policy (Resilience and Hazards) 2021 relates to the remediation of land. Clause 4.6 states that a consent authority must not consent to the carrying out of any development on land unless it has considered whether the land is contaminated and, if it is contaminated, the consent authority is satisfied that the land is suitable for the purpose. If the land requires remediation to be undertaken to make the land suitable for the proposed use, the Council must be satisfied that the land will be remediated before the land is used for that purpose.

The history of the site indicates residential land use and is located within an established residential neighbourhood. It is not considered likely that the site has experienced any contamination, and the proposed use is acceptable.

In accordance with State Environmental Planning Policy (Resilience and Hazards) 2021, the Council is able to conclude that no further assessment of contamination is necessary, and the residential use of the site is suitable.

4.1.4 State Environmental Planning Policy (Sustainable Buildings) 2022.

Co-living housing is not identified as prescribed residential accommodation (by definition under the SEPP) and, as such, is not required to provide a BASIX Certificate under Chapter 2 of the State Environmental Planning Policy (Sustainable Buildings) 2022.

The non-residential portion of the development does not fall into the purview of Chapter 3 of the SEPP, as the capital investment value for the non-residential portion does not reach \$5 million.

4.1.5 State Environmental Planning Policy (Transport and Infrastructure) 2021

Chapter 2 of the State Environmental Planning Policy (Transport and Infrastructure) 2021 relates to the provision of infrastructure and services. The relevant sections are commented on below:

2.100 Impact of rail noise or vibration on non-rail development.

The site is located in proximity to a rail corridor to the east of the site and is affected by rail noise and vibration.

A rail noise assessment was undertaken in the Noise Impact Assessment prepared by Reverb Acoustics. The report concludes the development is able to satisfy all assessment requirements.

2.120 Impact of road noise or vibration on non-road development.

The site is located in proximity to an SP2 Classified Road (Hume Highway), which has a daily traffic volume of more than 20,000 vehicles. The site is likely affected by road noise and vibration.

A road traffic noise assessment was undertaken in the Noise Impact Assessment prepared by Reverb Acoustics.. The report concludes the development is able to satisfy all assessment requirements subject to the inclusion of acoustic treatments recommended in the report.

4.1.6 Canterbury-Bankstown Local Environmental Plan 2023

A comprehensive assessment of the proposal against the controls can be found in **Appendix B**. Additional comments on the key controls are provided below.

4.1.6.(a) Land Zoning & Objectives

The subject site is zoned B2 Local Centre under the CBLEP 2023. Refer to Figure 10 below.

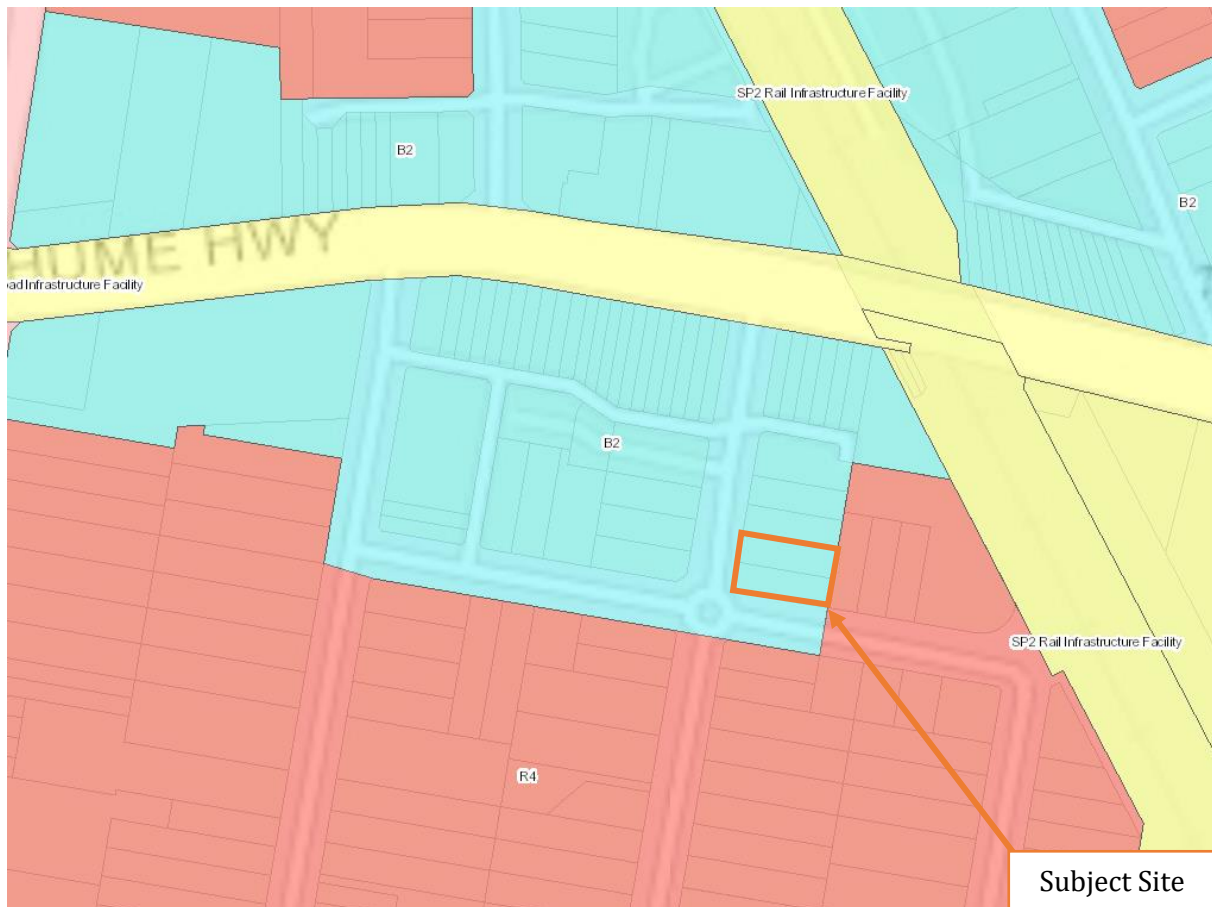


Figure 10: Land Zoning Map (Source: NSW Planning Portal – Digital EPI Viewer)

The B2 Local Centre zone has the following Land Use Table.

“2 Permitted without consent

Home occupations

3 Permitted with consent

Boarding houses; Building identification signs; Business identification signs; Centre-based child care facilities; Commercial premises; Community facilities; Educational establishments; Entertainment facilities; Function centres; Information and education facilities; Local distribution premises; Medical centres; Oyster aquaculture; Passenger transport facilities; Recreation facilities (indoor); Registered clubs; Respite day care centres; Restricted premises; Roads; Service stations; Shop top housing; Tank-based aquaculture; Tourist and visitor accommodation; Any other development not specified in item 2 or 4

4 Prohibited

Agriculture; Air transport facilities; Airstrips; Animal boarding or training establishments; Boat building and repair facilities; Boat launching ramps; Boat sheds; Camping grounds; Caravan parks; Cemeteries; Charter and tourism boating facilities; Correctional centres; Crematoria; Depots; Eco-tourist facilities; Electricity generating works; Exhibition homes; Exhibition villages; Extractive industries; Farm buildings; Forestry; Freight transport

facilities; Health services facilities; Heavy industrial storage establishments; Helipads; Highway service centres; Home occupations (sex services); Industrial retail outlets; Industrial training facilities; Industries; Jetties; Marinas; Mooring pens; Moorings; Open cut mining; Pond-based aquaculture; Port facilities; Recreation facilities (major); Recreation facilities (outdoor); Research stations; Residential accommodation; Rural industries; Sewerage systems; Sex services premises; Signage; Storage premises; Transport depots; Truck depots; Vehicle body repair workshops; Warehouse or distribution centres; Waste or resource management facilities; Water recreation structures; Water supply systems; Wharf or boating facilities; Wholesale supplies”

The proposed development is for a shop top housing development consisting of commercial premises on the ground floor and co-living rooms on Levels 1 through 5.

Shop top housing is permissible with consent. Therefore, pursuant to Clause 67 of the SEPP (Housing) 2021, as outlined in Appendix A, co-living housing is a permissible type of development within the zone.

Commercial premises are also permissible, thus confirming that shop top housing is achievable on-site. A wide range of commercial uses could be arranged for the ground floor tenancies. However, the specific uses will be subject to a future first-use DA/CDC.

Notwithstanding the land use being permissible in the zone, the proposed development also achieves the objectives of the zone, as discussed below.

The objectives of the B2 Local Centre zone read as follows:

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

In response to these objectives, the following comments are provided:

- The proposed shop top housing development will provide two moderately sized commercial spaces (56m², and 96m², respectively), which will provide the opportunity for retail, business, or commercial uses that will serve the residents that live, work, or visit the local area, including residents of the co-living housing above. This area seeks consent for the space, and further applications will be submitted for the first use of the commercial premises.
- The proposed commercial spaces on the ground floor of the shop top development will encourage a range of employment opportunities. The development is also within an accessible area, only 180m from Yagoona Station and 100m from a pair of bus stops on Hume Highway.

- The subject site is located within an accessible area, being located 172m from Yagoona Station and 100m from a pair of bus stops on Hume Highway that provide more local public transport services. Once the B2 Local Centre is further developed, the proposed active street frontage along Highland Avenue will link the street to Hume Highway and provide a superior level of connectivity.
- The proposed shop top housing development provides a co-living development for its upper levels. Co-living developments are more suited to an accessible area due to the lower reliance on car parking and importance of public transport options. The co-living housing use will also add to the variety of housing options within Yagoona.
- The proposal is of high urban design, achieved through suitable sitting of the built form in line with Council controls and appropriate use of materials and finishes to articulate the development to neighbouring sites, and the public domain.

Given the above, it is considered the proposal is consistent with the objectives of the zone.

4.1.6.(b) Height of buildings

Pursuant to the CBLEP 2023, the subject site is prescribed a split maximum height of building of 20m to No. 145 Highland Avenue and 19m to No. 143 Highland Avenue. Refer to Figure 11.



Figure 11: Height of Buildings Map (Source: NSW Planning Portal – Digital EPI Viewer)

The proposal provides a maximum building height of 19.72m as measured through Section 2 on Sheet No. 11 of the architectural plans prepared by Pagano Architects. This maximum height occurs within the area of the site with a 20m height, therefore being compliant. However, the proposal provides a variation when the site transitions to the lower 19m height limit over No. 143 Highland Avenue and provides a maximum exceedance of 600mm, or a variation of 3.15%. The entirety of the variation is limited to the proposed lift overrun. It should be noted that no habitable floor levels are located above the maximum building height standard.

A Clause 4.6 Variation for Clause 4.3 Height of Buildings has been prepared and is attached as Appendix D of this SEE.

4.1.6.(c) Floor Space Ratio

The subject site is prescribed a maximum FSR of 2.5:1 under the CBLEP 2023. Refer to Figure 12.

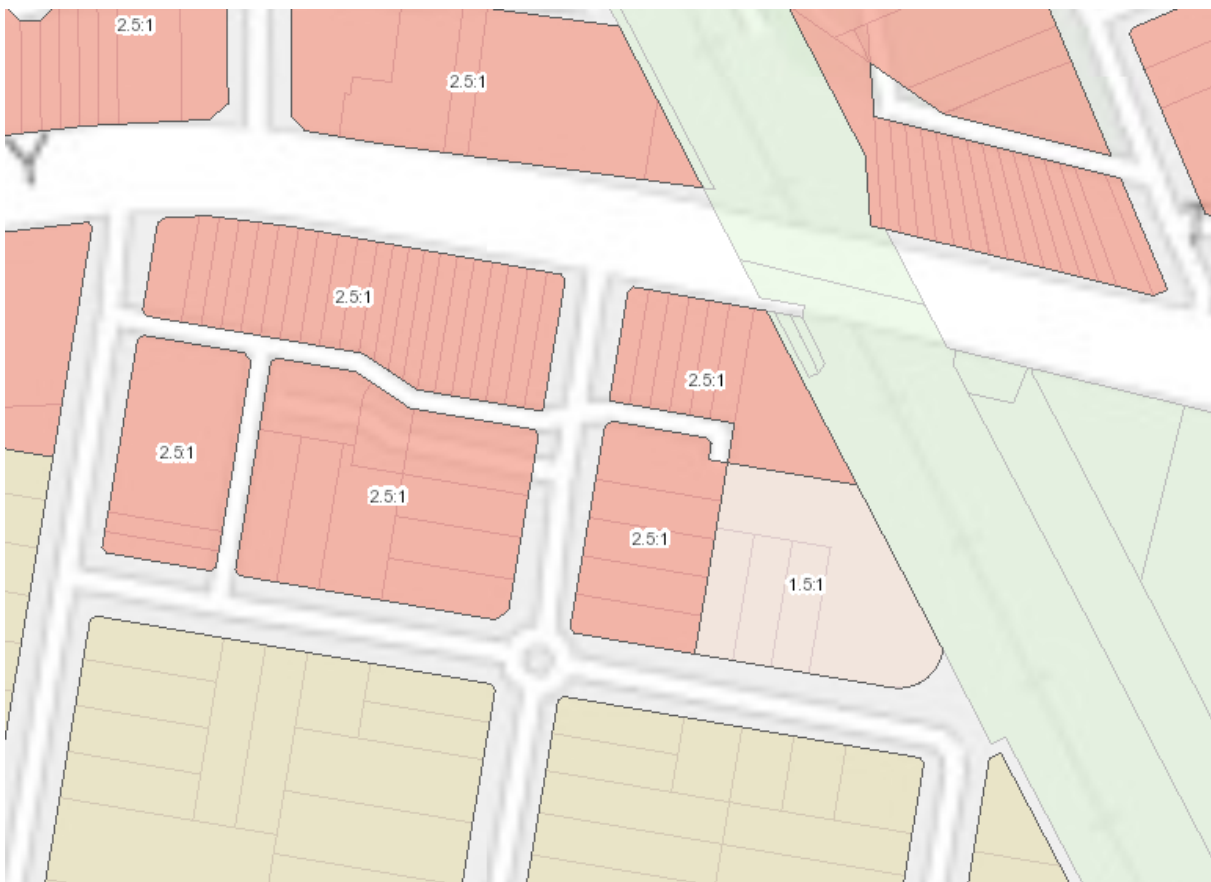


Figure 12: Floor Space Ratio Map (Source: NSW Planning Portal – Digital EPI Viewer)

The subject site has a site area of 973.80m². Under the CBLEP, a maximum gross floor area (GFA) of 2,434.50m² is permitted. The development proposed a total gross floor area of 2,319m² is proposed, being an FSR of 2.38:1.

The proposal is compliant with Clause 4.4 of the CBLEP 2023.

4.2 Any Proposed Instrument

No draft Environmental Planning Instruments or State Environmental Planning Policies apply to the subject site.

4.3 Any Development Control Plans

4.3.1 Canterbury-Bankstown Development Control Plan 2023

A comprehensive assessment of the proposal against the controls can be found in Appendix C.

Additional comments are provided below.

4.3.1.(a) Crime Prevention and Safety

The proposed shop top housing development has been designed with respect to the principles of Crime Prevention through Environmental Design. The following comments are made with respect to the principles of surveillance, access control, territorial reinforcement and space management.

Surveillance

The co-living housing development has been designed to minimise blind corners in communal and entry areas.

The proposal provides for casual surveillance of both street frontages in the form of habitable rooms, communal living areas and private open space in the form of balconies. The entry is clearly identifiable through the use of architectural design, articulation and different colours and materials; and is easily identified from The Crescent, further encouraging visual and casual surveillance.

Common areas are to be well-lit, internally and externally, to ensure surveillance is possible at all hours and to minimise dark shadows, without causing light disturbance.

Access Control

The co-living housing development will be clearly identified with street numberings designed in accordance with the Council's requirements. As noted above, the pedestrian entries and vehicular entrance to the site will be clearly delineated with visual cues such as a footpaths, driveways and fencing.

Access to the development will be controlled via a security system.

Territorial Reinforcement

The development will be constructed of high-quality materials that can be easily cleaned should vandalism occur. External areas will be well-lit and monitored to discourage graffiti and vandalism.

Space Management

Each unit is to be locked with separate keys. Appropriate lighting will be provided to external areas to ensure they are well-lit. The proposed materials and finishes are hardwearing to minimise maintenance costs.

4.4 Any Planning Agreement or Draft Planning Agreement under Section 7.4

There are no planning agreements or draft planning agreements entered into under Section 7.4.

4.5 Regulations

There are no prescribed matters which hinder the development.

4.6 Likely Impacts

Consideration must be made to the likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality.

4.6.1 Impact on the Natural Environment

The proposed development will not have an adverse impact on the natural environment. The site does not contain any significant vegetation and is within an existing urban area. New plantings will be introduced as per the proposed landscape plan. The proposed landscape plan will improve the amenity of the site and the surrounding streetscape.

4.6.2 Impact on the Built Environment

The built form is considered to be in keeping with the scale and desired future character prescribed for this area. No negative solar access, building bulk or privacy impacts will occur to adjoining developments. A suitable transition is achieved to adjoining residential zones in regard to height, setbacks, and landscape buffers.

4.6.3 Social and Economic Impacts on the Locality

The proposed development will provide a positive social benefit to the community, providing for new commercial tenancies and residential accommodation in an area well-served by public transport services and local infrastructure.

The co-living housing development is considered to be of a high architectural quality and fabric, promoting residential amenity for future occupants. The proposal includes adaptable designs to positively address the differing lifestyles of the immediate area.

Furthermore, the proposal will provide for a positive economic impact as the site is in a location that is close to well-served public transport infrastructure, businesses, shops and services, which benefits the future residents of the property who want to live, work and play in the broader locality.

4.7 Suitability of the Site

The land is appropriately zoned to permit the development and meets the objectives of the B2 Local Centre zone and the CBLEP 2023.

4.8 Submissions made in accordance with this Act or the Regulations

Not relevant.

4.9 The Public Interest

The public interest would be served by approval of this development as it will increase the housing stock and choice available in this location, which, as stated previously, is well-served by public transport, local amenities, services and facilities. The proposal provides for adaptable rooms to cater for different liveability needs.

With the development being within an accessible area, access to and from the site is made easier for future occupants. Notwithstanding this, the site provides for adequate on-site parking.

It is considered that the development is conducive to Council's policies and does not result in any undesirable impacts. Under the circumstances of the case, it is considered that the development is acceptable and should be supported.

5. CONCLUSION

The proposed development has made regard to the surrounding land uses. It is considered that all reasonable measures to mitigate any adverse environmental effects have been taken into consideration, in relation to the proposal.

The proposal has been assessed in accordance with the provisions of Section 4.15 of the Environmental Planning and Assessment Act, 1979, and found to be satisfactory. The proposal is permissible with the consent of Council.

The beneficial effects of the proposal include:

- The proposed shop top development (inclusive of co-living and commercial premises) is well-designed to provide excellent streetscape presentation. It maintains a bulk and scale that aligns with the rhythm of the built forms that are permitted in the area.
- The proposed co-living housing will contribute to the housing supply within the local government area and in an accessible area.
- The proposed commercial tenancies will provide business and employment opportunities in a Local Centre.
- The proposed development will result in a more efficient and orderly development of the land, maximising its development potential.
- The proposal is compatible with Council's planning objectives and controls for the site and the locality.

The proposed development will have no significant impact on the air or water quality in the locality.

The proposed works do not result in any unreasonable impact on adjoining properties and are conducive to Council's policies, and accordingly, it is sought that the Council approve the application.

Appendix A State Environmental Planning Policy (Housing) 2021

PART 3 – CO-LIVING HOUSING

CLAUSE	DEVELOPMENT STANDARD/CONTROL	COMPLIANCE
67 Co-living housing may be carried out on certain land with consent.	<ul style="list-style-type: none"> Development for the purposes of co-living housing may be carried out with consent on land in a zone in which— <ul style="list-style-type: none"> (a) development for the purposes of co-living housing is permitted under another environmental planning instrument, or (b) development for the purposes of residential flat buildings or shop top housing is permitted under Chapter 5 or another environmental planning instrument. 	<ul style="list-style-type: none"> Complies. As illustrated in Section 4.1.6.(a) of this SEE, shop top housing is permitted within the B2 Local Centre zone under the CBLEP 2023. Therefore, pursuant to this clause, co-living housing is permitted with consent.
68 Non-discretionary development standards – the Act, s 4.15	<ul style="list-style-type: none"> (1) The object of this section is to identify development standards for particular matters relating to development for the purposes of co-living housing that, if complied with, prevent the consent authority from requiring more onerous standards for the matters. <p>Note— See the Act, section 4.15(3), which does not prevent development consent being granted if a non-discretionary development standard is not complied with.</p> <ul style="list-style-type: none"> (2) The following are non-discretionary development standards in relation to development for the purposes of co-living housing- <ul style="list-style-type: none"> (a) For development in a zone in which residential flat buildings are permitted – a floor space ratio that is not more than - <ul style="list-style-type: none"> (i) the maximum permissible floor space ratio for residential accommodation on the land, and (ii) an additional 10% of the maximum permissible floor space ratio if the additional floor space is used only for the purposes of co-living housing, (b) For co-living housing containing 6 private rooms - <ul style="list-style-type: none"> (i) a total of at least 30m² of communal living area, and (ii) minimum dimensions of 3m for each communal living area, (c) For co-living housing containing more than 6 private rooms- <ul style="list-style-type: none"> (i) a total of at least 30m² of communal living area plus at least a further 2m² for each private room in excess of 6 private rooms, and 	<ul style="list-style-type: none"> Noted. N/A. Residential flat buildings are not permitted within the subject B2 zone. N/A. Refer to the control below. Complies

CLAUSE	DEVELOPMENT STANDARD/CONTROL	COMPLIANCE
	(ii) minimum dimensions of 3m for each communal living area,	Required = 104m ² (30m ² + 37 x 2m ²). Proposed = 109.2m ² over three separate living rooms on levels 1, 2, & 3.
	(d) Communal open spaces - (i) with a total area of at least 20% of the site area, and (ii) each with minimum dimensions of 3m	<ul style="list-style-type: none"> Complies Required = 194.76m² (20% of 973.8m²) Proposed = 197.3m²
	(e) Unless a relevant planning instrument specifies a lower number - (i) for development on land in an accessible area – 0.2 parking spaces for each private room, or (ii) otherwise – 0.5 parking spaces for each room,	<ul style="list-style-type: none"> Complies. The site is within an accessible area, being within 180m of the public entry to Yagoona Train Station. 43 rooms x 0.2 spaces = 8.6 spaces (round up to 9) required. Proposed = 13 spaces (including requirements for commercial spaces) – refer to Appendix C. Reference should be made to the Traffic Impact Assessment prepared by MLA Transport Planning.
	(f) For development on land in Zone R2 Low Density Residential or Zone R3 Medium Density Residential – the minimum landscaping requirements for multi dwelling housing under a relevant planning instrument,	<ul style="list-style-type: none"> N/A. The site is not located within an R2 or R3 zone.
	(g) For development on land in Zone R4 High Density Residential – the minimum landscaping requirements for residential flat buildings under a relevant planning instrument,	<ul style="list-style-type: none"> N/A. The site is not located within an R4 zone.

CLAUSE	DEVELOPMENT STANDARD/CONTROL	COMPLIANCE
69 Standards for co-living housing	<ul style="list-style-type: none"> (1) Development consent must not be granted for development for the purposes of co-living housing unless the consent authority is satisfied that- <ul style="list-style-type: none"> (a) Each private room has a floor area, excluding an area, if any, used for the purposes of private kitchen or bathroom facilities, that is not more than 25m² and not less than- <ul style="list-style-type: none"> (i) for a private room intended to be used by a single occupant – 12m², or (ii) otherwise – 16m², and (b) the minimum lot size for the co-living housing is not less than— <ul style="list-style-type: none"> (i) for development on land in Zone R2 Low Density Residential—600m², or (ii) for development on other land—800m², and (iii) (Repealed) 	<ul style="list-style-type: none"> Complies. <p>43 double lodger rooms are proposed.</p> <p>As per Sheet No. 18 of the architectural plans prepared by Pagano Architects, each room is not more than 25m², and not less than 16m².</p> <p>It is noted that the area used for the purposes of a private kitchen and bathroom facilities have been excluded from the room area calculation.</p> <p>An additional area within each room has been excluded from the area calculation for the working area of the kitchen. This had been calculated to 900mm for standard rooms and 1.5m for accessible rooms. Accessible rooms required a greater working space due to the movement area required for wheelchairs.</p> <ul style="list-style-type: none"> Complies. The subject site has an area of 973.8m², as per the survey prepared by Urbanex Surveyors.

CLAUSE	DEVELOPMENT STANDARD/CONTROL	COMPLIANCE
	<p>(c) For development on land in Zone R2 Low Density Residential or an equivalent land use zone, the co-living housing</p> <p>(i) will not contain more than 12 private rooms, and</p> <p>(ii) will be in an accessible area, and</p> <p>(d) The co-living housing will contain an appropriate workspace for the manager, either within the communal living area or in a separate space, and</p> <p>(e) For co-living housing on land in a business zone – no part of the ground floor of the co-living housing that fronts a street will be used for residential purposes unless another environmental planning instrument permits the use, and</p> <p>(f) Adequate bathroom, laundry and kitchen facilities will be available within the co-living housing for the use of each occupant, and</p> <p>(g) Each private room will be used by no more than 2 occupants.</p> <p>(h) The co-living housing will include adequate bicycle and motorcycle parking spaces.</p>	<ul style="list-style-type: none"> • N/A. The subject site is zoned B2 Local Centre • Complies. A dedicated workspace area has been provided within the lobby area on the ground floor. Shutters will secure this area. • Complies. The ground floor of the development will not be used for residential purposes. • Complies. Each room is provided with a private bathroom, kitchen, and laundry facilities. • Complies. The 43 co-living rooms are double lodger rooms and will be limited to a maximum of 2 occupants. • Complies. Adequate motorcycle parking is provided in the ground floor parking area in accordance with the requirements of the CBDP 2023. <p>No specific bicycle parking is provided; however, it is considered that a substantial area will be available within each co-living room for the storing of bicycles.</p>

CLAUSE	DEVELOPMENT STANDARD/CONTROL	COMPLIANCE
	<ul style="list-style-type: none"> (2) Development consent must not be granted for the purposes of co-living housing unless the consent authority considers whether- <ul style="list-style-type: none"> (a) The front, side and rear setbacks for the co-living housing are not less than - <ul style="list-style-type: none"> (i) for development on land in Zone R2 Low Density Residential or Zone R3 Medium Density Residential – the minimum setback requirements for multi dwelling housing under a relevant planning instrument, or (ii) for development on land in Zone R4 High Density Residential – the minimum setback requirements for residential flat buildings under a relevant planning instrument, and (b) If the co-living housing has at least 3 storeys – the building will comply with the minimum building separation distances specified in the Apartment Design Guide, and (c) At least 3 hours of direct solar access will be provided between 9am and 3pm at mid-winter in at least 1 communal living area, and (f) the design of the building will be compatible with - <ul style="list-style-type: none"> (i) the desirable elements of the character of the local area, or 	<ul style="list-style-type: none"> N/A. The site is not located within an residential land use zone. Complies on merit. The eastern and northern boundaries comply with the required separation distances of the ADG on the ground level through Level 3, and for Levels 4 & 5 in regard to the eastern boundary. The separation distances are non-compliant for Levels 4 & 5 in regard to the northern boundary. Visual privacy is protected through the implementation of high-level windows (noting that these windows are not the only source of sunlight in these rooms). Complies. The communal living area on Levels 2 & 3 will receive in excess of 5 hours of solar access from 9am to 3pm in mid-winter. Refer to Part 4.1.2.(a) of this SEE.

CLAUSE	DEVELOPMENT STANDARD/CONTROL	COMPLIANCE
	<p>(ii) for precincts undergoing transition – the desired future character of the precinct.</p> <ul style="list-style-type: none"> (3) Subsection (1) does not apply to development for the purposes of minor alterations or additions to existing co-living housing 	<ul style="list-style-type: none"> Noted. Not applicable to this proposal.
70 No subdivision	<ul style="list-style-type: none"> Development consent must not be granted for the subdivision of co-living housing into separate lots. 	<ul style="list-style-type: none"> Noted. Not proposed.

Appendix B Canterbury-Bankstown Local Environmental Plan 2023

CLAUSE	DEVELOPMENT STANDARD/CONTROL	COMPLIANCE
Zoning	<ul style="list-style-type: none"> Zone B2 Local Centre <p>"2 Permitted without consent <i>Home occupations</i></p> <p>3 Permitted with consent <i>Boarding houses; Building identification signs; Business identification signs; Centre-based child care facilities; Commercial premises; Community facilities; Educational establishments; Entertainment facilities; Function centres; Information and education facilities; Local distribution premises; Medical centres; Oyster aquaculture; Passenger transport facilities; Recreation facilities (indoor); Registered clubs; Respite day care centres; Restricted premises; Roads; Service stations; Shop top housing; Tank-based aquaculture; Tourist and visitor accommodation; Any other development not specified in item 2 or 4</i></p> <p>4 Prohibited <i>Agriculture; Air transport facilities; Airstrips; Animal boarding or training establishments; Boat building and repair facilities; Boat launching ramps; Boat sheds; Camping grounds; Caravan parks; Cemeteries; Charter and tourism boating facilities; Correctional centres; Crematoria; Depots; Eco-tourist facilities; Electricity generating works; Exhibition homes; Exhibition villages; Extractive industries; Farm buildings; Forestry; Freight transport facilities; Health services facilities; Heavy industrial storage establishments; Helipads; Highway service centres; Home occupations (sex services); Industrial retail outlets; Industrial training facilities; Industries; Jetties; Marinas; Mooring pens; Moorings; Open cut mining; Pond-based aquaculture; Port facilities; Recreation facilities (major); Recreation facilities (outdoor); Research stations; Residential accommodation; Rural industries; Sewerage systems; Sex services premises; Signage; Storage premises; Transport depots; Truck depots; Vehicle body repair workshops; Warehouse or distribution centres; Waste or resource management facilities; Water recreation structures; Water supply systems; Wharf or boating facilities; Wholesale supplies"</i></p>	<ul style="list-style-type: none"> Complies. <p>Shop top housing & commercial premises are permitted with consent.</p> <p>Refer to Section 4.1.6.(a) of this SEE.</p>
Clause 4.3 Height of Buildings	<ul style="list-style-type: none"> A split height of 20m and 19m applies to the subject site. 	<ul style="list-style-type: none"> Maximum height proposed = 19.72m. <p>Refer to Section 4.1.6.(b) of this SEE.</p>
Clause 4.4	<ul style="list-style-type: none"> 2.5:1 (2,434.50m²) 	<ul style="list-style-type: none"> Complies.

CLAUSE	DEVELOPMENT STANDARD/CONTROL	COMPLIANCE
Floor Space Ratio		2.38:1 (2,319m ²) Refer to Section 4.1.6.(c) of this SEE.
Clause 5.10 Heritage Conservation	<ul style="list-style-type: none"> The objectives of this clause are as follows: <ul style="list-style-type: none"> (a) to conserve the environmental heritage of Canterbury-Bankstown, (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views, (c) to conserve archaeological sites, (d) to conserve Aboriginal objects and Aboriginal places of heritage significance. 	<ul style="list-style-type: none"> N/A. The subject site has not been identified as a heritage item, nor is it located within a heritage conservation area, or in the vicinity of a heritage item.
Clause 5.21 Flood Planning	<ul style="list-style-type: none"> Development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development— <ul style="list-style-type: none"> (a) is compatible with the flood function and behaviour on the land, and (b) will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and (c) will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and (d) incorporates appropriate measures to manage risk to life in the event of a flood, and (e) will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses. 	<ul style="list-style-type: none"> The site is not known to be flood-affected.
Clause 6.1 Acid Sulfate Soils	<ul style="list-style-type: none"> Development consent is required for the carrying out of works described in the table to this subclause on land shown on the Acid Sulfate Soils Map as being of the class specified for those works. 	<ul style="list-style-type: none"> N/A. Not identified on the relevant map.
Clause 6.2 Earthworks	<ul style="list-style-type: none"> Development consent is required for earthworks unless— <ul style="list-style-type: none"> (a) the earthworks are exempt development under this plan or another applicable environmental planning instrument, or (b) the earthworks are ancillary to— <ul style="list-style-type: none"> (i) development that is permitted without development consent under this plan, or (ii) development for which development consent has been granted. 	<ul style="list-style-type: none"> Any earthworks will be ancillary to the development associated with this application.

CLAUSE	DEVELOPMENT STANDARD/CONTROL	COMPLIANCE
Clause 6.3 Stormwater Management and Water Sensitive Design	<ul style="list-style-type: none"> Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development— <ul style="list-style-type: none"> (a) is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water, and (b) includes, if practicable, on-site stormwater retention for use as an alternative supply to mains water, groundwater or river water, and (c) avoids significant adverse impacts of stormwater runoff on the land on which the development is carried out, adjoining properties and infrastructure, native bushland and receiving waters, or if the impact cannot be reasonably avoided, minimises and mitigates the impact, and (d) includes riparian, stormwater and flooding measures, and (e) is designed to incorporate the following water sensitive urban design principles— <ul style="list-style-type: none"> (i) protection and enhancement of water quality, by improving the quality of stormwater runoff from urban catchments, (ii) minimisation of harmful impacts of urban development on water balance and on surface and groundwater flow regimes, (iii) integration of stormwater management systems into the landscape in a way that provides multiple benefits, including water quality protection, stormwater retention and detention, public open space and recreational and visual amenity. 	<ul style="list-style-type: none"> Complies. Refer to the stormwater plans & certification prepared by Engineering Studio Civil & Structural submitted under separate cover.
Clause 6.9 Essential Services	<ul style="list-style-type: none"> 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— <ul style="list-style-type: none"> (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. 	<ul style="list-style-type: none"> The subject site is within an urban area and is considered to have access to water, electricity, and sewage. <p>It is noted that a substation is likely to be required for the development and, if required, will be located within the south-eastern corner of the site, with access from the secondary street</p>

CLAUSE	DEVELOPMENT STANDARD/CONTROL	COMPLIANCE
		<p>frontage of The Crescent.</p> <p>The proposal will include provisions for appropriate stormwater management, waste management, and vehicular access.</p>
Clause 6.10 Active Street Frontages	<ul style="list-style-type: none"> This clause applies to land identified as “Active street frontage” on the Active Street Frontages Map. Development consent must not be granted to the erection of a building, or a change of use of a building, on land to which this clause applies unless the consent authority is satisfied — <ul style="list-style-type: none"> (a) the building will— <ul style="list-style-type: none"> (i) have an active street frontage, and (ii) consist of design elements that encourage interaction and flow between the inside of the building and the external public areas of the building, and (iii) be used for purposes that encourage the movement and flow of people between the internal and the external public areas of the building, and (b) the development ensures that conflicts between pedestrians, cyclists and vehicles will be minimised. 	<ul style="list-style-type: none"> The Highland Avenue frontage of the subject site is identified as being an Active Street Frontage. The ground floor frontage to Highland Avenue will be activated through the provision of the entrance to the two proposed commercial tenancies and the provision of glazing along the majority of the length of the frontage to encourage interaction between the inside of the building and external

CLAUSE	DEVELOPMENT STANDARD/CONTROL	COMPLIANCE
	<ul style="list-style-type: none"> An active street frontage is not required for part of a building used for the following— <ul style="list-style-type: none"> (a) entrances and lobbies, including as part of mixed use development, (b) access for fire services, (c) vehicular access. 	<p>public areas of the adjoining footpaths.</p> <p>Conflict between pedestrians, cyclists and vehicles will be minimised as the vehicle crossover is located on the non-active street frontage of the street. Also, the proposed glazing will promote an appropriate line of sight from the internal and external areas of the commercial premises to limit dead zones where conflict may occur.</p> <ul style="list-style-type: none"> Noted. All of these uses are located on the non-active street frontage of the site (The Crescent).
Clause 6.12 Special Provisions for shop top housing	<ul style="list-style-type: none"> This clause applies to land identified as “Area 6” on the Special Provisions Map. Development consent must not be granted to development for the purposes of shop top housing on land to which this clause applies unless the consent authority is satisfied that the commercial premises or health services facilities are connected internally to a dwelling. 	<ul style="list-style-type: none"> N/A. The subject site is not identified as Area 6 on the Special Provisions Map.

CLAUSE	DEVELOPMENT STANDARD/CONTROL	COMPLIANCE
Clause 6.15 Design Excellence	<ul style="list-style-type: none"> This clause applies to the erection of a new building for the following purposes— <ul style="list-style-type: none"> (a) boarding houses, if the new building has at least 4 storeys, (b) multi dwelling housing of 10 or more dwellings, (c) residential flat buildings, if the new building has at least 4 storeys, (d) schools, if the new building has a gross floor area of 2,000m² or more used for a school, (e) centre-based child care facilities, if the new building will be used for a centre-based child care facility for at least 100 children at one time, (f) seniors housing, if the new building has at least 4 storeys, <u>(g) co-living housing, if the new building has at least 4 storeys.</u> (h) commercial premises, if the new building has a gross floor area of 1,000m² or more used for commercial premises, <u>(i) shop top housing, if the new building has at least 4 storeys.</u> (j) warehouse or distribution centres, if the new building has a gross floor area of 5,000m² or more used for a warehouse or distribution centre. (k) places of public worship, if the new building has a gross floor area of 1,000m² or more used for a place of public worship, (l) registered clubs, if the new building has a gross floor area of 1,000m² or more used for a registered club, Development consent must not be granted to development to which this clause applies unless the consent authority is satisfied the development exhibits design excellence. In deciding whether the development exhibits design excellence, the consent authority must consider the following— <ul style="list-style-type: none"> (a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved, 	<ul style="list-style-type: none"> This Clause applies as the development is a shop top housing and co-living development that has at least 4 storeys. Noted. See consideration below. Complies. The proposed built form has been designed appropriately articulated with the use of balconies, and recesses to break up large expanses of built form. The built form is then finished with a high standard of materials and

CLAUSE	DEVELOPMENT STANDARD/CONTROL	COMPLIANCE
	<p>(b) whether the form and external appearance of the development will improve the quality and amenity of the public domain,</p> <p>(c) whether the development detrimentally impacts on view corridors,</p> <p>(d) how the development addresses the following matters—</p> <p>(i) heritage issues,</p> <p>(ii) the relationship of the development with other existing or proposed development on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,</p>	<p>detailing to respect the nurtural streetscape of the locality.</p> <ul style="list-style-type: none"> • The form of the proposed built form has been designed in accordance with the envelope controls of the CBDP 2023. The external appearance is then improved with adequate placing of balconies, recesses, and differing materials. • The proposal has been designed in accordance with the envelope controls of the CBDP 2023. As such, view corridors as envisaged by the DCP have been respected. • See below <ul style="list-style-type: none"> ○ No heritage issues arise from this development. ○ As mentioned previously, the subject site is one of the first to be

CLAUSE	DEVELOPMENT STANDARD/CONTROL	COMPLIANCE
	(iii) bulk, massing and modulation of buildings,	<p>developed within the subject B2 zone. As such, the development has been generally designed to comply with the key development standards and controls of the relevant policies unless suitably justified. The proposal has, therefore, been designed in line with the future desired character as outlined by the relevant controls.</p> <ul style="list-style-type: none"> ○ The form of the proposed built form has been designed in accordance with the envelope controls of the CBDP 2023.

CLAUSE	DEVELOPMENT STANDARD/CONTROL	COMPLIANCE
	<p>(iv) street frontage heights,</p> <p>(v) environmental impacts, including sustainable design, overshadowing, wind and reflectivity,</p> <p>(vi) the achievement of the principles of ecologically sustainable development,</p>	<p>The external appearance is then improved with adequate placing of balconies, recesses, and differing materials.</p> <ul style="list-style-type: none"> ○ The proposal achieves the street frontage heights required by the CBDP 2023. ○ The proposal has managed overshadowing impacts to ensure that the majority of shadows cast fall onto the road reserve. ○ The proposal can be conditioned to meet the relevant Section J provisions, which will manage ecological sustainability.

CLAUSE	DEVELOPMENT STANDARD/CONTROL	COMPLIANCE
	<p>(vii) pedestrian, cycle, vehicular and service access, circulation and requirements,</p> <p>(viii) the impact on, and any proposed improvements to, the public domain,</p> <p>(ix) the integration of utilities, building services and waste management infrastructure in the site layout and building design,</p> <p>(e) whether the development integrates high quality landscape design in the site layout and building design.</p>	<ul style="list-style-type: none"> ○ Pedestrian, cycle, vehicular, and access requirements have been addressed within this SEE, and relevant consultant reports have been submitted under separate cover. ○ The proposed development will improve the public domain through the provision of active street frontages, along with awnings, which will provide weather protection. ○ Refer to the architectural plans for the location of services. ○ Reference should be made to the

CLAUSE	DEVELOPMENT STANDARD/CONTROL	COMPLIANCE
		landscape plan prepared by RFA Landscape Architects.
Clause 6.21 Restrictions on development in Zones B1, B2, and B5	<ul style="list-style-type: none"> This clause applies to the following land— <ul style="list-style-type: none"> (a) land in Zone B1, <u>(b) land in Zone B2.</u> (c) land in Zone B5 in Area 2. Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the ground level of a building resulting from the development will not be used for residential accommodation. 	<ul style="list-style-type: none"> The subject site is land located within Zone B2. The proposed development does not involve any residential accommodation on the ground floor.

Appendix C Canterbury-Bankstown Development Control Plan 2023

CHAPTER/ PLANNING GUIDELINE	DEVELOPMENT STANDARD/CONTROL	COMPLY
CHAPTER 2 – SITE CONSIDERATIONS		
SECTION 2.1 – SITE ANALYSIS		
Site Analysis Plans	<ul style="list-style-type: none"> Development for the following purposes must submit a site analysis plan: <ul style="list-style-type: none"> (a) attached dwellings (b) boarding houses (c) manor houses (d) multi dwelling housing (e) multi dwelling housing (terraces) (f) residential flat buildings (g) serviced apartments <u>(h) shop top housing</u> (i) housing estates (j) mixed use development containing dwellings (k) Torrens Title subdivision that proposes three or more lots. The results of the site analysis must illustrate the following principles in the form of a site analysis plan: <p>Principle 1: Context</p> <p>Good design responds and contributes to its context. Responding to context involves identifying risks from natural hazards and potential impacts from surrounding land uses. Responding to context also involves identifying the desirable elements of a location's current character or, in the case of precincts undergoing a transition, the desired future character as stated in planning and design policies. This will help a new building to contribute to the quality and identity of an area.</p> <p>Principle 2: Scale</p> <p>Good design provides an appropriate scale in terms of the bulk and height that suits the scale of the street and the surrounding buildings. Establishing an appropriate scale requires a considered response</p> 	<ul style="list-style-type: none"> Sheet No. 02 of the architectural plans provided by Pagano Architects provides a site analysis plan.

CHAPTER/ PLANNING GUIDELINE	DEVELOPMENT STANDARD/CONTROL	COMPLY
	<p>to the scale of existing development in the street. In precincts undergoing a transition, the proposed bulk and height needs to achieve the scale identified for the desired future character of the area.</p> <p>Principle 3: Built form</p> <p>Good design achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, and building elements. Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, and provides internal amenity and outlook.</p> <p>Principle 4: Density</p> <p>Good design has a density appropriate for a site and its context in terms of floor space yields (or number of units). Appropriate densities are sustainable and consistent with the existing density in an area or, in precincts undergoing a transition, are consistent with the stated desired future density. In some cases, a sustainable density may mean a development will not achieve the maximum floor space ratio or density if it is to provide an environmental quality appropriate to the site.</p> <p>Principle 5: Resource, energy, and water efficiency</p> <p>Good design makes efficient use of natural resources, energy, and water throughout its full life cycle. Sustainability is integral to the design process. Aspects include selection of appropriate and sustainable materials, layouts and built form, passive solar design principles, soil zones for vegetation, and reuse of water.</p> <p>Principle 6: Landscape</p> <p>Good design recognises the integration of landscape and buildings results in greater aesthetic quality and amenity for occupants and the adjoining public domain. Landscape design builds on the existing site's natural and cultural features in responsible and creative ways. It enhances microclimate, tree canopy and habitat values, positive image to the streetscape and neighbourhood character, privacy, and respect for neighbours' amenity.</p>	

CHAPTER/ PLANNING GUIDELINE	DEVELOPMENT STANDARD/CONTROL	COMPLY
	<p>Principle 7: Amenity</p> <p>Good design provides amenity through the physical, spatial and environmental quality of a development. Optimising amenity requires appropriate room dimensions and shapes, access to sunlight, natural ventilation, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, outlook, and ease of access for all age groups and degrees of mobility.</p> <p>Principle 8: Safety and security</p> <p>Good design optimises safety and security, both internal to the development and for the public domain. This is achieved by maximising overlooking of public and communal spaces while maintaining internal privacy, maximising activity on streets, providing clear access, providing quality public spaces that cater for desired recreational uses, providing lighting appropriate to the location, and clear definition between public and private spaces.</p> <p>Principle 9: Social dimensions</p> <p>Good design responds to the social context and needs of the local community in terms of lifestyles, affordability, and access to social facilities. New developments should optimise the provision of housing to suit the social mix and needs in the neighbourhood or, in the case of precincts undergoing transition, provide for the desired future community.</p> <p>Principle 10: Aesthetics</p> <p>Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures. The visual appearance of well-designed development responds to the desirable elements of the existing streetscape or, in precincts undergoing transition, contribute to the desired character of the area.</p>	
CHAPTER 3 – GENERAL REQUIREMENTS		
3.1 DEVELOPMENT ENGINEERING STANDARDS		
Section 2 – Civil Engineering Requirements		

CHAPTER/ PLANNING GUIDELINE	DEVELOPMENT STANDARD/CONTROL	COMPLY																												
Vehicular footway crossing design and construction	<div><div><div><div>Development requiring vehicular access across the Council footpath area must provide a vehicular footway crossing (VFC) with maximum and minimum widths in accordance with the following table. Maximum size is dependent on providing at least a 6m separation between wings, at the kerb, to adjoining VFCs. Minimum widths will apply in areas with high on street parking demands, and where on street time restrictions are in place.</div><table><tr><th>Use</th><th>Minimum width of VFC @ boundary</th><th>Maximum width of VFC @ boundary</th><th>Minimum standard of VFC</th></tr><tr><td>Residential</td><td>2.75m *</td><td>5.5m</td><td>Light duty</td></tr><tr><td>Dual occupancy (with single access to both dwellings)</td><td>3.5m</td><td>5.5m</td><td>Medium duty</td></tr><tr><td>Dual occupancy (with separate access to each dwelling)</td><td>2.75m *</td><td>3.5m *</td><td>Light duty</td></tr><tr><td>Multi-dwelling development</td><td>3.5m</td><td>6m **</td><td>Heavy duty</td></tr><tr><td>Commercial development</td><td>3.5m TfNSW Guidelines</td><td>TfNSW Guidelines</td><td>Heavy duty</td></tr><tr><td>Industrial development</td><td>TfNSW Guidelines</td><td>TfNSW Guidelines</td><td>Heavy duty</td></tr></table><div><div>* A second vehicular crossing will be permitted if:<ul style="list-style-type: none">A minimum 6m long parking bay can be provided between the wings of the crossings. Council may vary this requirement under special circumstances, based on technical assessments of the merits of the situation.The area of paving within the site is minimised.There is sufficient landscaping being provided to compensate for the additional paved area.</div><div>** A second 3.5m wide crossing will be permitted for disabled access or garbage bay access.</div></div></div></div></div>	Use	Minimum width of VFC @ boundary	Maximum width of VFC @ boundary	Minimum standard of VFC	Residential	2.75m *	5.5m	Light duty	Dual occupancy (with single access to both dwellings)	3.5m	5.5m	Medium duty	Dual occupancy (with separate access to each dwelling)	2.75m *	3.5m *	Light duty	Multi-dwelling development	3.5m	6m **	Heavy duty	Commercial development	3.5m TfNSW Guidelines	TfNSW Guidelines	Heavy duty	Industrial development	TfNSW Guidelines	TfNSW Guidelines	Heavy duty	<div><div>Reference should be made to the Traffic Impact Assessment prepared by MLA Transport Planning.</div></div>
Use	Minimum width of VFC @ boundary	Maximum width of VFC @ boundary	Minimum standard of VFC																											
Residential	2.75m *	5.5m	Light duty																											
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Industrial development	TfNSW Guidelines	TfNSW Guidelines	Heavy duty																											

CHAPTER/ PLANNING GUIDELINE	DEVELOPMENT STANDARD/CONTROL	COMPLY
Vehicular crossing criteria footway design	<ul style="list-style-type: none"> For any vehicular footway crossing (VFC) application, approval may depend upon the impact of the VFC on existing infrastructure. The VFCs should be designed and located to: <ul style="list-style-type: none"> Maintain clear distances of at least 6m, and multiples of 6m between proposed VFCs. Maintain 6m minimum distance from adjoining existing VFC wings. Kerb lengths of 3m–5.9m between crossing wings should be avoided to reduce the potential for parked vehicles obstructing other vehicular crossings. Maintain a minimum separation of 1.8m between VFCs at the road boundary. This will provide a minimum of 0.2m kerb length between laybacks. Avoid services such as Telstra, Sydney Water, Council stormwater drainage pits and any other existing structures. The cost of relocating any services must be borne by the applicant. Be 0.6m clear of power poles to satisfy the electricity authorities' requirements. The wing of the crossing is to be a minimum of 0.5m clear of the lintel of any street drainage pit. Be at least 1m minimum from site boundaries at the road boundary. Be no closer to the intersection of the side road than 6m from the tangent points of the kerb returns of the intersection in accordance with the Australian Standard AS 2890.1. Maintain adequate sight lines to pedestrians and traffic as required by the Australian Standard AS 2890.1. Avoid existing street and regulatory signs. Existing street signs may be relocated with prior approval from Council. The cost to relocate signs must be borne by the developer. Avoid existing bus shelters and consider sight distance problems associated with the walls of the bus shelter. Any relocation of the bus shelter must be approved by Council. The relevant local bus company and, if applicable, the bus shelter owner, if not Council. The cost to relocate the bus shelter must be borne by the developer. <p>Due to demand for on-street parking around sites such as hospitals, railway stations and centres, a second crossing should not be proposed where the site is within 200m to these types of facilities or services. If on-street parking is subjected to a time limit along the frontage of the site, then the number of VFCs will be restricted to one only. In general, development is required to retain at least one on-street parking space adjacent to the site.</p>	<ul style="list-style-type: none"> Reference should be made to the Traffic Impact Assessment prepared by MLA Transport Planning.
Internal Driveway Requirements	<ul style="list-style-type: none"> The on-site driveway layout must be designed so that a car may be able to access and exit all required car spaces in one motion. In addition, a required car parking space must be located so as to be outside and 	<ul style="list-style-type: none"> Reference should be made to the Traffic Impact Assessment

CHAPTER/ PLANNING GUIDELINE	DEVELOPMENT STANDARD/CONTROL	COMPLY
	clear of any vehicular manoeuvring area or right of carriage way. Austroads standard turning path templates are to be used to determine acceptability	prepared by MLA Transport Planning.
Sight distance requirements	<ul style="list-style-type: none"> Adequate sight distance must be provided for vehicles exiting driveways. Clear sight lines are to be provided at the street boundary to ensure adequate visibility between vehicles on the driveway and pedestrians on the footway and vehicles on the roadway. <p>Refer to the Australian Standard AS 2890.1 for minimum sight distance requirements. If adequate sight distance for the access to any development cannot be achieved and considered a concern, the applicant may be required to install regulatory signs, at the boundary of the development, as agreed with Council.</p>	<ul style="list-style-type: none"> Complies. Sightlines are achieved at the site boundary.
Section 3 – Stormwater Drainage Systems		
Development impacted by stormwater systems	<ul style="list-style-type: none"> Applicants must apply to Council for a Stormwater System Report (SSR), prior to DA submission, if the site is noted on Council's SSR register as affected by Council's stormwater drainage pipelines and/or affected by potential local stormwater flooding. The development must be designed to consider the recommendations of the SSR and satisfy the requirements of this DCP. It is the applicant's responsibility to locate and verify Council's stormwater drainage system as shown on the SSR or other information given by Council, including OLFPs where the stormwater system is located within the site. Development must be designed and constructed to make provision for overland flow from stormwater runoff generated by external upstream catchments. 	<ul style="list-style-type: none"> Refer to the stormwater plans & certification prepared by Engineering Studio Civil & Structural submitted under separate cover.
Disposal of stormwater runoff	<ul style="list-style-type: none"> Site stormwater drainage systems should be designed to flow under gravity, and be connected to Council's stormwater drainage system at the nearest suitable location or CDL benefiting the site. Site drainage design should follow the natural fall of the catchment to a pipeline connection point that has been designed for the runoff. Catchment redirections may be permitted subject to compliance with requirements outlined below. <p>A separate approval to connect to Council's stormwater drainage system must be obtained from Council. Permission to carry out the works must be obtained by applying for the relevant Work Permit.</p> <p>The final number of drainage outlets will be determined by Council through the WP process and the Storm Water Connection Plan Approval.</p> <p>Pipelines constructed across the footway must generally be confined to within the site frontage. In certain circumstances Council may consider allowing the pipeline to extend a maximum of 20m along the footway</p>	<ul style="list-style-type: none"> Refer to the stormwater plans & certification prepared by Engineering Studio Civil & Structural submitted under separate cover.

CHAPTER/ PLANNING GUIDELINE	DEVELOPMENT STANDARD/CONTROL	COMPLY																				
	in front of adjoining site. The applicant must demonstrate that the development potential of the adjoining site, including construction of VFCs, will not be adversely affected.																					
Roof gutter design	<ul style="list-style-type: none">Roof, eave and/or box gutters and downpipes must be sized using the formulas and tables provided in accordance with the Australian Standard AS/NZS 3500 and Table 4b. In the case of OSD design, where overflow of the roof system cannot be directed to the OSD system, the roof stormwater drainage system must be designed for the 100-year ARI storm.	<ul style="list-style-type: none">Refer to the stormwater plans & certification prepared by Engineering Studio Civil & Structural submitted under separate cover.																				
Stormwater system ARI design criteria	<ul style="list-style-type: none">The following design ARIs should be applied to the relevant components of the stormwater drainage system: Table 3b<table><tr><th>Stormwater design element</th><th>Design average recurrence interval (years)</th></tr><tr><td>Site Piped Drainage (Residential)</td><td>10</td></tr><tr><td>Eave Gutters and Downpipes (Residential)</td><td>10</td></tr><tr><td>Site Piped Drainage (Commercial & Industrial)</td><td>20</td></tr><tr><td>Eave Gutters and Downpipes (Commercial & Industrial)</td><td>20</td></tr><tr><td>Box Gutters and Downpipes</td><td>100</td></tr><tr><td>Common Drainage Line (Residential) *</td><td>10</td></tr><tr><td>Common Drainage Line (Com & Ind)*</td><td>20</td></tr><tr><td>Inter-allotment Drainage no OLFP</td><td>100</td></tr><tr><td>Outlet to Natural Watercourse **</td><td>5</td></tr></table><p>* Where an OLFP for flows in excess of the pipe capacity has been provided.</p><p>** See Section 4</p><p>Council may vary the required ARI in instances where personal safety or the potential for property damage warrants such a variation.</p>	Stormwater design element	Design average recurrence interval (years)	Site Piped Drainage (Residential)	10	Eave Gutters and Downpipes (Residential)	10	Site Piped Drainage (Commercial & Industrial)	20	Eave Gutters and Downpipes (Commercial & Industrial)	20	Box Gutters and Downpipes	100	Common Drainage Line (Residential) *	10	Common Drainage Line (Com & Ind)*	20	Inter-allotment Drainage no OLFP	100	Outlet to Natural Watercourse **	5	<ul style="list-style-type: none">Refer to the stormwater plans & certification prepared by Engineering Studio Civil & Structural submitted under separate cover.
Stormwater design element	Design average recurrence interval (years)																					
Site Piped Drainage (Residential)	10																					
Eave Gutters and Downpipes (Residential)	10																					
Site Piped Drainage (Commercial & Industrial)	20																					
Eave Gutters and Downpipes (Commercial & Industrial)	20																					
Box Gutters and Downpipes	100																					
Common Drainage Line (Residential) *	10																					
Common Drainage Line (Com & Ind)*	20																					
Inter-allotment Drainage no OLFP	100																					
Outlet to Natural Watercourse **	5																					
Overland flow paths for stormwater from	<ul style="list-style-type: none">Overland flow paths must be considered and designed where stormwater runoff, in excess of the design capacity of the pipelines for the upstream catchment, has the potential to flow through a site. Overland	<ul style="list-style-type: none">Refer to the stormwater plans &																				

CHAPTER/ PLANNING GUIDELINE	DEVELOPMENT STANDARD/CONTROL	COMPLY
upstream catchments	<p>flow paths must be considered and designed for the stormwater runoff developed from within the site as well.</p> <p>The applicant may be required to provide Council with a flood study to determine the OLFP requirements, for assessment with the DA plans.</p> <p>If a site has all of or part of a natural depression forming an OLFP within it, then Council may require an unobstructed OLFP, of adequate capacity, be maintained or constructed within the site. Often the natural depression coincides with a drainage easement, over a pipeline within the site. If the drainage easement is not coincidental to the natural depression where overland flow may occur, then Council may require a depression be created over the easement or an easement for overland flow be created over the natural depression area. In general, Council does not allow structures that will obstruct, block or adversely divert overland flow to be placed or constructed in the OLFP.</p> <p>Applicants should plan a development so OLFPs are directed along driveways, through common grassed areas and where fencing requirements are minimised or limited. OLFPs through courtyard areas are discouraged and should not be proposed on new sites. Redirection of OLFP is permitted within the site provided there is no adverse effect on adjacent sites.</p>	<p>certification prepared by Engineering Studio Civil & Structural submitted under separate cover.</p>
3.2 Car Parking		
SECTION 2–OFF-STREET PARKING RATES		
Off-street parking rates	<ul style="list-style-type: none"> Development must use the Off-Street Parking Schedule to calculate the amount of car, bicycle and service vehicle parking spaces that are required on the site. <p>Car parking: Business/retail in the former Bankstown LGA = 1 space per 40m² GFA.</p> <p>Bicycle parking: Business/retail = 1 space per 300m² GFA for staff & 1 space per 500m² GFA over 1,000m²</p>	<ul style="list-style-type: none"> The co-living housing portion of the development is applicable to car parking rates per the SEPP (Housing) 2021. In this regard, nine car parking spaces are required. <p>The commercial portion of the site</p>

CHAPTER/ PLANNING GUIDELINE	DEVELOPMENT STANDARD/CONTROL	COMPLY
	<ul style="list-style-type: none"> In calculating the total number of car parking spaces required for development, these must be: <ul style="list-style-type: none"> (a) rounded down if the fraction of the total calculation is less than half (0.5) a space; or (b) rounded up if the fraction of the total calculation is equal or more than half (0.5) space; and (c) must include a room that is capable of being converted to a bedroom. Development comprising more than one land use must provide the combined parking requirement based on the individual rates of parking for each land use identified in the Off-Street Parking Schedule. Development comprising more than one land use must provide the combined parking requirement based on the individual rates of parking for each land use identified in the Off-Street Parking Schedule. Car parking (and associated space such as access aisles) in excess of the Off-Street Parking Schedule will be counted as gross floor area. Development not included in the Off-Street Parking Schedule must submit a parking study for Council's consideration. A qualified traffic consultant must prepare the parking study. 	<p>requires 3.8 spaces, rounded to 4 spaces.</p> <p>As such, a total of 13 spaces is required.</p> <p>The ground floor parking area provides 13 spaces, demonstrating compliance.</p> <p>Reference should be made to the Traffic Impact Assessment prepared by MLA Transport Planning.</p> <ul style="list-style-type: none"> Noted. Noted. Noted. N/A.

CHAPTER/ PLANNING GUIDELINE	DEVELOPMENT STANDARD/CONTROL	COMPLY				
	<ul style="list-style-type: none">The Off-Street Parking Schedule does not apply to changes of uses to business premises, food and drink premises, medical centres, office premises, recreation facilities (indoor), shops and veterinary hospitals within Zones B1, B2 and B4 provided: (a) The new use does not result in an increase in the gross floor area of any building within which it is carried out. (b) The new use does not cause the contravention of any existing condition of the most recent development consent (other than a complying development certificate) that applies to the premises relating to car parking and vehicular movement.	<ul style="list-style-type: none">Noted. N/A.				
Accessible off-street parking rates	<ul style="list-style-type: none">Accessible parking is required to be designed and constructed in accordance with the following rates:<table><tr><th>Development type</th><th>Accessible parking rates</th></tr><tr><td>Commercial and industrial premises (BCA Classes 5–8) where development contains 10 or more spaces</td><td>1 accessible parking space per 50 parking spaces for staff; 1 accessible parking space for visitors per 50 parking spaces where a car park has less than 500 spaces; 1 additional accessible parking space per 100 parking spaces above 500 spaces for visitors</td></tr></table>	Development type	Accessible parking rates	Commercial and industrial premises (BCA Classes 5–8) where development contains 10 or more spaces	1 accessible parking space per 50 parking spaces for staff; 1 accessible parking space for visitors per 50 parking spaces where a car park has less than 500 spaces; 1 additional accessible parking space per 100 parking spaces above 500 spaces for visitors	<ul style="list-style-type: none">Complies. Refer to BCA and Access 2022 Indicative Compliance Report prepared by Building Innovations Australia.
Development type	Accessible parking rates					
Commercial and industrial premises (BCA Classes 5–8) where development contains 10 or more spaces	1 accessible parking space per 50 parking spaces for staff; 1 accessible parking space for visitors per 50 parking spaces where a car park has less than 500 spaces; 1 additional accessible parking space per 100 parking spaces above 500 spaces for visitors					
SECTION 3–DESIGN AND LAYOUT						
Parking Location	<ul style="list-style-type: none">Development must not locate entries to car parking or delivery areas: (a) close to intersections and signalised junctions; (b) on crests or curves; (c) where adequate sight distance is not available; (d) opposite parking entries of other buildings that generate a large amount of traffic (unless separated by a raised median island); (e) where right turning traffic entering may obstruct through traffic;	<ul style="list-style-type: none">The proposed vehicular entryway is located on the secondary street frontage of The Crescent and is located away from the intersection of				

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	<p>(f) where vehicles entering might interfere with operations of bus stops, taxi ranks, loading zones or pedestrian crossings; or (g) where there are obstructions which may prevent drivers from having a clear view of pedestrians and vehicles.</p> <ul style="list-style-type: none"> Parking areas for people with disabilities should be close to an entrance to development. Access from the parking area to the development should be by ramps or lifts where there are separate levels. Where above ground parking is the only solution possible, locate to the rear of buildings. 	<p>Highland Avenue and The Crescent.</p> <p>The entry is not located opposite parking entries of other traffic-generating developments.</p> <p>Vehicles will not interfere with any bus stops, taxi ranks, loading zones, or pedestrian crossings.</p> <ul style="list-style-type: none"> Complies. The proposed accessible space is located close to the entry foyer. N/A.
Alternate parking arrangements	<ul style="list-style-type: none"> Council may consider tandem parking in the following situations: (a) Industrial development where the users of the car parking will almost all be employees. (b) High density residential flat buildings, shop top housing and mixed use development if the parking users reside in the same dwelling or the employees work in the same premises. (c) Tandem parking for a maximum of two vehicles is permissible in dwelling houses, dual occupancies, attached dwellings, secondary dwellings, semi-detached dwellings, multi dwelling housing and multi dwelling housing (terraces) if the parking users reside in the same dwelling. 	<ul style="list-style-type: none"> Not proposed. Not proposed.

CHAPTER/ PLANNING GUIDELINE	DEVELOPMENT STANDARD/CONTROL	COMPLY
	<ul style="list-style-type: none"> Tandem parking is not permitted where a high proportion of the users of the car park are visitors or customers. Council may consider turn tables for non-residential development in Zones B2 and B4, subject to further assessment. Mechanical parking devices, including car lifts, will not be supported. 	<ul style="list-style-type: none"> Not proposed. Not proposed.
Access driveway width and design	<ul style="list-style-type: none"> The location of driveways to properties should allow the shortest, most direct access over the nature strip from the road. 	<ul style="list-style-type: none"> Complies. The driveway crossover is located along the secondary street frontage of The Crescent, as Highland Avenue is an active street frontage, and a garage entry along this strip would be unattractive. <p>The width of the nature strip along The Crescent is the same width. As such, the location chosen is controlled by being away from the Highland Avenue/The Crescent intersection and the layout of the ground floor parking area to</p>

CHAPTER/ PLANNING GUIDELINE	DEVELOPMENT STANDARD/CONTROL	COMPLY						
	<ul style="list-style-type: none">The appropriate driveway width is dependent on the type of parking facility, whether entry and exit points are combined or separate, the frontage road type and the number of parking spaces served by the access facility.Driveway widths for existing dwellings and extensions to the existing properties are assessed on their merits.For new residential development, necessary clear driveway widths are provided in the following table:<table><tr><th>Driveway width</th><th>Minimum clear width</th></tr><tr><td>One-way</td><td>3m</td></tr><tr><td>Two-way</td><td>5.5m</td></tr></table>	Driveway width	Minimum clear width	One-way	3m	Two-way	5.5m	<ul style="list-style-type: none">avoid the inclusion of a basement.Reference should be made to the Traffic Impact Assessment prepared by MLA Transport Planning.N/A.N/A.
Driveway width	Minimum clear width							
One-way	3m							
Two-way	5.5m							
Minimum headroom dimensions	<ul style="list-style-type: none">Clear headroom dimension is necessary to make sure that vehicles are clear of mechanical or service obstructions such as fire sprinklers, lighting fixtures and signs. Following minimum headroom dimension has to be maintained in all development.	<ul style="list-style-type: none">Reference should be made to the Traffic Impact Assessment prepared by MLA Transport Planning.						

CHAPTER/ PLANNING GUIDELINE	DEVELOPMENT STANDARD/CONTROL		COMPLY								
	<table><tr><th>Minimum headroom</th><th>Dimension</th></tr><tr><td>Cars and light vans</td><td>2.4m</td></tr><tr><td>People with disabilities</td><td>2.3m</td></tr><tr><td>Small rigid vehicles</td><td>3.6m</td></tr></table>	Minimum headroom	Dimension	Cars and light vans	2.4m	People with disabilities	2.3m	Small rigid vehicles	3.6m		
Minimum headroom	Dimension										
Cars and light vans	2.4m										
People with disabilities	2.3m										
Small rigid vehicles	3.6m										
Loading and unloading facilities	<ul style="list-style-type: none">Mixed use development must provide appropriate loading/unloading or furniture pickup spaces. If no provision is made for the facilities, development applications must provide justification why they are not necessary.Where rear lane access is not available and the commercial/retail gross floor area of a building is greater than 500m2 , Council requires: (a) at least one off-street parking space for delivery/service vehicles; and	<ul style="list-style-type: none">Complies. A general loading bay is provided on the ground floor parking area. It is noted that this will typically be for the commercial spaces, as the co-living rooms will be fully furnished. The loading bay will also be used for the collection of waste as outlined within the Waste Management Plan prepared by Loka Consulting Engineers.Noted. Although not required, a loading bay has been									

CHAPTER/ PLANNING GUIDELINE	DEVELOPMENT STANDARD/CONTROL	COMPLY
	<p>(b) additional off-street parking spaces or a loading dock depending on the size, number, and frequency of delivery/service vehicles likely to visit the premises.</p> <ul style="list-style-type: none"> The design of loading docks must: <ul style="list-style-type: none"> (a) be separate from parking circulation or exit lanes to ensure safe pedestrian movement and uninterrupted flow of other vehicles in the circulation roadways; (b) allow vehicles to enter and leave the site in a safe manner; and (c) have minimum dimensions of 4m by 7m per space. Access to and from the service area is to be convenient with a lift or ramp provided. Service vehicles are to enter and leave the site in a forward direction. 	<p>provided in the ground floor parking area for delivery/servicing of the commercial/residential developments.</p> <ul style="list-style-type: none"> Complies. The loading bay is located at the furthest end of the car park and away from parking circulation/pedestrian movements. All loading and servicing occur internally. The commercial spaces are located adjacent to the loading bay for ease of access. Reference should be made to the Traffic Impact Assessment prepared by MLA Transport Planning.
Safety and security	<ul style="list-style-type: none"> Sloping ramps from car parks, garages and other communal areas are to have at least one full car length of level driveway before they intersect pavements and carriageways 	<ul style="list-style-type: none"> The parking area is level with the street.

CHAPTER/ PLANNING GUIDELINE	DEVELOPMENT STANDARD/CONTROL	COMPLY
Sight distance requirement	<ul style="list-style-type: none"> For all development, adequate sight distance must be provided for vehicles exiting driveways. Clear sight lines are to be provided at the street boundary to ensure adequate visibility between vehicles on the driveway and pedestrians on the footway and vehicles on the roadway. 	<ul style="list-style-type: none"> Complies. The proposed entry/exit to the parking area allows for appropriate sight lines.
Pedestrian access	<ul style="list-style-type: none"> Parking areas should be designed so that through-traffic is excluded, and pedestrian entrances and exits are separate from vehicular entrances and exits. Lifts and stair lobbies should be prominently marked to help users find them and to increase personal security. In split-level/multi-level car parks, a stairway should be located at the split-level, to provide pedestrian access between these levels and eliminate pedestrians having to use vehicular ramps. 	<ul style="list-style-type: none"> Complies. Pedestrian access to the site is separated by vehicular access. Complies. N/A.
Bicycle parking	<ul style="list-style-type: none"> For non-residential development that requires over ten staff bicycle parking spaces, provide one shower and change room per ten staff bicycle parking spaces. Provide a mix of bicycle storage facilities to cater for short and long stay parking. Bicycle racks or stands placed in open public areas that provide only means to lock one wheel of a bicycle to a fixture is not an acceptable secure arrangement. Devices requiring a wheel to be removed are also not acceptable. Development must incorporate the following elements into the design and location of bicycle parking: <ul style="list-style-type: none"> (a) all facilities are clearly visible and as close as possible to the main entrances/exits to the street and within the building; (b) short-stay and visitor parking is at-grade and floor and wall-mounted rails are acceptable; (c) long-stay and resident parking is on the uppermost level of a basement car park; 	<ul style="list-style-type: none"> N/A. Storage of bicycles will be within individual co-living rooms. N/A. N/A. Storage of bicycles will be within individual co-living rooms.

CHAPTER/ PLANNING GUIDELINE	DEVELOPMENT STANDARD/CONTROL	COMPLY
	<p>(d) a safe path of travel between bicycle parking and the main entrances/exits is clearly marked;</p> <p>(e) bicycle facilities are not to hinder vehicle and pedestrian movements, or contribute to the likelihood of injury to passing pedestrians;</p> <p>(f) access paths to bicycle parking are a minimum of 1.5m wide for oneway access path to allow the passage of a pedestrian pushing a bicycle; and</p> <p>(g) standardised information signs are to be used to give directions to bicycle parking areas.</p> <ul style="list-style-type: none"> Bicycle parking facilities are to be well lit to minimise theft, vandalism, reduce pedestrian hazard and to improve safety of the cyclists. 	<ul style="list-style-type: none"> N/A. Storage of bicycles will be within individual co-living rooms.
Visitor parking	<ul style="list-style-type: none"> Visitor spaces must not be located behind security grills and must be easily accessible. Clearly mark and signpost visitor parking, and locate on the ground floor where possible, so that it is easy to find and access. Visitor parking should be located near the main pedestrian entrance to the building and can be located in front of the building alignment, but not encroach upon the front setback areas. 	<ul style="list-style-type: none"> No visitor parking is provided on the site.
At-grade parking	<ul style="list-style-type: none"> Screen or enclose at-grade parking with landscaping, structures or by wrapping the car park with retail or other active uses. Avoid car parking areas and access driveways characterised by large expanse of bare concrete. Use a combination of different surface materials to delineate pedestrian thoroughfares, vehicular access and parking areas. 	<ul style="list-style-type: none"> The existing at-grade parking is screened by landscaping as per the submitted Landscape Plan prepared by RFA Landscape Architects. Complies. Pedestrian-marked areas will be identified on the fire egress route.

CHAPTER/ PLANNING GUIDELINE	DEVELOPMENT STANDARD/CONTROL	COMPLY
	<ul style="list-style-type: none"> • Use perforated paving materials (for example, paving units with wide bands of gravel aggregates) that allow infiltration of stormwater. • Trees are to be planted at the ratio of one tree per five car park places allocated. Species are to be selected for their ability to thrive where compaction and deoxygenation are characteristic of the soils. • For proposed car parks of capacity 40 cars or more, raised landscape island beds of minimum dimensions 2m by 4m shall be provided to break up row of cars, spaced at every ten car places for placement of a canopy tree. 	<ul style="list-style-type: none"> • The at-grade car parking area is covered. • The car parking area is located undercover. However, landscaping is proposed along the eastern boundary. • N/A.
3.3 Waste Management		
SECTION 4–COMMERCIAL DEVELOPMENT		
All commercial development types	<ul style="list-style-type: none"> • Development must provide bin storage and separation facilities within each tenancy and within the communal bin room. • Development must provide an appropriate and efficient waste storage system that considers: <ul style="list-style-type: none"> (a) the type of business; (b) the volume of waste generated on-site; (c) the number of bins required for the development and their size; (d) additional recycling needs e.g. cardboard, pallets and milk crates; (e) waste and recycling collection frequencies. 	<ul style="list-style-type: none"> • Complies. Waste bins for the commercial tenancy are provided in a separate area from the bins for the co-living development. • This application merely seeks approval for the space, and the use of the space will be subject to a first-use

CHAPTER/ PLANNING GUIDELINE	DEVELOPMENT STANDARD/CONTROL	COMPLY
	<ul style="list-style-type: none"> Where development involves multiple tenancies, the design of development is to ensure each tenancy will be able to obtain a Trade Waste Licence. Bin storage areas are to integrate with the overall design and functionality of development and are to locate within the building envelope to enable these areas to be screened from view from the public domain. The design of the bin storage area must comply with the requirements of the applicable Waste Design for New Developments Guide. An on-site collection point is to be nominated for development. The location of the collection point must allow collection vehicles to enter and exit the site in a forward direction and allow all vehicle movements to comply with the Australian Standard AS 2890.2. The location of the collection point must ensure waste servicing does not impact on any access points, internal roads and car parking areas. Waste collection frequency is to be a minimum of once per week. Higher collection frequency may be required for development with larger waste generation rates or development that produce food waste. 	<p>DA/CDC in the future.</p> <ul style="list-style-type: none"> Noted. Complies. The proposed bin room is integrated into the overall design of the building and is screened from the view of the public domain. Complies. Refer to the Waste Management Plan prepared by Loka Consulting Engineers. Refer to the Waste Management Plan prepared by Loka Consulting Engineers, and the Traffic Impact Assessment prepared by MLA Transport Planning. Noted.

CHAPTER/ PLANNING GUIDELINE	DEVELOPMENT STANDARD/CONTROL	COMPLY
	<p>Bin storage areas are to be kept clean, hygienic and free from odours. Higher collection frequencies must not impact on neighbouring residents in relation to noise, odour and traffic.</p> <ul style="list-style-type: none"> Collection frequency for commercial tenancies producing more than 50 litres of meat, seafood or poultry waste must have daily waste collection or be designed to be provided with a dedicated refrigerated room for waste storage between collections. 	<ul style="list-style-type: none"> Not proposed.
SECTION 6-SPECIFIC USES		
Boarding houses*, centre-based child care centres, educational establishments and places of public worship	<ul style="list-style-type: none"> Development must provide bin storage and separation facilities. Development must provide an appropriate and efficient waste storage system that considers: <ul style="list-style-type: none"> (a) the volume of waste generated on-site; (b) the number of bins required for the development and bin size; and (c) waste and recycling collection frequencies. Bin storage areas are to integrate with the overall design and functionality of development and are to locate within the building envelope to enable these areas to be screened from view from the public domain. The location of the bin storage area must not adversely impact on the streetscape, building presentation or amenity of any adjoining dwellings. 	<ul style="list-style-type: none"> Complies. Complies. Refer to the Waste Management Plan prepared by Loka Consulting Engineers. Complies. The proposed bin storage area is located within the proposed building envelope and is screened from public view. The bin room is located along the secondary street frontage of the site, and does not detract from the streetscape.

CHAPTER/ PLANNING GUIDELINE	DEVELOPMENT STANDARD/CONTROL	COMPLY
	<ul style="list-style-type: none"> An on-site collection point is to be nominated for development. The location of the collection point must allow collection vehicles to enter and exit the site in a forward direction and allow all vehicle movements to comply with the Australian Standard AS 2890.2. The location of the collection point must ensure waste servicing does not impact on any access points, internal roads and car parking areas. Waste generation rates are to be calculated in accordance with the rates provided in the applicable Waste Design for New Developments Guide. 	<ul style="list-style-type: none"> Refer to the Waste Management Plan prepared by Loka Consulting Engineers, and the Traffic Impact Assessment prepared by MLA Transport Planning. Complies. Refer to the Waste Management Plan prepared by Loka Consulting Engineers.
CHAPTER 3.4 SUSTAINABLE DEVELOPMENT		
SECTION 1-INTRODUCTION		
Application of this chapter	<ul style="list-style-type: none"> Chapter 3.4 of this DCP (this chapter) applies to buildings with a classification of Class 5 to Class 9 under the Building Code of Australia in the following situations: <ul style="list-style-type: none"> new proposals requiring a development application; extensions to existing development that is greater than or equal to 5,000m² of gross floor area; or extensions to existing development below 5,000m² of gross floor area where the development seeks to expand by an amount of 50% or more of the existing floor area. 	<ul style="list-style-type: none"> The proposed building is not classed as a Class 5 to 9 building. As such, the provisions of this chapter do not apply.
CHAPTER 3.6 SIGNS		
SECTION 2-LOCATION AND DESIGN		
Signs in Zones B1, B2 and B4	<ul style="list-style-type: none"> Business and building identification signs must integrate with the building form and architectural features of the building to which the signs are attached as follows: <ul style="list-style-type: none"> (a) The total sign area must not exceed 0.5m² for each metre of the primary street frontage. 	<ul style="list-style-type: none"> A Building Identification Sign is proposed to identify the development.

CHAPTER/ PLANNING GUIDELINE	DEVELOPMENT STANDARD/CONTROL	COMPLY
	<p>(b) Awning fascia signs, top hamper signs, under awning signs and window signs are permissible at or below the awning level. Where there is no awning to the building, signs are solely permitted below the window sill of the second storey windows.</p> <p>(c) A maximum of one under awning sign is permitted for each ground floor tenancy.</p> <p>(d) Window signs must not obscure more than 25% of the window area.</p> <p>(e) Parapet signs and individual laser cut lettering applied to the facade are permissible above the awning level.</p> <ul style="list-style-type: none"> • Council does not permit signs above the parapet of the podium level. • Pylon signs will only be considered on sites with large street frontages occupied by uses such as services stations, large take away food and drink premises and retail complexes. 	<p>The Sign reads “ The Crescent” and is located on the secondary street frontage above the entry to the co-living portion of the development.</p> <p>The sign is of a wall type, and occupies an area of 1.5m² over a width of 3.5m, and height of 0.5m.</p> <p>No signage is proposed for the commercial tenancies at this stage, and will be subject to future applications.</p> <ul style="list-style-type: none"> • Noted. • Noted.
Prohibited signs	<ul style="list-style-type: none"> • Council prohibits the following signs: <ul style="list-style-type: none"> (a) flashing signs, flashing lights, signs which incorporate devices which change colour, a sign where movement can be recognised by a passing motorist; (b) signs that extend over street boundaries, other than those permitted in conjunction with shops, or the like, where such buildings are erected on the street alignment; (c) signs which would adversely affect existing traffic lights; 	<ul style="list-style-type: none"> • Not proposed.

CHAPTER/ PLANNING GUIDELINE	DEVELOPMENT STANDARD/CONTROL	COMPLY
	(d) signs which are not permanently fixed to the site; (e) signs made of canvas, calico or the like.	
Design	<ul style="list-style-type: none"> Corporate colours, logos and other graphics must achieve a high degree of compatibility with the architecture, materials, finishes and colours of the building and streetscape. Building identification signs and business identification signs that are painted or attached to a building must not screen windows and other significant architectural features of the building. Signs are not to dominate in terms of scale, number, proportion and form or any other attributes. The amount of signs may be limited due to the cumulative impact on a locality or a building. The design and place of signs are not to adversely impact on the amenity of residential sites. Signs are to be designed for easy maintenance. Development must remove signs that are no longer necessary or unsightly to avoid clutter. Signs are not to include offensive or objectionable material in the content of an advertisement (such as discriminatory messages, promotion of unlawful or anti-social behaviour, encouraging excessive consumption of alcohol, pornography, or offensive language). 	<ul style="list-style-type: none"> The proposed sign is of standard white block letters and integrates with the proposed base wall colour. Noted. Complies. Noted. Complies. The sign is designed to be visible from the public domain and not to overbear the street frontage. Noted. Noted. Notes. Complies. N/A. Noted. Complies.
3.7 LANDSCAPE		
SECTION 2 – LANDSCAPE DESIGN		

CHAPTER/ PLANNING GUIDELINE	DEVELOPMENT STANDARD/CONTROL	COMPLY
Existing vegetation and natural features	<ul style="list-style-type: none"> • New landscaping is to complement the existing street landscaping and improve the quality of the streetscape. • Development, including alterations and additions, is to minimise earthworks (cut and fill) in order to conserve site soil. Where excavation is necessary, the reuse of excavated soil on site is encouraged. 	<ul style="list-style-type: none"> • Complies. Refer to the Landscape Plan prepared by RFA Landscape Architects. • Complies. Earthworks have been limited throughout the site.
Design and location of landscape	<ul style="list-style-type: none"> • The landscape design is to contribute to and take advantage of the site characteristics. • The landscape design is to improve the quality of the streetscape and communal open spaces by: <ul style="list-style-type: none"> (a) providing appropriate shade from trees or structures; (b) defining accessible and attractive routes through the communal open space and between buildings; (c) providing screens and buffers that contribute to privacy, casual surveillance, urban design and environmental protection, where relevant; (d) improving the microclimate of communal open spaces and hard paved areas; (e) locating plants appropriately in relation to their size including mature size; (f) softening the visual and physical impact of hard paved areas and building mass with landscaping that is appropriate in scale; (g) including suitably sized trees, shrubs and groundcovers to aid climate control by providing shade in summer and sunlight in winter. • The landscape of setbacks and deep soil zones must: <ul style="list-style-type: none"> (a) provide sufficient depth of soil to enable the growth of mature trees; (b) use a combination of groundcovers, shrubs and trees; (c) use shrubs that do not obstruct sightlines between the site and the public domain; and 	<ul style="list-style-type: none"> • Complies. Refer to the Landscape Plan prepared by RFA Landscape Architects. • Complies. Refer to the Landscape Plan prepared by RFA Landscape Architects. • Complies. Refer to the Landscape Plan prepared by RFA Landscape Architects.

CHAPTER/ PLANNING GUIDELINE	DEVELOPMENT STANDARD/CONTROL	COMPLY
	(d) where buffer or screen planting is required, use continuous evergreen planting consisting of shrubs and trees to screen the structure, maintain privacy and function as an environmental buffer.	
Trees	<ul style="list-style-type: none"> Development must consider the retention of existing trees in the building design. Development must plant at least one canopy tree for every 12m of front and rear boundary width and: <ul style="list-style-type: none"> (a) Canopy trees are to be of a minimum 75 litre pot size. (b) Use deciduous trees in small open spaces, such as courtyards, to improve solar access and control of microclimate. (c) Place evergreen trees well away from the building to allow the winter sun access. (d) Select trees that do not inhibit airflow. (e) Provide shade to large hard paved areas using tree species that are tolerant of compacted/deoxygenated soils. Development must provide street trees that will contribute to the canopy where possible. 	<ul style="list-style-type: none"> No existing trees are located on-site or in the vicinity of the tree that may be impacted by the works. Complies. Refer to the Landscape Plan prepared by RFA Landscape Architects. The proposed trees contribute to the canopy. Refer to the Landscape Plan prepared by RFA Landscape Architects.
SECTION 3 - BIODIVERSITY		
Biodiversity	<ul style="list-style-type: none"> Development must retain, protect and enhance indigenous/native vegetation and natural site features and incorporate it into the landscape design Development must create a buffer zone to adjoining bushland and use indigenous planting in the buffer zone. Development must manage habitat values by reinforcing biodiversity links. The landscape design may consider using the following features to encourage native wildlife: 	<ul style="list-style-type: none"> N/A.

CHAPTER/ PLANNING GUIDELINE	DEVELOPMENT STANDARD/CONTROL	COMPLY												
	<div><div>1</div><div>Trees and shrubs native to the area can provide nectar and seeds – an important food for native birds.</div></div> <div><div>2</div><div>Prickly shrubs and dense hedges protect bird nests from predators such as cats.</div></div> <div><div>3</div><div>Leaf litter and bark provide feeding areas for small animals such as frogs and lizards.</div></div> <div><div>4</div><div>Hollow logs provide shelter for small marsupials and lizards.</div></div> <div><div>5</div><div>Small caves and crevices serve as burrows and nesting sites for small animals.</div></div> <div><div>6</div><div>Where structurally sound, tree hollows provide nesting holes essential for birds and possums.</div></div> <div><div>7</div><div>Strong, healthy tree limbs provide habitat for tree dwellers and allow safe movement through the canopy.</div></div> <div><div>8</div><div>Tree branches provide safe perching places for birds.</div></div> <div><div>9</div><div>Rocks provide shelter, shade and sun bathing opportunities for small animals.</div></div>													
CHAPTER 5 – RESIDENTIAL ACCOMDATION														
SECTION 9 – BOARDING HOUSE														
Isolation of sites	<div><div>•</div><div>Development on land within Zone R3 Medium Density Residential or Zone R4 High Density Residential is not to result in a site adjoining such land having an area of less than 1,000m2 or a width of less than 20 metres at the front building line for the purpose of multi dwelling housing.</div></div>	<div><div>•</div><div>N/A. The site is located in a B2 – Local Centre zone.</div></div>												
Storey limit (not including basements)	<div><div>•</div><div>The storey limit for boarding houses in Zone R2 is two storeys for a dwelling (including boarding rooms) facing a road and single storey for all other dwellings (including boarding rooms) at the rear of the lot.</div></div> <div><div>•</div><div>Development in Zones R3 and R4 must comply with the storey limit that corresponds with the maximum building height shown for the site on the Height of Building Map as follows:</div></div> <table><tr><th>Maximum building height as shown on the Height of Buildings Map (Canterbury-Bankstown LEP 2023)</th><th>Storey limit (not including basements)</th></tr><tr><td>10 metres</td><td>3 storeys (no attic)</td></tr><tr><td>13 metres</td><td>4 storeys (no attic)</td></tr><tr><td>16 metres</td><td>5 storeys (no attic)</td></tr><tr><td>19 metres</td><td>6 storeys (no attic)</td></tr><tr><td>25 metres</td><td>8 storeys (no attic)</td></tr></table>	Maximum building height as shown on the Height of Buildings Map (Canterbury-Bankstown LEP 2023)	Storey limit (not including basements)	10 metres	3 storeys (no attic)	13 metres	4 storeys (no attic)	16 metres	5 storeys (no attic)	19 metres	6 storeys (no attic)	25 metres	8 storeys (no attic)	<div><div>•</div><div>N/A. The site is located in a B2 – Local Centre zone.</div></div> <div><div>•</div><div>N/A. The site is located in a B2 – Local Centre zone.</div></div>
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CHAPTER/ PLANNING GUIDELINE	DEVELOPMENT STANDARD/CONTROL	COMPLY
	<ul style="list-style-type: none"> The siting of boarding houses, and landscape works must be compatible with the existing slope and contours of the site and any adjoining sites. Council does not allow any development that involves elevated platforms on columns; or excessive or unnecessary terracing, rock excavation, retaining walls or reclamation. Any reconstituted ground level on the site must not exceed a height of 600mm above the ground level (existing) of an adjoining site except where: <ul style="list-style-type: none"> (a) boarding houses are required to be raised to achieve a suitable freeboard in accordance with Chapter 2.2 of this DCP; or (b) the fill is contained within the ground floor perimeter of boarding houses to a height no greater than 1 metre above the ground level (existing) of the site. 	<ul style="list-style-type: none"> The development has been sited to accommodate the slope of the land and minimise excavation where possible. Due to the slope of the land, from The Crescent to the northern boundary to the site, fill is required to provide a level ground floor area. The proposed fill will not be noticeable from the public domain. The commercial tenancies to Highland Avenue stepped down the site to provide an active street frontage, and future development to the north will achieve a nil setback to the subject site. In conclusion, any fill for the site will not be discernible.

CHAPTER/ PLANNING GUIDELINE	DEVELOPMENT STANDARD/CONTROL	COMPLY
Setback restrictions	<ul style="list-style-type: none"> The erection of boarding houses is prohibited within 9 metres of an existing animal boarding or training establishment. 	<ul style="list-style-type: none"> Noted. Complies.
Private open space	<ul style="list-style-type: none"> Boarding houses must provide: <ul style="list-style-type: none"> (a) one area of at least 20m² with a minimum dimension of 3 metres for the use of the lodgers; and (b) if accommodation is provided on site for a boarding house manager, one area of at least 8m² with a minimum dimension of 2.5 metres is provided adjacent to that accommodation. Development must locate the private open space behind the front building line. This clause does not apply to any balconies where it is used to provide articulation to the street facade. 	<ul style="list-style-type: none"> The proposal complies with the communal living area requirements specified in the SEPP (Housing) 2021. Refer to Appendix A of this SEE. Complies. The proposed private/common open space area is located behind the front building line.
Access to sunlight	<ul style="list-style-type: none"> At least 70% of boarding rooms must receive a minimum three hours of sunlight between 8.00am and 4.00pm at the mid-winter solstice. Council may allow light wells and skylights to supplement this access to sunlight provided these building elements are not the primary source of sunlight to the living areas. 	<ul style="list-style-type: none"> The proposal complies with the solar access requirements specified in the SEPP (Housing) 2021. Refer to Appendix A of this SEE. <p>Notwithstanding the above, due to the orientation of the site, having its street frontages directed</p>

CHAPTER/ PLANNING GUIDELINE	DEVELOPMENT STANDARD/CONTROL	COMPLY
	<ul style="list-style-type: none"> Where the development provides for one or more communal living rooms, at least one of those rooms must receive a minimum of three hours direct sunlight between 8.00am and 4.00pm at the mid-winter solstice. 	<p>southerly and westerly, and the development nature of the site, having a nil northern setback for its first 4 storeys, solar access retention is difficult.</p> <p>The majority of rooms are oriented to the southern and western street boundaries, making solar access inherently difficult. The proposal complies with solar access requirements of the SEPP Housing, in relation to common outdoor open space. As such, residents will have suitable access to areas of sunlight.</p> <ul style="list-style-type: none"> The proposal complies with the solar access requirements specified in the SEPP (Housing)

CHAPTER/ PLANNING GUIDELINE	DEVELOPMENT STANDARD/CONTROL	COMPLY
	<ul style="list-style-type: none"> At least one living area of a dwelling on an adjoining site must receive a minimum three hours of sunlight between 8.00am and 4.00pm at the mid-winter solstice. Where this requirement cannot be met, the development must not result with additional overshadowing on the affected living areas of the dwelling. A minimum 50% of the private open space required for boarding houses and a minimum 50% of the private open space of a dwelling on an adjoining site must receive at least three hours of sunlight between 9.00am and 5.00pm at the equinox. Where this requirement cannot be met for a dwelling on an adjoining site, the development must not result with additional overshadowing on the affected private open space. Development should avoid overshadowing any existing solar hot water system, photovoltaic panel or other solar collector on the site and neighbouring sites. 	<p>2021. Refer to Appendix A.</p> <ul style="list-style-type: none"> The proposal does not lend to the overshadowing of any neighbouring living areas. Solar access is retained to both private open space areas. <p>The proposal does not lend to the overshadowing of any private open space areas of neighbouring properties.</p> <ul style="list-style-type: none"> A neighbouring property at No. 141 Highland Avenue, located on the opposite side of The Crescent, has solar panels. These solar panels will be slightly overshadowed in

CHAPTER/ PLANNING GUIDELINE	DEVELOPMENT STANDARD/CONTROL	COMPLY
		<p>the morning period on the 21 June.</p> <p>This impact is considered acceptable as it is only to a small section of the panels, in the worst case scenario of overshadowing throughout the year. The development will not overshadow the solar panels at other time periods throughout the year. In addition, the proposal is generally compliant with the permitted height control, apart from a lift overrun that does not impact the shadows cast.</p> <p>The neighbouring property is also located in an R4 zone, which is considered to be</p>

CHAPTER/ PLANNING GUIDELINE	DEVELOPMENT STANDARD/CONTROL	COMPLY
		transitioning to higher-density development.
Visual privacy	<ul style="list-style-type: none"> Where development proposes a window that directly looks into the living area or bedroom window of an existing dwelling, the development must: <ul style="list-style-type: none"> (a) offset the windows between dwellings to minimise overlooking; or (b) provide the window with a minimum sill height of 1.5 metres above floor level; or (c) ensure the window cannot open and has obscure glazing to a minimum height of 1.5 metres above floor level; or (d) use another form of screening to the satisfaction of Council. Where development proposes a window that directly looks into the private open space of an existing dwelling, the window does not require screening where: <ul style="list-style-type: none"> (a) the window is to a bedroom, bathroom, toilet, laundry, storage room, or other non-habitable room; or (b) the window has a minimum sill height of 1.5 metres above floor level; or (c) the window has translucent glazing to a minimum height of 1.5 metres above floor level; or (d) the window is designed to prevent overlooking of more than 50% of the private open space of a lower-level or adjoining dwelling. 	<ul style="list-style-type: none"> The development will not result in any visual privacy conflict. No conflict between window openings occurs. Any proposed balconies comply with the separation distances of ADG and are fitted with solid balustrading to limit the line of sight to and from the balcony. Where the building does not comply with the separation distances of the ADG, a sill height of 1.5m is proposed for any windows. The development will not result in any direct conflict with private open space areas.

CHAPTER/ PLANNING GUIDELINE	DEVELOPMENT STANDARD/CONTROL	COMPLY
	<ul style="list-style-type: none"> • Council may allow boarding houses in Zones R2 and R3 to have an upper floor side or rear balcony solely where the balcony is not accessible from a living area or hallway, and the balcony design: <ul style="list-style-type: none"> (a) does not have an external staircase; and (b) does not exceed a width of 1.5 metres throughout; and (c) incorporates a form of screening to the satisfaction of Council such as partially recessing the balcony into the building. • Council does not allow boarding houses to have roof-top balconies and the like. 	<ul style="list-style-type: none"> • N/A. • Noted. A roof-top private open space area is proposed above the ground to level 3 podium. Due to the site's location in a business zone, a roof-top open space area is logical.
Building design	<ul style="list-style-type: none"> • Council applies the design quality principles of State Environmental Planning Policy No 65–Design Quality of Residential Apartment Development and the Apartment Design Guide to boarding houses. This includes buildings that are two storeys or less, or contain less than four dwellings. • Boarding houses must satisfy each of the following: <ul style="list-style-type: none"> (a) if a boarding house has 5 or more boarding rooms, at least one communal living room will be provided; and (b) if each boarding room has a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of at least: <ul style="list-style-type: none"> (i) 12m² in the case of a boarding room intended to be used by a single lodger, or (ii) 16m² in any other case; and (c) no boarding room will have a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of more than 25m² ; and (d) no boarding room will be occupied by more than 2 adult lodgers; and (e) adequate bathroom and kitchen facilities will be available within the boarding house for the use of each lodger; and 	<ul style="list-style-type: none"> • Noted refer to Appendix A of this SEE. • The proposal generally complies with the requirements of the SEPP Housing 2021, which prevail over any DCP requirements. <p>The development complies with the relevant motorcycle</p>

CHAPTER/ PLANNING GUIDELINE	DEVELOPMENT STANDARD/CONTROL	COMPLY
	<p>(f) if the boarding house has capacity to accommodate 20 or more lodgers, a boarding room or on site dwelling will be provided for a boarding house manager; and (g) at least one parking space will be provided for a bicycle, and one will be provided for a motorcycle, for every 5 boarding rooms.</p> <ul style="list-style-type: none"> • The maximum roof pitch for boarding houses is 35 degrees. • Council does not allow boarding houses to have attics. • The siting of a plant room, lift motor room, mechanical ventilation stack, exhaust stack, and the like must: <ul style="list-style-type: none"> (a) integrate with the architectural features of the building to which it is attached; or (b) be sufficiently screened when viewed from the street and neighbouring sites. 	<p>space requirements, as the SEPP requests adequate provisions. No specific bicycle parking spaces are proposed. Suitable space will be available in each specific room for storage of bicycle.</p> <ul style="list-style-type: none"> • N/A. A flat roof is proposed. • Complies. • Complies. All plant rooms, ventilation stacks, and exhaust stacks are integrated into the design of the building and not visible from the public domain. The proposed lift overrun is centrally located within the roof form and will not be generally visible from the public domain.

CHAPTER/ PLANNING GUIDELINE	DEVELOPMENT STANDARD/CONTROL	COMPLY
	<ul style="list-style-type: none"> Development for the purpose of boarding houses must demolish all existing dwellings (not including any heritage items) on the site. Development in the foreshore protection area (refer to map in Appendix 1) must use non-reflective materials that are compatible with the natural characteristics and colours of the area (such as olive green, grey and dark brown). 	<ul style="list-style-type: none"> Complies. N/A. Not located in foreshore area.
Building design (car parking)	<ul style="list-style-type: none"> Development on land bounded by Birdwood Road, Bellevue Avenue and Rex Road in Georges Hall must: (a) comply with the road pattern shown in Appendix 2; and (b) ensure vehicle access from Balmoral Crescent to land at 107–113 Rex Road in Georges Hall is provided for no more than 10 dwellings as shown in Appendix 3. The design and siting of car parking structures and driveways must ensure vehicles can leave the site in a forward direction. Development must locate the car parking spaces behind the front building line. Council must ensure the garage architecturally integrates with the development and does not dominate the street facade. 	<ul style="list-style-type: none"> N/A. Reference should be made to the Traffic Impact Assessment prepared by MLA Transport Planning. Complies. Complies. The entry to the ground floor parking area architecturally integrates with the building and recessive to the overall form.
Landscape	<ul style="list-style-type: none"> Development must retain and protect any significant trees on the site and adjoining sites. To achieve this clause, the development may require a design alteration or a reduction in the size of boarding houses. Development must landscape the following areas on the site by way of trees and shrubs with preference given to native vegetation endemic to Canterbury-Bankstown (refer to the Landscape Guide for a list of suitable species): 	<ul style="list-style-type: none"> Noted. The requirements in this section are not achievable due to

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	<p>(a) a minimum 45% of the area between the boarding house and the primary street frontage; and</p> <p>(b) a minimum 45% of the area between the boarding house and the secondary street frontage; and</p> <p>(c) plant more than one 75 litre tree between the boarding house and the primary street frontage (refer to the Landscape Guide for a list of suitable trees in Canterbury-Bankstown); or</p> <p>(i) if the site adjoins the Hume Highway and the minimum setback to the Hume Highway is less than 20 metres, the development must plant a row of 75 litre trees at 5 metre intervals along the length of the Hume Highway boundary and must select the trees from the Landscape Guide; or</p> <p>(ii) if the site adjoins the Hume Highway and the minimum setback to the Hume Highway is 20 metres, the development must plant two rows of 75 litre trees at 5 metre intervals along the length of the Hume Highway boundary and must select the trees from the Landscape Guide; and</p> <p>(d) for development in the foreshore protection area (refer to map in Appendix 1), the development must plant native trees with a mature height greater than 12 metres adjacent to the waterbody.</p>	<p>the location of the site within a B2 – Local Centre zone. An appropriate landscape design is proposed that responds to the required siting of the built form. Refer to the Landscape Plan prepared by RFA Landscape Architects.</p>
Security	<ul style="list-style-type: none"> Where the site shares a boundary with a railway corridor or an open stormwater drain, any building, solid fence or car park on the site should, wherever practical, be setback a minimum 1.5 metres from that boundary. The setback distance must be: <ul style="list-style-type: none"> (a) treated with hedging or climbing vines to screen the building, solid fence, or car park when viewed from the railway corridor or open stormwater drain; and (b) the hedging or climbing vines must be planted prior to the completion of the development using a minimum 300mm pot size; and (c) the planter bed area must incorporate a commercial grade, sub-surface, automatic, self-timed irrigation system; and (d) the site must be fenced along the boundary using a minimum 2 metre high chainwire fence; and (e) the fence provides an appropriate access point to maintain the landscaping within the setback area; and (f) where a car park adjoins the boundary, hedging or climbing vines must also be planted along the sides of any building or solid fence on the site that face the railway corridor or open stormwater drain. <p>If a setback for landscaping under this clause is not practical, other means to avoid graffiti must be employed that satisfies Council's graffiti minimisation strategy.</p>	<ul style="list-style-type: none"> N/A.
Chapter 7 Commercial Centres		
SECTION 7.1 GENERAL REQUIREMENTS		
SECTION 2 – ACTIVE STREET FRONTAGES		

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Building design (active street frontages)	<ul style="list-style-type: none"> The ground floor design must incorporate active street frontages particularly where addressing main streets, public open space and pedestrian links. The design of active street frontages must include: <ul style="list-style-type: none"> (a) a minimum 80% glazing (including doors); (b) well-detailed shopfronts with pedestrian entries at least every 10m–15m; (c) zero setback to the front building line (however this may incorporate indented entries or bays where consistent with the existing street character); (d) high quality external materials; 	<ul style="list-style-type: none"> Complies. The CBLEP 2023 identifies the Highland Avenue frontage as an active street frontage. The proposed Highland Avenue frontage is active, as it includes high amounts of glazing and building entries to two commercial tenancies. Complies. Complies. The entries to the commercial tenancies are provided every 10m. Complies. Zero setbacks to the front building are proposed. Complies. The external façade of the active street frontages is made up of glazing, masonry bricks, off-form

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	<p>(e) openable facades encouraging natural ventilation where possible;</p> <p>(f) outdoor dining where possible.</p> <ul style="list-style-type: none"> • The design of active street frontages must not incorporate security roller doors and window bars. • Ground floor business and office uses must utilise internal fitouts for privacy. The use of frosted screens or opaque glass for privacy is discouraged. • The ground floor entries to retail, commercial, community and residential uses are to have the same finished floor level as the adjacent footpath and are to be accessible directly from the street. Ground floor entries which have a finished floor level above or below the adjacent footpath are discouraged. • Where the finished floor level is raised due to flood impacts, the active street frontage must incorporate universal access between the street and ground floor uses, or accommodate level changes within the building. 	<p>concrete, and aluminium battens.</p> <ul style="list-style-type: none"> • The active street frontage includes openable doors to increase ventilation to the commercial tenancies. • May be sought as part of future DA/CDC. • Complies. • Noted. Fit-out will be subject to future first-use DA/CDC. • Complies. The entry-level to each commercial tenancy is proposed to be the same level as the footpath. • N/A.
Building design (car parking)	<ul style="list-style-type: none"> • Vehicle access to off-street parking and loading bays is to be from a secondary street or rear lane. 	<ul style="list-style-type: none"> • Complies. Access is provided for the secondary street frontage, being the

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	<ul style="list-style-type: none"> Where sites adjoin a rear lane, Council may allow above ground car parking at the rear of the site provided that: <ul style="list-style-type: none"> (a) the car park occupies only the rear of the first storey (i.e. the ground floor) and second storey; and (b) the car park must be setback a minimum 18m from the front building line to allow the gross floor area at the front of the building to be used for retail, commercial, community and residential; and (c) the building design must promote natural surveillance on the lane. For sites that do not adjoin a secondary street or rear lane, off-street parking and loading bays are to locate in the basement level or sleeved at ground level. Vehicle access is to be no more than a single driveway from the primary street and must ensure that: <ul style="list-style-type: none"> (a) the vehicle footpath crossing is as narrow as possible; (b) car park entries, driveways and loading docks are not located at the corners of street intersections. 	<p>non-active street or The Crescent.</p> <ul style="list-style-type: none"> N/A. N/A.
Building design (pedestrian entrances)	<ul style="list-style-type: none"> Entrances must locate on the primary street. Residential entrances must be secure and separate from non-residential entrances. 	<ul style="list-style-type: none"> Complies on-merit. The commercial entrances are located on the primary street frontage. The co-living entry is located on the secondary street frontage. This is to provide access for residents away from the high activity of Highland Avenue. The provision of a residential entry of Highland Avenue, would take away valuable commercial

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		space from the active street frontage.
Building design (utilities and building services)	<ul style="list-style-type: none"> Development must show the location and design of utilities and building services (such as waste storage areas, plant rooms, hydrants, mechanical ventilation stacks, exhaust stacks, equipment and the like) on the plans. Development must locate utilities and building services on the secondary street or rear lane. Where this is not possible, development must integrate utilities and building services with the building design and conceal the utilities and building services from public view. 	<ul style="list-style-type: none"> Complies. Complies.
Building design (substations)	<ul style="list-style-type: none"> Development must show the location and design of substations on the plans. Development must locate substations underground. Where this is not possible, development must integrate substations with the building design and conceal the substations from public view. Substations must not locate forward of the front building line. 	<ul style="list-style-type: none"> Complies. The substation cannot be located underground. It is proposed to be within the south-eastern corner of the site. Landscaping is proposed to screen the substation from view, but due to access requirements, the screening is limited. Complies. The substation is behind the building line.
SECTION 3–FACADE DESIGN		
Development controls	<ul style="list-style-type: none"> The vertical articulation dimensions are: (a) the facade design of the podium is to reflect the fine grain that is in accordance with, or similar to, that of the local streetscape; or 	<ul style="list-style-type: none"> The provision of co-living development provides a unique

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	<p>(b) where there is no prevailing fine grain streetscape, the minimum vertical articulation dimension is 8m for the podium. The minimum vertical articulation dimension for tower buildings above the podium is 10m, which reflects the average width of an apartment.</p> <ul style="list-style-type: none"> • Facade designs may include but are not limited to: <ul style="list-style-type: none"> (a) Articulating building entries. (b) Distinguishing between the podium (base), middle and top sections of the facade. (c) Expressing the building towers above the podium through a change in facade details, materials and colour. (d) Selecting balcony types that respond to the building orientation and proximity to public domain. (e) Using architectural features such as awnings to give a human scale at street level. (f) Recessing elements such as windows or balconies to create visual depth in the facade. (g) Emphasising the difference between solid and void to create a sense of shadow and light. (h) Using any other architectural elements to Council's satisfaction. • Building designs and window openings should be vertically proportioned in height, form and articulation. 	<p>fine-grain streetscape due to the small-width nature of each room.</p> <ul style="list-style-type: none"> • Complies. The proposed façade includes articulated building entries for the commercial premises, co-living, and vehicle access. <p>The design of the building splits the vertical proportion into three sections: the base, the middle, and the tower/top. This is achieved through extensive glazing elements on the base, the use of materials to border the middle from the base and top, and differing envelope of the top.</p> <ul style="list-style-type: none"> • Complies. Where not altered for visual privacy protection.

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	<ul style="list-style-type: none"> • Facade designs must comprise high quality materials and finishes. • Development must architecturally treat blank walls that can be viewed from the street or other public domain area (such as railway corridors) by incorporating public art, variation in building materials and/or other architectural design methods to Council's satisfaction. • Building services such as downpipes and balcony drainage must integrate with the facade design. • The design of balcony balustrades on the lower levels may be predominantly solid and/or opaque to provide privacy to residents and to screen drying areas. 	<ul style="list-style-type: none"> • Complies. • Complies. No blank walls will be visible when neighbouring development occurs. If required, treatments can be made to provide variation in materials to soften the blank wall until neighbouring development occurs. • Refer to the stormwater plans & certification prepared by Engineering Studio Civil & Structural submitted under separate cover. • Complies.
SECTION 4-VISUAL BULK		
All sites	<ul style="list-style-type: none"> • Building designs are to comprise a podium with tower buildings above as shown in Figure 4a. The podium height must be the street wall height. 	<ul style="list-style-type: none"> • Complies. A two-storey tower is proposed above the ground to level 3 podium.

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	<ul style="list-style-type: none"> The vertical articulation dimensions are: (a) the facade design of the podium is to reflect the fine grain that is in accordance with, or similar to, that of the local streetscape; or (b) where there is no prevailing fine grain streetscape, the minimum vertical articulation dimension is 8m for the podium. The minimum vertical articulation dimension for tower buildings above the podium is 10m, which reflects the average width of an apartment. Avoid uninterrupted or uniform building facades without articulation, such as blank walls, walls with minimal openings and glass curtain walls. 	<ul style="list-style-type: none"> As per Section 3 of this chapter. Complies. A continuous articulated façade is proposed for the Highland and The Crescent street frontages.
SECTION 5-CORNER BUILDINGS		
Development controls	<ul style="list-style-type: none"> Development on corner sites must ensure the building design incorporates one or more of the following elements at the street corner: (a) architectural roof feature; (b) stepping down or recessing of the built form from the corner; (c) splayed treatments; (d) use of materials/colours; (e) any other architectural elements to Council's satisfaction. 	<ul style="list-style-type: none"> Complies. The proposed development is a corner building. The proposal incorporates splayed treatments, inclusive of curved elements at the corner to provide a clear link between both street frontages. <p>Also incorporated is the stepping of development for upper levels.</p>

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		A variety of materials and finishes are also utilised.
SECTION 6-ROOF DESIGNS		
Development controls	<ul style="list-style-type: none"> Development must incorporate a high quality roof design that: <ul style="list-style-type: none"> (a) achieves a unique and contemporary architectural appearance; and (b) combines high quality materials and finishes. Attics are not permitted. Pitched roofs should use light coloured metal decking to improve energy performance. Pitched roofs to the street facade are not permitted. Plant and service equipment must be concealed or satisfactorily screened from public view. Where the roof design incorporates a roof terrace: <ul style="list-style-type: none"> (a) The roof terrace must not function as the principal useable part of the communal open space. (b) The parapet should function as the roof top balustrade. Where there is no parapet, the roof top balustrade should be visually permeable (such as glass or slats) and be setback a minimum 1.5m from the roof edge to minimise visibility from the street. (c) Shade structures and pergolas should be centrally located to minimise visibility from the street and potential overshadowing. 	<ul style="list-style-type: none"> Complies. The proposed roof form is of high-quality material and finishes, and provides a visually recessive undertone to the development below. Complies. Not proposed. Complies. The proposed lift overrun is concealed from view. Not proposed.

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	<p>For the purposes of this clause, the principal useable part of the communal open space means a consolidated part of the communal open space that is designed as the primary focus of recreational activity and social interaction.</p> <ul style="list-style-type: none"> The roof form may exceed the maximum building height provided it complies with clause 5.6 of the Canterbury-Bankstown Local Environmental Plan 2023 to Council's satisfaction. Otherwise the Height of Buildings Map applies. Architectural roof features must comprise a decorative element and may have a functional purpose if it is fully integrated into the design of the roof features. Planter boxes, balustrades and screen devices do not constitute an architectural roof feature if these elements are independent of the roof and are not integrated into the design of the roof features, but are instead designed for the express purpose of defining and containing an area of communal/private open space above the roof of the proposal. 	<ul style="list-style-type: none"> Noted.
SECTION 7-MATERIALS AND FINISHES		
Development controls	<ul style="list-style-type: none"> Development must incorporate quality, textured and low maintenance materials such as brickwork in the building elevations. Development must avoid large expanses of white render or other finishes which increase the visual bulk of buildings. Where rendered finish is proposed, it must be in combination with at least two other finishes and should not be the predominant finish in the facade. Use varied materials and contrasting colours to: <ul style="list-style-type: none"> (a) highlight feature elements; (b) delineate vertical articulation dimensions; or (c) reduce the impact of other building elements (e.g. reducing the dominance of upper floors or masking unsightly building services). <p>Glazing in combination with quality external materials is appropriate for ground floor retail. Reflective glass to shopfronts is not permitted.</p>	<ul style="list-style-type: none"> Complies. High quality and low-maintenance materials are proposed, such as brick and concrete. No render is proposed. Complies. Differing materials are used to provide a clear delineation of the vertical elements of the building.

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	<p>The security door or grille to a shopfront facing the street must be transparent or an open grille type shutter. Solid roller doors or shutters are not permitted.</p>	<p>Glazing is proposed to provide an activated street frontage for the ground floor of Highland Avenue.</p> <p>Off-form concrete is utilised to provide a clear frame around the middle podium level of the building.</p> <p>Aluminium battens are used to provide a recessive feel for the top portion of the building.</p>
SECTION 8-AWNING DESIGN		
<p>Development controls</p>	<ul style="list-style-type: none"> Awnings are required in streets with high pedestrian activity and active street frontages. 	<ul style="list-style-type: none"> Complies. An awning is proposed to the Highland Avenue frontage, which is an active street frontage. The awning is proposed to wrap around to The Crescent frontage to provide an attractive transition between facades and to provide weather

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	<ul style="list-style-type: none"> Continuous awnings are required on the primary street and are to wrap around the building on corner sites to cover at least all active street frontages or a minimum 40% of the secondary street, whichever is the greater. The awning height must be compatible with the street gradient. The awning design must be compatible with the height, projection and depth of existing traditional box awnings in the street. Where there are no awnings adjacent or nearby: <ul style="list-style-type: none"> (a) The underside of the awning is to be between 3.2m and 4m above ground level (existing). (b) The awning may incorporate a contemporary design where it is considered to be an integral feature of the building design. 	<p>protection for the residents of the co-living development.</p> <ul style="list-style-type: none"> Complies. The awning is provided to the primary/active street frontage and wraps around to the secondary street frontage (The Crescent) for a minimum of 40% of the length of the secondary street. Complies. The awning steps with the gradient of the land, as evident on the secondary street frontage. Complies. Due to the changing levels of the street frontages, a larger awning is provided with dimensions between 3.5m to 4.3m.

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	<ul style="list-style-type: none"> Canvas blinds along the outer edge of awnings are desirable for sun shading to east and west facing frontages. Glass awnings, ineffective awnings or awnings with cut-outs for trees or light poles are not permitted. Lighting must be provided to the underside of an awning using vandal resistant, high mounted light fixtures. 	<ul style="list-style-type: none"> Not proposed. Not proposed. Can be conditioned.
SECTION 9-GENERAL DESIGN AND AMENITY		
Building design	<ul style="list-style-type: none"> Council applies State Environment Planning Policy No 65-Design Quality of Residential Apartment Development and the Apartment Design Guide to residential flat buildings, shop top housing, serviced apartments, boarding houses and mixed use development (containing dwellings). This includes buildings that are two storeys or less, or contain less than four dwellings. 	<ul style="list-style-type: none"> N/A. Co-living development.
Access to sunlight	<ul style="list-style-type: none"> The living areas for at least 70% of dwellings in a development must receive a minimum sum of three hours of sunlight between 8.00am and 4.00pm at the mid-winter solstice. Council may allow light wells and skylights to supplement access to sunlight. However, these building elements must not be the primary source of sunlight to living areas. The living areas of a dwelling on an adjoining site must receive a minimum sum of three hours of sunlight between 8.00am and 4.00pm at the mid-winter solstice. Where this requirement cannot be met, the development must not result with additional overshadowing on the affected living areas of the dwelling. 	<ul style="list-style-type: none"> The proposal complies with the solar access requirements specified in the SEPP (Housing) 2021. Refer to Appendix A of this SEE.
Private open space	<ul style="list-style-type: none"> The private open space per dwelling must have a minimum depth of 2m and the private open space may be in the form of a balcony. 	<ul style="list-style-type: none"> N/A. There is no depth requirement for balconies to co-living rooms.
Livable housing	<ul style="list-style-type: none"> Development must comply with the Livable Housing Design Guidelines (Livable Housing Australia) as follows: 	<ul style="list-style-type: none"> N/A. Co-living development.


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	<table><tr><th>Development types</th><th>Development controls</th></tr><tr><td>Residential flat buildings and shop top housing</td><td>A minimum 20% of new dwellings must achieve the Silver Standard; and a minimum 20% of new dwellings must achieve the Gold Standard. However, it is noted that shop top housing will not deliver dwellings at the ground floor as this would be inconsistent with the LEP definition.</td></tr><tr><td>Boarding houses</td><td>A minimum 20% of new boarding rooms must achieve the Silver Standard.</td></tr></table>	Development types	Development controls	Residential flat buildings and shop top housing	A minimum 20% of new dwellings must achieve the Silver Standard; and a minimum 20% of new dwellings must achieve the Gold Standard. However, it is noted that shop top housing will not deliver dwellings at the ground floor as this would be inconsistent with the LEP definition.	Boarding houses	A minimum 20% of new boarding rooms must achieve the Silver Standard.		
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	<ul style="list-style-type: none">Despite clause 9.5, Council may vary the Livable Housing Design Guidelines (Design Element 1–Dwelling Access) if it is demonstrated to Council’s satisfaction that it is not possible to achieve step-free pathways on difficult and steeply sloping sites.								
Serviced apartments	<ul style="list-style-type: none">Development consent must not be granted for the change of use from a dwelling in a residential flat building or shop top housing to a serviced apartment unless Council is satisfied that the amenity, safety and security of the residents of the dwellings in the building is maintained.Development consent must not be granted for the change of use from serviced apartments to a residential flat building, with or without strata subdivision, unless Council is satisfied that the development complies with the design principles of State Environmental Planning Policy No 65–Design Quality of Residential Apartment Development and the Apartment Design Guide.	<ul style="list-style-type: none">N/A.							
Landscape	<ul style="list-style-type: none">Commercial development, shop top housing and residential flat buildings must provide at least one street tree per 5m of the length of the primary street. Council may vary this requirement if a street tree already exists in good condition, if an awning or site constraints limit their inclusion, or a public domain plan is yet to determine the location of trees in a centre.Council may require development adjoining Council land to incorporate public open space. The intended outcome is to expand existing open space wherever possible to enhance the amenity for people who work in, live in and visit the centres.	<ul style="list-style-type: none">Can be conditioned.Noted.							
Front fences	<ul style="list-style-type: none">The maximum fence height for a front fence is 1.8m.The external appearance of a front fence along the street boundary of the site must ensure:	<ul style="list-style-type: none">Not proposed. Nil setback.							

CHAPTER/ PLANNING GUIDELINE	DEVELOPMENT STANDARD/CONTROL	COMPLY
	<p>(a) the section of the front fence that comprises solid construction (not including solid piers) must not exceed a fence height of 1m above natural ground level; and</p> <p>(b) the remaining height of the front fence must comprise open style construction such as spaced timber pickets or wrought iron that enhance and unify the building design.</p> <ul style="list-style-type: none"> Council does not allow the following types of front fences along the street boundary of the site: (a) chain wire, metal sheeting, brushwood and electric fences; and (b) noise attenuation walls. 	
Safety and security	<ul style="list-style-type: none"> The main entrance or entrances to development must face the street. Windows to the living areas of front dwellings, or the windows on the upper floors of development must overlook the street. Above ground car parking must be setback a minimum 6m from the front building line to allow the gross floor area at the front of the building to be used for commercial, retail or residential purposes. This clause does not apply to the front building line that faces a rear lane. A public arcade or underpass in buildings must be wide and direct to avoid potential hiding places. External lighting to development must give consideration to the impact of glare on the amenity of adjoining residents. 	<ul style="list-style-type: none"> Complies. Complies. Windows of upper-level rooms, including balconies, face the street. Complies. Car parking is setback to allow commercial uses and building entry along the secondary and primary street frontages. Not proposed. Noted. Can be conditioned.
Amenity	<ul style="list-style-type: none"> In determining a development application that relates to shop top housing or mixed use development comprising dwellings, Council must take into consideration the following matters: (a) whether noise generation from fixed sources or motor vehicles associated with the proposed development will be effectively insulated or otherwise minimised; 	<ul style="list-style-type: none"> Noise-generating sources will be appropriately

CHAPTER/ PLANNING GUIDELINE	DEVELOPMENT STANDARD/CONTROL	COMPLY
	(b) whether the proposed development will adversely impact on the amenity of dwellings within the same development by way of noise, hours of operation, traffic movement, parking, headlight glare, security lighting, fumes, gases, smoke, dust or odours, or the like, and the ability to manage the impacts.	<p>screened to limit noise transmission.</p> <ul style="list-style-type: none"> Complies. Differing land uses of this development are separate, and will not adversely impact each other.
Development adjacent to residential zones	<ul style="list-style-type: none"> In determining a development application that relates to a site adjoining land in Zone R2, R3 or R4, Council must take into consideration the following matters: <p>(a) whether any proposed building is compatible with the height, scale, siting and character of existing residential development within the adjoining residential zone;</p>	<ul style="list-style-type: none"> The subject site is adjacent to an R4 zone to the east and south. The proposed building will be compatible with the future desired character of the area, given its compliance with key development standards of the CBLEP 2023 (apart from a minor variation in height). The surrounding area has transitional height and FSR limits that will ensure that the Yagoona area and its development are compatible once developed.

CHAPTER/ PLANNING GUIDELINE	DEVELOPMENT STANDARD/CONTROL	COMPLY
	<p>(b) whether any goods, plant, equipment and other material used in carrying out the proposed development will be stored or suitably screened from residential development;</p> <p>(c) whether the proposed development will maintain reasonable solar access to residential development between the hours of 8.00am and 4.00pm at the midwinter solstice;</p> <p>(d) whether noise generation from fixed sources or motor vehicles associated with the proposed development will be effectively insulated or otherwise minimised;</p> <p>(e) whether the proposed development will otherwise cause nuisance to residents by way of noise, hours of operation, traffic movement, parking, headlight glare, security lighting, fumes, gases, smoke, dust or odours, or the like; and</p> <p>(f) whether any windows or balconies facing residential areas will be treated to avoid overlooking of private yard space or windows in residences.</p>	<ul style="list-style-type: none"> • All the aforementioned materials will be screened from public view. • Complies. As discussed above. • Noise-generating sources will be appropriately screened to limit noise transmission. • Differing land uses of this development are separate, and will not adversely impact each other. • Balconies and windows facing residential development are well separated to ensure visual privacy protection.
SECTION 7.2 CITY WEST		
SECTION 13-YAGOONA LOCAL CENTRE		
Storey limits	<ul style="list-style-type: none"> • Development must comply with the storey limit that corresponds with the maximum building height shown for the site on the Height of Building Map as follows: 	<ul style="list-style-type: none"> • Complies. 6 storeys is proposed.

CHAPTER/ PLANNING GUIDELINE	DEVELOPMENT STANDARD/CONTROL		COMPLY								
	<table><tr><th>Maximum building height as shown on the Height of Buildings Map (Canterbury-Bankstown LEP 2023)</th><th>Storey limit (not including basements)</th></tr><tr><td>14m</td><td>4 storeys (no attic)</td></tr><tr><td>20m</td><td>6 storeys (no attic)</td></tr><tr><td>26m</td><td>8 storeys (no attic)</td></tr></table>		Maximum building height as shown on the Height of Buildings Map (Canterbury-Bankstown LEP 2023)	Storey limit (not including basements)	14m	4 storeys (no attic)	20m	6 storeys (no attic)	26m	8 storeys (no attic)	
Maximum building height as shown on the Height of Buildings Map (Canterbury-Bankstown LEP 2023)	Storey limit (not including basements)										
14m	4 storeys (no attic)										
20m	6 storeys (no attic)										
26m	8 storeys (no attic)										
Setbacks	<ul style="list-style-type: none">Development must:<ul style="list-style-type: none">(a) comply with the minimum setbacks shown in Figure 13d and Appendix 1;(b) comply with Setback Type S1 to maintain continuous street walls unless otherwise indicated in Figure 13d and Appendix 1;(c) provide a four storey street wall to the primary and secondary street frontages.	<ul style="list-style-type: none">Complies.Highland Avenue: F4 requires a four storey street wall setback with a 4m setback above, with a balcony articulation zone of 2m. The Highland Avenue frontage has a nil setback is provided for the street wall up to and including Level 3. A 4m setback and 2m articulation zone is provided for Levels 4 & 5.The Crescent: F4A requires a four storey street wall setback with a 6m setback above, with									

CHAPTER/ PLANNING GUIDELINE	DEVELOPMENT STANDARD/CONTROL	COMPLY
	<p>Figure 13d: Setback controls</p>  <p>Legend</p> <p>Setbacks</p> <ul style="list-style-type: none"> Setback Type F4 Setback Type F4A Setback Type F5 Setback Type F6 Rear Setback Type R1 Rear Setback Type R2 Rear Setback Type R6 Side Setback Type S1 Side Setback Type S3 <p>Corner and Prominent Sites</p> <ul style="list-style-type: none"> Cadastre - White Important Corners Prominent Sites Study Area Lots Railway Stations 	<p>a balcony articulation zone of 2m.</p> <p>The Crescent frontage has a nil setback is provided for the street wall up to and including Level 3.</p> <p>A 6m setback and 2m articulation zone is provided for Levels 4 & 5.</p> <ul style="list-style-type: none"> Rear setback: R6 requires a 6m setback until a greater requirement is needed per the ADG. <p>A 6m setback to the built form is provided to the eastern rear boundary. The upper levels will also comply with ADG requirements as outlined in</p>

CHAPTER/ PLANNING GUIDELINE	DEVELOPMENT STANDARD/CONTROL	COMPLY
		Appendix A of this SEE.

Appendix D Clause 4.6 Variation

CLAUSE 4.6 VARIATION
CLAUSE 4.3 (HEIGHT OF BUILDINGS)
CANTERBURY-BANKSTOWN LOCAL ENVIRONMENTAL PLAN 2023
DATE: October 2024

1. EXECUTIVE SUMMARY

This submission under Clause 4.6 seeks a variation to Clause 4.3 of the Canterbury-Bankstown Local Environmental Plan 2023 (CBLEP 2023) pertaining to the maximum height of buildings development standard.

The variation is sought in relation to a development application for the demolition of all existing structures on the subject site and construction of a six-storey shop top housing development at No. 143-145 Highland Avenue, Yagoona. The proposed development comprises a ground-level car parking/servicing area, 2 x ground-level commercial premises, and 43 x co-living rooms above.

As detailed in this written request for a variation to Clause 4.3 - height of buildings development standard under the CBLEP 2023, the proposed development meets the requirements prescribed under Clause 4.6 of the CBLEP 2023.

2. SITE DESCRIPTION

The subject site is commonly known as No. 143-145 Highland Avenue, Yagoona, and is legally defined as comprising Lots 4 and 5 in Deposited Plan 18310. The subject site is located on the north eastern corner of Highland Avenue and The Crescent. Refer to Figure 1 – Site Location Map, which illustrates the location of the subject site.

The site is generally rectangular in shape, with a frontage of 22.857m to Highland Avenue and 38.71m to The Crescent. The northern side boundary measures 40.235m, whilst the eastern side boundary measures 24.38m. The total area of the site is 973.8m².

The topography of the site provides for a moderate fall from the south eastern corner of the site to the north western corner of the site, measuring NS 47.25 to NS 45.18, respectively, representing a fall of 2.07m.



Figure 1: Site Location Map (Source: <https://maps.six.nsw.gov.au/>)

Currently located on the site are two single-storey brick and fibro dwellings with tiled roofs and associated outbuildings.

Development in the wider context is predominantly low-density residential in nature comprising of one and two storey detached dwellings that are generally of an older housing stock. There are, however, examples of newer high-density forms in the immediate vicinity of the site, including a residential flat building at No. 1 The Crescent and a mixed-use development at No. 124 Dutton Street, Yagoona.

Adjoining the subject site to the north at No. 147 Highland Avenue, Yagoona is a single-storey rendered dwelling with a tiled roof. To the east, at No. 10 The Crescent, Yagoona is a two (2) storey brick dwelling with a tiled roof. At the northern end of Highland Avenue, development transitions to commercial properties where it meets the Hume Highway.

The subject site is located in proximity to areas of public open space, with Pullen Reserve located approximately 300m (walking distance) to the south and Gazzard Park, approximately 450m (walking distance) to the north. Further to the north is O'Neill Park and Playground, approximately 1.2kms walking distance. These spaces are suitable for facilitating a range of both active and passive recreation opportunities for residents within the community.

The site is also located in proximity to local schools and amenities, with Yagoona Public School and Just Little Kidz Long Day Child Care located to the east and south of the site, respectively. Smaller-scale retail and commercial premises are also accessible along the nearby Hume Highway.

In terms of public transport, Yagoona Station is located within 190m walking distance to the south of the site, with bus services available on nearby Hume Highway, offering connections to a more expansive public transport network and nearby suburbs.

The subject site is zoned B2 Local Centre under the CBLEP 2023. Refer to Figure 2. The proposed land uses of shop top housing and commercial premises are permissible with consent pursuant to the CBLEP 2023, and co-living housing is permissible with consent pursuant to clause 67 of the State Environmental Planning Policy (Housing) 2021.

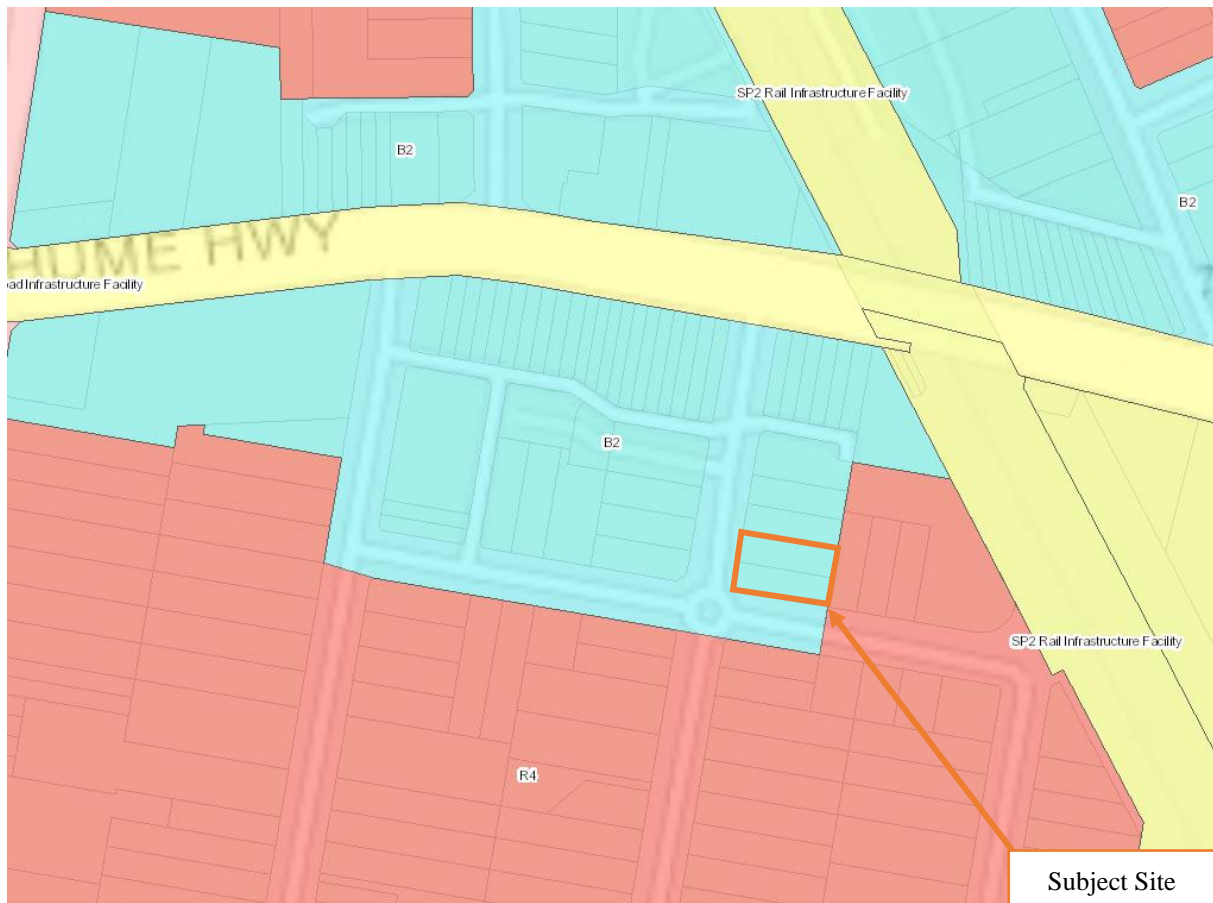


Figure 2: Land Zoning Map (Source: NSW Planning Portal – Digital EPI Viewer)

3. VARIATION SOUGHT: CLAUSE 4.3 HEIGHT OF BUILDINGS

The Environmental Planning Instrument to which this variation relates is the CBLEP 2023. The development standard to which this variation relates is *Clause 4.3 Height of Buildings*, which reads as follows:

4.3 Height of buildings

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

- (a) *to establish the height of development consistent with the character, amenity and landform of the area in which the development will be located,*
- (b) *to maintain the prevailing suburban character and amenity by limiting the height of development to a maximum of 2 storeys in Zone R2,*
- (c) *to provide appropriate height transitions between development, particularly at zone boundaries,*
- (d) *to minimise overshadowing to existing buildings and open space,*
- (e) *to minimise the visual impact of development on heritage items and heritage conservation areas,*

- (f) to support building design that contributes positively to the streetscape and visual amenity of an area.
- (2) The height of a building on any land is not to exceed the maximum height shown for the land on the [Height of Buildings Map](#).
- (2A) Despite subclause (2), the following maximum building heights apply—
- (a) 6m for a secondary dwelling that is not attached to the principal dwelling in Zone R2 in Area 1,
 - (b) 8.5m for a dwelling house in Zone R4 in Area 2,
 - (c) 11m for a building on a lot that is less than 5,000m² on land identified as “Area 1” on the [Height of Buildings Map](#) that is in Zone B6,
- (2B) The maximum wall height for a secondary dwelling that is not attached to the principal dwelling in Zone R2 in Area 1 is 3m.
- (2C) The maximum wall height for a dwelling house or dual occupancy in Zone R2 in Area 1 is 7m.
- (2D) In this clause—
- wall height means the vertical distance between the ground level (existing) and the higher of—
- (a) the underside of the eaves at the wall line, or
 - (b) the top of the parapet or the flat roof.

Pursuant to the CBLEP 2023, the subject site is prescribed a split maximum height of building of 20m to No. 145 Highland Avenue, the northern-most property, and 19m to No. 143 Highland Avenue, the southern-most property. Refer to Figure 3.



Figure 3: Height of Buildings Map (Source: NSW Planning Portal – Digital EPI Viewer)

No further subclause is relevant to the subject site and the development application in defining the height of buildings prescribed to the land.

4. EXTENT OF NON-COMPLIANCE

As above, Clause 4.3 of the CBLEP21 prescribes a maximum height of buildings of 20m to No. 145 Highland Avenue and 19m to No. 143 Highland Avenue.

The proposed development seeks a maximum height of 19.60m, which occurs on the portion of the site that is zoned for a 19m height limit. A variation of 600mm (3.15%) is sought.

The sections and height blanket prepared by Pangano Architects illustrate the extent of variation. Refer to Figures 4-5 below.

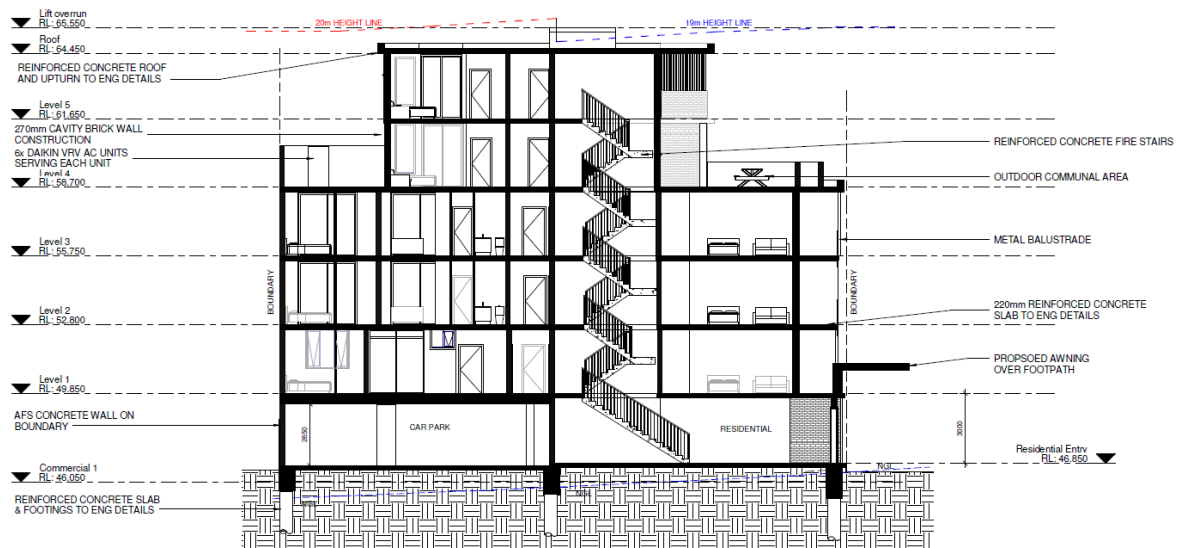


Figure 4: Extract of Section 2 (Sheet No. 11 of the architectural plans prepared by Pangano Architects)

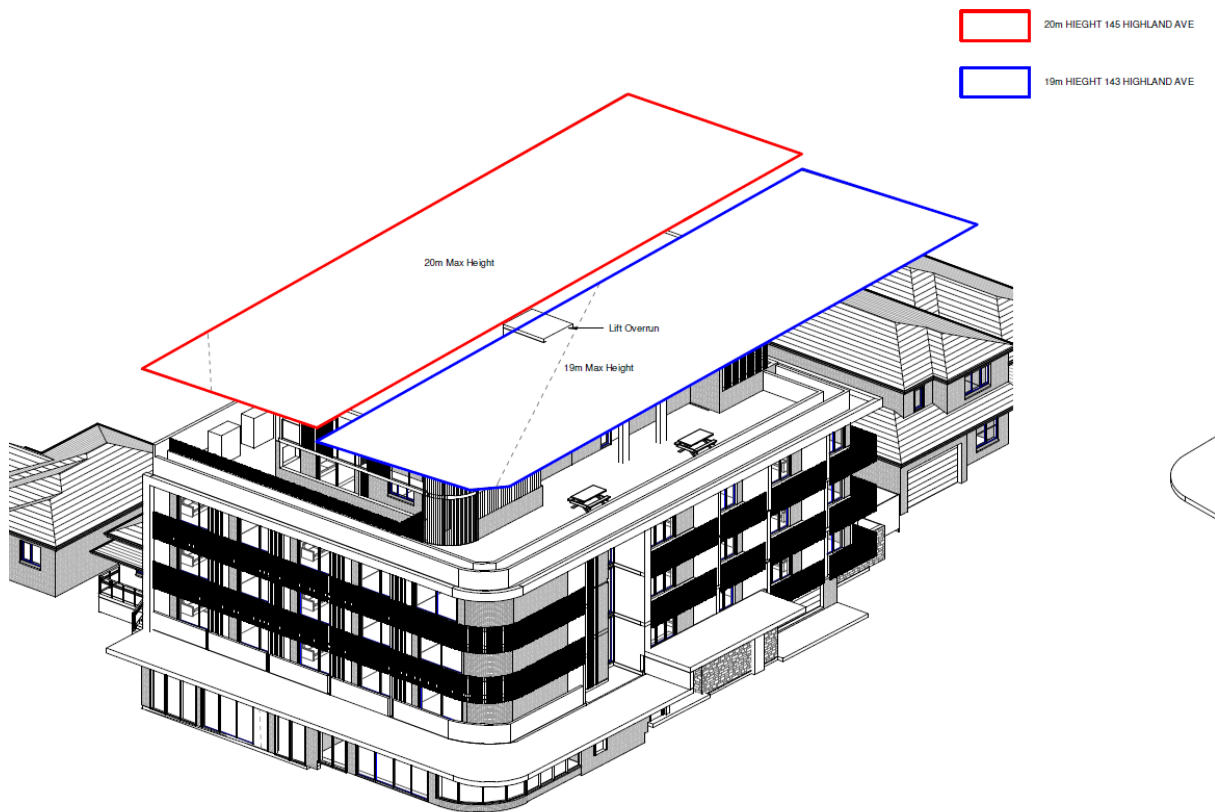


Figure 5: Extract of Height Blanket (Sheet No. 22 of the architectural plans prepared by Pagano Architects)

The elements penetrating the height limit are limited to the provision of the lift overrun. No other elements of the proposal are proposed to breach the height limit, and of key importance, no gross floor area components of the site form part of the breach.

It is our submission that the breach of the maximum height of buildings standard will not impact the amenity of the development or adjoining properties, nor will the variation compromise the bulk and scale of the development. A degree of flexibility is considered reasonable in this instance as is detailed within this statement below.

5. CLAUSE 4.6

This submission is made under Clause 4.6 of the CBLEP 2023 *Exceptions to development standards*. Clause 4.6 states the following:

“4.6 Exceptions to development standards

(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.*

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene 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.

(3) Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—

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

(b) there are sufficient environmental planning grounds to justify the contravention of the development standard.

Note—

The [Environmental Planning and Assessment Regulation 2021](#) requires a development application for development that proposes to contravene a development standard to be accompanied by a document setting out the grounds on which the applicant seeks to demonstrate the matters in paragraphs (a) and (b).

(4) The consent authority must keep a record of its assessment carried out under subclause (3).

(5) (Repealed)

(6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone C2 Environmental Conservation, Zone C3 Environmental Management or Zone C4 Environmental Living if—

(a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or

(b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.

(7) (Repealed)

(8) This clause does not allow development consent to be granted for development that would contravene any of the following—

(a) a development standard for complying development,

(b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which [State Environmental Planning Policy \(Building Sustainability Index: BASIX\) 2004](#) applies or for the land on which such a building is situated,

(ba) clause 4.4, to the extent that it applies to land in Zone B4 that has a maximum floor space ratio of 3:1,

(c) clause 5.4,

(caa) clause 5.5,

(ca) clause 6.27.”

Application of Clause 4.6

The use of Clause 4.6 to enable an exception to this development control is appropriate in this instance, and the consent authority may be satisfied that all requirements of Clause 4.6 have been satisfied in terms of the merits of the proposed development.

Clause 4.6 - exceptions to development standards, establishes the framework for varying development standards applying under a local environmental plan. Section 35B(2) of the Environmental Planning and Assessment Regulation 2021 outlines the requirement for development applications that contravene a development imposed by any environmental planning instrument to be accompanied by a written request that seeks to demonstrate that the matters of subclause 4.6(3)(a) and 4.6(3)(b) of Clause 4.6 are achieved, being that:

4.6(3)(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

4.6(3)(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

Additionally, this submission has been prepared having regard to the following guideline judgements:

- *Winten Property Group Limited v North Sydney Council* [2001] NSWLEC 46;
- *Wehbe v Pittwater Council* [2007] NSWLEC 827;
- *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009 (*Four2Five No 1*)
- *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 (*Four2Five No 2*)
- *Four2Five Pty Ltd v Ashfield Council* [2015] NSWCA 248 (*Four2Five No 3*)
- *Micaul Holdings Pty v Randwick City Council* [2015] NSWLEC 1386;
- *Randwick City Council v Micaul Holdings Pty Ltd* [2016] NSWLEC 7;
- *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118; and
- *RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130.

6. IS COMPLIANCE WITH THE DEVELOPMENT STANDARD UNREASONABLE OR UNNECESSARY IN THE CIRCUMSTANCES OF THE CASE?

The proposed variation from the development standard is assessed against the required tests in Clause 4.6. In addition, in addressing the requirements of Clause 4.6(3), the accepted five possible approaches for determining whether compliances are unnecessary or unreasonable established by the NSW Land and Environment Court in *Wehbe vs Pittwater Council* (2007) LEC 827 are considered.

In the matter of *Four2Five*, the Commissioner stated, within the judgement, the following, in reference to a variation:

“...the case law developed in relation to the application of SEPP 1 may be of assistance in applying Clause 4.6. While Wehbe concerned an objection under SEPP 1, in my view the analysis is equally applicable to a variation under Clause 4.6 where Clause 4.6 (3)(a) uses the same language as Clause 6 of SEPP 1.”

In the decision of *Wehbe vs Pittwater Council* (2007) LEC 827, Preston CJ summarised the five (5) different ways in which an objection under SEPP 1 has been well founded, and that approval of the objection may be consistent with the aims of the policy. The five tests are as set out below:

TEST	METHOD	APPLICABLE
First	<i>The most commonly invoked way is to establish that compliance with the development standards is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard.</i> <i>The rationale is that development standards are not ends in themselves but means of achieving ends. The ends are environmental or planning objectives. If the proposed development offers an alternative means of achieving the objective, strict compliance with the standard would be unnecessary and unreasonable.</i>	✓
Second	<i>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.</i>	N/A
Third	<i>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.</i>	N/A

Fourth	<i>A fourth way is to establish that the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable.</i>	N/A
Fifth	<i>A fifth way is to establish that "the zoning of particular land" was "unreasonable or inappropriate" so that "a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land" and that "compliance with the standard in that case would also be unreasonable or unnecessary.</i>	N/A

A discussion against the 'tests' in determining whether the standard is unreasonable or unnecessary in the circumstance of the case is provided below under the applicable test/methods:

First Method: Objectives of the Development Standard

The objectives supporting the height of buildings development standard identified in Clause 4.3 are discussed below. Consistency with the objectives and the absence of any environmental impacts would demonstrate that strict compliance with the standards would be both unreasonable and unnecessary in this instance.

The objectives of Clause 4.3, with a discussion below, are as follows:

- (a) to establish the height of development consistent with the character, amenity and landform of the area in which the development will be located.*

Our comment: The proposed development is occurring within a locality that is transitioning from lower-density development to higher-density development. This is evident through the recent uplift in planning controls applicable to the locality with the gazettal of the CBLEP 2023.

While the subject site remains the same zone, the key development standards of height and floor space ratio (FSR) have been increased to 20m/19m and 2.5:1, respectively. In addition, the surrounding area to the south has been rezoned from R2 Low Density to R4 High Density and has seen increases in height from 9m to 13m and in FSR of 0.5:1 to 1:1.

Development within the locality is yet to reflect the above controls. However, it is clear that the character, amenity, and landform in the area will transition to a built form reflective of the aforementioned controls.

Notwithstanding the above, the proposal has been designed to be consistent with the key built form planning controls/development standards of the relevant planning instruments, such as FSR, setbacks, and active street frontages. These standards inform the future desired character of the locality. While a variation of the height standard is proposed, the breach is limited to a lift overrun located centrally on the built form and, as such, will not be discernible from the public domain. All other built-form elements remain within the permitted height limit. A minor breach of a lift overrun will not impact the site from being consistent with the character, amenity, and landform of this transitioning area.

- (b) to maintain the prevailing suburban character and amenity by limiting the height of development to a maximum of 2 storeys in Zone R2.*

Our comment: Not Applicable. The site is not located within or adjacent to an R2 Low-Density Residential zone.

(c) to provide appropriate height transitions between development, particularly at zone boundaries.

Our comment: The subject site has a split height limit to begin the transition of built form towards the adjoining R4 zone, which is permitted a lower height. The proposed development is generally consistent with this height limit, with the exception of a lift overrun. This lift overrun will not be generally discernible from the public domain or neighbouring sites. As such, the development will be perceived to provide a transition of height towards the adjoining zone.

In addition, due to setback requirements, the built form that achieves the maximum 19m height limit is setback an additional 6m from the boundary with the adjoining zone. The height of the street podium that adjoins the R4 zone is approximately 13m, which aligns with the height limit of this zone.

(d) to minimise overshadowing to existing buildings and open space.

Our comment: Due to the location of the element which breaches the height limit, it will not adversely add to any shadow cast from the development.

(e) to minimise the visual impact of development on heritage items and heritage conservation areas.

Our comment: The subject site is not located in the vicinity of any listed heritage item or heritage conservation area.

(f) to support building design that contributes positively to the streetscape and visual amenity of an area.

Our comment: The proposed development is appropriately designed to align with the majority of key built form and design controls of the CBLEP 2023, CBDP 23, and SEPP (Housing) 2021. Of key importance, the streetscape is appropriately articulated through a mix of materials and finishes. In regard to the proposed height breach, the lift overrun, which breaches the standard, will not be generally discernible from the public domain and, therefore, is not a contributing factor to the streetscape or the visual amenity of the development.

For the reasons outlined above, compliance with the height of buildings development standard is unreasonable and unnecessary for this circumstance, given that the proposal is consistent with the objectives of the development standard.

7. ARE THERE SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS?

The assessment above and within the Statement of Environmental Effects demonstrates that the resultant environmental impacts of the proposal will be satisfactory for the circumstances of the case. It is clear that the element which breaches the development standard will not adversely provide any adverse environmental impacts such as, overshadowing, privacy impacts, or visual amenity impacts. This is due to the lift overrun being located centrally on the roof form, and not being generally discernible from the public domain.

The breach itself is created from the difference of height limits provided to the site, being 20m on No. 145, and 19m on No. 143. The differing limits are to create a transition as the site moves towards adjoining zones with lower heights. As discussed previously, the development achieves this transition through compliance with the remaining controls of the CBDP 2023.

The lift overrun itself is a modest structure centrally located over the roof. Given its key function to provide access to the communal open space, its protrusion above building height is deemed a positive outcome for the future residents of the site.

In this case, strict compliance with the height of buildings development standard of the CBLEP 2023 is unnecessary and unreasonable, and there are sufficient environmental planning grounds to allow the contravention of the development standard.

8. IS THE VARIATION WELL FOUNDED?

It is considered that this has been adequately addressed within this written submission. In summary, this Clause 4.6 Variation is well founded as required by Clause 4.6 of the CBLEP 2023 in that:

- Compliance with the development standards would be unreasonable and unnecessary in the circumstances of the development.
- There are sufficient environmental planning grounds to justify the departure from the standard.
- The development meets the underlying objectives of the standard to be varied (height of buildings).
- The breach does not raise any matter of State or Regional Significance.
- The development aligns with the desired future character of the area.

Based on the above, the variation is considered to be well-founded.

9. GENERAL

Clause 4.6 also states that:

(4) The consent authority must keep a record of its assessment carried out under subclause (3).

Should the variation to the development standard sought under this submission be supported by Council, the Council must retain a record of the assessment of this submission.

(5) (Repealed)

Noted.

(6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone C2 Environmental Conservation, Zone C3 Environmental Management or Zone C4 Environmental Living if—

(a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or

(b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.

This variation does not relate to the subdivision of land. The variation sought is thus not contrary to subclause (6).

(7) (Repealed)

Noted.

(8) This clause does not allow development consent to be granted for development that would contravene any of the following—

- (a) a development standard for complying development,*
- (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which [State Environmental Planning Policy \(Building Sustainability Index: BASIX\) 2004](#) applies or for the land on which such a building is situated,*
- (ba) clause 4.4, to the extent that it applies to land in Zone B4 that has a maximum floor space ratio of 3:1,*
- (c) clause 5.4,*
- (caa) clause 5.5,*
- (ca) clause 6.27.*

The development proposed is not complying development.

The proposed development is not identified as a BASIX building. As such, an assessment against BASIX provisions is not required.

The additional clauses outlined above do not apply to the proposal.

10. CONCLUSION

The proposal does not strictly comply with the height of buildings development standard as prescribed by Clause 4.3 of the CBLEP 2023. Having evaluated the likely effects arising from this non-compliance, we are satisfied that the objectives of Clause 4.6 of the CBLEP 2023 have been met, as the breach of the development standard does not create any notable environmental impacts, and there are sufficient environmental planning grounds.

As reiterated throughout this report and the submitted SEE, the proposal seeks to provide for a development that meets the Council's standards, excepting the variation sought to height. The development is considered to meet the desired future character of the area.

Consequently, strict compliance with this development standard is unreasonable and unnecessary, and the use of Clause 4.6 of the CBLEP 2023 to vary this development standard is appropriate in this instance.

Based on the above, it is sensible to conclude that strict compliance with the maximum building height control is not necessary and that a better outcome is achieved for this development by allowing flexibility in the application.

James Corry
Town Planner
GAT & Associates
Plan 4558