

7 April 2020

Professor Helen Lohead
Chair
Sydney South Planning Panel

Dear Professor, Lohead

**2019SSH010 DA -CONSTRUCTION OF A FOUR STOREY
RESIDENTIAL FLAT BUILDING CONTAINING 28
APARTMENTS UNDER THE ARHSEPP AT 24 -28 VICLIFFE
AVENUE, CAMPSIE**

I refer to the above development that is being considered at a public meeting on 8 April 2020. May 2018. Council's assessment report recommends refusal of the application on 10 grounds.

For the reasons outlined in the following table we would request that the panel consider either approving the development or resolving to defer the matter until its scheduled meeting in May to allow further clarification to be provided on the proposed grounds of refusal.

As part of any deferral we would also request that the panel provide some guidance on what the applicant considers to be the primary ground of refusal, being the four storey height of the building.

**Proposed Refusal Condition Response
Table**

| Issue | Applicants Comments |
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| The Clause 4.6 Request to vary Clause 4.3(2) 'Height of buildings' of the Canterbury Local Environmental Plan 2012 is not well founded and it has not been adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case. | <p>On the adjacent side of Viccliffe Avenue and almost opposite the site is a recently constructed four storey residential flat building at 55 – 57 Viccliffe Avenue (Refer to photo below)</p> <p>The four storey height of this development will be visually indistinguishable from the approved and constructed RFB at 55 -57 Viccliffe Avenue.</p> |



The development is appropriate for the site and compatible with both the existing and likely future built form in the area.

The development is lodged pursuant to the ARHSEPP 2099. Objective 3(b) of the ARHSEPP states that an objective of the SEPP is to facilitate:
the effective delivery of new affordable rental housing by providing by way of expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards

Given the height control is based on a modelled building envelope that has regards to ADG setbacks, it is inevitable that 'something has to give' in order to give effect to the provisions in the ARHSEPP relating to bonus FSR. It is not that this is without merit limitation, it is of course, however, those are to be guided by the other provisions in (the SEPP) as well as looking at other general merit matters. The variation to the height control is consistent with the objective of the ARHSEPP as it affords the delivery of affordable and social housing on the site;

Given the above comments, it is not considered that this concern warrants refusal of the application.

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 the objectives of Clause 4.3(1) contained in the Canterbury LEP 2012 including:

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,

The recent approval and construction of a four storey redevelopment has set the tone for the redevelopment of this precinct. The development is consistent in massing with this scheme and is consistent with the desired character of the area as it transitions from a low density residential to a high density precinct.

The setbacks of the building facilitate appropriate solar access with setbacks on the southern side of the RFB being between 9.5 and 12.8m and greatly exceeds the 6m setback suggested by the ADG. The increased separation facilitates appropriate solar access to the existing dwelling and likely future RFB on the site. Page 47 of the assessment report acknowledges this and

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

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under the heading Solar Access and overshadowing -Adjoining developments states:

The adjoining neighbour to the south will achieve compliance with the minimum requirements.

Further an independent solar access report has been prepared to ascertain whether the desired level of solar access is provided.

This report is attached and confirms that 71.4% of apartments and their POS areas will receive 3 hours of solar access in mid winter in accordance with the ARHSEPP, with 75% achieving 2 hours of solar access to living areas and POS areas in accordance with the ADG.

The building will appear as a building in a garden setting with its materials and massing being consistent with the desired future character as demonstrated by its similarity to the recently constructed RFB at 55 -57 Vicliffe Avenue Campsie.

Given the above comments, it is not considered that this concern warrants refusal of the application.

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 Clause 4.3 (2) of the Canterbury Local Environmental Plan 2012 relating to 'Height of buildings' and exceeds the allowable height of building of 11.5m

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Clause 4.3(2) of the LEP states:

(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map

It is agreed that the development exceeds the mapped height limit of 11.5m and seeks approval for a building with a maximum height of 13.65m.

Clause 4.6 of the CLEP allows developments to vary this control on merit.

It is considered that the departure to this control is warranted for the reasons outlined in response to proposed refusal ground 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 State Environmental Planning Policy (Affordable Rental Housing) 2009 with respect to Clause 16A 'Character of

The site is zoned R4 by Canterbury LEP 2012. A stated zone objective is to:

To provide for the housing needs of the community within a high density residential environment.

the Area'. The proposal will result in an uncharacteristic building and will not be consistent with the future character of the area.

The proposed residential flat building satisfies this zone objective.

The development is compatible with a recently constructed residential flat building located almost adjacent to the site that is four storeys when viewed from the street.

The building is not uncharacteristic with the desired future character and will not be visually intrusive.

The setbacks provided on the site are compatible and generally exceed those required by the DCP. Given this the RFB will present when viewed from the street and surrounding properties as an apartment building in a garden setting. This is consistent with the planning controls for the site.

Given the above comments, it is not considered that these concerns warrant refusal of the application.

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 (Affordable Rental Housing) 2009 with respect to Clause 14(1)(c)(i) 'Landscaped Area' as the proposed development will be deficient in the minimum required landscaped area.

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It is acknowledged that the ARHSEPP suggest that the landscaped area should be 980m² for the development and that the development proposes 795m².

The 35m² per dwelling standard does not appear to be as relevant to a higher-density residential flat building such as the subject proposal but rather more relevant for villas and townhouses. The amount of landscaped area as currently proposed is 43.8% of the site area and the amount of both deep soil area and communal open space proposed either meets or exceeds the minimum requirements contained in the ADG for deep soil and Council's DCP.

It is also noted that Council's Landscape Architect has raised no objection to the proposed landscaping, subject to conditions.

Given the above comments, it is not considered that these concerns warrant refusal of the application.

6.

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:

Part B1 Transport and Parking

I. Insufficient bicycle spaces have been provided and no in accordance with B1.3.1, C1 (Table B.1)

The Canterbury DCP suggests that 9 bicycle parking spaces should be provided and that only 8 are provided. An additional space is capable of being provided and this could be conditioned.

Part B9 Waste

II. The proposal fails to demonstrate compliance with Part B9.4 in regard to the bin-carting routes.

The revised and current plans provide a 1:20 grade path that allows for the manual transfer of the bins to the temporary collection point. It is possible that these comments were based on the original plans.

III. The proposal fails to demonstrate compliance with Part C9.6 in regard to the bulky waste storage areas.

Part C4 Residential Flat Buildings CREPRFB

IV. The proposal has failed to demonstrate that the orientation of the development will maximise solar access to the development as required by C4.2.14, control C1.

The development maximises its setbacks to the southern boundary. As discussed above the development exceeds compliance with the solar access controls in both the ARHSEPP and the ADG.

V. The proposal fails to comply with C4.2.2.2, control C1(a) as it exceeds the maximum allowable external wall height.

The variation is consistent with the flexibility required to deliver 28 affordable dwellings on the site without unduly impacting on adjoining properties.

VI. The basement, in part projects greater than 1m above the ground level and comprises a storey, as outlined in C4.2.2.2, control C2. Therefore, the proposal will result in a part 5 storey building.

Despite the minor point departure the development will present as a four storey residential flat building when viewed from the street and adjoining properties.

VII. The proposal fails to provide adequate deep soil area within the front setback as required by C4.2.2.3, control C3.

The ADG suggests that a deep soil zone equivalent to at least 7% of the site be provided. The development provides a deep soil zone equivalent to 25.2% of the site which demonstrates that the development will

VIII. The proposal fails to provide adequate side setback deep soil as required by C4.2.2.3, control C3.

IX. The location of the bin presentation area is located within the front setbacks and is inconsistent with C4.2.2.3, control C4.

present as an apartment building in a garden setting.

X. The proposal will result in a building design that is inconsistent with C4.2.3.1 controls C2 and C22 and will not be considered to complement the architectural character of the area and will result in an over scaled building.

The temporary bin storage is required to service the development. The area has been minimised with bin storage outside collection periods relocated to the basement to maximise landscaping opportunities,

The massing of the building is considered compatible with the desired future character as discussed previously in this letter.

XI. The proposal will result in a roof design that is not compatible with the predominate streetscape and is inconsistent with C4.2.3.2.

The development is permitted to have an FSR of 1.4:1 and proposes an FSR of 1.16:1. This assists in demonstrating that the building is not over scaled.

The proposed flat roof is compatible with roof forms throughout Sydney for high density developments. The provision of a pitched roof would be architecturally awkward and increase the height and massing of the development.

Given the above comments, it is not considered that these concerns warrant refusal of the application.

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 Apartment Design Guide.

I The proposal fails to provide an adequate public domain interface and inconsistent with Objective 3C-1.

The development appropriately interfaces with the street and maximises opportunities for passive surveillance and activation with units orientated to the street and direct access provided where appropriate.

II The proposal fails to provide adequate solar access to the communal open space as required by Objective 3D-1, Design criteria 2.

As outlined in the attached report from Walsh Analysis, adequate solar access is provided to the principle usable common open space area with 2 hours of solar access provided to over 50% of this area between 9am and 1am in mid winter.

III The proposal fails to comply with the minimum number of apartments receiving natural cross ventilation as required by Objective 4B-3, Design criteria 1.

The assessment report indicates that Council is of the opinion that 16 of the 28 units or 57% are naturally cross ventilated. We are of the opinion that a further 4 four units being Units 105, 205, 305 and 405 are annotated as cross-ventilated apartments does not comply with the ADG cross ventilation requirements. These units are corner units and are appropriately considered cross ventilated units.

IV . The primary balconies to apartments 207, 307 and 407 do not meet the minimum area as required by Objective 4E-1, Design Criteria 1.

These units are 2 bedroom units and are required to have a private open space of 10m² with a dimension of 2m. These units are provided with a private open space area of 10.05m and complies. It is noted that should concerns remain that conditions are capable of being imposed requiring the balcony area to be increased to the south that will increase the balcony area without varying setback controls or result in an unacceptable loss of privacy.

Given the above comments, it is not considered that these concerns warrant refusal of the application.

Pursuant to the provisions of Section 4.15(1)(b) and Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, insufficient information has been provided by the applicant to allow a proper and thorough assessment of the impacts of the proposed development and the suitability of the site for the development including:

I. View from the sun diagrams that adequately provide the amount of solar access that penetrates through the living room and private open space to determine compliance with Objective 4A-1, Design Criteria 1 and determine which units do not receive direct sunlight as per design criteria 3 of the Apartment Design Guide have not been provided.

A peer review architect was engaged to review the DWG drawings prepared by the architects. As outlined previously this peer review indicates that solar penetration to the development exceeds the criteria for solar penetration in both the ADG and the ARHSEPP.


II. Insufficient information has been provided to ensure the proposal will ensure compliance with the required ceiling heights as required by Objective 4C-1, Design criteria 1 and ensure that the proposal would not result in further breaches to the height as a result of changes to the ceiling heights

The proposal has been carefully designed to ensure that 2.7m floor to ceiling heights are provided. This occurs throughout the provision of 3050mm floor to floor heights and the careful sighting of bathrooms and kitchens.

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| | Given the above comments, it is not considered that these concerns warrant refusal of the application. |
| The proposed development is unsatisfactory, pursuant to the provisions of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, providing an undesirable and unacceptable impact on the streetscape and adverse impact on the surrounding built environment. | <p>As outlined above the development will present as a residential flat building in a garden setting.</p> <p>The development provides setbacks that either comply or exceed those required by the ADG and will not have an unacceptable impact on adjoining properties having regards to privacy or overshadowing.</p> <p>The development is consistent with its R4 high density zoning.</p> |
| 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. | <p>The development is considered to be in the public interest as it will provide valuable and much needed modern accommodation for 28 family groups in an accessible area.</p> <p>There is a high demand for affordable housing in the precinct and this development will assist with providing part of this demand.</p> <p>Having regards to the current Covid 19 economic crisis, this development will also provide much needed construction jobs and assist with the NSW economy recovering.</p> <p>Given the above, the development is considered to be in the public interest.</p> |

Conclusion

I trust the above outlines why serious consideration should be given to recommending approval or alternatively deferral of the application.



Should you require any further information, I can be contacted on 9687 8899 or 0405 530 095.

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