

JOINT REGIONAL PLANNING PANEL (Sydney East Region)

JRPP No	2013SYE081
DA Number	DA-301/2013
Local Government Area	City of Canterbury
Proposed Development	Demolition of all existing structures and construction of a mixed development containing 224 residential apartments, commercial tenancies, communal facilities, basement carparking and associated strata subdivision
Street Address	717-727 Canterbury Road, Belmore (Lot 201 DP 1062028)
Applicant / Owner	Troy Pestano Douglas & Andrew Hrsto Belmore 88 Pty Ltd
Number of Submissions	No submissions received
Recommendation	Refusal
Report by	Rita Nakhle Senior Planner

Assessment Report and Recommendation

EXECUTIVE SUMMARY

- Council has received Development Application (DA-301/2013) for the demolition of all existing structures and construction of a mixed development containing 224 residential apartments, commercial tenancies, communal facilities, basement carparking and associated strata subdivision.
- This application has been referred to the Sydney East Joint Regional Planning Panel as per Schedule 4A(3) of Environmental Planning and Assessment Act 1979 because the proposed development has a capital investment value of greater than \$20 million.
- The subject site is zoned B2 Local Centre under Canterbury Local Environmental Plan 2012 (CLEP 2012). The proposed development involves residential apartments that do not satisfy the definition of 'shop top housing' given they are not located 'above ground floor retail or business premises'. The 'commercial premises' component of the proposal is permissible in the zone, however, the 'residential accommodation' component of the development is prohibited in the zone.
- The development application has been assessed against the provisions contained in State Environmental Planning Policy No.65 – Design Quality of Residential Flat Development, State Environmental Planning Policy (Building Sustainability Index) BASIX 2004, State Environmental Planning Policy No.55 – Remediation of Land, State Environmental Planning Policy

(Infrastructure) 2007, State Environmental Planning Policy (State and Regional Development) 2011, Canterbury Local Environmental Plan 2012, Canterbury Development Control Plan 2012, Section 94 Contributions Plan 2005 and the Canterbury Road Master Plan. The proposed development has been found to be non-compliant and inconsistent with a number of relevant controls and provisions of these plans and policies, as outlined in detail throughout this report.

- The development application was publicly exhibited and adjoining land owners notified in accordance with the provisions of Part 7 of Development Control Plan 2012 for a period of 21 days. There were no submissions received during this period.
- The development application is recommended for refusal.

BACKGROUND

The subject development application was submitted on 25 July 2013. Upon review of the proposal, Council set up a meeting with the applicant on 12 August 2013 to raise concern about the definition of the development as 'shop top housing' based on Council's understanding of the term and legal advice received, given that the design involves ground floor residential dwellings. Council considered that the residential component of the proposal is best defined as 'residential accommodation' which is a prohibited development on the subject site.

At the end of this meeting, the applicant indicated that they would seek their own independent legal advice regarding this matter and advise Council of their intentions with the application. There was no contact made with Council and on 23 September 2013, Council received a Class 1 Appeal by the applicant for a deemed refusal of the subject development application.

The appeal (Land & Environment Court Proceedings No.10740 of 2013) was listed for a hearing before Justice Sheehan on 7 February 2014 for the purpose of determining the following preliminary question:

'Whether the development application seeks consent for "residential accommodation" which cannot be categorized as "shop top housing" and is therefore prohibited on land within Zone B2 Local Centre pursuant to the provisions of the Canterbury Local Environmental Plan 2012'.

Justice Sheehan is yet to hand down a judgment for this appeal.

SITE DETAILS

The subject site is situated on the north eastern corner of the intersection of Burwood Road and Canterbury Road. It is irregular in shape and has a total area of 7, 458 square metres with a fall of approximately 6 metres to the north west. The primary frontage of the site is to Canterbury Road and is 69.02 metres and the secondary frontage to Burwood Road is 81.64 metres. The site is presently occupied by a furniture warehouse, plumbing centre and at grade car parking.

Belmore Town Centre is approximately 400 metres north of the subject site. Also to the north of the subject site are three single storey detached dwelling houses and a three storey residential flat building.

Development to the south of the subject site is characterized by one and two storey industrial/warehouse/bulk goods retail uses. Development to the south of the east of the subject site is characterized by industrial uses.



Subject Site

PROPOSAL

The proposed development involves demolition of all existing structures and construction of a mixed development containing 224 residential apartments, commercial tenancies, communal facilities, basement carparking and associated strata subdivision. In detail, the proposal involves:

- Ground floor commercial/retail floor space comprising;
 - 371m² of retail floor space
 - 77m² café
 - 195m² of commercial floor space
 - 12 home offices approximately 39m² each
 - 215m² of warehouse floor space
- 224 residential apartments including single level, town house and SoHo style apartments comprising 82 x 1 bedroom, 127 x 2 bedroom and 15 x 3 bedroom units;
- Communal facilities including at-grade open space areas;
- Car parking for 281 vehicles over 2 basement levels accessible via a combined entry/exit point on Burwood Road; and
- Stratum and strata subdivision.

STATUTORY CONSIDERATIONS

When determining this application, the relevant matters listed in Section 79C of the Environmental Planning and Assessment Act 1979 must be considered. In this regard, the following environmental planning instruments, development control plans (DCPs), codes and policies are relevant:

- State Environmental Planning Policy No.65 – Design Quality of Residential Flat Development
- State Environmental Planning Policy (Building Sustainability Index) BASIX 2004
- State Environmental Planning Policy No.55 – Remediation of Land
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy (State and Regional Development) 2011
- Canterbury Local Environmental Plan 2012
- Canterbury Development Control Plan 2012
- Section 94 Contributions Plan 2005
- Canterbury Road Master Plan 2010

ASSESSMENT

The development application has been assessed under Sections 5A and 79C of the Environmental Planning and Assessment Act 1979 and the following key issues emerge:

- **State Environmental Planning Policy No.65 – Design Quality of Residential Flat Development**

State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development ('SEPP 65') applies to the proposed development as it falls within the definition of a residential flat building under this SEPP. A Design Verification Statement has been provided. The SEPP aims to improve the design quality of residential flat buildings in NSW by addressing the following design principles:

1 - Context

The proposal is generally consistent with the future character of the area, which will consist of mixed use buildings of between 3 to 5 storeys as outlined in the Canterbury Road master plan. The part of the proposal that is not shop top housing, however, is not a permissible use within the zone given the location of residential uses on the ground floor (and not above commercial/retail). Higher density residential development will be a future characteristic of the area and therefore generally the proposal is consistent with its desired future context.

The proposed development surrounds an Energy Australia substation at 543 Burwood Road. The proposal should provide details of how this substation can be better integrated with the remainder of the development site. It would be desirable to know of Energy Australia's intentions for the site, as if it is the case that Energy Australia has future plans to divest, the result would be an isolated site.

2 – Scale

The scale of the proposed development is generally consistent with the scale of development which is the desired future character for this area, which is to comprise mixed use developments with active retail/commercial frontages. The development achieves this by generally complying with the building height controls, with the exception of Building L. The use of a variety of materials and the breaking up of the development across several buildings reduces the bulk of the

development. The street landscaping proposed further minimises bulk and ensures the proposal is integrated into the streetscape and surrounding area. The proposal does not wholly consist of mixed use development and therefore is considered to be inconsistent with this design principle.

3 – Built Form

The proposal provides a built form on the site which conveys the building's purpose and provides an alignment to the street which has the potential to provide activation and surveillance. The proposal provides for a clear delineation between public and private space, has pedestrian amenity to and from the development and has displayed a manipulation of the building elements which assists in minimising bulk and providing a visually interesting facade to the street. In these ways, the proposal is considered to achieve a pleasant and functional built form.

The lack of more active uses along the Canterbury Road frontage and the lack of a defined corner built form element at the intersection do not adequately address the corner position/gateway status of the site towards the Belmore town centre. A 'meeting place', envisaged in the Canterbury Road master plan, has not been provided given the limited setback to this intersection and the small size of the retail tenancies along this elevation. A forecourt to the corner building (Building F) could have achieved these objectives of the master plan. It is therefore considered that the proposal is inconsistent with this design principle.

4 – Density

There is no density control provided for the site in the Canterbury Local Environmental Plan 2012 ("LEP 2012") or the Canterbury Development Control Plan 2012 ("DCP 2012"). Having considered the matters under the *Residential Flat Design Code*, there are several aspects of the development which do not comply due to the number of units proposed on the site. There are insufficient balconies for up to 66 of the units (27%), there are some levels of the buildings which contain more than the maximum number of units recommended for security and familiarity reasons and there are inadequate/unusable storage areas. It is therefore considered that the proposal is inconsistent with this design principle, given the amenity impacts which result from the number of units proposed.

5 – Resource, Energy and Efficiency

The proposal complies with the energy efficiency requirements of BASIX. The proposal also provides for a good level of northern solar access for the private open space areas, and limits overshadowing due to the breaking up of the development into separate buildings. The proposal is considered to be consistent with this design principle.

6 – Landscaping

Landscaping is provided generally in accordance with the DCP controls. The Landscape plan shows planting within the front, side and rear setback areas. Such planting will ensure the proposal is integrated into the surroundings and will provide aesthetic amenity for residents. The

provision of the deep soil zones will allow for some natural infiltration of stormwater. The provision of landscaping along the front, rear and side boundaries around the built form will also assist in minimising overlooking opportunities between buildings and provide a greater level of amenity for private open space areas. The proposal is considered to be consistent with this design principle.

7 – Amenity

The proposal achieves a satisfactory residential amenity with reasonable room size and shape, along with access to natural light and ventilation and visual and acoustic privacy. However a significant number of units have inadequately sized private open space. It is therefore considered that the proposal is inconsistent with this design principle, given the amenity impacts which result from the number of units proposed.

8 – Safety and Security

The proposal generally has a good level of safety as a result of the surveillance of the street and the entrances to the proposed buildings. There are some safety and security concerns, however, with the layout of the basement as clear open plan areas with good vision and access to stairs and other facilities within the basement is not provided. The storage areas and the garbage rooms present potential entrapments sites, not allowing users to feel safe while using this area. The separation of residential and commercial car parking and pedestrian access is not clearly illustrated for the proposal. It is therefore considered that the proposal is inconsistent with this design principle.

9 – Social Dimensions and Housing Affordability

The proposal provides housing opportunities in close proximity to existing services. A variety of layouts can be provided within the proposed units and adaptable units and lifts have been provided on level 1. The mixed use development will add to the range of dwelling size options and optimise the provision of housing to suit social mix. The proposal is considered to be somewhat consistent with this design principle, but should be more so.

10 – Aesthetics

The proposal achieves a quality aesthetic appearance given the use of materials and building design. The landscaping proposed within the front area provides for a pleasant aesthetic when viewing the development from the street.

Residential Flat Design Code

The proposal has been considered with respect to the matters outlined in the Residential Flat Design Code ('RFDC'). The proposal is inconsistent with several matters under the RFDC as outlined below:-

- **Part 1: Local Context** – the proposal is inconsistent with the building height and street setback controls of the RFDC as outlined in the CDCP 2012 assessment.

- **Part 2: Site Design** - the proposal is inconsistent with the safety and vehicle access controls of the RFDC as outlined in the CDCP 2012 assessment.
- **Part 3: Building Design** - the proposal is inconsistent with the apartment layout (in action to recommended unit sizes), balconies, ground floor units (in that such units are not permissible in the B2 – Local Centre zone) and internal circulation in that more than 8 units are accessed some of the corridors in the proposal.

These matters are further outlined in the CDCP 2012 assessment outlined below.

- **State Environmental Planning Policy (Building Sustainability Index) BASIX 2004**

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 ('BASIX'), aims applies to the residential component of development and aims to encourage sustainable residential development. A BASIX Certificate No.482654M dated 16 July 2013 accompanies this application, satisfying these requirements.

- **State Environmental Planning Policy No.55 – Remediation of Land**

State Environmental Planning Policy No. 55 – Remediation of Land ('SEPP 55'), aims to promote the remediation of contaminated land for the purposes of reducing risk to human health or any other aspect of the environment. Clause 7 of SEPP 55 states that a consent authority must not consent to the carrying out of development unless it has considered whether the land is contaminated. If the land is contaminated, it must ascertain whether it is suitable in its contaminated state for the proposed use or whether remediation of the land is required.

A Preliminary Contamination Assessment has been prepared by *Geotechnique Pty Ltd* dated 5 July 2013, identifying that the subject site has history of use for possible plastic and furniture manufacture as well as a chemical storage area associated with the current use by Trade Link, potential migration of contaminants from the adjoining electrical substation and the potential for asbestos in the existing buildings given their age.

The report concludes that the site has only a low potential for contamination and is therefore unlikely to pose an unacceptable risk of harm to human health or the environment and the site can be made suitable for the proposed development provided that the following recommendations are implemented:

- Implementation of a suitable sampling and testing plan as a Stage 2 Detailed Contamination Assessment ('DCA') to address the potential for contamination when the buildings are unoccupied and there are no access constraints; and
- A Remedial Action Plan ('RAP') if required by the Stage 2 DCA.

Having regard to the above, Council is satisfied that the land can be made suitable for the proposed residential development. These recommendations, and any further actions required as a result should be imposed as conditions of consent.

- **State Environmental Planning Policy (Infrastructure) 2007**
State Environmental Planning Policy (Infrastructure) 2007 ('Infrastructure SEPP') provides controls relating to traffic noise, development adjoining classified roads and traffic generating developments.

The following clauses are relevant to the proposed development:

Requirement	Proposal	Comply
Development frontage to classified road (CI 101) a) where practicable, vehicular access to the land is provided by a road other than the classified road, and b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development.	Vehicular access to the proposal is from Burwood Road and not from Canterbury Road. The efficiency and safety of the surrounding road network is unlikely to be adversely affected by the development.	Yes
Impact of road noise or vibration on non-road development (CI 102) Applies to development on land in or adjacent to the road corridor AADT >40,000 vehicles and that the consent authority considers is likely to be adversely affected by road noise or vibration.	An Acoustic report has been provided with the application which concludes that adequate measures can be imposed to ensure the proposal is not adversely affected by road traffic noise. The recommendations are to be imposed as conditions.	Yes
Traffic-generating development (CI 104) The proposal must be referred to RMS as it involves development in Column 2 (200+ cars) and Column 3(>75 units).	The application was referred to the RMS pursuant to cl.104 of the Infrastructure SEPP – no objections raised subject to advisory comments being imposed as conditions on any consent issued.	Yes

The proposal is consistent with the Infrastructure SEPP.

- **State Environmental Planning Policy (State and Regional Development) 2011**
Part 4 (Clauses 20 and 21) of State Environmental Planning Policy (State and Regional Development) 2011 applies to development in Schedule 4A to the EP&A Act to be determined by a regional panel. The proposal is for development with a CIV of more than \$20 million and is therefore referred to the Sydney East Joint Regional Planning Panel ('JRPP') for determination.
- **Canterbury Local Environmental Plan 2012**
The Canterbury Local Environmental Plan 2012 ('CLEP 2012') is the principal environmental planning instrument applying to the subject site, which was gazetted on 21 December 2012 and became effective from 1 January 2013.

Zoning and Permissibility

The subject site is zoned B2 – Local Centre, and the objectives of this zone include:

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

The proposal is generally inconsistent with these objectives given the majority of the proposal is residential development with only some small retail and commercial tenancies proposed along the Burwood Road frontage of the site. The remainder of the proposal is a residential development, which is not provided for in the zone objectives. The location of residential development at ground floor exacerbates the proposal's lack of consistency with the zone objectives.

Permissible uses with consent include *commercial premises* and *Shop top housing*, while *residential accommodation* is prohibited in the zone. The relevant definitions include the following:-

Commercial premises means any of the following:

- (a) *business premises,*
- (b) *office premises -*
- (c) *retail premises*

Shop top housing means one or more dwellings located above ground floor retail premises or business premises.

Note. *Shop top housing is a type of **residential accommodation**—see the definition of that term in this Dictionary.*

The proposed residential apartments within the development are not permissible as apartments do not satisfy the definition of 'shop top housing' given the dwellings are not located 'above ground floor retail or business premises'. The great majority residential apartments proposed on the ground floor levels in Buildings B, N, F and C are not located above retail or commercial uses at ground level. No apartment in building L is located above ground floor retail or business premises.

The proposed commercial, retail and warehouses premises on the ground and upper ground levels are permissible as they satisfy the definition of 'commercial premises' as they comprise office, business and/or retail premises.

Other Controls

The proposal is generally consistent with the remainder of the controls of CLEP 2012 applicable to this application, outlined in the table below:

Control	Requirement	Proposal	Comply
Subdivision (CI 2.6)	Requires consent (strata subdivision may be complying development).	Part of application.	Yes
Demolition (CI 2.7)	Requires consent (strata subdivision may be complying development).	Part of application.	Yes
Height of Buildings (CI 4.3)	Maximum height - 18 metres	Maximum height – 17.88m (Building L)	Yes
Trees or vegetation not prescribed by development control plan (CI 5.9AA)	The ringbarking, cutting down, topping, lopping, removal, injuring or destruction of any tree or other vegetation to which this clause applies is permitted without development consent (not prescribed by a DCP).	Addressed under Part 6.6 of CDCP 2012	N/A
Heritage Conservation (CI 5.10)	Consider potential impact on the heritage significance of any heritage items or heritage conservation area in the vicinity of the site.	Item I30 (Federation bakery building, White House Bakery (former)) at No 2 Wilson Avenue is located to the rear of properties facing the site to the west. Given the spatial separation of this item from the proposal, there is unlikely to be any adverse impact to this item.	Yes
Acid Sulphate Soils (CI 6.1)	Consent for certain works on specified land	The site is not affected by ACID sulphate Soils.	N/A
Stormwater Management (CI 6.4)	Development must a) maximise use of water permeable surfaces on land having regard to the soil characteristics affecting on-site infiltration of water, and b) includes on-site stormwater retention for use as an alternative supply to mains water, c) avoids any significant adverse impacts of stormwater runoff on adjoining properties, native bushland and receiving waters.	Addressed under Part 6.4 of CDCP 2012	N/A
Essential services (CI 6.6)	Adequate services (water supply, electricity, sewage, stormwater) and suitable vehicular access.	Adequate services are provided.	Yes

- Canterbury Development Control Plan 2012**

The Canterbury Development Control Plan 2012 ('CDCP 2012') aims to provide a comprehensive suite of development controls that highlight the need for full and proper consideration of human, environmental and servicing requirements in relation to proposed development. Part 3 applies to the business zones, which is relevant to the current application

and Part 6 provides generic development controls. The relevant sections of the CDCP 2012 are considered below.

PART 3 – BUSINESS CENTRES

Control	Requirement	Proposal	Comply
Envelope Controls			
Site amalgamation	<ul style="list-style-type: none"> No min site area or amalgamation; Min frontage - 12m to 18m 	Site frontage – 69.02m (Canterbury Road) and 81.64m (Burwood Road).	Yes
Avoid isolating undeveloped sites	<ul style="list-style-type: none"> No site isolation. Should seek to amalgamate properties for redevelopment. Provide evidence of reasonable offers. 	There is no site isolation given the adjoining sites are capable of redevelopment.	Yes
Height	<ul style="list-style-type: none"> Max number of storeys – 5 storeys for 18m (CLEP 2012); No additional storeys (even if height complies with maximum LEP height) except major development site. New buildings in traditional streetscape - street wall compatible with adjoining/nearby 2 storey buildings. Ground floor - min 3.3m floor- ceiling Residential - min 2.7m floor- ceiling. 	<ul style="list-style-type: none"> Building B – 17.45m & 5 storeys; Building N – 15m & 5 storeys Building L – 17.88m & 6 storeys; Building C – 15.68m & 5 storeys; Building F – 16.26m & 5 storeys Ground floor – floor to ceiling height = 3.03 metres, except Building C which is 3.6 metres; Residential floors – floor to ceiling height = 3.03 metres; 	No (number of storeys - Building L & floor to ceiling height of ground floor of Buildings B, N, L & F)
Depth/footprint	<p>Residential</p> <ul style="list-style-type: none"> Max 18m depth (glass to glass); excluding light well. Upper levels setback to limit depth of residential floors above deeper commercial/ retail floors. <p>Commercial and retail</p> <ul style="list-style-type: none"> Depth 10m to 24m Max length of any wall 50m Courtyard development may be appropriate for deep blocks. 	<ul style="list-style-type: none"> Building B – 12m to 17m Building N – 12m to 18m Building L – 8m to 18m Building C – 10m to 17m Building F – 7m to 17m Commercial/retail – approx. 10 metres Building C: walls >50 metres. 	No (Building C - walls >50m long)
Setback	<ul style="list-style-type: none"> B2 zone along Canterbury Road <ul style="list-style-type: none"> 1-4 storeys at street - min 3m setback Upper level setback – 5th storey – an additional 5m No rear setback if adjoining lane. 	<ul style="list-style-type: none"> Canterbury Road frontage (Building C) – 3m setback for levels 1 to 3, additional 5m setback for level 4. Small balcony encroachments. Burwood Road (Building B) – nil setback from street for upper ground and levels 1 and 2; level 3 complies; 	No (front setbacks of Buildings B & F)

	<ul style="list-style-type: none"> • Provide articulation and variation to façade. • Variations may be acceptable on secondary street, on corner sites, for outdoor display areas and dining. • If required on the envelope diagram, set ground floor back for colonnade. • Side setback – nil when desired character is continuous street frontage. 	<ul style="list-style-type: none"> • Burwood Road (Building F) – ground floor retail & gym encroach into street setback and residential units encroach into street setback on upper ground and levels 1, 2, 3 & 4. • Retail uses within front setback are satisfactory due to street activation. 	
Building separation	<ul style="list-style-type: none"> • Up to 3 storeys – <ul style="list-style-type: none"> - 6m (between habitable/balcony) - 4m (between hab/balcony to non-hab) - 3m (between non-habitable) • 4th storey <ul style="list-style-type: none"> - 12m (between habitable/balcony) - 9m (between hab/balcony to non-hab) - 6m (between non-habitable) • 5th to 8th storey – <ul style="list-style-type: none"> - 18m (between habitable/balcony) - 13m (between hab/balcony to non-hab) - 9m (between non-habitable) • Provide unobstructed separation and ensure two ends are open. • If above podium, separation may accommodate residential terraces and courtyards. • Residential windows may face into building separation, but only if separation is completely open. • When building set back creates a terrace, building separation distance for floor below applies across terrace. • Zero building separation in appropriate contexts (main street, to maintain street wall building type with party walls). 	<ul style="list-style-type: none"> • Building B – 3m from Building N; 15m from Building F, setback to Burwood Road and adjoining (satisfactory); • Building N – 6m at all levels to adjoining properties to NW & NE (satisfactory), 12 metre separation to Building L (satisfactory); 3m to northern extent of Building L (unsatisfactory); • Building L – 12 metres from all other buildings (satisfactory); • Building C – nil setback to adjoining along Canterbury Road (satisfactory); 3m to Building F (unsatisfactory); • Building F – 15m from Building B (satisfactory). 	No (Buildings B to N, N to L and C to F)

Public domain	<ul style="list-style-type: none"> Public domain strategy. 	New paving and street tree plantings proposed.	Yes
Car parking	<ul style="list-style-type: none"> Car parking - Part 6.8. Basement - reduce scale/bulk, minimise streetscape impact, restrict to under building footprint. Basement podium – no >1m above existing ground level. No vehicle access - Canterbury Road. Limit vehicular access points. Provide clear sight lines at pedestrian and vehicular crossings. Separate and clearly distinguishing pedestrian and vehicular entries, Optimise deep soil, active street frontages, good streetscape design, and minimise loss of street parking. Max 6m width for access driveways. Integrate parking and vehicle access. Parking entries on secondary streets. Minimise noise, exhaust fumes and headlight glare on adjoining residential. Keep all loading docks, parking areas and driveways clear. Signposting/line marking for parking. 	<p><u>Parking</u> Shortfall of 69 spaces</p> <p><u>Vehicle access</u> Vehicle access to the basement car parking is provided via a combined 5.5 metres wide (should be 6m) entry/exit point located in Burwood Road (secondary street) approximately 76 metres from the intersection with Canterbury Road.</p>	No – refer to Part 6.8
Basement parking	<ul style="list-style-type: none"> Basement parking and loading bays Bicycle parking accessible from ground level. Provide shared multi-use parking and shared access driveways. Separate parking for residential and non-residential users. Safe and efficient lift access from all parking to building. Recess entries from main building façade alignment, Avoid black holes in facade by providing security doors or decorative grills to car 	<p>Separate parking for residential and commercial is not clearly identified.</p> <p>Car parking is provided in a basement. Bicycle parking is not provided at ground level (in basement).</p>	No – refer to Part 6.8

	park entry, <ul style="list-style-type: none"> Return facade material into car park entry recess visible from street. 		
Design Controls			
Context	<ul style="list-style-type: none"> Maintain existing parapet line where it contributes to early to mid 20TH century character of traditional main streets. Building form and design don't have to mimic traditional features, but should reflect these in contemporary design. 	There is no existing parapet line on the site. The proposal is reflective of a modern contemporary design envisaged for the area.	Yes
Street address	<ul style="list-style-type: none"> Locate entries to existing street, subdivision pattern, street tree planting, pedestrian access network. Awning over entry. Accessible entries. Provide entries to upper levels in business centres, from street front facade to encourage activities on the ground floor and service activities to rear of buildings. Habitable rooms towards street, private open space etc. 	<p>The various pedestrian entry points are provided to both street frontages and are of an adequate location and spacing to reflect the prevailing subdivision pattern in the street.</p> <p>Habitable rooms face the street and internal open space and the street corner is activated in Building F by the proposed retail uses which re to include a cafe.</p>	Yes
Facade design & articulation	<ul style="list-style-type: none"> Avoid long spans of blank walls along street frontages; Address both street frontages, articulation on corner sites. Incorporate contrasting elements in façade <ul style="list-style-type: none"> base, middle and top related to overall proportion of building, change in materials or change in setback, express variation in floor to floor height (lower levels), articulate building entries with awnings etc, variety of window types, balustrades to reflect type and location of balcony and its relationship to the façade, architectural features which give human scale at street level (awnings, colonnades, etc) colour, variation in the types of materials and arrangement of façade elements and materials to articulate different parts of a 	<p>The excessive length of Building C exacerbates the bulk of the proposal to Canterbury Road, contrary to the DCP controls (>50 metres).</p> <p>The Burwood Road elevation has more successfully dealt with bulk and scale by providing more appropriately scaled building forms and additional architectural relief within the buildings.</p> <p>The building layout and structure is reflected in the facades and there are sufficient window openings and details generally in the facades.</p> <p>Facades reflect orientation with aluminium louvers on the western elevation large windows and balconies along the northern elevation.</p> <p>The lack of other consolidated sites in the area requires this site to mimic the rhythm and</p>	No

	<p>building façade,</p> <ul style="list-style-type: none"> - Incorporate horizontal and/or vertical elements (indentations in façade plane, string courses and bandings, window openings and building entrances). • Express building layout in façade. • Facades to reflect orientation of site using sun shading devices etc. • Modulate wall alignment with step in of at least 1m. • Where no characteristic built form, modulate facade with a scale and rhythm that reflects the intended use of the building, and desired context as expressed on building envelope diagrams. 	scale in the locality which is largely single lots and commercial buildings.	
Façade details	<ul style="list-style-type: none"> • Solid and void ratio – 50%; don't allow balconies and voids to dominate publicly visible facades (excluding glass shop fronts and colonnades in business centres). • Balconies <ul style="list-style-type: none"> - use in moderation and integrate into overall façade composition; - face internal courtyard; not all on external façade; - use types that respond to street context, building orientation and residential amenity; - Use lightweight materials; - Support with slender metal or timber frames, rather than concrete columns or masonry piers; - balustrades with glass panels, open metal framing etc not entirely masonry. • Locate/proportion windows to minimise bulk and scale. 	<p>Solid to void ratio appears to comply with the 50% ratio.</p> <p>The proposed balconies are sufficient in terms of number, variety in sizes and their location with respect to orientation. A variety of balustrades have been provided.</p> <p>Windows are appropriately located and spaced with a variety of types used throughout the facades.</p>	Yes
Shopfront	<ul style="list-style-type: none"> • Windows on street frontage transparent to provide visibility between interior and exterior spaces, (surveillance & pedestrian interest); • No external solid roller shutters (transparent or open grille shutter behind glass shopfront if needed); 	Glazed shopfronts are provided to both street frontages, although the 'home offices' along Canterbury Road do not provide any activation of this façade.	Yes

	<ul style="list-style-type: none"> • Security grilles discreet, consider alternatives (security alarm, a well-lit shopfront etc). 		
Corners, gateway sites and foreground treatments	<ul style="list-style-type: none"> • Gateway and foreground treatment sites shown on envelope diagrams. • Emphasise important corners & gateways to centres with foreground treatments visually prominent against background built form, use stronger foreground treatments for gateway buildings. • Use corner features, wrap around balconies, vertical elements, changes in materials or colours and the like to emphasise corner buildings – vertical corner features do not exceed 1.5m above the maximum height of building, or 2m for gateway sites. • Variation to front setback considered to emphasise corner or gateway building. 	Building F provides an angular appearance to the corner, with little definition that the building in fact is located on a corner. The use of angular/wrap around balconies and a defining feature perhaps running through the levels (vertical) would provide greater corner articulation to this gateway site.	No
Frontage types	<ul style="list-style-type: none"> • Provide frontage type identified on relevant public structure diagrams. • Where no specific requirement identified, match frontage type to characteristic frontage type in the street. Colonnade, posted veranda/Posted Awning, or cantilevered Awning. 	It appears that there is no awning or colonnade etc for the proposal (unclear from the plans).	No
Roof design	<ul style="list-style-type: none"> • No steeply pitched roofs (pitch - <10°). • Emphasise building articulation with shape and alignment of roof. • Relate roof design to size and scale of building. • Respond to orientation of site, relate roof design to desired built form and context. • Articulate roof, or breaking down its massing on large buildings, to minimise apparent bulk, using special roof features, such as elevated roof elements, which relate to the desired character of an area, to express important corners. • Integrate service elements into the design of the roof. • Facilitate use or future use of the roof for sustainable 	A flat roof is proposed. The roof to the corner does not provide any significant address to the corner.	No

	functions (rainwater tanks, solar applications).		
	<ul style="list-style-type: none"> • Integrate services with design of whole development. • Shall not be visually obtrusive. • No unscreened appliances and meters attached to any facade visible from a street. Screen air conditioning units, water heaters etc. • Communal rooftop antennas. • Co-ordinate/integrate building services, such as drainage pipes, with overall façade and balcony design. • Mailboxes - front of property. • Siting solar hot water systems - not visible from street or other public places. 	The majority of services are provided in the proposed basement and not visible from the street. Other equipment to be located behind screens etc. mailboxes are provided at the Canterbury Road entrance adjoining Building F.	Yes
Performance Controls			
Visual privacy	<ul style="list-style-type: none"> • Maximise visual privacy (within & adjoining), minimise direct overlooking of rooms and POS: <ul style="list-style-type: none"> - Provide adequate building separation, rear & side setbacks, - Windows of new living areas/ balconies etc, towards street and rear of lot, avoid directly overlooking adjoining. • Separate communal open space, common areas and access routes through development, from windows of rooms. • Change level between ground floor units and associated POS, and public domain or communal open space. • Use detailed site and building design elements to increase privacy without compromising access to light and air (offset windows, recessed balconies, balustrades, louvre panels, planter boxes). 	<p><u>Building B</u> This building is unlikely to adversely affect the visual privacy of adjoining development to the north-west (No 535 Burwood Rd) given there are no windows or balconies which face directly to this adjoining property which are not screened. There is minimal separation between Building B and N within the site, however, there are no windows or balconies which face directly towards each other. There is adequate separation to Buildings L and F on the site.</p> <p><u>Building N</u> There is adequate building separation to the adjoining northern property (No 529 Belmore Rd) of 6 metres. This setback area is proposed to be landscaped including several eucalypt trees which will retain privacy for this adjoining property. The balconies and habitable room windows are generally screened with louvers. It is unlikely that significant privacy loss will occur to adjoining property from Building N. The ground level courtyards are separated from the common areas by walls and landscaping.</p>	

		<p><u>Building L</u></p> <p>This building is built to the north-western site boundary adjoining No 51 Drummond Street, although there is a solid wall proposed to this boundary with no windows directly facing this adjoining site. It is unclear of the boundary treatment to the balcony for Unit L310 on level 3 of this building and accordingly a condition should be imposed which ensures a solid wall along the northern side of this balcony to protect privacy for No 51.</p> <p>Building L is separated from Buildings N and C by 12 metres with landscaping proposed in this separation, which is satisfactory. The ground level courtyards are separated from the common areas by walls and landscaping.</p> <p><u>Building C</u></p> <p>This building is adequately setback from Building L (12 metres) and has a solid wall on a nil setback to the adjoining property along Canterbury Rd (No 713). This building is separated from Building F within this the sit by only approximately 3 metres, however, there are no habitable room windows or balconies which directly face each other. The ground level courtyards are separated from the common areas by walls and landscaping.</p> <p><u>Building F</u></p> <p>This building is adequately separated from other buildings on the site and/or windows and balconies do not directly face each other. There are no adverse privacy impacts to adjoining sites given this building overlooks the intersection of Burwood and Canterbury Roads. There is some privacy for ground level courtyards for Units FG01 and FG02, however, they are</p>	
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		located adjoining the main pathways into the development from the street frontages and therefore significant landscaping will be required for privacy given there is no level change in this area.	
Acoustic privacy	Adjoining railway or busy road - address ' <i>Development Near Rail Corridors and Busy Roads (Interim Guideline)</i> ', NSW Department of Planning.	The Acoustic report lodged with the application sets out the recommended acoustic treatments to the building which will ensure compliance with the Infrastructure SEPP. Conditions to be imposed.	Yes
Open space	<p>Balconies & private courtyards</p> <ul style="list-style-type: none"> • Min 10% of floor space/dwelling for 2+ bed units as primary & secondary balcony/private open space, • Min area 8m² for primary balcony for 1 Bed Unit. • Min area of 12m² for primary balcony for 2 or more Bed Units. • Min depth - 2m for primary balcony. <p>Private open space ('POS') design</p> <ul style="list-style-type: none"> • Shop top housing - balcony or garden terrace on podium. • Privacy to principal POS. • Adjacent/direct access to main living. • 1 area min 2.5m x 2.5m - outdoor dining (table & chairs); 1 additional area - outdoor clothes drying, • Maximum sunlight in midwinter. • Balconies design <ul style="list-style-type: none"> - Additional amenity/choice with secondary balcony (Juliet balcony) or operable wall with balustrades, adjacent to bedrooms. - Consider local climate and context. - Balustrades to allow views and casual surveillance of street. <p>Communal open space</p> <ul style="list-style-type: none"> • Min 10% of site area (sites > 500m²). • Child play & indoor areas (gyms). 	<p><u>Private Open Space</u></p> <p>The majority of the units provide sufficient POS, with the exception of Units CG11 and CG12, where the POS does not meet the min 2.5 x 2.5m dimensions. The POS is generally provided adjoining the living areas of the unit and predominantly been designed to face north. There are approx. 50 units that do not have a northerly orientation; however, some of these units have access to the east or west, with units facing due south limited.</p> <p>There are very few units which provide a secondary area of POS for clothes drying, with 153 (62.7%) of the units not providing this additional area of POS.</p> <p><u>Balconies</u></p> <p>There are 66 units (27%) which have undersized balconies for the number of bedrooms (10 – Building b, 21 – Building N, 19 in Building L, 3 in Building C & 13 in Building F).</p> <p><u>Communal Open Space (COS)</u></p> <p>There is approximately 824.65m² of COS provided on the site including a gym on the ground floor of Building F, a children's playground in the north-east corner, 'The Common' and 'The Square' landscaping area adjoining Building L as well as other landscaped areas</p>	No (balconies and 2 nd POS)

	<ul style="list-style-type: none"> • Min 6m dimension. • Sunny, visible from main lobby, overlooked by windows, pedestrians. • On podiums, terraces, deep-soil etc • Max 1.2m high screen walls – 1.2m. 	adjoining the pathway between Building N and L. these areas are overlooked from the windows of units throughout the site and are located close to the main pedestrian areas throughout the site. Adequate solar access is achieved to these areas, mainly in the morning and midday in midwinter. The COS is considered adequate for the site.	
Internal dwelling design	Room dimensions <ul style="list-style-type: none"> • Min width of 3.5m - living area & principal bedroom; • Min width – 3m (2ndary bedroom). Storage <ul style="list-style-type: none"> - min 6m³ for 1 Bed units; - min 8m³ for 2 Bed units; - min 10m³ for 3+ Bed units. 	<u>Room dimensions</u> – appear to be satisfactory. <u>Storage</u> – there are 219 storage areas on the basement parking levels for the 224 units. These areas are not assigned to an individual unit nor are the car spaces and therefore these spaces may be difficult to access when required by future occupants of the units.	No
Housing choice	<ul style="list-style-type: none"> • Include mix of unit sizes. • Adaptable - 10% of res units, in each building (>30 units). • Flexible unit configurations that support ground floor commercial. • Promote housing choice (gardens or terraces directly accessible from main living spaces, maximise accessible units on ground floor, support change in use, -home office accessible from street). 	<ul style="list-style-type: none"> • 1 bed – 87 units • 2 beds – 122 units • 3 beds – 15 units • Adaptable – 22 units (9.82%). 	Yes

The table above demonstrates that the proposed development is non-compliant and inconsistent with various objectives and controls of CDCP 2012, and as such, can not be supported in its current form.

PART 6 – GENERAL CONTROLS

The proposed development compares to Part 6 of CDCP 2012 as follows:

Part 6.1 Access and Mobility

An Access Report has been prepared and there is accessible car parking provided for visitors in the basement car parking level. There are also 22 adaptable units within the development. Access to the proposal is satisfactory with respect to these controls.

The Disability Access Committee has provided its comments in relation to the development. The Committee raised no objection to the development

proceeding subject to the imposition of conditions of consent, and requirement that the development must be designed and constructed to comply with the Disability Discrimination Act, 1992, Disability (Access to Premises – Buildings) Standard 2010, and National Construction Code.

Part 6.2 Climate and Resource Efficiency

The proposal has been sited to allow for the buildings to be orientated to the north by a series of 'wings' parallel to the Canterbury Road frontage.

The provision of some 2 storey units allows for greater solar access into these units and given the majority of units have northern orientation there is generally sufficient solar access to the majority of the units.

The SEPP 65 Amenity report states that 157 of 224 units (70.1%) achieve the solar access controls of more than 3 hours of sunlight to living and POS areas in midwinter. The units which are cross ventilated are 179 of 224 units (79.9%).

There are approximately 24 units which have kitchens more than 8 metres from a window (10.7%) which is consistent with these controls. Building depth is satisfactory, being between 8.5 to 17 metres. Single aspect units with a southerly aspect are limited.

Further, the proposal complies with BASIX as illustrated in the accompanying certification.

Part 6.3 Crime Prevention Through Environmental Design

The proposal provides surveillance of the street and communal areas within the site via the location of habitable rooms and balconies overlooking these areas.

The separation of the residential and commercial car parking for the proposed development is not clearly identified.

There are several levels within the proposed buildings where there are more than 8 units accessed off the lift wells/corridors, including Level 2 in Building and Levels 1, 2 and 4 of Building C.

The storage and garbage areas within the basement present potential entrapment sites.

As such, the proposed development fails to comply with the relevant controls under Part 6.3.

Part 6.4 Development Engineering, Flood and Stormwater

The stormwater proposal submitted with the application has been assessed by our Development Engineer and is in accordance with our stormwater disposal requirements. No objection is raised subject to conditions of consent being attached to any consent issued.

Part 6.5 Heritage Conservation

The nearest heritage item to the site is the former federation bakery building at No 2 Wilson Avenue (Item 130). This item is not clearly visible from the subject site and the proposal is unlikely to have any significant adverse impact on this item given the distance to the site. No objection is raised from Council's Heritage Officer.

Part 6.6 Landscaping & Part 6.7 Preservation of Trees or Vegetation

The Landscape Plan for the proposal illustrates the planting regime for the site, which includes street tree planting, boundary planting and landscaping throughout the middle portion of the site. This landscaping allows for surveillance of the common areas and pedestrian paths and for privacy to ground level POS.

The proposed landscaping is of sufficient scale of the proposal. Earthworks are limited to the basement parking level which is located underneath the building footprint. A deep soil area across the north-western rear boundary is sufficient for the site and will allow for stormwater infiltration as well as privacy to be maintained between properties.

Further, there are 27 trees located on the site or in the adjoining road reserve. There are 9 trees to be retained by the proposal, generally along the south-western frontage along Burwood Road. There are 18 trees proposed to be removed under the proposal (including a stand of 9 *Melaleuca armillaris*) to allow for the construction of the buildings. These trees proposed to be removed range in condition from good to poor. The proposed landscaping plan outlines the provision of additional planting opportunities to replace these trees. Council's Landscape Architect has requires the submission of an Arborist Report to enable a proper assessment of the proposed development.

Part 6.8 Vehicle Access and Parking

Council's Team Leader of Traffic and Transportation raises concerns in regard to the proposed development with respect to traffic generation, access and car park layout and pedestrian access and safety which could be imposed as conditions on any consent issued.

The proposal has a total residential requirement of 309.2 car spaces and 67.2 bicycle spaces. (Note: some of the "1 bedroom plus study" apartments should be considered as 2-bedroom apartments for the purpose of calculating car parking as the study rooms are of a design and size such that they can be easily converted into bedrooms. This has not been done for this calculation). The non-residential component requirement is 40.5 spaces (plus adequate loading area and courier parking). The total car parking requirement is 349.7 spaces. The proposed car parking totals 281 spaces, representing a shortfall of 69 car parking spaces. As such, the proposed development does not achieve the car parking requirements of Part 6.8.

Part 6.9 Waste Management

The development application was referred to our Waste Services Coordinator who was not satisfied with the arrangements for waste

management for the proposed development given the following inadequacies and non-compliances:

- Further detail is required regarding the on-going management of waste once the development is completed. Estimated waste generation rates for each commercial/retail property is to be provided.
- The residential section of the development will be allocated 112x 240L rubbish bins and 75x 240L recycling bins. The applicant has proposed to store these bins in several waste bin storage rooms. These rooms need to comply with the requirements of Parts 6.9.4.1 and 6.9.4.2 of CDCP 2012. The groups of bins must be separated by at least 1.2m.
- The main bin holding area (which is presumably to be used as the presentation point for collection of all bins) does not have sufficient capacity to hold the total amount of bins that will be due for collection each week. The room will need to have capacity to store 227x 240L bins (187 for residential and 40 for commercial/retail). The main bin holding area must also comply with the requirements of Parts 6.9.4.1 and 6.9.4.2 of CDCP 2012.
- The commercial/retail section of the development will be allocated 20x 240L rubbish bins and 20x 240L recycling bins. These bins will need to be stored in a waste bin storage room that is separate from any residential bin storage rooms. This room is to be designed to allow for the storage of any additional bins required (that are to be collected by private contractors) and any future changes of use.
- The development is eligible for up to 45x 240L garden vegetation bins. Garden vegetation bins are to be stored in the waste bin storage rooms and will need to be presented on the nature strip for collection. The bins will then be returned to the property and an area of at least 3m² needs to be allocated for that purpose.
- The applicant will need to provide a bulky waste storage area that is at least 4.0m²

- **Canterbury Road Master Plan 2010**

Part 3.1 of the CDCP 2012 provides additional site and/or area specific controls, aimed at delivering outcomes that are more tangible for various town centres within Canterbury. Appendix 3.3 of this Part contains the Canterbury Road Structure Plans, which is relevant to the subject site. This structure plan formed the basis of the land use zoning strategy and the resulting CLEP 2012.

The corridor structure plan aims to re-establish an ordered framework to replace the past layers of complex land use regulations and is described in detail in the *Canterbury Road Master Plan*. The Structure Plan includes five character areas of internally consistent environments, with the subject site included in the 'Urban Centre' character area which is described as:

The Urban Centre is composed of buildings ranging in height from three to six storeys. Active retail exists at street level providing daily conveniences, with commercial and residential above. Buildings with retail are built to the

back edge of the footpath. Showrooms are not permitted. Open spaces and plazas function as local meeting places and support a local bus stop. This category applies at important intersections along Canterbury Road as identified in the Structure Plan and is likely to be zoned B3 or R4.

The Masterplan provides controls for the subject site, included in the Belmore South Neighbourhood Centre (Clause 5.6). The context of the site states:-

“Beyond the school itself, however, this intersection is unmemorable. Large landholdings of nondescript industrial uses do not contribute positively to the appearance of the road or relate in any meaningful way to the school. The frontage of these buildings to Canterbury Road is poor, with many blank walls.

Notwithstanding, it is these landholdings, particularly those bounded by Burwood Road and Drummond Street, which provide the most significant opportunities for overall improvements to this part of Canterbury Road, and the creation of a small mixed use centre which complements the school.”

The future goals include transforming the existing industrial landholdings immediately around the school into mixed use development with a quality public domain to create a vibrant neighbourhood centre and to improve the safety of the intersection for pedestrians.

The benefit would be that a mixed use neighbourhood centre anchored by a small supermarket and neighbourhood green could function as a local meeting place for both existing and new residents.

The plan includes the following:-

- Establish a neighbourhood centre at the intersection of Canterbury Road and Burwood Road, which will leverage off and complement the Belmore South Public School;
- Extension of Wilson Avenue and Drummond Lane for vehicle access to the subject site;
- Provision of a small ‘public green’ on the south-western corner of the site opposite the school as a meeting place wrapped by shopfronts with a pedestrian passage lined by shops leading to a small supermarket (<1200m²);
- A liner building to Burwood Road which masks the supermarket building from the street;
- Mid-rise (3-6 storeys) mixed use buildings throughout the remainder of the site complete the street scene.

Canterbury Master Plan controls for the Subject Site



The proposal provides a mixed-use development on the site with the alignment of buildings along Canterbury and Burwood Roads. There are, however, numerous aspects of the proposal which are inconsistent with this master plan for the site, including:-

- The 'public green' area in the south-western corner of the site has not been provided, with the proposed retail space within Building F proposed at a nil to 3 metre setback from the street frontage;
- The location of the proposed 'home offices' along the Canterbury Road frontage is unlikely to activate the street frontage as required, which would be achieved by retail, commercial and café uses;
- Mixed use buildings throughout the remainder of the site have not been provided given Buildings N and L are residential buildings only, with no commercial or retail at ground level, contrary to the controls;
- The retail and commercial spaces proposed are not large enough for a small supermarket, with the 90m² spaces unlikely to be large enough for a small 'corner store'/convenience store. This type of store is required to anchor the centre for the neighbourhood;
- Vehicle access and parking is provided from Burwood Road and not from the side and rear lanes as required given the extension of Wilson Avenue and Drummond Lane has not been provided for on adjoining properties. This inconsistency is justified given this aspect of the plan has not been provided.

These inconsistencies of the proposal with the master plan are unsatisfactory and contrary to Part 3.1 of the CDCP 2012.

- **Section 94 Contributions Plan 2005**
Should approval be issued, the provisions of our Section 94 Contributions Plan 2005 would apply to the proposed development as it will provide a total of 224 new residential dwellings on the subject site.

ADDITIONAL CONSIDERATIONS

- **Acoustics**
An Acoustic report has been provided with the application which concludes that adequate measures can be imposed to ensure the proposal is not adversely affected by road traffic noise. The recommendations are to be imposed as conditions.
- **National Construction Code**
The development application has been reviewed and assessed by our Building Officer who has raised no objection to the proposal subject to appropriate conditions being imposed should approval be issued.
- **Proposed excavation works**
The proposed development involves excavation and construction works in close proximity to property boundaries and neighbouring properties. It is recommended that a condition be imposed on any consent issued which requires the submission of a report by an accredited Engineer detailing the structural adequacy of the adjoining properties to withstand the excavation works proposed. Further an additional condition requiring the applicant to provide a dilapidation report for the adjoining properties, prior to the issue of the Construction Certificate is also recommended. Should any damage to adjoining properties result from the proposed excavation works at the subject site, the applicant will be required to rectify all damages.

EXTERNAL REFERRALS

Roads & Maritime Services

As stated previously in the report, as per the provisions of SEPP 2007, the application was referred to the Roads and Maritime Services (RMS). The RMS has advised that it raises no objection to the proposed development subject to advisory comments being imposed as conditions on any consent issued.

NOTIFICATION

The development application was publicly exhibited and adjoining land owners notified in accordance with the provisions of Part 7 of Development Control Plan 2012 for a period of 21 days. There were no submissions received during this period.

CONCLUSION

The development application has been assessed pursuant to the provisions of Section 79C of the Environmental Planning and Assessment Act, 1979 and all relevant development control plans, codes and policies.

The proposed development is prohibited in the subject zone given the ground floor residential units do not satisfy the definition of 'shop top housing' and are therefore not permissible in the zone.

The designs of parts of the buildings within the proposed development appear bulky and have an adverse impact on the streetscape and immediate locality, particularly given the reduced distances for setbacks and building separation, thus resulting in overall poor built form. The lack of activation of the Canterbury Road frontage with proposed home offices does not give the level of activation needed along this important thoroughfare. The lack of a green space as envisaged in the Canterbury Road master plan and the lack of an adequate corner element to Building F misses the opportunity for the corner to be appropriately addressed.

A significant number of balconies for upper level units are insufficient with respect to CDCP 2012 requirements and are inconsistent with the objectives of the RFDC.

Various aspects of SEPP 65 and RFDC including security, internal circulation, basement parking (safety and layout), balconies, unit sizes are not adequate and result in poor amenity for future occupants.

The proposed development involves a significant shortfall of 69 car parking spaces. Further, the proposed waste management arrangements are for the proposed development are inadequate.

It is therefore recommended that the application can not be supported and should be refused.

RECOMMENDATION

THAT the Joint Regional Planning Panel refuse Development Application DA-301/2013 for the demolition of all existing structures and construction of a mixed development containing 224 residential apartments, commercial tenancies, communal facilities, basement carparking and associated strata subdivision, for the following reasons:

1. The proposed development, pursuant to the provisions of Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979, is prohibited development within Zone B2 Local Centre under Canterbury Local Environmental Plan 2012 ("CLEP 2012").
2. Pursuant to the provisions of Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979, it is considered that the proposed development does not satisfy the objectives of Zone B2 Local Centre as contained in the Canterbury Local Environmental Plan 2012 ("CLEP 2012"), including:
 - a. *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.*
 - b. *To encourage employment opportunities in accessible locations.*

- c. *To maximise public transport patronage and encourage walking and cycling.*
 - d. *To facilitate and support investment, economic growth and development for active, diverse and well-designed centres.*
3. The proposed development, pursuant to the provisions of Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979, is not consistent with the provisions of State Environmental Planning Policy 65 – Design Quality of Residential Flat Development, including:
- a. Design Quality Principle 3 for ‘built form’ in Clause 11;
 - b. Design Quality Principle 7 for ‘amenity’ in Clause 15;
 - c. Design Quality Principle 8 for ‘safety and security’ in Clause 16;
4. The proposed development is unsatisfactory, pursuant to the provisions of Section 79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, as it does not comply with the provisions of Canterbury Development Control Plan 2012, including:
- a. Part 3.1.6 – Building Height
The proposed development fails to comply with the controls in relation to building height, including floor to ceiling height.
 - b. Part 3.1.7 – Depth/Footprint
The proposed development fails to comply with the depth/footprint controls for both the residential and commercial/retail components.
 - c. Part 3.1.8 – Setbacks
The proposed development fails to comply with the setback controls along Burwood Road.
 - d. Part 3.1.9 – Building Separation
The proposed development in some parts, fails to comply with the building separation controls.
 - e. Part 3.1.3 and Part 6.8.3 – Car Parking and Bicycle Spaces
The proposed development fails to comply with car parking, bicycle parking and servicing controls.
 - f. Part 3.3.3 - Amenity/Private Open Space
The proposed development fails to comply with controls for private open space design and balconies design.
 - g. Part 6.3.2 – Safety and Security
The proposed development fails to comply with the controls in relation to ‘crime prevention’.
 - h. Part 6.9.3 and Part 6.9.4 – Waste Management
The arrangements for waste management for the proposed development are inadequate and do not comply with the relevant controls.
5. The proposed development is unsatisfactory, pursuant to the provisions of Section 79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, as it does not comply with the objectives of the Canterbury Development Control Plan 2012, including:
- a. Part 3.2.3 – Façade Design and Articulation

- b. Part 3.2.6 – Corners, Gateway Sites and Foreground Treatments
 - c. Part 3.2.7 – Frontage Types
 - d. Part 3.2.8 – Roof Design
- 6. The proposed development is unsatisfactory, as it is not consistent with the Canterbury Road Master Plan 2010.
- 7. Pursuant to the provisions of Section 79C(1)(b) and Section 79C(1)(c) of the Environmental Planning and Assessment Act 1979, inadequate information has been provided by the applicant to allow a proper and assessment of proposed development.
- 8. The proposed development is unsatisfactory, pursuant to the provisions of Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, as it would set an undesirable precedent for similar development in the vicinity.
- 9. Having regard to the previous reasons noted above, pursuant to the provisions of Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, approval of the development application is not in the public interest.