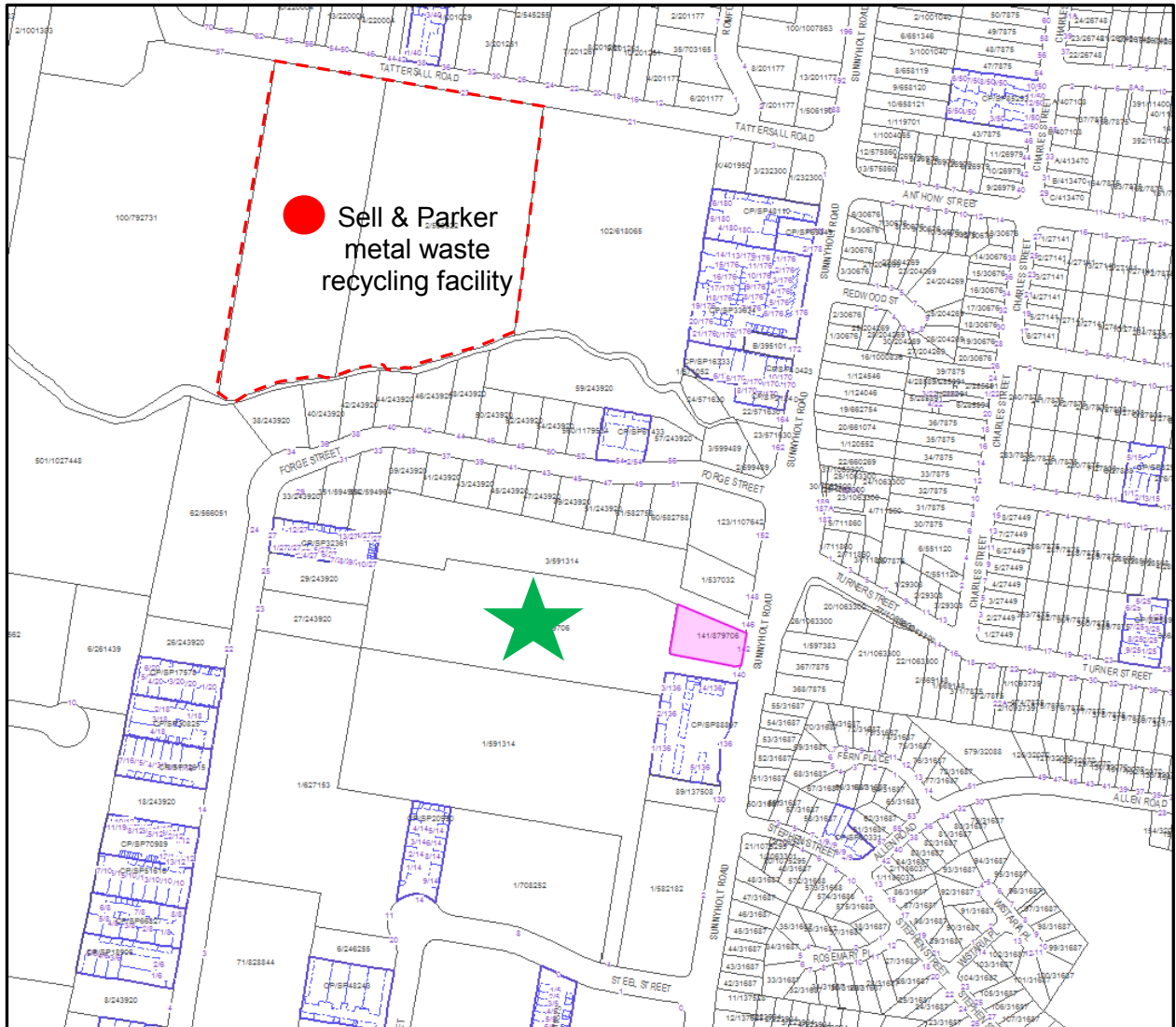


## Summary of issues raised by the public and Council response

### 1 Location of submitters



#### Key:



= The site the subject of this application is highlighted in purple.



= Location of the submitter property, outlined in red.

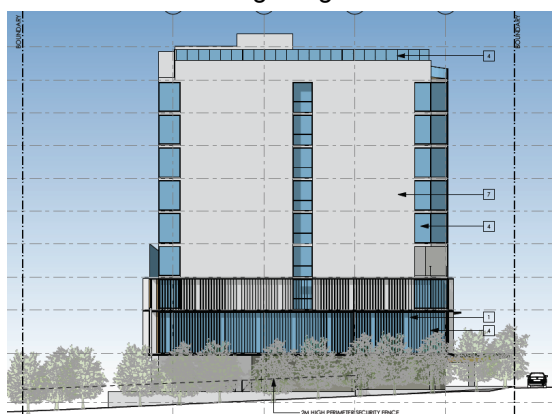


= Location of the submitter property: however following the Applicant's submission of further information, the submitter formally withdrew their objection.

## 2 Consideration of issues raised

Issue	Planning comment/response
<p><b>Land use conflict</b></p> <p>The information submitted with the Development Application (DA) has not considered the industrial land uses which are immediately adjacent to the site and surrounding 500 m vicinity to the north and west.</p> <p>The existing industrial land uses, including that operated by Sell &amp; Parker, have existed long before the current proposal and the impacts of the operations of an adjacent hotel and the impact of the industrial land uses must both be considered.</p> <p>While Council rezoned the land south of Breakfast Creek to B7 Business Park to permit uses which are not industrial, so too then the obligation falls to the Applicant to demonstrate not only is the proposed development suitable in its immediately adjoining property context but also in its immediate neighbourhood. No information has been submitted by the Applicant to demonstrate the proposed building and its intended use are suitable with respect to the existing industrial uses to the north.</p> <p>The Draft Greater Sydney Region Plan (draft regional plan) as exhibited by the Greater Sydney Commission highlights the need to not only protect industrial zoned land but also protect existing industries within industrial zoned land (such as that at Kings Park) from changes in expectations associated with development which seek to introduce other uses which in themselves introduce expectations about future amenity which currently do not exist.</p>	<p>The Applicant has responded to this issue stating that the site is suitable for the proposed hotel accommodation given it is a permissible land use, and the Applicant specifically selected this site due to the suitability of this location for a hotel and the character of the site and surrounds.</p> <p>Although the character of the area has generally comprised office premises, petrol stations and a mix of industrial uses, the area is part of the rezoned Blacktown Business Park which is available for redevelopment. The proposed building is compatible with the surrounding properties as it provides self-contained services and facilities and acoustic attenuation measures. The proposed hotel compliments the surrounding business park and locality by providing an opportunity for hotel accommodation and is supported.</p>
<p><b>Visual outlook</b></p> <p>It is unclear from the drawings submitted if the windows which face onto the proposed balconies on the northern elevation are full height as shown in the following image:</p>  <p>The image is an architectural elevation drawing of a building facade. It shows a multi-story building with a central vertical element and two wings. The left wing has a series of balconies. The drawing includes annotations such as 'HOTEL BALCONY CORNER', 'DE FLOOR', and 'BALCONY CORNER'. A red dashed line highlights a specific area on the ground level near the base of the building.</p>	<p>All hotel suites have balconies which direct lines of sight from the hotel suites out, instead of down into the surrounding properties. These measures are effective in minimising loss of privacy for surrounding properties.</p> <p>We consider the provision of windows to the northern elevation to be appropriate.</p>

The western elevation has windows that have views onto the neighbouring industrial uses as shown in the following image:



The western elevation does not comprise any window openings to hotel suites.

The centrally located windows are at the end of the central corridor. These windows provide sunlight into the corridors and are satisfactory.

The windows shown to the sides of the western elevation are full height glazed 'walls' to the side of the balcony which provide acoustic attenuation while also allowing sunlight to access the balconies.

### Conversion to apartments

The design of the hotel appears to demonstrate the ability for hotel rooms to be readily converted into apartment units or serviced apartments given the 'dual key' design (Levels 2 - 8).

The design lends itself to serviced apartments or conversion into a residential flat building, however such form of development is not permitted. Should such a form of development become permitted then the provisions of SEPP 65 and the associated ADG would apply which in turn raises the internal amenity requirements of the building for occupants. This would then introduce expectations for internal amenity to meet residential usage criteria, however the context is not residential in its current levels of amenity, yet the design currently could be readily adapted.

Therefore, this DA needs to demonstrate that the current and future amenity of occupants will not result in land use conflict associated with noise intrusion or visual/privacy intrusion from the existing industrial uses to the north of Breakfast Creek (as the industrial land and uses will be located to the north of Breakfast Creek well into the future - at least 30 years under the draft regional plan). We note that a hotel does not require a northern orientation and thus the building design should be amended to avoid the conflict in the first instance. The DA currently does not adequately demonstrate how this can be achieved.

The Applicant has confirmed that *'the proposal has not been designed for use or conversion to apartments and the proposal is made faithfully consistent with the permissible land uses. No alternative design for ADG compliance is necessary or appropriate given apartments are a prohibited use'*.

We consider the 'dual key' suites to be a suitable design as it offers flexibility for hotel accommodation for families and business associates. We recommend conditions are imposed to ensure the hotel does not operate as serviced apartments or permanent residential apartments at any time.

The proposed hotel accommodation is permissible with consent in the B7 Business Park land use zone in line with Blacktown Local Environmental Plan 2015. The proposal is considered to provide a suitable level of amenity for hotel accommodation, and provides suitable noise attenuation measures. Conditions of consent are recommended to be imposed to ensure that the use of the site is in line with the permitted land use and that the recommendations of the Acoustic Report are implemented in the construction of the building.

### Outlook from proposed development

The scale of the development involves a number of storeys which include 'hotel rooms' which are orientated with aspects towards the north and windows to the west. Based on the current northern and western elevation details (refer to images above), the design promotes an aspect orientated for a number of rooms to the north and west, which will promote occupants overlooking into the industrial uses currently in operation.

The proposal provides a 'blank wall effect' along its western façade and hotel guests will not overlook the existing industrial uses to the west.

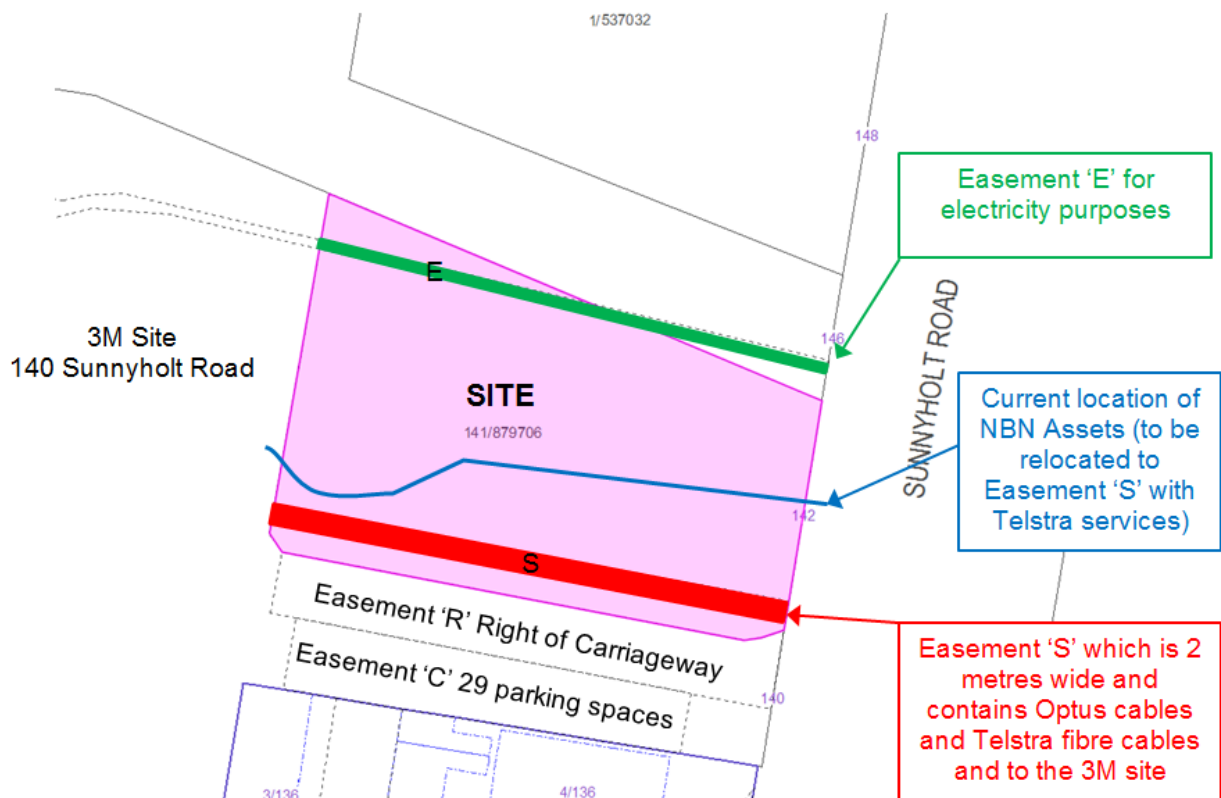
There are 21 hotel rooms which are solely oriented to the north towards the adjoining service station and warehouses and industrial uses in the immediate vicinity. They will also have oblique angles over Sunnyholt Road and the residential area to the north-east. The overall outlook from the hotel suites is satisfactory.

<p>The outlook into an operational industrial site can readily be described as not visually desirable. Therefore, why should the existing industrial uses modify themselves when the proposed development introduces the conflict in the first instance.</p>	
<p><b>Acoustic Report</b></p> <p>The Acoustic Report submitted with the DA has had regard to immediate noise context but makes no reference to the current industrial zoned land and uses to the north of the site along Breakfast Creek.</p> <p>The usage of the industrial lands to the north in some instances does not have limitations on the hours of use and many are operated within requirements inclusive of Industrial Noise Policy criteria.</p> <p>The Acoustic Report should include specific design details about measures to be included within the northern and western elevation façade, to protect internal occupants' amenity from potential noise generated by industrial uses which exist to the north of Breakfast Creek.</p> <p>The Acoustic Report does not address that hotels are utilised by guests who are sleeping 24/7 (the Statement of Environmental Effects points out that shift workers will be one of the main users for this site) who will require noise protection against the daytime noise generated by the industrial precinct.</p>	<p>The Applicant states that the Acoustic Report submitted with the DA is based on noise monitoring measurements taken and includes recommendations to address noise such as glazing laminate. The DA includes an understanding of noise generation for the area, inclusive of measurements, and is responsive to ensure that acoustic impacts are minimised.</p> <p>The proposal and Acoustic Report has been assessed by our Environmental Health Officer and the proposal is supported, subject to the imposition of the recommendations of the Acoustic Report. This ensures that the internal noise levels of the development comply with the relevant guidelines, policies and Australian Standards.</p>
<p><b>Setback requirements are not met</b></p> <p>The DCP requirement details a minimum front setback of 20 m. The proposed setback is 13.5 m from the primary building line to Sunnyholt Road. The DCP setback requirement should be met.</p>	<p>The Applicant has justified the setback variation, as follows:</p> <ul style="list-style-type: none"> <li>- The development proposes a hotel that will provide an important streetscape presence beyond the existing facades currently present within the Blacktown Business Park Precinct.</li> <li>- A number of buildings, built form and hard surfaces along Sunnyholt Road already project forward of the setback line. The proposal would not be inconsistent with the character of the road at present.</li> <li>- The proposal has been designed to actively engage with its streetscape to both Sunnyholt Road and to a right of way easement that run along the site's southern boundary frontage whilst also providing landscaping along its frontage to provide visual beautification and a buffer between Sunnyholt Road and the built form.</li> </ul>

	<ul style="list-style-type: none"> <li>- Having regard to the design aesthetic of the building, the character of the area, and the incorporation of landscaping into the front boundary setback area, the proposed setback arrangement is considered to be best practice and will significantly contribute to the public domain and the streetscape of this part of Sunnyholt Road.</li> </ul> <p>We consider the proposed street setback to be suitable as addressed in detail in attachment 6. Given the site's location between 2 existing service stations right on Sunnyholt Road, the proposed variation is not considered unreasonable in this circumstance.</p>
<p><b>Maximum height restrictions are exceeded</b></p> <p>The building should be designed to meet the 32 m maximum building height restrictions. The development proposes an overrun of 2.07 m resulting in a height of 34.07 m. The DCP maximum height restrictions should be met.</p>	<p>The Applicant seeks approval for a departure from the height of buildings development standard, as discussed in Section 7 of the Assessment Report and in attachment 7. In particular, the Applicant states that the additional height is not for the express purpose of additional floor space, but to accommodate a visually indiscernible lift overrun and some rooftop recreational space.</p> <p>We support the proposed building height as discussed in attachment 8.</p>
<p><b>Traffic movements onto Sunnyholt Road</b></p> <p>Sunnyholt Road is an exceptionally busy arterial road that feeds onto the M7. The left-in and left-out entry/exit proposed for this site poses serious traffic flow impacts onto Sunnyholt Road particularly before the Turner Street intersection. The Traffic Report should address the entry and egress for both cars and trucks that will service the site.</p>	<p>The Applicant states that the Traffic Report submitted with the DA appropriately addresses the traffic movements for the site, noting that the DA will not increase the number of crossings as it will be served by an existing crossing that allows for left turn in and out of the site from Sunnyholt Road.</p> <p>In September 2018, the Applicant also submitted amended plans which modified the vehicular access arrangements on the site to ensure that there is no conflict between vehicles and trucks:</p> <ul style="list-style-type: none"> <li>- entering and exiting the site via the driveway shared with 3M at 140 Sunnyholt Road</li> <li>- the service driveway along the western boundary of the site</li> <li>- the driveway to the basement parking levels</li> <li>- the hotel pick-up/drop-off bay and circulation driveway.</li> </ul> <p>Our Access and Transport Management Section and the RMS has assessed the proposal (as amended) and do not raise any objection to the proposed access arrangements and impact on the operation of Sunnyholt Road.</p>

### 3 Details of withdrawal of submission by 3M

A submission was also received from 3M Australia Pty Ltd at 140 Sunnyholt Road, Blacktown. The relationship between the sites is shown in Figure 1 below. The development site enjoys the benefit of Easement 'R' right of carriageway (ROW) and Easement 'C' for car parking burdening the 3M land. The site is burdened by Easement 'S' for services for the benefit of 3M land. These are easements set out under the Section 88B Instrument in Deposited Plan 879706.



**Figure 1:** Figure showing the site's existing easements (the site is shown in purple).

The objections raised in the submission included:

- Concern about their driveway and parking areas being obstructed and increased congestion during the construction and operation of the proposal.
- Safety concerns for vehicles and pedestrians using the driveway and parking area.
- Concerns that the driveway is not capable of accommodating the increased intensity of use of the site as a result of this proposal.
- Concern that the purpose of the easement is not to allow for access through the 3M site of the magnitude proposed. The use of an easement cannot be extended beyond the scope of the use at the time of when it was originally granted.
- The carpark and driveway were intended to be used for the owner of the development site to access its land, and now it is anticipated that virtually any person in connection with the hotel could use the carpark and driveway, impeding 3M's ability to use and enjoy its own land free from disturbance or interference.
- The DA states that 128 car parking spaces are to be created as a part of construction. The use of the carpark on 3M's land then seems to be redundant, if this were to be the case. At the time of the creation of this easement, it was never expected that the carpark would be used as an 'ancillary' carpark to an adjoining hotel which would contain ample parking for its patrons and guests.

In response to these objections, the Applicant met with the 3M and amended the proposal, which is the subject of this application. The Applicant and submitter also prepared and signed a Deed of Agreement to reflect an agreement between the parties. The submission was then formally withdrawn by 3M.

The Deed of Agreement comprises the following works to be carried out by the Applicant prior to commencement of the business operation of the Hotel to 3M's reasonable satisfaction and including without limitation:

- a. installing a pedestrian crossing between the carpark and the Hotel;
- b. installing permanent signage that directs vehicles leaving the underground carpark of the Hotel to exit through the Hotel driveway until the exit point onto the ROW;
- c. removing the existing large shrubs between the carpark and the boundary fence and their replacement with decorative pebbles;
- d. installing a pedestrian walkway between the carpark and the ROW;
- e. closing the single carpark space closest to Sunnyholt Road;
- f. installing signage at the carpark requiring vehicles to park rear to kerb; and
- g. providing 2 standing only spaces for small delivery vehicles (with consistent signage) near the Hotel dock.

The ROW and carpark will also be required to be reconstructed in accordance with the civil works drawings proposed to be approved in this DA to 3M's reasonable satisfaction and including without limitation:

- a. installing traffic signage in accordance with the access drawings;
- b. repairs to the existing driveway pavement;
- c. resealing of the ROW and carpark; and
- d. replacement of the driveway adjacent to Sunnyholt Road to achieve the approved compliant gradients.

The Applicant will also adhere to the following:

- a. The Applicant will ensure that any buses accessing the hotel driveway will be limited to a length of 7 m and 22 seats.
- b. The Applicant will be responsible for ensuring that the carpark is used only in accordance with the terms of the Section 88B Instrument and, in consultation with 3M, must install temporary signage necessary to direct users accordingly.
- c. The Applicant will not leave any construction materials, equipment or site establishment for the construction of the Hotel on the ROW or the carpark.
- d. The Applicant must not allow any vehicles to park on the ROW or otherwise obstruct access to the 3M land.
- e. The Applicant will appoint a licensed traffic controller to direct traffic during construction hours.
- f. The Applicant will prepare a Construction Traffic Management Plan (CTMP) in consultation with 3M and ensure that there is always clear and unimpeded access from Sunnyholt Road to the 3M land over the ROW.
- g. After completion, the cost of keeping the carpark and ROW in good condition will be shared between the Applicant and 3M.
- h. The Applicant will instruct guests to park in the Hotel driveway on arrival and to use the basement carpark during their stay.
- i. Works in relation to the services easement will be carried out in line with the requirements of the relevant telecommunications carrier's approval.

3M has confirmed that the amended proposal and Deed of Agreement resolves its concerns and their submission was formally withdrawn.

As these matters have arisen out of a private Deed of Agreement, no conditions are deemed necessary to enforce the implementation of these works or measures by the Applicant.