

18 118-120 HANNANS ROAD, NARWEE: DEMOLITION OF DWELLING, REMOVAL OF TREES, CONSTRUCTION OF AFFORDABLE HOUSING RESIDENTIAL BUILDING WITH UNITS AT FRONT AND TOWNHOUSES AT REAR OF SITE

FILE NO: 396/118D PT2
REPORT BY: DIRECTOR CITY PLANNING
WARD: WEST

D/A No:	242/2013
Applicant:	Land and Housing Corporation
Owner:	As above
Zoning:	R3 Medium Density Residential
Application Date:	26 June 2013 – Additional Information received 5 July 2013, and 4 November 2013

Summary:

- The development application is for the demolition of the existing structures and the construction of a residential flat building containing 10 residential apartments at the front of the site, and five townhouses at the rear. The proposal involves seven car spaces in a semi- basement area at the rear of the residential flat building access via a driveway along the side of the building.
- The subject site is zoned R3 Medium Density Residential and residential flat buildings are prohibited in the zone. The proposed development is permissible by virtue of a Certificate of Site Compatibility issued by the Director General for the subject site under clause 37 of the SEPP 2009 -Affordable Rental Housing which allows the NSW Land and Housing Corporation to overcome such a prohibition.
- The development application has been assessed against the relevant provisions of planning instruments and applicable development control plans. The proposed development fails to comply with the Design Quality Principles of SEPP 65 with regard to context, scale, built form and amenity, and various policy controls. Areas of non-compliance are discussed in the body of the report.
- The development application was publicly exhibited and adjoining land owners notified in accordance with the provisions of Canterbury Development Control Plan 2012 Policy. During this period, four submissions were received raising various concerns in relation to the proposed development.
- The Director City Planning has recommended that the application be referred to the Joint Regional Planning Panel for determination.
- The Independent Hearing and Assessment Panel (IHAP) has also recommended the application be referred to the Joint Regional Planning Panel for determination together with the IHAP's report and the submissions made to the IHAP by the adjoining property owner.

118-120 HANNANS ROAD, NARWEE: DEMOLITION OF DWELLING, REMOVAL OF TREES, CONSTRUCTION OF AFFORDABLE HOUSING RESIDENTIAL BUILDING WITH UNITS AT FRONT AND TOWNHOUSES AT REAR OF SITE (CONT.)

Council Delivery Program and Budget Implications:

This report has no implications for the Budget. The assessment of the application supports our Community Strategic Plan long term goal of Balanced Development.

Report:

Background

On 20 July 2012, Council received a referral from NSW Planning and Infrastructure regarding a Site Compatibility Certificate application (lodged under State Environmental Planning Policy (Affordable Housing) 2009) which they were assessing at the site for the subject development. We responded with a letter dated 3 August 2012 advising that the development is not considered to be compatible with the development in the area which comprises mainly lower density residential and will not be consistent with the future desired character of the area given the zoning of the site under our new Local Environmental Plan.

The letter also noted design issues relating to the proposed development setbacks, privacy impacts on neighbouring residents, removal of street trees and waste management.

On 24 September 2012, we received a letter from the Director General advising that the application had been determined under clause 137(5) of State Environmental Planning Policy (Affordable Housing) 2009 with the issue of a Certificate of Site Compatibility. The letter also stated “while I note that Council has raised a number of design issues with the application, I consider that these matters can be resolved through a future development application.”

The subject development application was lodged pursuant to the Certificate of Site Compatibility issued by the Director General with no changes being made to the design.

Site Details

The subject site is located on the northern side of Hannans Road and comprises two allotments known as 118 and 120 Hannans Road, Narwee. Combined, the lots have a frontage of 22.955m and total land area of 1811.6sqm. The land has a considerable slope towards the rear, with RL 31.99 along the front of the site, sloping down to RL 28.68 at the rear. The lot known as 118 Narwee Avenue has been cleared of any structures, whilst a single storey brick residence exists at 120 Narwee Avenue.

Single storey detached dwellings are located directly to the north, east and west of the site, with some townhouse developments on the opposite side of Hannans Road, to the south.

118-120 HANNANS ROAD, NARWEE: DEMOLITION OF DWELLING, REMOVAL OF TREES, CONSTRUCTION OF AFFORDABLE HOUSING RESIDENTIAL BUILDING WITH UNITS AT FRONT AND TOWNHOUSES AT REAR OF SITE (CONT.)



Proposal

The proposed development involves the demolition of existing structures and the construction of a three and four storey residential flat building comprising six two bedroom and four one bedroom units at the front of the site, and five x two bedroom townhouses at the rear.

Car park areas are provided at the rear (lower side) of the residential flat building for seven vehicles.

The application also includes the removal of trees to make way for the subject development.

Statutory Considerations

- Canterbury Local Environmental Plan 2012 (CLEP 2012)
- State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARH SEPP)
- State Environmental Planning Policy 65 – Design Quality of Residential Flat Development (SEPP 65)
- State Environmental Planning Policy 2004 (Building Sustainability Index: BASIX)
- Canterbury Development Control Plan 2012 (CDCP 2012).

Assessment

- **Canterbury Local Environmental Plan 2012 (CLEP 2012)**
The site is zoned R3 Medium Density Residential under Canterbury LEP 2012 and the proposed residential flat building is prohibited in the zone. The applicant has submitted a Certificate of Site Compatibility issued by the Director General for the subject site under clause 37 of the SEPP 2009 -Affordable Rental Housing which allows the NSW Land and Housing Corporation to overcome such a prohibition. The intention of the compatibility certification under the SEPP is to facilitate redevelopment of land near key railway stations and nominated cities and towns

118-120 HANNANS ROAD, NARWEE: DEMOLITION OF DWELLING, REMOVAL OF TREES, CONSTRUCTION OF AFFORDABLE HOUSING RESIDENTIAL BUILDING WITH UNITS AT FRONT AND TOWNHOUSES AT REAR OF SITE (CONT.)

without the need for a rezoning, if the proposal is compatible with surrounding land uses.

The Canterbury LEP 2012 allows a maximum floor space ratio of 0.5:1 and a maximum height of 8.5m. The proposal involves an FSR of 0.686:1, and a maximum building height of 10.9m. The provisions of the SEPP override Council's controls in this regard.

- **State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARH SEPP)**

Division 5 of the ARH SEPP applies to residential flat buildings by social housing providers, public authorities and joint ventures. The clauses in this division are addressed as follows:

34 Land to which Division applies

This Division applies to the following land, but not if development for the purposes of a residential flat building is permissible on the land under another environmental planning instrument

- (a) *land in the Sydney region that is within 800 metres of:*
 - (i) *a public entrance to a railway station or light rail station, or*
 - (ii) *in the case of a light rail station with no entrance—a platform of the light rail station*

The subject site is within 800m of a public entrance to Narwee Railway Station.

- (b) *land in one of the following towns that is within 400 metres of land in Zone B3 Commercial Core, Zone B4 Mixed Use or a land use zone that is equivalent to either of those zones:*
Albury, Ballina, Batemans Bay, Bathurst, Bega, Bowral, Cessnock, Charlestown, Coffs Harbour, Dapto, Dubbo, Glendale–Cardiff, Gosford, Goulburn, Grafton, Lismore, Maitland, Morisset, Newcastle, Nowra, Orange, Port Macquarie, Queanbeyan, Raymond Terrace, Shellharbour, Tamworth, Taree, Tuggerah–Wyong, Tweed Heads, Wagga Wagga, Warrawong, Wollongong.

Not applicable.

35 Development to which Division applies

- (1) *This Division applies to development, on land to which this Division applies, for the purposes of a residential flat building:*
 - (a) *by or on behalf of a public authority or social housing provider, or*
 - (b) *by a person who is undertaking the development with the Land and Housing Corporation.*

The application is for a residential flat building by a public authority (Land and Housing Corporation).

118-120 HANNANS ROAD, NARWEE: DEMOLITION OF DWELLING, REMOVAL OF TREES, CONSTRUCTION OF AFFORDABLE HOUSING RESIDENTIAL BUILDING WITH UNITS AT FRONT AND TOWNHOUSES AT REAR OF SITE (CONT.)

- (2) *Despite subclause (1), this Division does not apply to development to which Division 1 applies.*

Division 1 of the SEPP does not apply to the development.

36 Development may be carried out with consent

- (1) *Development to which this Division applies may be carried out with consent.*
- (2) *A consent authority must not consent to development to which this Division applies unless it is satisfied that:*
- (a) *the Director-General has certified in a site compatibility certificate that, in the Director-General's opinion, the development is compatible with the surrounding land uses, and*

On 17 September 2012 The Director General issued a Certificate of Site Compatibility stating that in his opinion the development is compatible with the surrounding land uses.

- (b) *if the development is in respect of a building on land zoned primarily for commercial purposes, no part of the ground floor of the building that fronts a street will be used for residential purposes unless another environmental planning instrument permits such a use.*

The land is in a residential zone therefore this clause is not relevant in this instance.

- (3) *Nothing in this clause prevents a consent authority from:*
- (a) *consenting to development on a site by reference to site and design features that are more stringent than those identified in a site compatibility certificate for the same site, or*
- (b) *refusing consent to development by reference to the consent authority's own assessment of the compatibility of the development with the surrounding land uses, or*
- (c) *having regard to any other matter in determining a development application.*

This report contains a detailed assessment of the proposed application and recommendation in line with this clause.

- (3A) *(Repealed)*
- (4) *Car parking is not required to be provided in relation to development to which this Division applies.*

The proposal involves seven car parking spaces.

37 Site compatibility certificates

118-120 HANNANS ROAD, NARWEE: DEMOLITION OF DWELLING, REMOVAL OF TREES, CONSTRUCTION OF AFFORDABLE HOUSING RESIDENTIAL BUILDING WITH UNITS AT FRONT AND TOWNHOUSES AT REAR OF SITE (CONT.)

This clause provides details about applications for compatibility certificates which is not relevant to this application.

38 Must be used for affordable housing for 10 years

- (1) *A consent authority must not consent to development to which this Division applies unless conditions are imposed by the consent authority to the effect that:*
- (a) *for 10 years from the date of the issue of the occupation certificate:*
- (i) *at least 50 per cent of the accommodation to which the development application relates will be used for the purposes of affordable housing, and*
- (ii) *all the accommodation that is used for affordable housing will be managed by a registered community housing provider, and*
- (b) *a restriction will be registered, before the date of the issue of the occupation certificate, against the title of the property on which development is to be carried out, in accordance with section 88E of the Conveyancing Act 1919, that will ensure that for 10 years from the date of the issue of the occupation certificate:*
- (i) *at least 50 per cent of the accommodation to which the development application relates will be used for the purposes of affordable housing, and*
- (ii) *all the accommodation that is used for affordable housing will be managed by a registered community housing provider.*

Not applicable by virtue of subclause 2 below.

- (2) *Subclause (1) does not apply to development on land owned by the Land and Housing Corporation or to a development application made by, or on behalf of, a public authority.*

The application is lodged by a public authority.

39 Continued application of SEPP 65

Nothing in this Policy affects the application of State Environmental Planning Policy No 65—Design Quality of Residential Flat Development to any development to which this Division applies.

The application is assessed under the provisions of SEPP 65 in the following sections of this report.

- **State Environmental Planning Policy 65 – Design Quality of Residential Flat Development (SEPP 65)**

This policy aims to improve the design quality of residential flat buildings. The proposed development falls within the definition of a residential flat building under this SEPP as it involves the construction of a three storey building containing more

118-120 HANNANS ROAD, NARWEE: DEMOLITION OF DWELLING, REMOVAL OF TREES, CONSTRUCTION OF AFFORDABLE HOUSING RESIDENTIAL BUILDING WITH UNITS AT FRONT AND TOWNHOUSES AT REAR OF SITE (CONT.)

than four residential units. The SEPP requires that registered architects carry out the design of residential flat buildings. A registered architect has designed the proposal. The SEPP requires consideration of the following matters prior to determining the application:

Design Quality Principles

The applicant has addressed these principles as follows.

1. Context

The subject site is located within a local street generally characterised by low to medium density residential development. Existing development consists of a mix of single dwellings, dual occupancies and townhouse developments. Multiple unit development is not permitted in the current zoning and the area is earmarked for further low to medium density development under Canterbury LEP 2012. The proposed development is not in keeping with the current and desired future character of the area given its height, bulk and form. However, a Certificate of Site Compatibility has been issued by the Director General for this type of development to be considered at the site.

The front setback of the proposed building is comparable to the neighbouring development, and as such maintains the established building line in the street.

2. Scale

Although the design has somewhat considered the smaller scale of the adjoining development by keeping two storey elements to the outer sides of the proposed residential flat building, the insufficient side setbacks at only 1.26m from the side boundary have accentuated the large scale of the residential flat building, relative to the smaller form of the lower density developments in the streetscape. Our current planning controls require a minimum 1.5m setback for a two storey single dwelling, which means the proposed setback for residential flat building is less than what Council would expect for a two storey dwelling.

It is acknowledged that given residential flat buildings are not permitted in this zone, it would be difficult for such a development to be in keeping with the scale of existing developments in the vicinity. However, it is expected that in this case as a minimum the development should demonstrate compliance with built form and setback controls applicable to comparable developments in higher density zones so as to maintain an acceptable design outcome in terms of the scale of the development.

The proposed development is not in keeping with the scale of the development in the street, and adjoining buildings.

3. Built Form

The proposed built form is not acceptable given particularly the minimal side setback of the proposed building bringing the built form to the outer edges of the site and in such proximity to the adjoining smaller built forms so as to have

118-120 HANNANS ROAD, NARWEE: DEMOLITION OF DWELLING, REMOVAL OF TREES, CONSTRUCTION OF AFFORDABLE HOUSING RESIDENTIAL BUILDING WITH UNITS AT FRONT AND TOWNHOUSES AT REAR OF SITE (CONT.)

a dwarfing affect not only when viewed from the street, but when the development is viewed from the adjoining properties.

4. Density

The densities proposed are consistent with the density provisions that apply to the site under State Environmental Planning Policy (Affordable Rental Housing) 2009.

5. Resource, Energy and Water Efficiency

The proposal has been assessed against BASIX and adequately meets all required categories of water, thermal comfort and energy.

6. Landscape

The proposed development complies with the minimum required landscaped open space areas required under State Environmental Planning Policy (Affordable Rental Housing) 2009.

7. Amenity

The development incorporates private courtyards and balconies for each unit that is in line with the Land and Housing's Design Standards for their developments. The balconies do not meet the minimum requirements under Council's DCP controls.

Given the orientation of the block, all the balconies of the residential flat building have been orientated toward the rear with privacy screening to the outer sides of each balcony. Notwithstanding the privacy screening, given the slope of the land, the ten balconies on the rear elevation of the residential flat building will have views of the rear yards of neighbouring dwellings.

The five townhouses to the rear of the site include rear decks that are elevated from existing ground level which are 5.7m from the rear boundary and will also have views over the fence and to the rear yards of neighbouring residents.

The proposed development provides adequate amenity to future occupants of the development in terms of internal private open space and living areas within each dwelling to obtain good access to sunlight. One driveway entry is provided accessing the car parking and storage areas at the rear of the residential flat building. There are also sufficient pedestrian access ways from the front and rear of the property. The applicant has indicated that communal open space areas can be provided if a condition of consent was to be imposed.

8. Safety and Security

The proposed access points to the development will achieve good natural surveillance. Safety and security is obtained by the design preventing undesired access into the residential areas of the site. The footpaths leading to townhouses at the rear are not clearly visible from the street due to slope of the site however, there will be some natural surveillance provided to this area from the windows of the upper floor residential units. The open form stairway areas

118-120 HANNANS ROAD, NARWEE: DEMOLITION OF DWELLING, REMOVAL OF TREES, CONSTRUCTION OF AFFORDABLE HOUSING RESIDENTIAL BUILDING WITH UNITS AT FRONT AND TOWNHOUSES AT REAR OF SITE (CONT.)

along the front elevation of the residential flat building provide natural surveillance to and from the street.

9. Social Dimensions

The proposed development is located in close proximity to public transport and retail precincts. The proposed development will also add to the affordable housing stock in the area.

10. Aesthetics

The design has been amended to include vertical articulation along the front which has broken up the apparent horizontal bulk of the building. However, the building will present a 6.9m – 7.5m high wall at 1.26m from the western side boundary for a distance of 7.9m, and then an 11m high building at 2.92m from that boundary to the western neighbour. This development will further present the side elevation of a townhouse building only 1.2m from the side boundary at the rear of the site to the same western neighbour. It is considered that adequate visual relief has not been provided in the elevations to ensure the development presents well and is compatible with the streetscape. The overall bulk and scale of the development is not in keeping with the existing built form in the streetscape.

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

A BASIX Certificate accompanies this application. The certificate lists a number of commitments which have been shown on the DA plans where required and meet the water, energy and thermal comfort targets and satisfy the requirements of the SEPP.

- **Canterbury Development Control Plan 2012 (CDCP 2012)**

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

Standard	Requirement	Proposal	Complies
Isolation of Sites	No isolation of neighbouring properties so that it is incapable of being reasonably developed	No isolation	Yes
Minimum Frontage	Up to 3 storey multiple unit development = 20m (non major Road)	30.48m	Yes
Height	Basement permissible for single dwellings in all zones, multiple unit and residential flat building in R4 zone only. No other residential is permitted basement.	Semi-basement proposed – the development is within R3 zone but comparable to residential flat building in R4 zone	Yes* If compared to RFB in R4 zone
Depth/ Footprint	25m max Can be increased to 35m if deep soil planting is incorporated as per Cl 2.1.6	14.39m	Yes
Setbacks	Front: 6m average 7m	7.4m min. >7m average	Yes
	Rear: 6m average 7m	Rear: 5.676m min & average	No

118-120 HANNANS ROAD, NARWEE: DEMOLITION OF DWELLING, REMOVAL OF TREES, CONSTRUCTION OF AFFORDABLE HOUSING RESIDENTIAL BUILDING WITH UNITS AT FRONT AND TOWNHOUSES AT REAR OF SITE (CONT.)

Standard	Requirement	Proposal	Complies
	Side: 3.5m average 4m	RFB-West: 1.26m min average 2.14m. RFB – South: 1.27m min average 2.14m	No No
	Third floor requires additional 2m setback	Third Storey – adequate additional setback not provided	No
	Deep soil: min 2m wide along side boundaries, & min 5m along front and rear boundaries.	Deep soil not provided adequately on side boundaries.	No
Design Controls			
Street Address	Clearly identifiable entries. Provide main common entry and separate private ground floor apartment entries where appropriate (refer to CI2.2.2).	Clear entries	Yes
	At least one habitable room window to face street. At least one habitable room window to face internal communal areas.	Windows facing street and communal areas	Yes
	No obstruction to views from street to development and vice versa	No obstruction to natural surveillance	Yes
Façade Design and Articulation	Avoid long flat walls	Long flat façade broken up by vertical articulation	Yes
	Step of at least 1m for RFB's	Steps of 1m	Yes
	Use non reflective materials, treat publicly accessible areas with anti-graffiti coating	Not known	Can be conditioned
Roof Design	No steep pitched roofs – use 10% pitch or less	Flat roof	Yes
	Emphasise building articulation with shape and alignment of roof	Roof design acceptable	Yes
	Emphasise corner apartments or prominent balcony structures with raised roof elements	Corner elements emphasized through varied materials	Yes
	Relate roof design to building and respond to orientation of site	Flat roof design responds to topography of site by falling toward the rear	Yes
	Integrate service elements into design of roof	Service elements adequately integrated	Yes
Service and Utility Areas	Integrated into the design of development and are not visually obtrusive	Statement from applicant outlines that all services will be screened from public view	Yes
	Unscreened appliances not to be visible from the street, communal area or driveway on the site (air con. Units behind balustrades, screened recesses for water heaters, meters in service cabinets)	Storage areas in basement. . Clothes drying facilities in balconies	Yes

118-120 HANNANS ROAD, NARWEE: DEMOLITION OF DWELLING, REMOVAL OF TREES, CONSTRUCTION OF AFFORDABLE HOUSING RESIDENTIAL BUILDING WITH UNITS AT FRONT AND TOWNHOUSES AT REAR OF SITE (CONT.)

Standard	Requirement	Proposal	Complies
	Communal rooftop antenna to be provided. Screen clothes drying areas from public view, storage space screened and integrated into design.	Antenna can be conditioned	Yes
	Discretely located mailbox in front of property	Letter box integrated into fence	Yes
Performance Controls			
Visual Privacy	Locate and orientate new developments to maximise visual privacy between buildings – if preferred orientations are not achievable use high sill windows or <600mm wide	Building are not adequately separated from neighbouring buildings to achieve sufficient privacy outcomes	No
Open Space	1 bedroom = 9sqm 2bedroom = 12sqm 3+ bedroom = 16sqm	U1 (2b)= >12sqm U2 (2b)= >12sqm U3 (2b)= >12sqm U4 (2b)= >12sqm U5 (1B)= >9sqm U6 (3b)= 13.5sqm U7 (1b)= >9sqm U8 (2b)= 10.48sqm U9 (2b)= 10.12 U10 (1b)= 8.16 U11 (2b)= >12sqm U12 (1b)= >9sqm U13 (2b)=11.59sqm U14 (2b)= 17.75sqm	Yes Yes Yes Yes Yes No Yes No No No Yes Yes No Yes
	Communal Area= Minimum 15% of the open space created by setbacks and building separations	No communal open space identified	No
Open Space Design	Private open space, communal open space, garden courtyard or terrace, and balconies to be designed as per Cl. 2.3.3	Need clearly identified communal open space that complies with 2.3.3	No
Internal Dwelling Space and Design	Dimensions and design of interiors to accommodate furniture typical for purpose of room	Typical furniture layout on plans demonstrates compliance by way of minimal use of furniture	Yes
	Living room and main bedroom min 3.5m dimension	Some dwellings do not comply with this	No
	Secondary bedrooms to have minimum 3m width	Unit 9 bedroom under 3m	No
	Storage: Minimum 6m ³ /1bedroom, 8m ³ /two bedroom, 10m ³ /3+ bedroom dwelling	Communal storage area only	No
	Communal stairwells to receive natural daylight and ventilation	Natural day light available	Yes
Housing Choice	10% of dwellings to be provided as accessible or adaptable units to suit residents with special needs	1 units provided	Yes

118-120 HANNANS ROAD, NARWEE: DEMOLITION OF DWELLING, REMOVAL OF TREES, CONSTRUCTION OF AFFORDABLE HOUSING RESIDENTIAL BUILDING WITH UNITS AT FRONT AND TOWNHOUSES AT REAR OF SITE (CONT.)

Standard	Requirement	Proposal	Complies
Crime Prevention			
Site and Building Layout	Address the street, or both streets and corners	The building and dwellings are orientated toward Hannas Toad which achieves natural surveillance	Yes
	Habitable rooms with windows at front of dwellings	Dwellings have been orientated to ensure windows front Hannans Road	Yes
	Avoid blind corners in pathways, stairwells, hallways and car parks	The building layout avoids blind corners	Yes
Access Control	Access to the individual units be clearly marked and apparent to visitors	The entry is to be clearly numbered with the dwellings accessible through that entry	Yes
	Install intercom, code or card locks or similar to main entries to buildings, including car parks	Intercoms and controlled access measures to be installed at building entry point, including basement car park	Yes* can be conditioned
	That concealment points be eliminated	The proposal eliminates concealment points by controlling access to the site	Yes
Ownership	Dwellings and communal areas to provide sense of ownership	Sense of ownership achieved through the use of design features, including landscaping, building materials and site layout	Yes
Waste Management			
Waste Collection and Storage	Area of storage of all bins on site and area for bin presentation to be provided as per Part 6.9.4.1 13 bins allocated	No bin presentation areas for collection Bin bay for 13 bins	No

As presented in the above table the proposed development does not meet a number of Council's controls for a comparable residential flat building development in a higher density zone. It is considered that many of the more minor issues identified in the compliance table can be resolved by way of conditions of consent with the exception of side setbacks which require a re-design. The applicant has been requested to address this matter given its impacts on the apparent bulk and scale of the building and impacts on neighbouring residents and they have provided the following submission in this regard.

"...The design meets the objectives of side setbacks under the Residential Flat Design Code as the development does not adversely impact on neighbouring properties in relation to light, air, sun and privacy. No window openings are proposed along the two storey component of the residential flat building located along the western boundary. The side setbacks of 1.2m is therefore acceptable in this instance as the reduced side setback is proposed to a blank wall and does not result in overlooking onto the neighbouring dwelling at 116 Hannans Road. The three storey element of the residential flat building is also

118-120 HANNANS ROAD, NARWEE: DEMOLITION OF DWELLING, REMOVAL OF TREES, CONSTRUCTION OF AFFORDABLE HOUSING RESIDENTIAL BUILDING WITH UNITS AT FRONT AND TOWNHOUSES AT REAR OF SITE (CONT.)

set in further with a side setback of 3metres from the western boundary to reduce any potential adverse impacts onto neighbouring properties.

...The proposed development does not significantly vary from the existing pattern of development in the locality and those of the adjoining properties.

It is noted that Council's side setback controls for attached and multi dwelling housing is a minimum setback of 1metre or an average of 1.5metres from the side setback. These controls are considered to be more applicable for the two storey component of the development.

Providing a larger side setback to comply with Council's controls would result in a potential loss of at least two units without any discernible environmental benefits."

The proposed side setbacks are well under the side setback requirements of a comparable development in a higher density zone where a minimum of 3m and an average of 4m side setbacks are required. The western elevation of the building that is mentioned in the applicant's submission involves a maximum setback of 2.92m, therefore not providing the minimum setback at any section of this elevation, even to the sections of the building that are up to four storeys in height.

Further to this, the Residential Flat Design Code includes 'rules of thumb' associated with separation between buildings, and window openings between the development site and neighbouring dwellings. The proposed development does not meet the minimum required separation between buildings to achieve adequate separation, and the applicant has not provided sufficient information on plan demonstrating location of neighbouring dwelling's windows relative to the proposed to demonstrate any form of compliance in this regard.

Notification

The application was notified for a period of 14 days as per Canterbury DCP 2012 and four submissions were received raising the following issues:

- **Privacy impacts on neighbouring dwelling residents. Windows and balconies overlooking neighbouring dwellings and rear yards.**

Comments

It is agreed that the development will have some impact on the privacy of neighbouring dwellings.

- **The unit block will tower over the adjacent properties. The scale of the building should be compared to the neighbouring buildings on this side of the street and not to the buildings on the higher side of the street.**

Comments

It is agreed that the proposed development is not in keeping with the scale of developments in the streetscape.

118-120 HANNANS ROAD, NARWEE: DEMOLITION OF DWELLING, REMOVAL OF TREES, CONSTRUCTION OF AFFORDABLE HOUSING RESIDENTIAL BUILDING WITH UNITS AT FRONT AND TOWNHOUSES AT REAR OF SITE (CONT.)

- **The western wall will reflect the afternoon sun and onto neighbouring property to produce excessive heat particularly given height of the wall. The building will also block cool easterly breezes from reaching the neighbouring property to the west in the summer.**

Comments

The adjoining development will be impacted by the proposed development particularly given the reduced setbacks.

- **Traffic and pedestrian safety, and lack of car parking will compound existing parking issues brought about by other affordable housing projects nearby.**

Comments

The proposed development is not required to provide car parking under State Environmental Planning Policy (Affordable Rental Housing) 2009. However, the development includes seven car parking spaces. The proposed development is not expected to generate an excessive amount of traffic as it is in proximity to a railway station and car ownership is expected to be low.

- **Not in keeping with R3 – Medium Density zone planning guidelines. Discrimination in allowing three storey where others are only allowed two storey development. Noise from future occupants.**

Comments

The application is permitted by virtue of a Certificate of Site Compatibility issued by the Director General under clause 137(5) of State Environmental Planning Policy (Affordable Housing) 2009.

- **Solar access to neighbours**

Comments

Given the orientation of the land, the proposed development is not expected to have an unreasonable impact on solar access to neighbouring development. The bulk of shadows will be cast onto the front of the site.

- **Loss of trees**

Comments

The proposed development involves the removal of trees to make way for development. Council's Landscape Architect has reviewed the application and has not identified any significant trees on the property.

- **Loss of water pressure**

Comments

There is no evidence to suggest that this development will lead to loss of water

118-120 HANNANS ROAD, NARWEE: DEMOLITION OF DWELLING, REMOVAL OF TREES, CONSTRUCTION OF AFFORDABLE HOUSING RESIDENTIAL BUILDING WITH UNITS AT FRONT AND TOWNHOUSES AT REAR OF SITE (CONT.)

pressure at neighbouring buildings.

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 development, having been issued a Certificate of Design Compatibility, has been considered as per a residential flat building in a higher density zone. As identified in the body of this report, many of the issues identified as non-compliances are matters that can potentially be addressed as conditions of consent. However, the issue of side setbacks particularly for the residential flat building is one that could not be resolved given the visual and amenity impacts of such non-compliance. As such, the application cannot be supported. As this is a Crown development application it can only be refused with the approval of the Minister for Planning and Infrastructure. The EPA Act requires that such applications be referred to the Joint Regional Planning Panel for determination, which is the recommended course of action.

RECOMMENDATION:

THAT Development Application 242/2013 be **REFERRED** to the Joint Regional Planning Panel for determination and that the applicant and the Panel be advised that Council does not support the development application 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 not consistent with State Environmental Planning Policy 65 – Design Quality of Residential Flat Development with respect to design quality principles of context, scale, built form and amenity.
2. 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 DCP 2012 including:
 - 2.1.1 Clause 2.1.7 – Setbacks as the development does not establish the desired spatial proportions of the street and does not limit the scale and bulk of the new building, appropriate to the location and use.
 - 2.1.2 Clause 2.3.1 – Visual Privacy as a reasonable level of privacy is not provided to neighbouring residents.
 - 2.1.3 Clause 2.3.4 – Internal Dwelling Space and Design as a high standard of amenity is not achieved through dimensions and configuration for habitable rooms and workspaces.
 - 2.1.4 Clause 6.9, O1 – Waste Management as facilities for collection and disposal of waste are not incorporated into the development.
3. 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 the Canterbury DCP 2012, including:
 - 3.1 Clause 2.1.7 Minimum Setbacks as the development does not include sufficient side setbacks for the type of development that is proposed.
 - 3.2 Clause 2.3.1 – Visual Privacy – as the development does not provide adequate building separation and side setbacks.
 - 3.3 Clause 6.9 – Waste Management as the development does not incorporate a sufficient bin presentation area to facilitate collection by Council’s contractors.
4. The proposed development is unsatisfactory, pursuant to the provisions of Section

118-120 HANNANS ROAD, NARWEE: DEMOLITION OF DWELLING, REMOVAL OF TREES, CONSTRUCTION OF AFFORDABLE HOUSING RESIDENTIAL BUILDING WITH UNITS AT FRONT AND TOWNHOUSES AT REAR OF SITE (CONT.)

- 79C(1)(b) of the Environmental Planning and Assessment Act 1979, providing an undesirable and unacceptable impact on the streetscape and adverse impact on the surrounding built environment.
5. Pursuant to the provisions of Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development is unsatisfactory in terms of its standard of design and would adversely impact upon the existing and likely future amenity of the locality

IHAP ASSESSMENT AND RECOMMENDATION

The Independent Hearing and Assessment Panel considered the application on 25 November 2013, and their assessment and recommendation is provided below.

Panel Assessment

The Panel was addressed by the owner of an adjoining property and she agreed with the Panel's request that a copy of the written submission she tabled be attached to the Panel's report. The submission is included in the Attachments. The Panel considers that the objection was well founded in terms of both the visual and heat impact on her property with the proximity of this building, to such an extent that mitigation is warranted by modification to the design.

The Panel considers that the proposed development is not fair on the adjoining property owners as it prejudices their development potential. It would affect development opportunity by inequitable side setbacks. The Panel considers it is an overdevelopment of the site in terms of height, density and bulk and in the circumstances converting the residential flat building to two storey townhouses would be a more acceptable form of development on the site.

The public interest from the applicant's perspective is the Corporation's important social goals, but this needs to be balanced against the statutory obligations that should be considered such as streetscape, and the social and economic impacts on adjoining properties, and the heat and visual impacts on the adjacent dwelling.

The Panel considers that even if the residential flat building were to be reduced to two storeys in height, its form and character is not sympathetic at all with the existing character of the built form in the locality. The Panel also considers that the front setback should be the same as adjoining single storey development.

IHAP Recommendation

THAT Development Application DA-242/2013 be **REFERRED** to the Joint Regional Planning Panel for determination together with IHAP's report and the submission made to IHAP by the adjoining property owner.

118-120 HANNANS ROAD, NARWEE: DEMOLITION OF DWELLING, REMOVAL OF TREES, CONSTRUCTION OF AFFORDABLE HOUSING RESIDENTIAL BUILDING WITH UNITS AT FRONT AND TOWNHOUSES AT REAR OF SITE (CONT.)

CITY DEVELOPMENT COMMITTEE
RESOLUTION - 05 DECEMBER 2013

18 118-120 HANNANS ROAD, NARWEE: DEMOLITION OF DWELLING, REMOVAL OF TREES, CONSTRUCTION OF AFFORDABLE HOUSING RESIDENTIAL BUILDING WITH UNITS AT FRONT AND TOWNHOUSES AT REAR OF SITE

FILE NO: 396/118D PT2

Min. No. 467 RESOLVED (Councillors Hawatt/Saleh)

THAT

- A. Development Application 242/2013 be **REFERRED** to the Joint Regional Planning Panel (JRPP) for determination and that the applicant and the Panel be advised that Council does not support the development application 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 not consistent with State Environmental Planning Policy 65 – Design Quality of Residential Flat Development with respect to design quality principles of context, scale, built form and amenity.
 2. 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 DCP 2012 including:
 - 2.1.1 Clause 2.1.7 – Setbacks as the development does not establish the desired spatial proportions of the street and does not limit the scale and bulk of the new building, appropriate to the location and use.
 - 2.1.2 Clause 2.3.1 – Visual Privacy as a reasonable level of privacy is not provided to neighbouring residents.
 - 2.1.3 Clause 2.3.4 – Internal Dwelling Space and Design as a high standard of amenity is not achieved through dimensions and configuration for habitable rooms and workspaces.
 - 2.1.4 Clause 6.9, O1 – Waste Management as facilities for collection and disposal of waste are not incorporated into the development.
 3. 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 the Canterbury DCP 2012, including:
 - 3.1 Clause 2.1.7 Minimum Setbacks as the development does not include sufficient side setbacks for the type of development that is proposed.
 - 3.2 Clause 2.3.1 – Visual Privacy – as the development does not provide adequate building separation and side setbacks.
 - 3.3 Clause 6.9 – Waste Management as the development does not incorporate a sufficient bin presentation area to facilitate collection by Council’s contractors.
 4. The proposed development is unsatisfactory, pursuant to the provisions of Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, providing an undesirable and unacceptable impact on the streetscape and adverse impact on the surrounding built environment.
 5. Pursuant to the provisions of Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development is unsatisfactory in terms of its

118-120 HANNANS ROAD, NARWEE: DEMOLITION OF DWELLING, REMOVAL OF TREES, CONSTRUCTION OF AFFORDABLE HOUSING RESIDENTIAL BUILDING WITH UNITS AT FRONT AND TOWNHOUSES AT REAR OF SITE (CONT.)

standard of design and would adversely impact upon the existing and likely future amenity of the locality

- B. The Independent Hearing and Assessment Panel (IHAP) report on this matter and the submission made to the IHAP by the adjoining property owner be included with the application referred to the JRPP.

FOR	AGAINST
The Mayor, Councillor Robson	
Deputy Mayor, Councillor Azzi	
Councillor Adler	
Councillor Eisler	
Councillor Hawatt	
Councillor Kebbe	
Councillor Nam	
Councillor Paschalidis-Chilas	
Councillor Saleh	
Councillor Vasiliades	