

## SYDNEY SOUTH PLANNING PANEL - ASSESSMENT REPORT

|  |   |
|--|---|
| <b>Panel Reference</b>   | PPS-2018SSH048.   |
| <b>DA Number</b>   | DA-503/2018   |
| <b>LGA</b>   | Canterbury Bankstown Council  |
| <b>Proposed Development</b>  | Demolition of existing structures and the construction of an eight (8) storey shop top housing development comprising 4 x commercial tenancies on the ground floor and 62 residential apartments above and four (4) levels of basement parking.   |
| <b>Street Address</b>  | 41 Broadarrow Road, Narwee  |
| <b>Applicant/Owner</b>   | Loulla Costas and Yvette Costas   |
| <b>Date of DA lodgement</b>  | 20 November 2018  |
| <b>Number of Submissions</b>   | No submissions  |
| <b>Recommendation</b>  | Refusal   |
| <b>State and Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011</b> | Part 4, Clause 20(1) of the SEPP (State and Regional Development) 2011 the application is declared as regionally significant development. Development that has a Capital Investment Value (CIV) over \$30 million is identified in Schedule 7 of the SEPP. The proposed CIV of the development is \$33,062,784 and falls within this category. Accordingly, Sydney South Planning Panel is the consent authority for this application.  |
| <b>List of all relevant s4.15(1)(a) matters</b>  | <ul style="list-style-type: none"> <li>• State Environmental Planning Policy 55 – Contaminated Land (SEPP 55)</li> <li>• State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development (SEPP 65)</li> <li>• State Environmental Planning Policy 2004 (Building Sustainability Index: BASIX)</li> <li>• Canterbury Local Environmental Plan 2012 (CLEP 2012)</li> <li>• Canterbury Development Control Plan 2012 (CDCP 2012)</li> <li>• Canterbury Development Contributions Plan 2013 (Contributions Plan 2013)</li> </ul> |
| <b>List all documents submitted with this report for the Panel's consideration</b>                           | <ul style="list-style-type: none"> <li>• Attachment 1 - Architectural Plans and shadow diagrams</li> <li>• Attachment 2 – Acoustic Report</li> <li>• Attachment 3 – Stage 2 Preliminary Site Investigation Report</li> <li>• Attachment 4- Clause 4.6 Variation Request</li> <li>• Attachment 5 – Statement of Environmental Effects</li> <li>• Attachment 6 – Applicant's response to RFI letter</li> <li>• Attachment 7 - Google street view and aerial (in lieu of site visit). Prepared by Author</li> </ul>  |
| <b>Clause 4.6 requests</b>   | <ul style="list-style-type: none"> <li>• Canterbury Local Environmental Plan 2012 (CLEP 2012)</li> </ul>  |

|                                   |  |
|-----------------------------------|--|
|                                   | <ul style="list-style-type: none"> <li>• The Clause 4.6 relates to Clause 4.3 Height of Buildings of the CELP 2012</li> <li>• The subject site is in a B2 Local Centre Zone</li> </ul> |
| <b>Summary of key submissions</b> | <ul style="list-style-type: none"> <li>• NA</li> </ul>   |
| <b>Report prepared by</b>         | Andrea Elias –Acting Senior Planner  |
| <b>Report date</b>                | 19 November 2020   |

## **BACKGROUND**

On 16 January 2019 to 7 February 2019 Council notified the application in accordance with the requirements of Canterbury Development Control Plan (CDCP). No submissions were received.

On 12 March 2019 Sydney South Planning Panel held a Briefing Meeting following a review of the proposal and made the following comments:

- The proposed development exceeds the maximum height limit of 27m. There appears to be no justifiable reason why this height should be exceeded nor the encroachments into the front setback are required.
- The site is contaminated and needs to demonstrate that it can be remediated and is viable for the proposed in accordance with SEPP 55.
- More information is required to demonstrate how the development meets the principles of SEPP 65 and the ADG requirements needs to be demonstrated.
- The site adjoins a railway so mitigating noise in accordance with the Infrastructure SEPP and meeting SEPP 65 cross ventilation requirements needs to be demonstrated.
- The amenity of several apartments located on the hinge of the two wings poses problems. Snorkel apartments should be avoided and windows on the external face of the building are more optimal than internal balcony facing windows.
- The scale of this development requires greater attention to the contextual fit of the development particularly the design of the street frontages and residential lobbies to improve amenity of the public domain.
- Consideration of a more balanced mix 1,2, and 3 bedroom apartments is recommended.
- The proposed cladding needs to demonstrate it meets the appropriate Australian standard.

On 27 June 2019 a letter request for information was sent to the Applicant which included the above comments and comments relating to the following (summarised);

- ADG non compliances with parts, 3F Visual Privacy, 4A Solar Access, 4B Natural Ventilation, 4D Apartment Size and Layout, Part 4E Private Open Space and Balconies, 4F Common Circulation and spaces and 4G Storage.
- Concerns with SEPP 55- Remediation of Land, SEPP Infrastructure in terms of acoustic impacts.
- Concern with breach to building height
- DCP non compliances with part C4 and stormwater, traffic and parking matters.

On 30 July 2019 a meeting was held at Council to discuss Council's letter request for information.

On 5 December 2019 Council received amended plans from the Applicant.

On 18 December 2019 to 5 February 2020 Council notified the application in accordance with the requirements of Canterbury Development Control Plan (CDCP). No submissions were received.

On 14 April 2020 a meeting was held via Microsoft Teams to discuss Council's letter request for information.

On 6 May and 7 May 2020, Council's Traffic Engineer discussed a number of issues with the Applicant's Traffic Engineer.

On 15 September 2020, Council received amended plans from the Applicant.

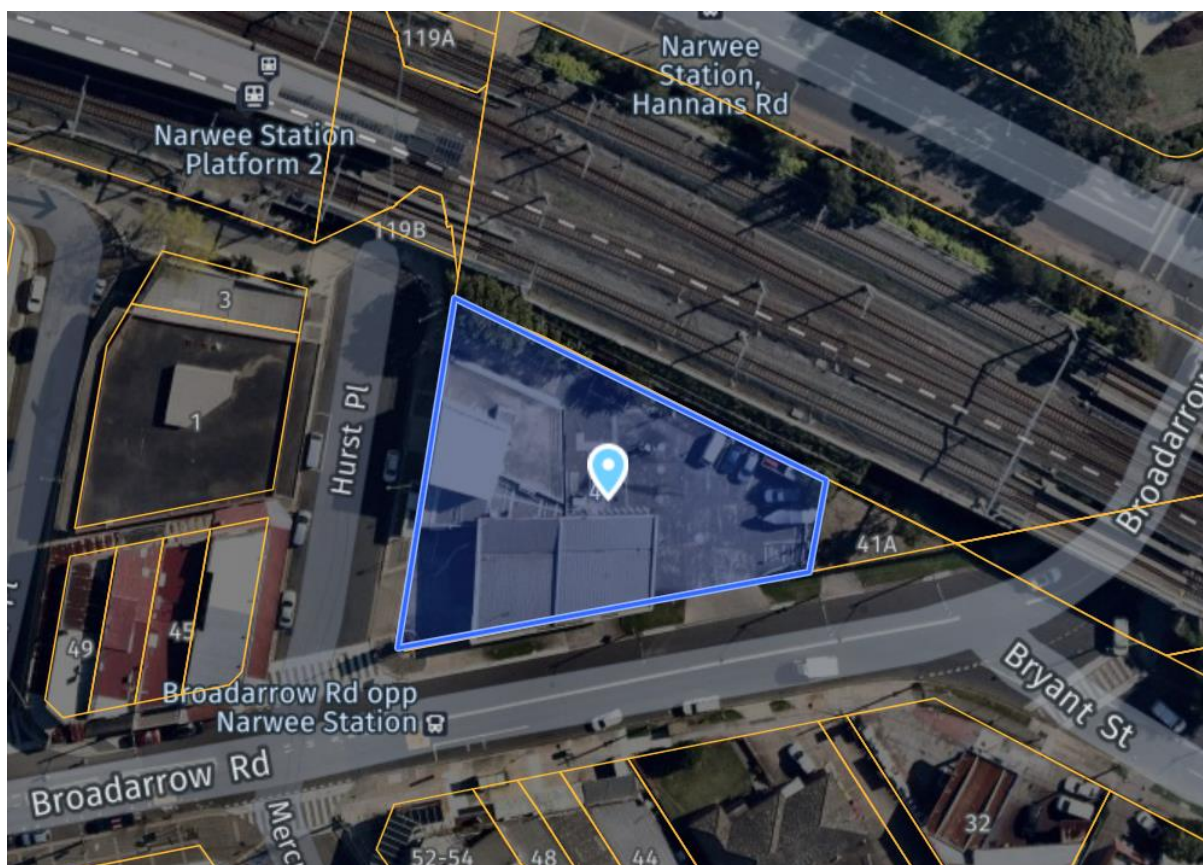
## **SITE & LOCALITY DESCRIPTION**

The subject site is known as 41 Broadarrow Road, Narwee and is legally identified as Lot 10 in DP 875415. The site irregular in shape and is located on the northern side of Broadarrow Road, on the eastern side of the intersection with Hurst Place.

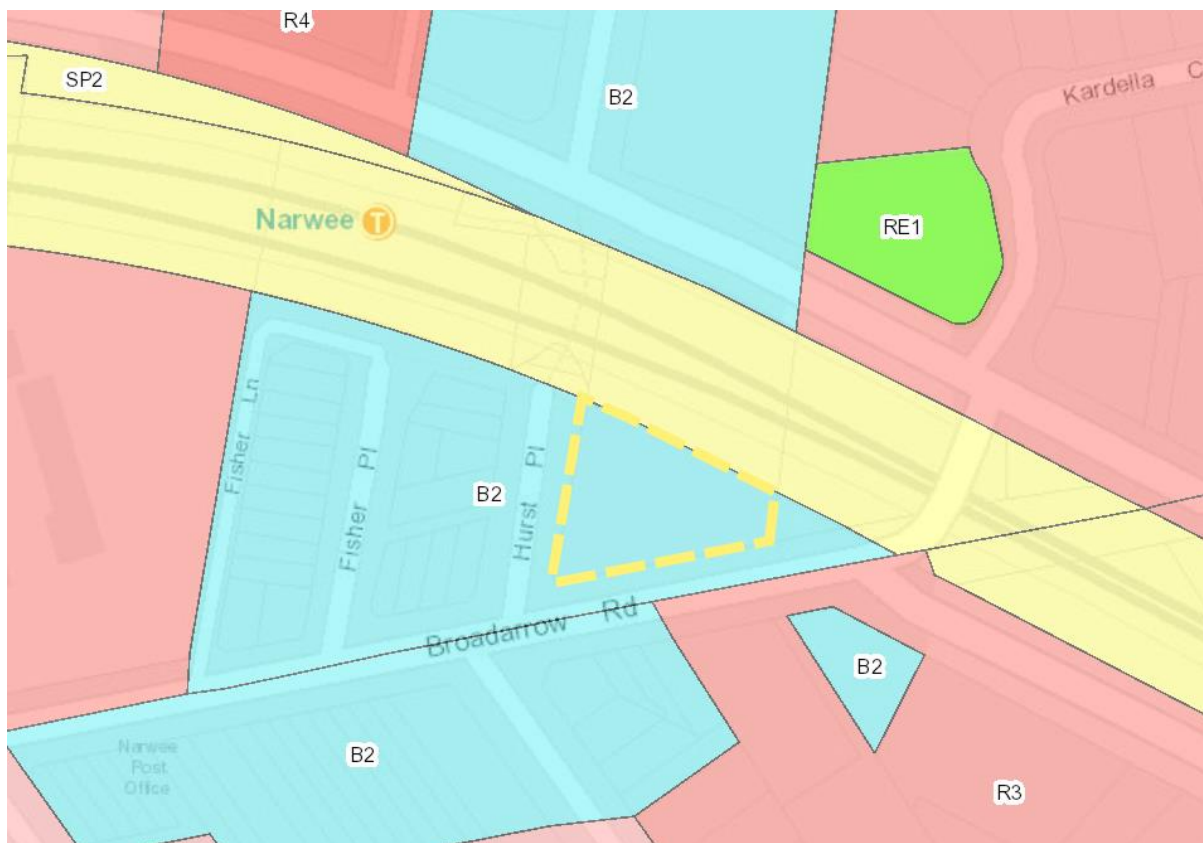
The site has a primary frontage to Broadarrow Road (southern boundary) of 56.79m, a secondary frontage (western boundary) of 47.48m to Hurst Place, a rear (northern boundary) of 56.25m adjacent to the Narwee Railway Station and a side (eastern boundary) of 12.91m to a small triangular allotment owned by the Electricity Transmission Ministerial Holding Corporation who have a 99-year lease over the land. The lot is fenced off from the site and the public domain. The site has a total area of 1,696m<sup>2</sup> and is zoned B2 Local Centre. The site currently comprises a Caltex petrol station with associated structures.

To the south of the site, on the opposite side of Broadarrow Road is B2 zoned land and R3 Medium Density Residential zoned land (see Figure 2 zoning map below), which is located within the Georges River Council Local Government Area. The developments on northern side of the Broadarrow road comprise of a combination of one and two storey retail buildings as well as two and three storey residential flat buildings and a Metro Service station and mechanical repair workshop.

To the west of the site is Hurst Place. On the opposite side of Hurst Place which is zoned B2 Local Centre and comprises of one and two storey commercial and shop top housing developments (see figure 4 below).



**Figure 1:** Aerial Map of the subject site outlined in blue (Source: NearMap 2020)



**Figure 2:** Zoning Map showing site outlined in yellow (Source: NSW Planning Portal 2020)





**Figure 3:** View of the subject site from the intersection of Broadarrow Road and Hurst Place.



**Figure 4:** View of the surrounding locality in Hurst place, to the west of the site.

## **PROPOSED DEVELOPMENT**

The Applicant seeks development consent for the demolition of existing structures and the construction of a eight (8) storey shop top housing development comprising 4 x commercial tenancies on the ground floor and sixty two (62) residential apartments above and four (4) levels of basement parking. The proposed development is detailed below:

### **Basement 04**

- 2 x lifts and stair wells
- 26 x residential car parking spaces (including 4 x accessible parking spaces).
- Car wash bay
- Storage

### **Basement 03**

- 2 x lifts and stair wells
- 26 x residential car parking spaces (including 3 x accessible parking spaces).
- Car wash bay

- Storage

#### Basement 02

- 2 x lifts and stair wells
- 25 x car parking spaces (including 1 x accessible parking space and 10 x visitor parking spaces).
- 20 x bicycle spaces
- Sprinkler room
- Storage

#### Basement 01

- 2 x residential lifts, 1 x commercial lift and stair wells.
- 23 x commercial car parking spaces (including 1 x accessible car parking space)
- 8 x bicycle spaces
- OSD tank, plant room and hydrant pump room
- Residential waste room

#### Ground Floor

- 2 x residential lifts, 1 x commercial lift and stair wells.
- 4 x business/retail premises including 2 x potential restaurant use.
- 2 x residential lobbies.
- Separate residential and commercial bin holding room.
- Bulky waste storage area.
- 2 x bathrooms.
- Loading zone.
- Vehicular access into basement and commercial loading and unloading via Hurst Place

#### Level 01

- 2 x residential lifts and stair wells.
- 1 x studio apartment with associated private open space
- 7 x one bedroom apartment with associated private open space
- 5 x two bedroom apartment with associated private open space
- Communal open space

#### Level 02

- 2 x residential lifts and stair wells.
- 1 x studio apartment with associated private open space
- 6 x one bedroom apartment with associated private open space
- 5 x two bedroom apartment with associated private open space

#### Level 03

- 2 x residential lifts and stair wells.
- 2 x one bedroom apartment with associated private open space
- 5 x two bedroom apartment with associated private open space
- 1 x three bedroom apartment with associated private open space

#### Level 04, Level 05 and Level 06

- 2 x residential lifts and stair wells.
- 2 x one bedroom apartment with associated private open space
- 5 x two bedroom apartment with associated private open space
- 1 x three bedroom apartment with associated private open space

#### Level 07

- 2 x residential lifts and stair wells.
- 1 x one bedroom apartment with associated private open space
- 2 x two bedroom apartment with associated private open space
- 2 x three bedroom apartment with associated private open space
- Communal open space

### **STATUTORY CONSIDERATIONS**

When determining this application, the relevant matters listed in Section 4.15 of the Environmental Planning and Assessment Act 1979 must be considered. In this regard, the following environmental planning instruments, development control plans, codes and policies are relevant:

- State Environmental Planning Policy 55 – Remediation of Land (SEPP 55).
- State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development (SEPP 65).
- State Environmental Planning Policy (Infrastructure) 2007 (SEPP 2007).
- State Environmental Planning Policy 2004 (Building Sustainability Index: BASIX).
- Canterbury Local Environmental Plan 2012 (CLEP 2012).
- Canterbury Development Control Plan 2012 (CDCP 2012).
- Canterbury Development Contributions Plan 2013 (Contributions Plan 2013)
- Draft Canterbury Bankstown Consolidated Local Environmental Plan

### **SECTION 4.15 ASSESSMENT**

The development application has been assessed under Section 4.15 of the Environmental Planning and Assessment Act, 1979 and the following key issues have emerged:

#### **Environmental planning instruments [section 4.15(1)(a)(i)]**

##### **State Environmental Planning Policy 55 – Remediation of Land (SEPP 55)**

Clause 7 of SEPP 55 – Remediation of Land requires Council to consider whether the land is contaminated prior to granting consent to the carrying out of any development on that land. Should the land be contaminated, we must be satisfied that the land is suitable in a contaminated state for the proposed use. If the land requires remediation to be undertaken to make it suitable for the proposed use, we must be satisfied that the land will be remediated before the land is used for that purpose.

Given the existing use on the site is for a service station, it is considered such a use is very likely to have contamination. On this basis, Council must be satisfied that sufficient information



has been submitted to demonstrate that remediation works can occur to ensure the site can be made suitable for the proposed commercial and residential use. The application was referred to Council's Environmental Health Officer (EHO) who is not satisfied that the Preliminary Site Investigation (PSI) stage 2 report has adequately satisfied SEPP 55 and insufficient information has been submitted. Council's EHO provided the following comments:

- The investigation was undertaken three years ago and there is the potential for further contamination to have taken place since then due to the sites ongoing use as a service station and mechanical workshop;
- The report failed to provide an assessment and no justification has been provided to address why hazardous ground gases e.g. hydrocarbon vapors and BTEX have not been investigated;
- Soil sampling does not comply with EPA soil sampling guidelines in that:
  - The number of sampling locations/points is below the required minimum;
  - The sampling depth should be relevant to the sites proposed use. Borehole sampling was terminated at 4.5 meters AHD however a four-level basement is proposed;
  - Sampling locations were around the site's perimeter and not in proximately to potential hotspots i.e. mechanical workshop or tank locations, nor within the proposed footprint of the development.
- It is a requirement of underground petroleum storage system (UPSS) legislation that service stations undertake routine groundwater monitoring every six months and these results should be included in the assessment of land contamination. A map detailing the specific location of all eleven tanks as well as any records for any decommissioned tanks has not been provided.
- The presence of hazardous building materials in the existing buildings has not been assessed.

In light of the above, it has not been demonstrated that the site can be made suitable for the proposed development and subsequently the requirements outlined in Clause 7 of SEPP 55 are not satisfied.

### **State Environmental Planning Policy 65 - Design Quality of Residential Apartment Development (SEPP 65)**

This policy applies to residential apartment development and is required to be considered when assessing this application. Residential apartment development is defined under SEPP 65 as development for the purpose of a residential flat building, shop top housing or mixed use development with a residential accommodation component. The development must consist of the erection of a new building, the conversion of an existing building or the substantial redevelopment or refurbishment of an existing building. The building must also be at least 3 or more storeys and contain at least 4 or more dwellings. Residential apartment development does not include boarding houses or serviced apartments.

SEPP 65 aims to improve the design quality of residential apartment development across NSW and provides an assessment framework, the Apartment Design Guide (ADG), for assessing 'good design'. Clause 50(1A) of the Environmental Planning and Assessment

Regulation 2000 requires the submission of a design verification statement from a qualified designer (registered architect) at lodgement of the development application that addresses the design quality principles contained in SEPP 65 and demonstrates how the objectives in Parts 3 and 4 of the ADG have been achieved. Such a statement has been provided by Jackson Teece.

In addition, SEPP 65 requires the assessment of any DA for residential apartment development against the nine design quality principles and to consider the matters contained in the ADG.

#### Principle 1: Context and Neighbourhood Character

The site is consistent with the objectives of the zone as the development consists of a shop top housing development that incorporates ground floor retail/business uses that will provide for a range of uses to meet the day-to-day needs of persons who live, work and visit the area.

The proposed development will result in a building bulk and a development that is an improvement to the current development that exists at the site. The proposal is compatible with the existing and future character of the area and will contribute to the quality and identity of the immediate locality.

#### Principle 2: Built Form and Scale

The proposed development is generally compliant with the building envelope controls except for the breach to building height for the lift overrun and other minor encroachments. Notwithstanding the breach to building height, the scale of the development is appropriate on merit given it doesn't result in any other amenity impacts to neighboring properties and it is one of the first developments of this scale in the immediate vicinity to undergo redevelopment.

The building finishes have been designed to present to the street frontage as three parts made up in the following way; the base which is a one storey element for the commercial spaces, the middle two storeys which are built to the front boundary and the top element which is the upper storeys and which are setback 5m from the primary street frontage. The base of the building has been designed mostly with transparent glass finishes and brick tiles for the solid parts of the wall finishes. The upper levels including the middle and top elements have been articulated using appropriate setbacks, planter boxes and brick tile finishes to provide vertical and horizontal articulation. The bulk and scale are considered acceptable through the appropriate use of materials and finishes to provide articulation in the building façade.

#### Principle 3: Density

The proposed density is an appropriate response to the desired future character and built form of the locality particularly given the site's close proximity to Narwee train station.

#### Principle 4: Sustainability

A BASIX Certificate has been submitted to Council with this development application, which details the resource, energy and water efficiency measures that will be incorporated into this proposal.

#### Principle 5: Landscape

The Landscape design principle states that good design is recognised when landscaping and

buildings operate as an integrated and sustainable system, resulting in attractive developments that contribute to the landscape character of the streetscape. It also states that good landscape design optimises usability, privacy and opportunities for social interaction, equitable access, and respect for neighbors' amenity, provides for practical establishment and long term management.

The proposal incorporates landscaping on level 1 and level 7 as part of the communal open space area. There is no deep soil area on ground floor, however given that it is a town centre, this is considered acceptable given that there are no residential apartments on ground floor and complies with the requirements specified within the ADG.

Further, all the proposed apartments have access to private open space, in the form of balconies. The proposal satisfies the relevant landscaping requirements of the ADG and CDCP 2012.

#### Principle 6: Amenity

Storage is provided within all units with additional storage within the allocated basement car parking levels. The outdoor private balconies are of sufficient size to meet the recreational needs of future occupants. Lift access has been provided from the basement throughout the building, thereby providing full accessibility for all residents and visitors.

Also, except for the layout of two apartments (L01-06 and L02-06) resulting in a snorkel like apartment, the layouts of the remaining 60 apartments meet the layout requirements set out in the ADG. The proposed development also receives more than the minimum requirements of solar access under the ADG, to apartments and POS, resulting from the north orientation of the development.

Overall, the proposed development offers good amenity to individual apartments and for the whole development with the inclusion of two communal open space (COS) areas which include; bench seating, pergola cover and BBQ facilities making the COS usable spaces and to encourage social interaction.

#### Principle 7: Safety

The safety design principle states that good design optimises safety and security within the development and the public domain. The applicant has considered Crime Prevention Through Environmental Design (CPTED) principles as outlined in CDCP 2012 in the design of the project. The proposal provides increased activation and passive surveillance of the surrounding streets and private open space areas on the site. Residential entry and lobby areas are to be secured and well lit.

#### Principle 8: Housing Diversity and Social Interaction

This principle aims to achieve good design by providing a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets. Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents.

The proposed design incorporates a mix of studio, one bedroom, two bedroom and three bedroom apartments and includes adaptable units promoting diversity, affordability and

access to housing choice.

#### Principle 9: Aesthetics

The application is accompanied by a Design Verification Statement and confirms that the development satisfies the general design principles contained within SEPP 65.

The articulation of external facades and general compliance with the relevant built form standards reduces the perceived bulk of the building. These elements contribute to the desired future character of the locality and enhance the existing surrounding streetscapes.

#### **Apartment Design Guide**

Further to the design quality principles discussed above, the proposal has been considered against the various provisions of the Apartment Design Guide in accordance with Clause 28 (2) (c) of SEPP 65.

This consideration includes an assessment of the objectives of Parts 3 and 4 of the ADG. The applicant's designer provided a design verification statement at lodgement to demonstrate that the objectives have been achieved.

An assessment of the proposed development in regard to the following 'Design Criteria' controls of the ADG is demonstrated in the table below:

| Section                                  | Design Criteria   | Proposed  | Complies |
|--|---|---|----------|
| <b>Part 3 Siting the Development</b>     |   |   |          |
| <b>3D Communal and Public Open Space</b> | Communal open space has a minimum area equal to 25% of the site area.   | Based on a site area of 1,696m <sup>2</sup> , the communal open space (COS) required is 424m <sup>2</sup> equivalent to 25% of site area.<br><br>193m <sup>2</sup> COS provided on level 1 and 252m <sup>2</sup> COS provided on level 7. The total COS provided is 445m <sup>2</sup> and includes bench seating, BBQ areas and pergola in each COS area. | Yes      |
|  | Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter). | At least 50% of the principal usable part of the communal open space receives 2 hours solar access between 9am-3pm on 21 June.  | Yes      |

| Section   | Design Criteria   | Proposed   | Complies |                                 |                                 |                             |   |    |   |    |                                  |    |   |    |   |
|---|---|--|----------|---------------------------------|---------------------------------|-----------------------------|---|----|---|----|----------------------------------|----|---|----|---|
| 3E<br>Deep Soil Zones   | Deep soil zones are to meet the following minimum dimensions:   | Based on the site area, the required deep soil is 118.72m <sup>2</sup> with a minimum dimension of 6m.   | Yes      |                                 |                                 |                             |   |    |   |    |                                  |    |   |    |   |
|   | <table><tr><th>Site Area</th><th>Minimum Dimensions</th><th>Deep Soil Zone (% of site area)</th></tr><tr><td>Less than 650m<sup>2</sup></td><td>-</td><td rowspan="4">7%</td></tr><tr><td>650m<sup>2</sup> - 1,500m<sup>2</sup></td><td>3m</td></tr><tr><td>Greater than 1,500m<sup>2</sup></td><td>6m</td></tr><tr><td>Greater than 1,500m<sup>2</sup> with significant existing tree cover</td><td>6m</td></tr></table> | Site Area  |          | Minimum Dimensions              | Deep Soil Zone (% of site area) | Less than 650m <sup>2</sup> | - | 7% | 650m <sup>2</sup> - 1,500m <sup>2</sup> | 3m | Greater than 1,500m <sup>2</sup> | 6m | Greater than 1,500m <sup>2</sup> with significant existing tree cover | 6m | The proposed development does not provide any provision for deep soil. Notwithstanding the lack of deep soil, the ADG states that; achieving the design criteria may not be possible on some sites including where: the location and building typology have limited or no space for deep soil at ground level (e.g. central business district, constrained sites, high density areas, or in centres) or when there is 100% site coverage or non-residential uses at ground floor level Where a proposal does not achieve deep soil requirements, acceptable stormwater management should be achieved and alternative forms of planting provided such as on structure. Given the proposal is for a shop top housing development, the 7% deep soil is not required. To place landscaped area along the southern elevation or side boundaries of the development would be uncharacteristic of existing and future development along Broadarrow Road and Hurst Place. |
|   | Site Area   | Minimum Dimensions   |          | Deep Soil Zone (% of site area) |                                 |                             |   |    |   |    |                                  |    |   |    |   |
|   | Less than 650m <sup>2</sup>   | -  |          | 7%                              |                                 |                             |   |    |   |    |                                  |    |   |    |   |
|   | 650m <sup>2</sup> - 1,500m <sup>2</sup>   | 3m   |          |                                 |                                 |                             |   |    |   |    |                                  |    |   |    |   |
| Greater than 1,500m <sup>2</sup>                                      | 6m  |  |          |                                 |                                 |                             |   |    |   |    |                                  |    |   |    |   |
| Greater than 1,500m <sup>2</sup> with significant existing tree cover | 6m  |  |          |                                 |                                 |                             |   |    |   |    |                                  |    |   |    |   |
|   |   |  |          |                                 |                                 |                             |   |    |   |    |                                  |    |   |    |   |
|   |   |  |          |                                 |                                 |                             |   |    |   |    |                                  |    |   |    |   |
|   |   |  |          |                                 |                                 |                             |   |    |   |    |                                  |    |   |    |   |
| 3F<br>Visual Privacy  | Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required   | <b>Rear (northern) Boundary</b><br>The rear boundary of the site does not adjoin a residential zone boundary or residential development. The rear boundary | Yes      |                                 |                                 |                             |   |    |   |    |                                  |    |   |    |   |

| Section                  | Design Criteria  | Proposed              | Complies                       |                       |                        |    |    |                          |    |      |                        |     |    |   |  |
|--------------------------|--|-----------------------|--------------------------------|-----------------------|------------------------|----|----|--------------------------|----|------|------------------------|-----|----|---|--|
|                          | <p>separation distances from buildings to the side and rear boundaries are as follows:</p> <table><tr><th>Build ing Heig ht</th><th>Habita ble Room s &amp; Balco nies</th><th>Non-habit able Roo ms</th></tr><tr><td>Up to 12m (4 storey s)</td><td>6m</td><td>3m</td></tr><tr><td>Up to 25m (5-8 storey s)</td><td>9m</td><td>4.5m</td></tr><tr><td>Over 25m (9+ storey s)</td><td>12m</td><td>6m</td></tr></table> <p>Note: Separation distances between buildings on the same site should combine required building separations depending on the type of room (See Figure 3F.2 of ADG). Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties.</p> <p>Apartment buildings should have an increased separation distance of 3m (in addition to the</p> | Build ing Heig ht     | Habita ble Room s & Balco nies | Non-habit able Roo ms | Up to 12m (4 storey s) | 6m | 3m | Up to 25m (5-8 storey s) | 9m | 4.5m | Over 25m (9+ storey s) | 12m | 6m | <p>adjoins the Narwee Train station and therefore this control is not applicable.</p> <p><b>Level 1 to Level 4:</b><br/>900mm setback to rear boundary, except the blade wall which is right on the boundary on north western corner.</p> <p><b>Level 5:</b> 900mm setback to rear boundary</p> <p><b>Level 6:</b> 900mm setback to rear boundary</p> <p><b>Level 7:</b> 900mm setback to rear boundary</p> <ul style="list-style-type: none"><li>• <b>Side (eastern) boundary</b><br/>Ground to Level 7 nil setback from the boundary. However, The Electricity Transmission Ministerial Holding Corporation currently have a 99-year lease over the land which is 120m2 and is unlikely to be redeveloped in the future. As noted earlier in this report, the land is zoned B2 and contains grass on the site. There are no impacts on the site and the nil setback is supported.</li><li>• <b>Side (western) boundary</b><br/>Ground floor, level 1 and level 2 storeys nil setback to Hurst Place. Level 3, level 4, level 5, level 6 and level 7 setback 5m from Hurst Place.</li><li>• <b>Front (southern) boundary</b><br/>Ground floor, level 1 and level 2 storeys nil setback to Broadarrow Road. Level 3, level 4, level 5, level 6 and level 7 setback 5m from Broadarrow Road.</li></ul> |  |
| Build ing Heig ht        | Habita ble Room s & Balco nies   | Non-habit able Roo ms |                                |                       |                        |    |    |                          |    |      |                        |     |    |   |  |
| Up to 12m (4 storey s)   | 6m   | 3m                    |                                |                       |                        |    |    |                          |    |      |                        |     |    |   |  |
| Up to 25m (5-8 storey s) | 9m   | 4.5m                  |                                |                       |                        |    |    |                          |    |      |                        |     |    |   |  |
| Over 25m (9+ storey s)   | 12m  | 6m                    |                                |                       |                        |    |    |                          |    |      |                        |     |    |   |  |



| Section                                 | Design Criteria  | Proposed   | Complies |
|---|--|--|----------|
|   | requirements set out in design criteria 1) when adjacent to a different zone that permits lower density residential development to provide for a transition in scale and increased landscaping (figure 3F.5)   | <b>Within the site</b><br>The development has been designed to ensure that balconies and windows have appropriate separation distances to comply with the visual provisions of the ADG.  |          |
| <b>3J<br/>Bicycle and Car Parking</b>   | For development within 800 metres of a railway station the minimum car parking requirement for residents and visitors is the lesser of that set out within the Guide to Traffic Generating Developments or Council requirements as set out in the table below. Otherwise, the CDCP controls apply. | Refer to CDCP 2012 assessment.   | N/A      |
|   | The car parking needs for a development must be provided off street.   | All parking is provided within the proposed basement.  | Yes      |
| <b>Part 4 Designing the Building</b>    |  |  |          |
| <b>4A<br/>Solar and Daylight Access</b> | Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter.   | 70% of 62 apartments requires solar access which is equivalent to 43.4 (44) apartments.<br><br>Majority of the apartments are oriented to the north to maximise solar access to the apartments and POS. The proposal results in 56 of the 62 apartments (90%) receiving at least 2 hours solar access to living rooms and private open space between 9am-3pm on 21 June. | Yes      |

| Section                               | Design Criteria   | Proposed   | Complies |
|---------------------------------------|---|--|----------|
|                                       | A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter   | <p>15% of 62 apartments is the maximum requirement of apartments that should receive no solar access equivalent to 9.3 (10) apartments.</p> <p>6 of the 62 apartments (9.67%) do not receive any solar access. These apartments are L01-06, L01-12, L01-13, L02-06, L02-12 and L02-13,</p>   | Yes      |
| <b>4B<br/>Natural<br/>Ventilation</b> | At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartment at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed. | <p>ADG requires that 60% of 62 apartments to be cross ventilated, equivalent to 37.2 (38) apartments.</p> <p>The proposed development achieves natural cross ventilation for 38/62 apartments, equivalent to 61% of total apartments as demonstrated on DWG 700. However, 24 of the apartments that achieve natural cross ventilation are through windows that face the train line within 20m and are awning windows. As awning windows are limited to opening 125mm as outlined in the BCA (Part D2.24), they will never be able to have adequate air flow to enable cross ventilation. In addition, these windows are close to the train line, and it is unlikely that residents will open them due to the acoustic impacts.</p> | No       |
|                                       | Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.  | All apartments included in the design have a maximum depth of 18m.   | Yes      |

| Section                               | Design Criteria  | Proposed  | Complies              |  |                  |           |                  |           |                  |           |                  |   |    |
|---------------------------------------|--|---|-----------------------|--|------------------|-----------|------------------|-----------|------------------|-----------|------------------|---|----|
| 4C<br>Ceiling<br>Heights              | Measured from finished floor level to finished ceiling level, minimum ceiling heights are:   | <u>Commercial</u><br><br>The floor to ceiling heights for the proposed ground floor tenancies range between 3.7m-4m which meet the minimum floor to ceiling heights specified in the ADG. The variety of heights enable flexibility of commercial/retail and restaurant use within the site.<br><br><u>Residential</u><br><br>The floor to floor height shown on the plans is 3.1m, which includes a slab which is 0.3m between each level. Therefore, the proposed floor to ceiling height provided is 2.7m. | Yes                   |  |                  |           |                  |           |                  |           |                  |   |    |
|                                       | <b>Minimum Ceiling Height for Apartment and Mixed Use Buildings</b>  |   | Yes                   |  |                  |           |                  |           |                  |           |                  |   |    |
|                                       | Habitable rooms  |   |                       | 2.7m   |                  |           |                  |           |                  |           |                  |   |    |
|                                       | If located in mixed used areas   |   |                       | 3.3m for ground and first floor to promote future flexibility of use |                  |           |                  |           |                  |           |                  |   |    |
|                                       | These minimums do not preclude higher ceilings if desired.   |   |                       |  |                  |           |                  |           |                  |           |                  |   |    |
| 4D<br>Apartment<br>Size and<br>Layout | Apartment are required to have the following minimum internal areas:<br><table><tr><th>Apartment Type</th><th>Minimum Internal Area</th></tr><tr><td>Studio</td><td>35m<sup>2</sup></td></tr><tr><td>1 bedroom</td><td>50m<sup>2</sup></td></tr><tr><td>2 bedroom</td><td>70m<sup>2</sup></td></tr><tr><td>3 bedroom</td><td>90m<sup>2</sup></td></tr></table><br>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m <sup>2</sup> each. | Apartment Type  | Minimum Internal Area | Studio   | 35m <sup>2</sup> | 1 bedroom | 50m <sup>2</sup> | 2 bedroom | 70m <sup>2</sup> | 3 bedroom | 90m <sup>2</sup> | Each apartment complies with the minimum area requirement. However, the studio apartments L01-06 and L02-06 have a minimum floor area of 59m <sup>2</sup> which is larger than a 1 bedroom apartment.<br><br>The layout of these apartments lends themselves to being converted to a 1 bedroom apartment and is not acceptable. | No |
| Apartment Type                        | Minimum Internal Area  |   |                       |  |                  |           |                  |           |                  |           |                  |   |    |
| Studio                                | 35m <sup>2</sup>   |   |                       |  |                  |           |                  |           |                  |           |                  |   |    |
| 1 bedroom                             | 50m <sup>2</sup>   |   |                       |  |                  |           |                  |           |                  |           |                  |   |    |
| 2 bedroom                             | 70m <sup>2</sup>   |   |                       |  |                  |           |                  |           |                  |           |                  |   |    |
| 3 bedroom                             | 90m <sup>2</sup>   |   |                       |  |                  |           |                  |           |                  |           |                  |   |    |

| Section | Design Criteria   | Proposed   | Complies   |
|---------|---|--|--|
|         | Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.          | This requirement can be conditioned.   | Yes – via condition of consent should the application be supported |
|         | In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.  | The apartments with open plan layouts comply with the maximum 8m habitable room depth.                     | Yes  |
|         | Master bedrooms have a minimum area of 10m <sup>2</sup> and other bedrooms 9m <sup>2</sup> (excluding wardrobe space).<br>+   | Each master bedroom complies with the minimum 10sqm requirement (excluding wardrobe space).                | Yes  |
|         | Bedrooms have a minimum dimension of 3m (excluding wardrobe space).   | All bedrooms have a minimum dimension of 3m (excluding wardrobe space).                                    | Yes  |
|         | Living rooms or combined living/dining rooms have a minimum width of: <ul style="list-style-type: none"> <li>• 3.6m for studio and 1 bedroom apartments</li> <li>• 4m for 2 and 3 bedroom apartments</li> </ul> | All living rooms or combined living/dining rooms comply with the minimum width requirements.               | Yes  |
|         | The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts.  | The width of cross through is 2.5m for apartments L01-06 and L02-06 resulting in a snorkel like apartment. | No   |

| Section  | Design Criteria  | Proposed   | Complies |                |                |                |                    |     |   |                        |     |    |                        |      |    |                         |      |      |
|--|--|--|----------|----------------|----------------|----------------|--------------------|-----|---|------------------------|-----|----|------------------------|------|----|-------------------------|------|------|
| 4E<br>Private<br>Open<br>Space and<br>Balconies                                    | All apartments are required to have primary balconies as follows:  | All balconies comply with the minimum area required according to the apartment type and depth requirements.                    | Yes      |                |                |                |                    |     |   |                        |     |    |                        |      |    |                         |      |      |
|  | <table><tr><th>Dwell ing type</th><th>Mini mum Area</th><th>Minim um Depth</th></tr><tr><td>Studio apart ments</td><td>4m²</td><td>-</td></tr><tr><td>1 bedro om apart ments</td><td>8m²</td><td>2m</td></tr><tr><td>2 bedro om apart ments</td><td>10m²</td><td>2m</td></tr><tr><td>3+ bedro om apart ments</td><td>12m²</td><td>2.4m</td></tr></table> |  |          | Dwell ing type | Mini mum Area  | Minim um Depth | Studio apart ments | 4m² | - | 1 bedro om apart ments | 8m² | 2m | 2 bedro om apart ments | 10m² | 2m | 3+ bedro om apart ments | 12m² | 2.4m |
|  | Dwell ing type   |  |          | Mini mum Area  | Minim um Depth |                |                    |     |   |                        |     |    |                        |      |    |                         |      |      |
|  | Studio apart ments   |  |          | 4m²            | -              |                |                    |     |   |                        |     |    |                        |      |    |                         |      |      |
|  | 1 bedro om apart ments   |  |          | 8m²            | 2m             |                |                    |     |   |                        |     |    |                        |      |    |                         |      |      |
|  | 2 bedro om apart ments   |  |          | 10m²           | 2m             |                |                    |     |   |                        |     |    |                        |      |    |                         |      |      |
|  | 3+ bedro om apart ments  |  |          | 12m²           | 2.4m           |                |                    |     |   |                        |     |    |                        |      |    |                         |      |      |
| The minimum balcony depth to be counted as contributing to the balcony area is 1m. |  |  |          |                |                |                |                    |     |   |                        |     |    |                        |      |    |                         |      |      |
|  |  |  |          |                |                |                |                    |     |   |                        |     |    |                        |      |    |                         |      |      |
|  |  |  |          |                |                |                |                    |     |   |                        |     |    |                        |      |    |                         |      |      |
|  |  |  |          |                |                |                |                    |     |   |                        |     |    |                        |      |    |                         |      |      |
|  |  |  |          |                |                |                |                    |     |   |                        |     |    |                        |      |    |                         |      |      |
| 4F<br>Common<br>Circulation<br>and<br>Spaces                                       | The maximum number of apartments off a circulation core on a single level is eight.  | Max 7 apartments are located off the proposed western core.<br><br>Max 6 apartments are located off the proposed eastern core. | Yes      |                |                |                |                    |     |   |                        |     |    |                        |      |    |                         |      |      |

| Section       | Design Criteria   | Proposed  | Complies  |                     |                    |     |                       |     |                       |     |                        |      |   |
|---------------|---|---|---|---------------------|--------------------|-----|-----------------------|-----|-----------------------|-----|------------------------|------|---|
| 4G<br>Storage | In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:  | The storage areas within the basement are not allocated to specific apartments and therefore compliance is unable to be determined. | Yes – via condition of consent should the application be supported. |                     |                    |     |                       |     |                       |     |                        |      |   |
|               | <table><tr><th>Dwelling type</th><th>Storage size volume</th></tr><tr><td>Studio apartment s</td><td>4m³</td></tr><tr><td>1 bedroom apartment s</td><td>6m³</td></tr><tr><td>2 bedroom apartment s</td><td>8m³</td></tr><tr><td>3+ bedroom apartment s</td><td>10m³</td></tr></table> | Dwelling type   |   | Storage size volume | Studio apartment s | 4m³ | 1 bedroom apartment s | 6m³ | 2 bedroom apartment s | 8m³ | 3+ bedroom apartment s | 10m³ | Notwithstanding this, it is noted that at least 50% of the required storage is located within the apartment and there are 46 storage cages within the basement. Therefore, the remaining storage space required to achieve compliance can be conditioned should the application be supported. |
|               | Dwelling type   | Storage size volume   |   |                     |                    |     |                       |     |                       |     |                        |      |   |
|               | Studio apartment s  | 4m³   |   |                     |                    |     |                       |     |                       |     |                        |      |   |
|               | 1 bedroom apartment s   | 6m³   |   |                     |                    |     |                       |     |                       |     |                        |      |   |
|               | 2 bedroom apartment s   | 8m³   |   |                     |                    |     |                       |     |                       |     |                        |      |   |
|               | 3+ bedroom apartment s  | 10m³  |   |                     |                    |     |                       |     |                       |     |                        |      |   |
|               |   |   |   |                     |                    |     |                       |     |                       |     |                        |      |   |
|               |   |   |   |                     |                    |     |                       |     |                       |     |                        |      |   |
|               |   |   |   |                     |                    |     |                       |     |                       |     |                        |      |   |
|               |   |   |   |                     |                    |     |                       |     |                       |     |                        |      |   |
|               | At least 50% of the required storage is to be located within the apartment.   |   |   |                     |                    |     |                       |     |                       |     |                        |      |   |



| Section                            | Design Criteria  | Proposed   | Complies                 |
|------------------------------------|--|--|--------------------------|
| <b>4H<br/>Acoustic<br/>Privacy</b> | <p>Adequate building separation is provided within the development and from neighbouring buildings/adjacent uses.</p> <p>Noisy areas within buildings including building entries and corridors should be located next to or above each other and quieter areas next to or above quieter areas.</p> <p>Rooms with similar noise requirements are grouped together.</p> <p>Noise sources such as garage doors, driveways, service areas, plant rooms, building services, mechanical equipment, active communal open spaces and circulation areas should be located at least 3m away from bedrooms.</p> | <p>The site adjoins Narwee Train Station and East Hills Line to the northern boundary, which requires careful consideration of acoustic privacy to the proposed development resulting from the noise and vibration of the train line.</p> <p>An Acoustic Assessment Report (Ref 39973, Rev 2, prepared by Wood and Grieve Engineers, dated 12 November 2018) was submitted as part of this application. The proposal fails to meet the relevant acoustic and vibration measures when the windows are open. The recommendations of the report fail to incorporate design solutions to adequately balance noise impacts with cross ventilation. A detailed assessment is provided below see note [1].</p> <p>In terms of the internal apartment layouts, the proposed development has been designed to meet the requirements of objective 4H-2 as the noisy spaces e.g. living rooms have been separated from quiet spaces. e.g. bedrooms.</p> | No – see note [1] below. |

#### [1] Acoustic Privacy

Part 4J of the ADG addresses design responses on sites that are affected by significant noise and pollution sources including properties that are located near major roads, rail lines and beneath flight paths which are subject to noise and poor air quality. and the use careful design solutions to balance noise with cross ventilation.

*Objective 4J-2 states that appropriate noise shielding or attenuation techniques for the building design, construction and choice of materials are used to mitigate noise transmission.*

#### Design Guidance

*Design solutions to mitigate noise include:*

- *limiting the number and size of openings facing noise sources*

- *providing seals to prevent noise transfer through gaps*
- *using double or acoustic glazing, acoustic louvres or enclosed balconies (wintergardens)*
- *using materials with mass and/or sound insulation or absorption properties e.g. solid balcony balustrades, external screens and soffits*

While objective 4J-2 provides alternate means of mitigating noise impacts, none of these are referred to as alternative design solutions in the Acoustic Assessment prepared by the Applicant.

The Acoustic Assessment proposes air-conditioning and mechanical ventilation as the alternate solution for the apartments facing the Train Station. Specifically, part 6.2. of the Acoustic Assessment report submitted with this application states that; If there is an exceedance of the internal noise level criteria with the windows open, alternative means of ventilation is required in accordance with the requirements of the NCC (i.e. mechanical ventilation or air conditioning system complying with AS 1668.2 and AS/NZS 3666.1).

Taking the above into consideration, it is unclear as to whether there is enough information to satisfy that this is the best solution to address the train noise impacts. The Acoustic assessment hasn't demonstrated a design solution that adequately balances natural ventilation and acoustic privacy.

#### **State Environmental Planning Policy (Infrastructure) 2007 (SEPP 2007)**

State Environmental Planning Policy (Infrastructure) 2007 aims to facilitate the effective delivery of infrastructure, including providing appropriate consultation with relevant public authorities about certain development during the assessment process.

The subject site is adjacent to Narwee railway line which requires the concurrence of Sydney Trains given that it has a boundary to the train line. Clause 86(4) of the SEPP states that in deciding whether to provide concurrence, the rail authority must take into account;

- (a) *the potential effects of the development (whether alone or cumulatively with other development or proposed development) on—*
  - (i) *the safety or structural integrity of existing or proposed rail infrastructure facilities in the rail corridor, and*
  - (ii) *the safe and effective operation of existing or proposed rail infrastructure facilities in the rail corridor, and*
- (b) *what measures are proposed, or could reasonably be taken, to avoid or minimise those potential effects.*

The application was referred to Sydney Trains, who granted concurrence to the subject application subject to deferred commencement conditions which would be required to be satisfied prior to the issue of a construction certificate should the application be supported, which it is not.

In addition to the above, Clause 101 and 102 of the SEPP states that a consent authority must not grant consent to a development that has a frontage to a classified road or a road with an annual average daily traffic volume of more than 20,000 vehicles unless it has considered the following:

#### Clause 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 as a result of:*
  - (i) the design of the vehicular access to the land, or*
  - (ii) the emission of smoke or dust from the development, or*
  - (iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
- (c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

The subject site is located on Broadarrow Road which is a classified road for the purposes of the SEPP. In accordance with Section 138 of the Roads Act 1993, the application was referred to Transport for NSW (TfNSW) formerly known as Roads Maritime Services (RMS) for concurrence given the application comprises the removal of existing vehicular crossings and proposes waste collection from Broadarrow Road.

TfNSW advised that Broadarrow Road is a 7000 Series unclassified regional road under the care and control of Council in comparison to a 2000 Series regional road which would have been under the care and control of TfNSW. As such, TfNSW advised that they raise no objection to the proposed waste collection from Broadarrow Road and advised that it should be done in accordance with Council's specifications and requirements. TfNSW granted concurrence subject to conditions, which would be incorporated into the consent, if the application was supported.

#### Clause 102

- (3) If the development is for the purposes of residential accommodation, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded—*
  - (a) in any bedroom in the residential accommodation—35 dB(A) at any time between 10 pm and 7 am,*
  - (b) anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.*

An Acoustic Assessment Report (Ref 39973, Rev 2, prepared by Wood and Grieve Engineers, dated 12 November 2018) was submitted as part of this application. The site adjoins the Narwee Train line to the northern boundary. As a result, the proposal fails to meet the relevant acoustic and vibration measures when the windows are open.

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

A BASIX Certificate accompanies this application. The Certificate makes several energy and resource commitments regarding ventilation, provision of central hot water heating system for each apartment, natural lighting and thermal comfort. These commitments have been shown

on the DA plans, when relevant.

In light of the above, the requirements of the BASIX SEPP have been adequately addressed.

### **Canterbury Local Environmental Plan 2012 (CLEP 2012)**

This site is zoned B2 Local Centre under CLEP 2012. The objectives of the B2 Zone are as follows:

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

The proposal is consistent with the objectives of the zone primarily given the site is located within an accessible area and the ground floor comprises four tenancies which can be used for a range of retail, business, entertainment and community uses that serve the needs of people who work, live or visit the local area.

The CLEP 2012 controls applicable to this application are as follows:

| <b>Provision/<br/>Standard</b>                    | <b>Requirement</b> | <b>Proposal</b>  | <b>Complies</b>                 |
|---|--------------------|--|---------------------------------|
| <b>Part 2 Permitted or Prohibited Development</b> |                    |  |                                 |
| 2.1-2.8<br>Zoning                                 | B2 Local Centre    | The design comprises a shop top housing development which is a permissible use in the B2 Zone. | Yes                             |
| <b>Part 4 Principal Development Standards</b>     |                    |  |                                 |
| 4.3 Height<br>of Buildings                        | 27m                | Max 27.6m (lift overrun)   | No – refer to comment [1] below |
| 4.4 Floor<br>Space Ratio                          | N/A                | N/A  | N/A                             |
| <b>Part 5 Miscellaneous Provisions</b>            |                    |  |                                 |

|                  |  |  |     |
|------------------|--|--|-----|
| 5.10<br>Heritage | <p>The consent authority may, before granting consent to any development—</p> <p>(a) on land on which a heritage item is located, or</p> <p>(b) on land that is within a heritage conservation area, or</p> <p>(c) on land that is within the vicinity of land referred to in paragraph (a) or (b),</p> <p>require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.</p> | <p>The subject site is not a heritage item or located in an HCA but is located in the vicinity of Narwee Railway Station Group, which is opposite the site. The significance of the site is as follows:</p> <p><i>Narwee Railway Station - including the 1931 platform and platform building and pedestrian subway is of local heritage significance. Narwee Railway Station is of historical significance as a major public work completed as an unemployment relief project during the Great Depression, and as a major transport hub for the suburb of Narwee since 1931. That the suburb was named after the railway station is evocative of the historical relationship between the railway station and the development of the suburb. Narwee Railway Station is of aesthetic significance for its austere 1930s platform building with simple Art Deco detailing and fine brick workmanship that is evocative of the effects of the Depression on building programs for large organisations such as the NSW railways. Narwee Railway Station is also distinctive for its 1931 brick pedestrian subway, one of only two such structures on the East Hills line. Narwee Railway Station is representative of the cohesive collection of 10 East Hills line railway stations from Turrella to East Hills.</i></p> <p>Whilst the development is close to the station group it would appear the work is located wholly within the boundaries of the site so there is no apparent physical impact on the station building precinct. It would also seem that the development is located east of the main and significant station buildings on site so their presentation and visibility (particularly to Hannans Road which is the main frontage) will remain visible as will the underpass that connects Hannans Road and Hurst Place (the secondary frontage to the development). Whilst a large development, Council's</p> | Yes |
|------------------|--|--|-----|

| Provision/<br>Standard         | Requirement  | Proposal   | Complie<br>s |
|--------------------------------|--|--|--------------|
|                                |  | Heritage Advisor is satisfied there are no adverse heritage impacts on the station precinct as identified in the statement of significance identified above. |              |
| <b>Part 6 Local Provisions</b> |  |  |              |
| 6.1 Acid Sulfate Soils         | An Acid Sulfate Soils Management Plan is required for works on Class 5 land within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the water table is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land. | The site is not identified as being affected by acid sulfate soils.  | Yes          |



| Provision/<br>Standard | Requirement  | Proposal  | Complie<br>s |
|------------------------|--|---|--------------|
| 6.2<br>Earthworks      | <p>Before granting consent to development including earthworks, the following must be considered:</p> <ul style="list-style-type: none"> <li>(a) drainage patterns and soil stability</li> <li>(b) the likely future use or redevelopment of the land,</li> <li>(c) quality of the fill or the soil to be excavated, or both,</li> <li>(d) effect of development on existing and likely amenity of adjoining properties,</li> <li>(e) the source of any fill material and the destination of any excavated material,</li> <li>(f) the likelihood of disturbing relics,</li> <li>(g) the potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,</li> <li>(h) appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</li> </ul> | <p>The application was referred to Council's EHO team to provide a comment on the preliminary site investigation report provided by the applicant to determine if the site can be made suitable from the existing use as a petrol station to the proposed residential and commercial use. Council's EHO was not satisfied that sufficient testing had been undertaken to conclude if the site can be made suitable in terms of contamination which is discussed in detail under SEPP 55 assessment earlier in this report.</p> <p>Additionally, the application was referred to Water NSW as the proposed development involves dewatering. Water NSW were satisfied with the proposed development subject to conditions of consent.</p> | No           |

| Provision/<br>Standard          | Requirement   | Proposal   | Complies |
|---------------------------------|---|--|----------|
| 6.4<br>Stormwater<br>Management | <p>Consent must not be granted unless:</p> <p>(a) Water permeable surfaces are maximized having regard to soil characteristics affecting on-site stormwater infiltration.</p> <p>(b) Includes on-site detention if practical as an alternative means of water supply.</p> <p>(c) Avoids significant impacts of run-off on adjoining land or the environment or minimises and mitigates impacts.</p> | <p>The application was referred to Councils Development Engineer who raised no objection to the design, subject to the inclusion of a deferred commencement condition, should the application be approved.</p> | Yes      |

| Provision/<br>Standard       | Requirement  | Proposal  | Complies |
|------------------------------|--|---|----------|
| 6.6<br>Essential<br>Services | <p>Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required—</p> <p>(a) the supply of water,<br/> (b) the supply of electricity,<br/> (c) the disposal and management of sewage,<br/> (d) stormwater drainage or on-site conservation,<br/> (e) suitable vehicular access.</p> | <p>Council's Engineer's raised objection to the proposed design in terms of vehicular access into the commercial vehicular crossing and concern regarding pedestrian sight triangles and therefore clause 6.6(e) is not satisfied. A detailed response of these reasons is detailed under the DCP heading B1 Transport and Parking later in this report.</p> <p>The proposed design makes provision for disposal and management of sewage and supply of water.</p> <p>In terms of electricity supply, a substation is required and shown on the plans.</p> <p>Council's Development Engineer raised no concern regarding the proposed stormwater drainage design.</p> | No       |

As demonstrated above, the proposal is generally consistent with the objectives and development standards of CLEP 2012. Further discussion is provided below with respect to the contravention to the height of buildings development standard contained in Clause 4.3, and the associated Clause 4.6 variation submission to seek flexibility in the application of this development standard. The assessment below is based on the current design submitted to Council.

### **The proposed variation**

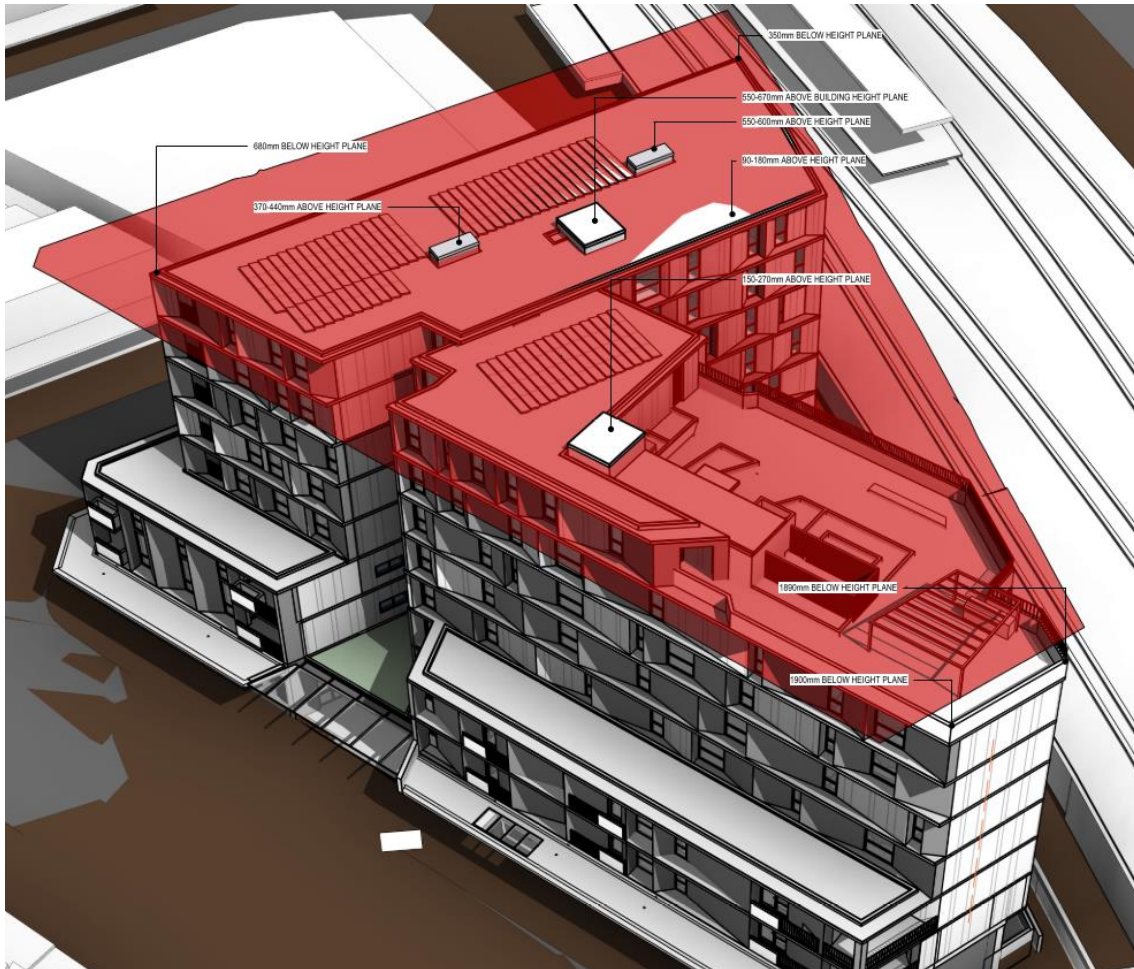
[1] The proposal complies with the development standards contained in CLEP 2012, except for Clause 4.3 – Height of Buildings. The non-compliance to the building height derives from the provision of the lift overrun, skylights and a portion of the roof above the central courtyard.

### **Clause 4.6 Variation Request**

Pursuant to Clause 4.6 of CLEP 2012, the applicant has made a submission seeking a variation to the provisions contained in Clause 4.3 of CLEP 2012. The Clause 4.6 submission details the extent of the variation as follows:

- 27m – Building Height maximum
- 27.6m – Maximum Building Height proposed.
- 0.6m - 2.22% variation.

The area of the encroachment to the permissible height control is shown in the 3D montage below (source: Jackson Teece Architects).



The Applicant's written request states that;

The protrusions above the height of buildings development standard are minor comprising small elements of lift over run, clerestory windows and a small section of the inner roof above the central courtyard area. The substantial elements of the building, including the balustrade of the upper level communal open space are up to 1.9m below the height of Buildings development standard. The actual communal area would be an additional 1m lower. The interface to the public domain is numerically compliant.

An assessment of the development against Clauses 4.6(2), (3) and (4) of CLEP 2012, including extracts from the applicant's submission, is provided below:

**1. The objectives of this clause are as follows:**

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

*particular circumstances.*

- 2. *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.***

**Comment:** The development standard to be varied is Clause 4.3, Height of Building, which is not expressly excluded from the operation of Clause 4.6.

- 3. *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:***

- a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case,***

The Applicant's written request states that compliance with the building height standard is unnecessary or unreasonable as follows:

- The application seeks consent for a part eight (8) and part seven (7) storey building. This outcome is entirely consistent with the scale that is reasonably anticipated with a 27.0m height of buildings development standard;
- Council's Development Control Plan (DCP) requires a 3.3m floor to ceiling height for ground floor tenancies. The application proposes ground floor tenancy ceiling heights of up to 4.4m which accords with the best practice guidance of the Apartment Design Guide (ADG) at Part 4C to maximise the flexibility of use of ground floor tenancies to include food premises;
- A numerically compliant height would be achieved if the lessor guideline of the DCP at Part D1.3.3 were complied with compared to the superior outcome proposed which aligns with the ADG;
- The non-compliant elements of the building do not result in any adverse environmental impacts by way of loss of solar access or loss of views; and
- Strict numerical compliance of a reduced ground floor tenancy ceiling height would be compliant with the DCP, an inferior commercial tenancy would be created.

**Comment:**

As outlined by the Applicant, the proposed variations are limited to structures located on the rooftop including the lift overrun, clerestory windows, solar panels and part of the roof slab over the inner courtyard area. All other parts of the building, including habitable floor space and the rooftop communal open space are below the 27m building height standard. Council agrees with the elements of the building described by the Applicant which result in the breach to the building height.

Council generally accepts the reasons provided by the Applicant. It is acknowledged that the proposed variation does not contribute to any additional overshadowing of the proposed properties within the site or on adjoining properties as the shadow cast from the elements that breach the building height, cast onto the roof of the proposed development itself.

Given the above and the context of the site, the written request has therefore adequately addressed that compliance with the development standard is unnecessary or unreasonable in the circumstances of this case.

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

The Applicant's written request gives the following reasons that there are sufficient 'environmental planning grounds' to justify contravening the development standard:

The proposed non-compliant elements essentially comprise lift overruns and skylights required in order to service the proposed development. These elements are non-compliant through the provision of ground floor commercial tenancy heights consistent with the ADG, but which are greater than the guidelines in the Canterbury DCP. The DCP would allow a ceiling height of 3.3m, compared to the recommended minimum of 4.0m contained in the ADG. That is the heights of the ground level have been maximised to ensure that they are suitable for a broad range of non-residential uses, rather than minimised to achieve numerical compliance.

The maximum non-compliance is 600mm. The recommended minimum ceiling height in the ADG is 700mm greater than the recommended height contained in the DCP. As a consequence, provision of the inferior DCP outcome would result in the building being 100mm below the maximum height of buildings development standard.

The provision of a ground floor ceiling height aligned with the ADG, a superior quality of tenancy is created with greater flexibility in future range of land uses to ensure the greatest potential is given to the establishment of a vibrant Narwee centre.

This superior outcome in conjunction with the lack of an environmental impact supports the minor noncompliance on environmental planning grounds particularly as it cannot be said that the 27.0m building height envelope has not been over reached was evidenced by the provision of communal open space at level 7 which is below the maximum permitted height of buildings development standard.

It is also noted that the proposed solar panels, some of which exceed the maximum permitted height, provide a public benefit by reducing energy consumption associated with the proposed development.

To this end, the non-compliant elements provide for public benefits which contribute to justifying contravention of the building height standard and no undesirable precedent will be set by the minor non-compliance

**Comment:**

The Applicant's comment that the proposed commercial tenancies on ground floor comply with the floor to ceiling heights requirements set out in the ADG which is a better outcome than the lower floor to ceiling heights in Council's DCP is supported. It is noted that if the building had lower floor to ceiling heights, there would be no breach to the building height standard in the LEP. However, Council agrees that having higher floor to ceiling heights for the commercial premises does not restrict the potential type of uses which can be accommodated in these spaces, specifically restaurants which would facilitate in activating Hurst Place, which provides an pedestrian access entry point into the station.

In addition to the above, the additional height does not result in any additional amenity impacts to neighbouring properties, when compared to a design that complies with the maximum 27m building height standard. This is primarily a result of the orientation of the site and the development controls applicable to the site.

Also, while not explicitly stated by the Applicant in their response to this part of their justification, Council is satisfied that the proposed breaches to the building height do not result in any privacy impacts to surrounding properties. The locality of the site and its boundaries adjoining Narwee Train Station, and the separation to other properties through Broadarrow Road and Hurst Place serve as a buffer between the subject site and to any nearby developments. In this regard, visual privacy is satisfied.

In light of the above, the written request has demonstrated that there are sufficient environmental planning grounds to support the proposed variation to building height.

**4. *Development consent must not be granted for development that contravenes a development standard unless:***

***a. the consent authority is satisfied that:***

***i. the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and***

**Comment:** As detailed above, the written request has adequately addressed the matters required in subclause 3 above.

***ii. the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and***

The objectives for building height seek:

- (a) to establish and maintain the desirable attributes and character of an area,*
- (b) to minimise overshadowing and ensure there is a desired level of solar access and public open space,*

- (c) to support building design that contributes positively to the streetscape and visual amenity of an area,*
- (d) to reinforce important road frontages in specific localities.*

**Comment:**

It is considered that the proposal is consistent with the objectives of the development standard for the following reasons:

- The part of the development that breaches the 27m maximum building height standard is not visible from the primary road frontages. The proposed development maintains a part 7 and part 8 storey development which is the maximum number of storeys envisaged by the building height development standard. Also, the development has been built to the boundary for the first three storeys and setback 5m from the street frontages for the upper floors. This helps to maintain the base, middle and top of the building. The proposed number of storeys is in keeping with the future desired character of the streetscape and locality.
- As demonstrated in this report, the proposed development achieves the minimum solar access requirements to apartments, private open space and communal open space. It should be noted that the residential flat building at 42 Broadarrow road experiences overshadowing through the day, which is inevitable given its southern orientation to the subject site. Notwithstanding this, 42 Broadarrow Road is still capable of achieving solar access between 8:00am and 10:00am on 21 June. Also, the breaches to the building height do not result in the development receiving any less solar access as the shadows from the roof top elements fall on the roof top itself.
- The proposed restaurants and commercial premises on ground floor, particularly on the Hurst Place frontage contributes to activating the street frontage. The use of transparent glass also facilitates interaction between the private and public domain.

The objectives for the B2 Local Centre Zone seek:

- *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.*

**Comment:**

For the reasons set out within this report, the proposed development, including the variation, is not inconsistent to the objectives of the zone. The proposal comprises ground floor business tenancies which can be used for a range of business and retail uses permitted within the B2 zone, compatible with the “shop top housing” definition. Such uses will encourage employment opportunities whilst also serving the needs of people who live in, work in and visit the local area. The site is accessible by the train network whilst also comprises enough parking on site to comply with the minimum requirements.

As shown above and in line with this report, the proposed variation to the building height



development standard is consistent with the objectives of the zone and development standard. Accordingly, approval of such variation would be in the public interest.

***b. the concurrence of the Secretary has been obtained.***

**Comment:**

The concurrence of the Secretary is assumed having regard to previous advice received from the Department of Planning and Environment in Circular PS 18-003 'Variations to development standards', dated 21 February 2018.

**Conclusion of Clause 4.6**

As outlined above, it is considered there is sufficient environmental planning grounds to justify a contravention to the height of buildings development standard, in this instance for the reasons outlined above and for the following summary of reasons:

- a. an appropriate degree of flexibility has been applied and better outcomes are achieved
- b. the circumstances of the proposal warrant contravention of the standard,
- c. there are sufficient environmental planning grounds to warrant contravention,
- d. the proposal is in the public interest, as the development is consistent with relevant objectives of the standard and the zone,
- e. the development does not raise any matters of regional or State planning significance, and
- f. there is no public benefit in maintaining the standard, in the circumstances of the subject application.

**Proposed Environmental Planning Instruments [section 4.15(1)(a)(ii)]**

**Draft Consolidated Local Environmental Plan**

On 30 June 2020 the Canterbury Bankstown Local Planning Panel endorsed the Planning Proposal (PP\_2019\_CBANK\_005) to proceed to the Department of Planning, Industry and Environment for finalisation and making. The Planning Proposal seeks to produce a single set of planning rules and align the Bankstown LEP 2015 and Canterbury LEP 2012 into a consolidated Local Environmental Plan. The Planning Proposal however does not propose any change to the planning or development provisions relating to this site.

As the Planning Proposal has been exhibited it must be considered under Section 4.15 (1)(a)(ii) of the Environmental Planning and Assessment Act, 1979. The Draft CBLEP also seeks to insert a saving provision "If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies, and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced".

The proposed development will not impact the Draft CBLEP and are considered consistent with the CBLEP.

**Development control plans [section 4.15(1)(a)(iii)]**

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

The application was submitted to Council on 20 November 2018. At the time of lodgement, CDCP 2012 (amendment 3) was applicable and therefore the assessment below has been undertaken against the controls outlined within CDCP 2012 (amendment 3). It is noted that a number of amendments to the CDCP 2012 have been gazetted since lodgement of the DA, however in accordance with Part A1.9 of CDCP (amended 5, the current amendment), if an application has been made before the commencement of the DCP in relation to land to which the DCP applies, and the application has not been finally determined before that commencement, the application must be determined as if the DCP had not commenced.

**Part B1 – Transport and Parking**

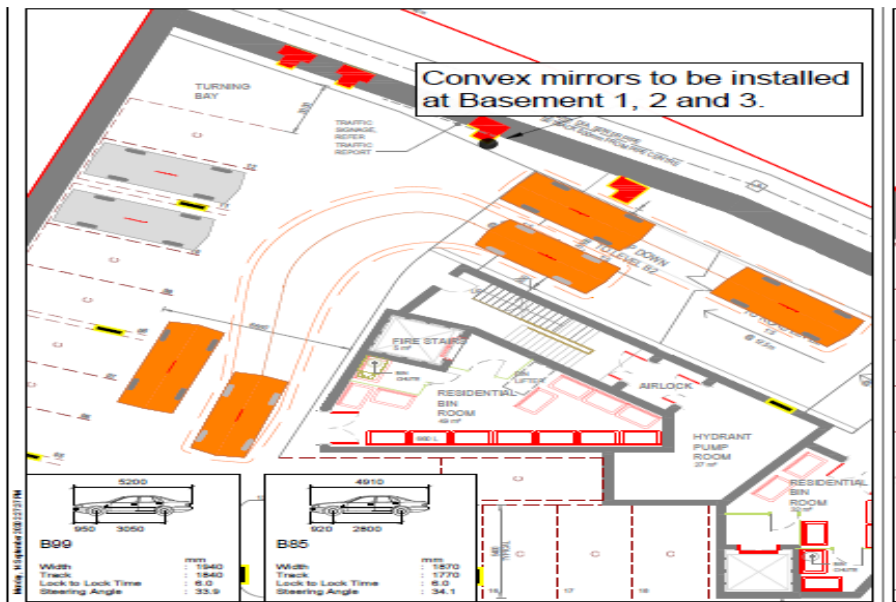
The proposed development was referred to Council's Traffic Engineer and Development Engineer for comment who are not satisfied with the proposed vehicular access and parking arrangements for the following reasons:

**Development Engineer**

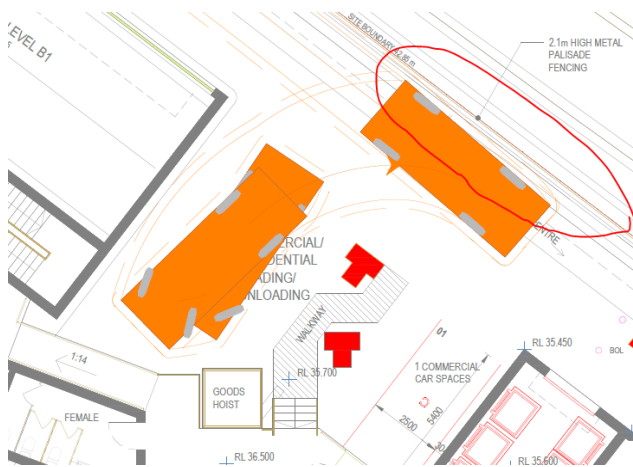
The applicant's argument in not providing the required commercial pedestrian sight triangle is not accepted. This is a building design restriction, not a sight restriction.

Council does not support the proposed strobe light system. The applicant is required to offset wall to facilitate the required driveway sight triangle in accordance with AS 2890.2. This is critical given there is a train station nearby and high pedestrian foot traffic is expected via Hurst Place railway underpass.

Given the scope of the development, Council does not support the proposed convex mirrors as an alternative to the lack of passing spaces and blind spots at the key north-west ramp intersections in the basement carpark level. The swept paths provided by the applicant does not show passing opportunities or good driver vision to allow drivers to navigate one at a time at these intersections. Applicant is to provide a B99 and a B85 passing one another at these intersections or good visual, as per AS 2890.1.



The outer body and clearance of the Small Rigid Vehicle (SRV) proposed to serve the commercial bins and commercial loading and unloading bays, appears to scrape the fence line. Applicant is to clearly demonstrate there is a clearance from this fence line and to use distinguishable lines to differentiate vehicular swept paths and boundary fence.



### Traffic Engineer

Council's Traffic Engineer required that Pedestrian sight distance triangles to be shown at the exit from the underground carparking and from the commercial zone car park, as shown in Fig 3.3 from AS 2890.1:2004.

The Applicant's response to the Pedestrian sight distance triangles is addressed in the Supplementary Traffic Report by Stantec which states that "due to site and design constraints it is not possible to cut back the walls to provide the required sight distance triangles from the commercial driveway". It is suggested to use flashing lights and convex mirrors to assist both pedestrians and drivers.

Council's Traffic Engineer is not satisfied with this solution and stated that the site is one where the existing building is to be demolished and a new structure constructed. The only site constraint is one which is self-imposed by the development.

The retrofitting an old building with flashing lights to maintain the heritage façade is understandable, however a new build needs to be compliant with current standards.

Council's Traffic Engineer has raised the lack of sight distance to pedestrians on multiple occasions including; memos dated December 2018 and January 2020, and again by phone meeting in May 2020, which have not been addressed. It is not acceptable to provide flashing lights and convex mirrors at the exit by claiming site constraints when the site constraints are self-imposed. Flashing lights and convex mirrors are not approved traffic control devices. Council's Traffic Engineer is not able to support this lack of sight distance triangles, as the safety of pedestrians at a train station entry is at risk.

Given the above, the application is not consistent with the controls of Part B1 of the Canterbury Development Control Plan 2012.

In addition to the above, an assessment of the proposal against the car and bicycle parking rates in Part B1 of CDCP 2012 is provided below:

| Standard                     | Requirement   | Proposal   | Complies |
|------------------------------|---|--|----------|
| B1.3.1 General Parking Rates | <p>Accessible Local Centres</p> <p><u>Residential:</u></p> <p><u>Car parking</u></p> <ul style="list-style-type: none"> <li>• <b>Studio:</b> 0.5 space per dwelling (<math>2 \times 0.5 = 1</math> space required).</li> <li>• <b>1 bedroom:</b> 1 space per dwelling (<math>22 \times 1 = 22</math> spaces required)</li> <li>• <b>2 bedroom:</b> 1 space per dwelling (<math>32 \times 1 = 32</math> spaces required).</li> <li>• <b>3 bedroom:</b> 1 space per dwelling (<math>6 \times 1 = 6</math> spaces required).</li> <li>• <b>Visitor:</b> 0.15 space per dwelling = (<math>0.15 \times 62 = 9</math>) spaces required).</li> <li>• <b>Car wash bay:</b> 1 car wash bay required for 10 or more dwellings.</li> </ul> <p><u>Bicycle parking</u></p> <ul style="list-style-type: none"> <li>• <b>Residents:</b> 1 space per 5 dwellings (12 bicycle</li> </ul> | <p><b>Total required:</b></p> <p>61 residential spaces, 9 visitor spaces plus 2 x car wash bay provided</p> <p>Provided: 66 residential car spaces in basement level 3 and 4 and 10 visitor spaces in basement 2.</p> <p>18 bicycle spaces of the 20 provided in basement level 2 can be allocated to residential use.</p> | Yes      |

|  |  |   |     |
|--|--|---|-----|
|  | spaces required)<br><ul style="list-style-type: none"> <li>• <b>Visitors:</b> 1 space per 10 dwellings (6 bicycle spaces required)</li> </ul>  |   |     |
|  | <u>Commercial</u> <ul style="list-style-type: none"> <li>• <b>Shops, business and retail premises car spaces:</b> 1 space per 50m<sup>2</sup> GFA (,120m<sup>2</sup>) and 1 space per 40m<sup>2</sup> GFA (120m<sup>2</sup>-1000m<sup>2</sup>)</li> <li>• <b>Shops, business and retail premises bicycle spaces:</b> 1 space per 300m<sup>2</sup> of GFA for staff and 1 space per 500m<sup>2</sup> GFA for patrons</li> <li>• <b>Restaurants car spaces :</b> 1 space per 30m<sup>2</sup> GFA (120m<sup>2</sup>-1,000m<sup>2</sup>)</li> <li>• <b>Restaurants bicycle spaces:</b> 1 space per 100m<sup>2</sup> of GFA for staff and 2 spaces for patrons</li> </ul> | <p>Restaurant 1 is 159m<sup>2</sup><br/>Required- 7 car spaces and 4 bicycle spaces</p> <p>Restaurant 2 is 241m<sup>2</sup><br/>Required- 8 car spaces and 5 bicycle spaces</p> <p>Commercial space 1 fronting Broadarrow is 85m<sup>2</sup><br/>Required- 2 car spaces and 2 bicycle spaces</p> <p>Commercial space 2 fronting Broadarrow is 88m<sup>2</sup><br/>Required -2 car spaces and 2 bicycle spaces</p> <p>Total car spaces required: 19<br/>Total bicycle spaces required: 13</p> <p>Total car space provided: 23 in Basement 1 level<br/>Total bicycle space provided: 8 bicycle spaces in Basement 1 level provided and remaining 2 bicycle spaces in basement 2 level can be allocated for commercial use. A condition could be imposed to ensure one additional bicycle space is provided.</p> | Yes |

#### Part B2 – Landscaping and Part B3 – Tree Preservation

The application was referred to Council's Landscape Architect who raised no objection with the current design, subject to conditions of consent.

#### Part B4 – Accessible and Adaptable Design

The access report prepared by Accessible Building Solutions was submitted as part of the DA. The report concludes that the design generally complies with the relevant standards. Where the design includes some non-compliances, these matters can be resolved through minor design changes or BCA Performance Solutions at the relevant Construction Certificate stage. On this basis, the design is considered acceptable from an accessible and adaptable design perspective.

#### Part B5 – Stormwater and Flood Management

The application was referred to Council's Development Engineer who raised no objection with the proposed stormwater management design.

#### Part B7 – Crime Prevention and Safety

An assessment of the proposed design against the relevant provisions of Part B7 is provided in the table below:

| <b>Standard</b>                               | <b>Requirement</b>   | <b>Proposal</b>  | <b>Complies</b> |
|---|--|--|-----------------|
| Crime Prevention through Environmental Design | Avoid blind corners  | The proposal does not have any blind corners   | Yes             |
|   | Provide natural surveillance for communal and public areas.                        | Active uses and habitable rooms have been orientated towards main communal and/or public areas   | Yes             |
|   | Provide clearly visible entries.   | The residential and commercial entries are separated   | Yes             |
|   | Design the fence to maximise natural surveillance from the street to the building  | The proposal; does not incorporate any boundary fencing  | N/A             |
|   | Avoid landscaping that obstructs natural surveillance.                             | Achieved   | Yes             |
|   | Entrances, exits, service areas, pathways, car parks are to be well-lit after dark | To ensure appropriate lighting is incorporated within the development and ensure there is no light spillage onto adjoining properties appropriate conditions | Yes             |

|  |  |  |     |
|--|--|--|-----|
|  |  | have been imposed  |     |
|  | Where permitted, provide appropriate mixed uses within buildings to increase opportunities for natural surveillance                            | The development includes both commercial and residential uses. The ground floor commercial premises have been mostly designed using transparent glass shop fronts. | Yes |
|  | Ensure buildings are clearly identified by street numbers.   | Achieved and will be conditioned   | Yes |
|  | Use materials that reduce the opportunity for vandalism.   | The proposal incorporates large windows for all the shop fronts on ground floor.   | Yes |
|  | Provide an appropriate level of security for individual dwellings and communal areas through use of intercoms, self closing doors and signage. | Achieved   | Yes |

#### Part B9 - Waste

The application was referred to Council's Resource Recovery Project Officer who raised objection to the proposed development. The comments of the waste recovery officer are as follows:

##### Residential bin storage area:

- Each chute is expected to generate ~470L of garbage a day, as a result of this the bin at the base of the chute will not have enough capacity to last the weekend. An auto carousel (with no compaction) should be added to the base of the chutes and shown on the plans. The base of the chute is to have at least 2 days capacity allowing for no caretaker on a Sunday.
- Residential bin room east is to house 5x 660L garbage bins + one additional 660L bin to remain under the chute during collections.
- Residential bin room west is to house 6 x 660L garbage bins + one to remain under the chute
- The 8 660L recycling bins are to be shared amongst the two bin rooms. The current configuration with the majority of them in the Western room is favourable due to proximity to the bin lifter, however will still require the carting of the 240L on floor bins from the eastern tower to that location.
- All doorways are to be a minimum of 1.2m wide. Currently doors to the bin chutes are insufficient

##### Commercial bin storage area:

- Commercial units are supplied 1 x 240L garbage and 1 x 240L recycling bin per rateable lot. These must be located within 15m of the council collection point as

served by a HRV. The current location within the lot will not allow for these collections to occur. Presentation of these bins in the residential presentation room or on the street is not acceptable.

- Designing the commercial bin room for 4 x weekly collections results in a large number of truck movements and limits the flexibility of future uses

**Bulky waste:**

- Collection location should be shown in WMP and on plans
- Collection of bulky waste onsite will be considered if the room is within 5m of an access point for a HRV

**Bin carting route/collection point:**

- Holding / presentation room doors are insufficient, doors must be a minimum of 1.2m
- Carting route from door of presentation to street level must be a minimum of 1.2m wide impervious surface with no steps or obstacles. There is currently a step between the bin room door and the path with increasing size towards the fire exit.
- A layback in the kerbside is required
- It is unclear how the bins will move from the storage to the presentation rooms. If carting is intended to be on an incline greater than 1:30 then a bin tug/carting aid is required. This will need to be stored onsite.

For the reasons outlined above, the proposed development fails to meet the waste requirements set out in part B9 of CDCP 2012.

**Part C5 Shop Top Housing**

| <b>Control</b>                                | <b>Requirement</b>   | <b>Proposed</b>   | <b>Complies</b> |
|---|--|---|-----------------|
| C5.2.1.3<br>Balconies and Communal Open Space | <p>Clause 6A of SEPP 65 states that development control plans that have provisions that are inconsistent with the ADG in relation to open space and balconies have no effect in the assessment of residential apartment development applications.</p> <p>Clause 5.2.1.3 of the CDCP is therefore not relevant to the assessment of this application and open space and balcony matters have been assessed only in relation to part 4E of the ADG (as detailed in the ADG table above).</p> |   |                 |
| C5.2.1.4<br>Layout and Orientation            | <ul style="list-style-type: none"> <li>• Orientate development to maximise solar access and natural lighting, without unduly increasing the building's heat load.</li> <li>• Site the development to avoid casting shadows onto neighbouring dwelling's primary living area, private open space and solar cells.</li> </ul>  | <p>The proposed development has been designed to maximise northern sunlight access to provide adequate solar access and natural lighting.</p> <p>The site is not affected by overshadowing impacts from nearby buildings.</p> | Yes             |



| Control                          | Requirement   | Proposed   | Complies |
|----------------------------------|---|--|----------|
|                                  | <ul style="list-style-type: none"> <li>Coordinate design for natural ventilation with passive solar design techniques</li> <li>Site new development and private open space to avoid existing shadows cast from nearby buildings.</li> <li>Site a building to take maximum benefit from cross-breezes and prevailing winds.</li> <li>Do not compromise the creation of active street frontage or casual surveillance of the street, communal space and parking areas, through the required orientation.</li> </ul> | <p>The proposal is considered to contribute to an active street frontage on both Hurst Place and Broadarrow Road through the commercial premises facing both street frontages and transparent glass to allow for passive surveillance to the street. The communal open space areas are highly visible and accessible to all residential apartments. The parking area is secured in the basement levels and conditions could be imposed to ensure safety measures including secure access should the application be supported, which it is not.</p> |          |
| C5.2.2.2 Floor to Ceiling Height | <p>Refer to 4C Ceiling Heights of the ADG made under SEPP 65 for objectives, design criteria and design guidance in relation to minimum ceiling heights.</p> <p>Clause C5.2.2.2 of the CDCP is therefore not relevant to the assessment of this application and the ceiling height matters have been assessed against part 4C of the ADG (as detailed in the table above).</p>  |  |          |
| C5.2.2.3 Setbacks                | A minimum side boundary setback of 4.5m is required for the residential component in the B5 zone. SEPP 65 separation requirements will apply for buildings with a height of 4 storeys and above.  | The building is more than 4 storeys and zoned B2 Local Centre. Refer to ADG assessment above.  | N/A      |
| C5.2.2.4 Building Depth          | <p>The ADG sets the objectives and controls for building depth in the LGA for shop top housing to which SEPP 65 relates. Refer to 4B Natural Ventilation of the ADG for objectives, design criteria and design guidance.</p> <p>Part C5.2.2.4 of the CDCP is therefore not relevant to the assessment of this application and the ceiling height matters have been assessed against part 4B of the ADG (as detailed in the ADG table above).</p>  |  |          |
| C5.2.2.5 Building Separation     | <p>The ADG sets the objectives and controls for building separation in the LGA for shop top housing to which SEPP 65 relates. Refer to 3F Visual Privacy of the ADG for objectives, design criteria and design guidance.</p>  |  |          |

| Control                           | Requirement   | Proposed   | Complies |
|-----------------------------------|---|--|----------|
| and Visual Privacy                | Part C5.2.2.5 of the CDCP is therefore not relevant to the assessment of this application and visual privacy matters have been assessed only in relation to part 3F of the ADG (as detailed in the ADG table above).  |  |          |
| C5.2.3.1 Built Form               | <ul style="list-style-type: none"> <li>• Provide accessible entries for all potential use such as the transporting of furniture.</li> <li>• Face habitable rooms towards the street, private open space, communal space, internal driveway or pedestrian ways in order to promote positive social interaction and community safety.</li> </ul>  | <p>The subject site provides entries for the transportation of furniture.</p> <p>Habitable rooms have been designed to face the street, private open spaces and communal areas.</p>  | Yes      |
| C5.2.3.2 Roof Design and Features | <ul style="list-style-type: none"> <li>• Roof terraces are permitted with consent in all business zones except the B1 Zone.</li> <li>• A management strategy is required and must be approved by Council as part of the development application, for any proposed roof terrace.</li> <li>• Supplement open space on roof terraces by providing space and appropriate building systems to support the desired landscape design, incorporating shade structures and windscreens to encourage use of roof top open space.</li> <li>• Demonstrate that roof terrace has been designed so as to protect the privacy, solar access and amenity of adjoining buildings. Measures to minimise overlooking of adjoining properties include screening or planting between properties, and preventing rooftop users from standing at the edge of roof terraces that look into adjoining properties through planting and screens.</li> <li>• Allow for views and passive surveillance of streets and public open space from roof terraces.</li> </ul> | <p>The proposal includes a roof top terrace on Level 7 on the eastern tower which is permitted under this part of the DCP given that the site is located within the B2 zone.</p> <p>The roof terrace provides a BBQ facility with a pergola over to provide weather protection and promote a usable area to potential future occupiers of the site. Also, the terrace provides a large planter box around the perimeter which will adequately screen the area.</p> <p>Also, given that the location of the site with the train station adjoining the northern boundary, the small parcel of land to the east for electrical transmission, Broadarrow Road to the southern boundary and Hurst Place adjoining the western boundary, there are no properties which will be</p> | Yes      |

| Control                             | Requirement   | Proposed   | Complies |
|-------------------------------------|---|--|----------|
|                                     |   | <p>overlooked by the terrace area.</p> <p>The roof top terrace is likely to have views of the train station which is considered a good outcome to encourage passive surveillance.</p>  |          |
| C5.2.3.3<br>Dwelling Layout and Mix | <p>The ADG sets the objectives and controls for dwelling layout in the LGA for residential flat buildings to which SEPP 65 applies. Refer to 4D Apartment Size and Layout of the ADG for objectives, design criteria and design guidance. An additional objective and control in relation to the mix of dwellings are provided below.</p> <p>Refer to the ADG table above for an assessment against 4D Apartment size and layout of the ADG.</p>  |  |          |
|                                     | <ul style="list-style-type: none"> <li>10% of dwellings in any development must be accessible or adaptable to suit current or future residents with special needs.</li> </ul>   | <p>The total number of residential apartments for this development is 62, therefore 6.2 units should be adaptable.</p> <p>The proposal provides 7 adaptable units on the following levels:<br/> -3 x adaptable units located on level 1<br/> -3 adaptable units located on level 2 and;<br/> -1 adaptable unit located on level 3.</p> | Yes      |
| C5.2.3.4<br>Building Services       | <ul style="list-style-type: none"> <li>All letterboxes be installed to meet Australia Post standards.</li> <li>Design and provide discretely located mailboxes at the front of the property.</li> <li>Integrate systems, services and utility areas (such as plant rooms, hydrants, equipment and the like) with the design of the whole development – coordinate materials with those of the building and integrate with landscaping.</li> </ul> | <p>A condition could be imposed to ensure that the letter boxes will be installed in accordance with Australia Post requirements.</p> <p>The proposal has integrated the fire booster and substation within the built form and has been demonstrated on the Ground floor plan. The substation can be</p>                               | Yes      |

| Control | Requirement   | Proposed  | Complies |
|---------|---|---|----------|
|         | <ul style="list-style-type: none"> <li>Facilities should not be visually obtrusive and should not detract from soft-landscaped areas that are located within the required setbacks or building separations.</li> <li>Appliances that are fitted to the exterior of a building, and enclosures for service meters, do not detract from the desired architectural quality of new building, or the desired green character of streetscapes.</li> <li>Unscreened appliances and meters should not be attached to any facade that would be visible from a street or driveway within the site:               <ul style="list-style-type: none"> <li>(a) Screen air conditioning units behind balcony balustrades;</li> <li>(b) Provide screened recesses for water heaters rather than surface-mounting them on exterior walls; and</li> <li>(c) Locate meters in service cabinets.</li> </ul> </li> <li>Screen or treat air conditioning units, TV antennae, satellite dishes, ventilation ducts and other like structures so they are not visible on the street elevation.</li> <li>Coordinate and integrate building services, such as drainage pipes, with overall façade and balcony design.</li> <li>Location and design of service areas should include:               <ul style="list-style-type: none"> <li>(a) Screening of clothes drying areas from public and semi-public places; and</li> <li>(b) Space for storage that is screened or integrated with the building design.</li> </ul> </li> </ul> | <p>accessed from the Broadarrow Road frontage and has not been designed to be a feature but rather to blend in with the rest of the development which is a good outcome.</p> <p>A condition could be imposed to ensure that adequate screening is provided for all other service such as A/C units and the like, so they are not visible from either of the street frontages.</p> |          |

| Control                                 | Requirement   | Proposed   | Complies |
|---|---|--|----------|
|   | <p>Minimise visual impact of solar hot water systems by:</p> <p>(a) Placing the system as unobtrusively as possible, both to the street and neighbouring properties;</p> <p>(b) Using a colour that is consistent with the colour of roof materials;</p> <p>(c) Designing solar panels, where possible, as part of the roof;</p> <p>(d) Setting the solar panels back from the street frontage and position below the ridgeline; and</p> <p>(e) Separate the water storage tank from the solar collectors and place on a less visually obtrusive part of the roof, or within the building (for example, the roof space or laundry).</p> |  |          |
| C5.2.4.1 Solar Access and Overshadowing | <p>Clause 6A of SEPP 65 states that development control plans that have provisions that are inconsistent with the ADG in relation to solar and daylight access, have no effect in the assessment of residential apartment development applications.</p> <p>Clause 5.2.4.1 of the CDCP is therefore not relevant to the assessment of this application and matters have been assessed only in relation to Part 4A of the ADG (as detailed in the table above).</p>   |  |          |
|   | Daylight is to be provided to all common circulation areas (including lift wells) that are above ground.  | Natural light access is provided to common circulation areas.  | Yes      |
| C5.2.4.2 Acoustic Privacy               | <ul style="list-style-type: none"> <li>Locate sensitive rooms, such as bedrooms, from likely sources of noise such as major roads and neighbouring living areas.</li> <li>Above ground access to new dwellings must not include communal balconies that would be located immediately next to a bedroom window.</li> <li>Bedroom windows in new dwellings that would be located at or close to ground</li> </ul>   | The site is located on land adjoining a railway and therefore is required to address the requirements set out in 'Development Near Rail Corridors and Busy Roads - Interim Guideline' which has been published by the NSW Department of Planning and Environment | No       |

| Control                   | Requirement   | Proposed  | Complies |
|---------------------------|---|---|----------|
|                           | <p>level are be raised above, or screened from, any shared pedestrian pathway.</p> <ul style="list-style-type: none"> <li>• Screen balconies or windows in living rooms or bedrooms that would face a driveway or basement ramp.</li> <li>• On land adjoining railway or busy roads, address all requirements in 'Development Near Rail Corridors and Busy Roads - Interim Guideline' which has been published by the NSW Department of Planning and Environment.</li> <li>• Design the layout of lower levels facing the road or rail to:               <p>(a) The position of windows facing the noise source and ensure that total unprotected window area is minimal so as to limit the amount of airborne noise entering the built fabric;</p> <p>(b) Ensure that the detailing of the window types addressing the corridors are designed and constructed to attenuate excessive noise - (double and triple glazing and insulated to manufacturers standards); and</p> <p>(c) Ensure that balcony parapet walls are constructed of solid masonry or materials of similar sound attenuating qualities.</p> </li> <li>• When designing the public spaces fronting busy roads and the rail corridor at ground level, consider the use of elements such as moving water and screens to achieve sound attenuation.</li> </ul> | <p>Acoustic privacy has been assessed against the requirements of the SEPP earlier within this report and is not considered to meet the minimum requirements.</p> |          |
| C5.2.5 Parking and Access | <p>Under clause 3J of the ADG, development within 800 metres of a railway station in the Canterbury Bankstown LGA must provide the minimum car parking requirement for residents and visitors that is the lesser of that set out within the RMS's Guide to Traffic Generating Developments or Council's requirements.</p>   |   |          |

| Control | Requirement   | Proposed | Complies |
|---------|---|----------|----------|
|         | Refer to discussion above relating to compliance with the minimum parking requirements under heading Part B1 Transport and Parking in CDCP 2012 assessment. |          |          |

#### Part D Local Centres

| Control                           | Requirement   | Proposed   | Complies                  |
|-----------------------------------|---|--|---------------------------|
| D1.2.1<br>Minimum frontage        | C1 Where redevelopment is proposed in a B1 or B2 Zone of the LEP a minimum frontage of at least 18m shall be provided.  | The site has a 56.79m frontage to Broadarrow Road.   | Yes                       |
| D1.3.3<br>Floor to Ceiling Height | C1 Floor to ceiling heights must:<br>(a) Provide a minimum 3.3m floor to ceiling height for the ground floor.<br>(b) Provide a minimum 3m floor to ceiling height per storey for development in the B6 Enterprise Corridor Zone.<br>(c) Car parking is required to have a floor to ceiling height in accordance to Australian Standard AS 2890.1.<br>(d) The floor to ceiling height may need to be increased to meet the requirements of the intended use, however, the maximum building height will still need to be complied with. | Complies.<br><br>Floor to ceiling heights vary between 3.7m and 4m at ground floor level.<br><br>Car parking levels meet AS 2890.1.  | Yes<br><br>Yes<br><br>Yes |
| D1.3.4<br>Setbacks                | C1 Where a setback applies, buildings are to provide articulated and varied facades (Refer to D1.4.3 for façade design) that do not result in a ziggurat appearance (i.e. do not have the form of a terraced structure with successive receding storeys).<br><br><u>C2 Front setback</u><br>B2 Zone: 1-3 storeys nil setback on street  | Achieved as the proposed built form is suitably articulated and modulated without resulting in a ziggurat form.<br><br>Ground floor, level 1 and level 2 storeys nil setback on both street frontages. | Yes<br><br>Yes<br><br>N/A |

| Control                       | Requirement  | Proposed   | Complies       |
|-------------------------------|--|--|----------------|
|                               | Upper level greater than four storeys to be setback 5m   | Level 3, level 4, level 5, level 6 and level 7 setback 5m from both frontages.   |                |
|                               | <u>Side setbacks</u><br>C3 Except where a proposed development adjoins a residential boundary, setbacks are not required in the B1 or B2 zones when the desired character is for a continuous street frontage.   | No side setback controls applicable as the site doesn't adjoin a residential boundary and is located in the B2 zone.   | N/A            |
|                               | <u>Rear setback</u><br>C5 A rear setback to a residential zone boundary, or land on which an existing dwelling is located, is not required if the land adjoins a lane.<br><br>C6 Proposed developments that adjoin residential zone boundaries to the rear, or land on which existing dwellings are located, are to comply with a rear setback that is defined by: <ul style="list-style-type: none"> <li>• 45° building height plane projected at 1.8m at the residential boundary</li> <li>• Minimum 6m setback to residential boundary</li> <li>• Two-storey limit on residential boundary</li> </ul> | The rear boundary of the site does not adjoin a residential zone boundary or residential development. The rear boundary adjoins the Narwee Train station and therefore this control is not applicable. | N/A            |
| D1.4.1 Orientation and Layout | C1 Design and orient development to maximise solar access and natural light, without unduly increasing the building's heat load.<br><br>C2 Design and site development to avoid casting shadows onto neighbouring dwelling's primary living area, private open space and solar cells.  | Achieved. Solar access to apartments is maximised from the site's northern aspect.   | Yes<br><br>Yes |



| Control                             | Requirement   | Proposed   | Complies                         |
|-------------------------------------|---|--|----------------------------------|
|                                     | C3 Coordinate design for natural ventilation with passive solar design techniques.  | <p>It should be noted that the residential flat building at 42 Broadarrow road experiences overshadowing through the day, which is inevitable given its southern orientation to the subject site. Notwithstanding this, 42 Broadarrow Road is still capable of achieving solar access between 8:00am and approximately 10:00am on 21 June</p> <p>As established earlier within this report, the proposed development fails to simultaneously satisfy acoustic privacy and natural ventilation.</p> |                                  |
| D1.4.2<br>Ground Level<br>Interface | <p><u>Building entries</u></p> <p>C1 Locate entries so they relate to the existing street, subdivision pattern, street tree planting and pedestrian access network and are clearly visible.</p> <p>C2 Provide entries to upper levels from the street front facade to encourage activities on the ground floor.</p> <p><u>Ground level awnings</u></p> <p>C5 The façade of the building shall be built to the front street boundary;</p> <p>C6 A cantilevered awning from the building facade shall overhang the footpath at a minimum width of 3m;</p> <p>C7 Cantilevered awning height is to be in the range of 3.2m - 4.2m from natural ground level;</p> <p>C8 Awnings must complement the height, depth and form of the desired character or</p> | <p>Achieved. An entry and main lobby are provided from Broadarrow Road and another has been provided from Hurst Place.</p> <p>The ground floor is built to both street boundaries.</p> <p>Awning proposed that cantilevers over the footpath.</p> <p>No posted awnings or colonnades are proposed.</p>   | <p>Yes</p> <p>Yes</p> <p>Yes</p> |

| Control                    | Requirement  | Proposed   | Complies                         |
|----------------------------|--|--|----------------------------------|
|                            | <p>existing pattern of awnings and should match adjoining awnings so as to provide continuous pedestrian cover and eliminate gaps wherever possible;</p> <p>C9 Awnings shall provide sufficient protection from sun and rain; and</p> <p>C10 Posted awnings or colonnades will not be support.</p> <p><u>Shop fronts</u></p> <p>C11 Windows on the street frontage must not be mirrored to provide visibility between interior and exterior spaces, allow for surveillance of the street and provide interest for pedestrians.</p> | <p>The awnings comply with the requirements of the DCP and there are no adjoining properties with awnings, therefore matching them is not required.</p> <p>Awnings provide sufficient protection from the elements.</p> <p>Shop fronts are transparent glass which allow visibility to the public domain.</p>  | <p>Yes</p> <p>Yes</p> <p>Yes</p> |
| D1.4.3 Façade treatment    | <p>C1 Façade Design:</p> <p>New building forms and design features shall not mimic traditional features but should reflect these in a contemporary design.</p>   | Achieved   | Yes                              |
| D7.6 Local Centres- Narwee | <p>C1 Development in the Narwee Local Centre is to be in accordance to the structure plan (see Figure 6 below for the plan).</p>   | <p>A yellow circle has been used to outline and emphasise the location of the site on the Narwee Local Centre Structure Plan. As shown in the legend, the dark blue highlights 'retail/commercial street activation'. The proposed development is consistent with the plan as retail and commercial premises have been proposed along the Broadarrow Road and Hurst Place frontages.</p> | Yes                              |



Figure 6: Narwee Local Centre structure plan

### **Canterbury Development Contributions Plan 2013 (Contributions Plan 2013)**

The Canterbury Development Contributions Plan 2013 applies to the site and if the application was approved would attract a s.7.11 contribution.

### **Planning agreements [section 4.15(1)(a)(iia)]**

There are no planning agreements or draft planning agreements that are relevant to the subject proposal pursuant to Section 7.4 of the Environmental Planning and Assessment Act 1979.

### **The regulations [section 4.15(1)(a)(iv)]**

The proposed development is not inconsistent with the relevant provisions of the Environmental Planning and Assessment Regulation, 2000.

### **The likely impacts of the development [section 4.15(1)(b)]**

Having regard to the development failing to adequately balance natural ventilation and acoustic privacy as well as the assessment of the experts listed in the table below who are not satisfied with the proposed development, the proposal will result in unacceptable impacts on the subject site and on the locality. The proposal is therefore not supported.

- **Referrals**

| Referral             | Comments Received                       |
|----------------------|---|
| Development Engineer | Not satisfied with the proposed design. |

|                             |   |
|-----------------------------|---|
| Resource Recovery (Waste)   | Not satisfied with the proposed design.   |
| Traffic                     | Not satisfied that sufficient information has been submitted.   |
| Environmental Health        | Not satisfied that sufficient information has been submitted.   |
| Urban Design                | Comments considered and justified as part of this report.   |
| Ausgrid                     | No objection – subject to conditions of consent, should the application be supported which it is not.                                 |
| Roads and Maritime Services | No objection – subject to conditions of consent, should the application be supported which it is not.                                 |
| Sydney Trains               | No objection – subject to conditions of consent by way of deferred commencement, should the application be supported which it is not. |
| Water NSW                   | No objection – subject to conditions of consent, should the application be supported which it is not.                                 |

### **Suitability of the site [section 4.15(1)(c)]**

The proposed development is permitted with consent on the subject site and represents a built form that is compatible with the existing and future character of the locality. The application has been assessed under Section 4.15 of the Act, and as demonstrated throughout the body of this report, the proposal generally complies with the relevant development controls. The proposed variations to the relevant CLEP 2012 regarding building height have been assessed on merit and is acceptable for the reasons outlined within the body of the report. However, insufficient information in relation to contamination, ventilation, acoustic privacy and traffic and parking results in a development application which cannot be supported.

### **Submissions [section 4.15(1)(d)]**

The application was notified on two occasions and no objections were received in response to either of the notification periods. The first round of advertising commenced on 16 January 2019 and ended on 7 February 2019. The second round of notification commenced on 18 December 2019 and ended on 5 February 2020.

### **The public interest [section 4.15(1)(e)]**

The public interest is served through the consistent and measured application of the relevant plans, policies and standards. Council generally considers that the proposal meets the relevant development standards and planning controls and variations to the controls/standards are justified. However, insufficient information in relation to contamination, ventilation, acoustic privacy and traffic and parking results in a development application which cannot be supported.

## **CONCLUSION**

The development application has been assessed pursuant to the provisions of Section 4.15 of the Environmental Planning and Assessment Act 1979 and all relevant development control

plans, codes and policies.

The design of the proposed development is compatible with the future and desired local character of the area and represents a quality development that will positively contribute to the streetscape and the local built environment. However, as a result of insufficient information in relation to contamination, ventilation, acoustic privacy, waste and traffic and parking, Council does not support the application.

## **RECOMMENDATION**

THAT pursuant to Section 4.16(1)(b) of the Environmental Planning and Assessment Act, 1979, the Sydney South Planning Panel, for the reasons set out below refuse Development Application No. DA-503/2018.

- 1) The proposed development, pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, is not consistent with Clause 28(2)(c) of State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (2002 EPI 530) with respect to:
  - a. Part 4B Natural Ventilation in that the proposed development conflicts with achieving suitable natural ventilation and maintaining acoustic privacy.
  - b. Part 4D Apartment Size and Layout in that apartments L01-06 and L02-06 are studio apartments but have a floor area which is larger than a 1 bedroom unit apartment and do not have a minimum cross through width of 2.5m resulting in snorkel apartments.
  - c. Part 4H Acoustic Privacy and 4J Noise and Pollution in that the proposed development conflicts with achieving suitable acoustic amenity and maintaining natural ventilation.
- 2) The proposed development, pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, is not consistent with State Environmental Planning Policy - Remediation of Land (SEPP 55).
- 3) Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, and having regard to the reasons of this notice, it is considered that the proposed development does not satisfy the objectives contained in Clause 1.2 of the Canterbury Local Environmental Plan 2012, in particular Objective 2(c) 'to ensure that development is of a design and type that supports the amenity and character of an area and enhances the quality of life of the community'.
- 4) Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, it is considered that the proposed development does not satisfy:
  - a. Clause 6.2 – Earthworks of the Canterbury Local Environmental Plan 2012 relating to (i) the likely future use or redevelopment of the land, (ii) the quality of the fill or the soil to be excavated, or both and (iii) source of any fill material and the destination of any excavated material, as insufficient information has been submitted to Council.
  - b. Clause 6.6 – Essential services of the Canterbury Local Environmental Plan 2012 relating to suitable vehicular access.

- 5) The proposed development is unsatisfactory, pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, as it does not comply with the provisions of the Canterbury Development Control Plan 2012 including:
- a. Objective O4 of Part B1.1 – General Objectives: Transport and Parking, which aims to ensure servicing by larger vehicles occurs off-street in such a way that it reduces impacts on the pedestrian environment
  - b. Objective O5 of Part B1.1 – General Objectives: Transport and Parking, which seeks to ensure vehicle facilities are complaint, functional and safe.
  - c. Objective O1 of Part B9 Waste Management, which requires that facilities for handling, storage, collection and disposal of waste are incorporated into all development and are compatible with the design of the development.
- 6) The proposed development, pursuant to the provisions of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, is unsatisfactory given the inadequate proposed means of access to and from the development site and the area available for the loading and unloading of goods and manoeuvring of vehicles, and pedestrian safety.
- 7) Having regard to the previous reasons noted above, pursuant to the provisions of Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, approval of the development application is not in the public interest.