

COUNCIL ASSESSMENT REPORT

SYDNEY EASTERN CITY PLANNING PANEL

PANEL REFERENCE & DA NUMBER	PPSSEC-241 – DA-2022/329
PROPOSAL	Integrated Development – Demolition of existing structures and construction of four (4) x eight (8) storeys residential apartment buildings comprising of 196 apartments including 98 affordable housing units over three (3) levels of basement parking
ADDRESS	Lot 13 in DP 663383, Lot 1 in DP 923896 and Lots 14 to 24 in Section 1 in DP 4059 Nos. 15 – 37 Innesdale Road Wolli Creek
APPLICANT	The Trustee for Innesdale Property Holdings Trust ²
OWNER	Ms Mona Elizabeth Goldsmith Innesdale Holdings Pty Ltd Ms Amal Kemp Mr Emil Peter Moussa Mr Phillip Moussa
DA LODGEMENT DATE	10/11/2022
APPLICATION TYPE	Integrated Development Application
REGIONALLY SIGNIFICANT CRITERIA	Section 2.19(1) and Clause 2 of Schedule 6 of <i>State Environmental Planning Policy (Planning Systems) 2021</i> declares the proposal regionally significant development as: Development that has a capital investment value of more than \$30 million.
CIV	\$ 42,864,756 (excluding GST)
CLAUSE 4.6 REQUESTS	Bayside LEP 2021 – R4 High Density Residential zone - Clause 4.3 – Height of Buildings to be varied
KEY SEPP/LEP	<ul style="list-style-type: none"> • <i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i> • <i>State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</i> • <i>State Environmental Planning Policy (Housing) 2021</i> • <i>State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development</i> • <i>State Environmental Planning Policy (Resilience and Hazards) 2021</i>

	<ul style="list-style-type: none"> • <i>State Environmental Planning Policy (Planning Systems) 2021</i> • <i>Bayside Local Environmental Plan 2021;</i> • <i>Rockdale Development Control Plan 2011.</i>
TOTAL & UNIQUE SUBMISSIONS KEY ISSUES IN SUBMISSIONS	Eleven (11) submissions: <ul style="list-style-type: none"> • Density, bulk and overpopulation • Traffic and Parking • Privacy • Solar access • Environmental impacts • Lack of public services – shopping and Post Office
DOCUMENTS SUBMITTED FOR CONSIDERATION	Architectural Plans – Marchese Partners International P/L Statement of Environmental Effects - Gyde Clause 4.6 review – Gyde Landscape Plan – Site Image Landscape Architects Acoustic Report – Koikas Acoustics Pty Ltd Traffic Report – Transport and Traffic Planning Associates BCA Report – EastCoast Approvals Group P/L Access Assessment Report – Jensen Hughes Company
SPECIAL INFRASTRUCTURE CONTRIBUTIONS (S7.24)	Yes
RECOMMENDATION	Approval subject to Deferred Commencement Consent
DRAFT CONDITIONS TO APPLICANT	No
SCHEDULED MEETING DATE	18 July 2023
PLAN VERSION	7 June 2023 Revision G
PREPARED BY	Michael Maloof – Senior Assessment Planner
DATE OF REPORT	4 July 2023

EXECUTIVE SUMMARY

The development application (DA-2022/329) seeks consent for the demolition of existing structures and construction of four (4) x eight (8) storey residential apartment buildings comprising a total of 196 apartments including 98 affordable housing units over three (3) levels of basement parking ('the proposal'). The development appears as two separate buildings over the entire site each with their own basement levels. However, each of the two buildings comprise two symmetrical attached residential flat buildings.

The subject site is known as 15-37 Innesdale Road ('the site') and comprises one (1) road frontage to the northeast. The site is located between the Princes Highway in the west and Marsh Street in the east and occupies a rectangular shaped area of 6,294.7m². There are multiple vehicle access points to the site from Innesdale Road.

Existing development on the site consists of twelve (12) separate dwelling houses, even though the site contains 13 lots (No. 17 comprises two lots). The site backs onto lots containing dwelling houses to the south which face Flora Street and Marsh Street.

The site is located in an area of transition from the low density dwellings of the Wolli Creek precinct, to the high density residential development area which surrounds the site in all directions. Development within this precinct is well underway with recently constructed residential flat buildings up to eight (8) storeys with basement level car parking. (E.g., the northern side of Innesdale Road and a recent court approval on the southern side of Innesdale Road at Nos. 1-7).

The site is located in the R4 – High Density Residential zone pursuant to Clause 2.2 of the *Bayside Local Environmental Plan 2021* ('BLEP 2021'). The demolition of existing structures and the construction of a residential flat building is permissible with Council consent in the R4 zone.

The principal planning controls relevant to the proposal include *State Environmental Planning Policy (Housing) 2021*, *State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development* ('SEPP 65'), the *Bayside Local Environmental Plan 2021* and the *Rockdale Development Control Plan 2011* ('RDCP'). The proposal is consistent with the majority of provisions apart from the following planning controls:

- An exceedance of 1.2 metres in building height and if the proposed development standards of the Bayside LEP 2021 were to be strictly applied to the site. A variation under clause 4.6 of the Bayside LEP 2021 has been submitted with the application;
- The proposal provided 14% of site area being deep soil zone instead of 15% and a minimum 2 hours of direct sunlight for 70% of the dwellings instead of 3 hours for the solar access requirements (both pursuant to clause 18) of the State Environmental Planning Policy (Housing) 2021;
- The proposal provides 2 hours of natural light to at least 70% of the dwellings instead of 3 hours which is the solar access requirement of part 4A of the ADG under SEPP 65 – Design Quality of Residential Flat Developments.;
- Inconsistencies with plans and details in the basement levels in relation to car parking and stormwater management under the Rockdale DCP 2011. The plans are not consistent with Council's Stormwater Plan requirements and the latest landscape plans submitted with the application. Deferred commencement conditions are required to be imposed on any draft Notice of Determination in this regard.

The application is classified as integrated development pursuant to Section 4.46 of the *Environmental Planning and Assessment Act 1979* ('EP&A Act') as the proposed basement levels intersect with the ground water table. In this regard, the application was referred to Water NSW, Ausgrid pursuant to *State Environmental Planning Policy (Transport and Infrastructure) 2021* ('Transport and Infrastructure SEPP') and Sydney Airport Corporation pursuant to Clause 6.9 of the LEP 2012. No objections were raised by these authorities subject to the imposition of conditions of development consent. NSW Police were also consulted with recommended conditions of consent being provided.

Jurisdictional prerequisites to the grant of consent imposed by the following controls have been satisfied as detailed in this report including:

- A Water Supply Work approval (GTAs) under the Water Management Act 2000 for the development as it will be affected by the water table (required under section 4.47(3) of the Environmental Planning and Assessment Act 1979 (as amended); and,

- Clause 28(2)(a) of SEPP 65 in relation to the advice of the Design Review Panel which has been satisfied by the applicant.

The application was placed on public exhibition from 30 November 2022 to 18 January 2023, with eleven (11) submissions being received. These submissions raised numerous issues including density and bulk, overshadowing, loss of privacy, loss of views, traffic, congestion and parking impacts, overpopulation, financial impacts and construction noise and dust. The lack of commercial uses in the area to support the increase in residential density were also raised. These issues are considered further in this report.

The application is referred to the Sydney Eastern City Planning Panel ('the Panel') as the development is '*regionally significant development*', pursuant to Section 2.19(1) of Schedule 6 of *State Environmental Planning Policy (Planning Systems) 2021* as the proposal is development for a *residential flat building* with a CIV over \$30 million.

A briefing was held with the Panel on 13 April 2023 where key issues were discussed, including zoning and permissibility of the proposed residential flat building, the size of the development, the exceedance of the Bayside LEP 2021 development standards of height, SEPP 65 design concerns as well as the external appearance and dominant design of the development.

The key issues associated with the proposal included:

1. *Affordable Housing* - The proposed residential flat buildings include 50% of affordable housing which is permissible in the R4 High Density Residential zone. The proposal generally complies with the requirements of the SEPP (Housing) 2021 and SEPP No. 65 – Design Quality of Residential Flat Development. In this regard, the proposal is acceptable in respect to affordable housing.
2. *Urban Design* - The proposed built form has been improved and now achieves a sympathetic response to the existing and desired future context. The resulting form is acceptable, complies with the Design Excellence requirements of the Bayside LEP 2021 and the Design Review Panel supported the design. The building facades contribute positively to the streetscape character and contain visual interest and differentiation between buildings. Front setbacks are sufficient and capable of accommodating landscaping to soften the development.
3. *Height, Bulk and Scale* - The bulk and scale of the proposal is compatible with the future desired character of the surrounding residential precinct, despite the non-compliance with the height control. In this regard, the minor variation of 1.2m for the lift overrun and roof top pergola has been considered in this report. The proposal is consistent with the desired future character of the area and acceptable in respect to its height, bulk and scale.
4. *Traffic and Car Parking* – The proposal has been amended to include suitable access and parking within the basement parking levels. The proposal will result in additional traffic generation that can safely be accommodated within the surrounding road network. The proposal complies with the minimum on site car parking requirements and is not likely to result in any significant traffic issues within the surrounding street network. The application was referred to the Bayside Traffic Development Advisory Committee in December 2022 who raised no objections to the proposal subject to conditions. The conditions raised by the BTDAC have been addressed later in this report. In this regard, the proposal complies with Council's requirements and is acceptable in respect to traffic and parking.

Other issues which have been satisfactorily addressed include the Waste Management Plan, landscape planting and information relating to tree protection and additional plantings and the proposed stormwater management provisions for the site.

Following an assessment of the matters for consideration under Section 4.15(1) of the EP&A Act, the provisions of the relevant State Environmental Planning Policies and the Bayside Local Environmental Plan 2021, the proposal is supported subject to the imposition of conditions of development consent. Issues relating to the design of the proposed development have been satisfactorily resolved through amendments and the submission of additional information. The proposal includes two separate buildings containing two attached residential flat buildings over basement levels. The technical issues, along with the other design matters, have been satisfactorily addressed as considered in this report. Based on the above, the proposal as currently presented has acceptable outcomes and accordingly can be approved subject to conditions of development consent.

Following a detailed assessment of the proposal, pursuant to Section 4.16(1)(a) of the *EP&A Act*, the development application (DA-2022/329) is recommended for approval subject to a Deferred Commencement and the conditions contained at **Attachment A** of this report.

1. THE SITE AND LOCALITY

1.1 The Site

- The subject site comprises of twelve (12) allotments, (13 lots as No. 17 comprises 2 lots) commonly referred to as 15-37 Innesdale Road, Wolli Creek. The site is located on the southern side of Innesdale Road and is right on the edge of the Arncliffe/Banksia precinct. The overall site area is approximately 6,294.7m² (6,270m² by DP, 6,282.1m² by calculation on survey + No. 17 narrow lot) with a frontage of approximately 155.125m, and a depth of approximately 40.5m. The site is relatively flat and contains 12 x detached single dwellings. The individual lots making up the site have a north south orientation.
- The subject site contains 12 dwellings with landscaped front and rear yard areas. The lots making up the site all front Innesdale Road and are standard rectangular lots.
- The site does not contain any items of environmental heritage and is not located within a conservation area. The site is approximately 650m east of both the Arncliffe and Wolli Creek Town Centres.
- The subject site has the following constraints – flood affected, Sydney Airport Corporation Ltd (Civil Aviation Building Height Regulations), ASS Class 3 and Design Excellence area.



Figure 1: Extract of the zoning plan under Bayside LEP 2021

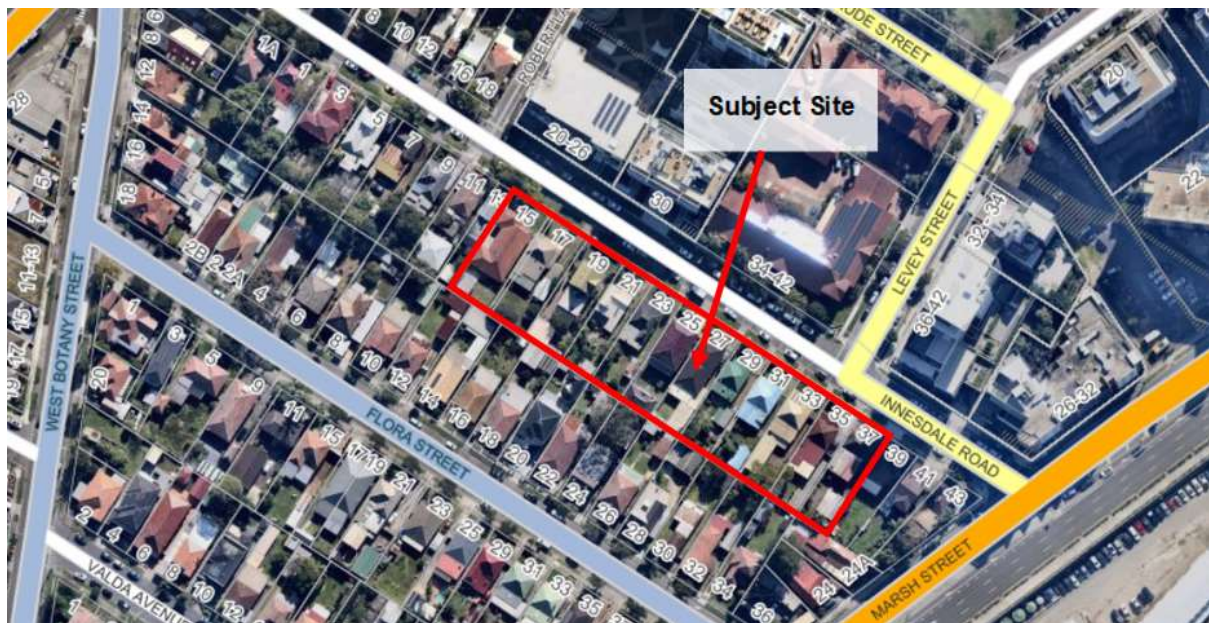


Figure 2: Aerial photograph of the site and adjoining properties.

1.2 The Locality

- The subject site is located on the southern side of Innesdale Road, Wolli Creek. The site is situated within R4 High Density Residential zone pursuant to the provisions of Bayside Local Environmental Plan 2021. An extract from the Land Zoning Map is provided in Figure 1.
- The site adjoins single storey dwelling houses on regular lots to the eastern and western sides fronting Innesdale Road and to the rear which fronts Flora Street. The proposed development is consistent with the emerging amalgamation pattern and retains three lots to the east fronting Nos. 39, 41 and 43 Innesdale Road.

- The site is located within a priority area (special precinct) which was a State initiative included in the Bayside Local Environmental Plan 2011 and Rockdale Development Control Plan 2011. The precinct was strategically planned for urban expansion. The evolving redevelopment pattern of the area is currently well underway with the amalgamation of lots and numerous development applications lodged with Council.
- The area earmarked for urban redevelopment extended from the Cahill Park along the Cooks River being regional open space to further south crossing over West Botany Street and down to Wickham Street. The plan included a high density residential R4 zone and was expected to have an increase in over several thousand residents in the area all having walking distance to Wolli Creek Station and the Cooks River Parklands. The concept did not include specific amalgamation plans as the market would see properties taken up respond to the provisions in the Rockdale Development Control Plan including lot isolation and minimum frontage requirements for residential flat buildings.
- The site is within 590 metres walking distance of Arncliffe Station and 200 metres of a bus stop on the Princes Highway which provides regular services to Newtown, Redfern Station and Sydney CBD to the north and Rockdale, Kogarah and Miranda to the south. The International Airport (Kingsford Smith) is approximately 800m to the east of the subject site.
- The site is located in a precinct that contains a row of single storey dwellings houses most of which are already planned for consolidation and redevelopment. The subject site is located in the middle of the R4 High Density Residential Zone. It is a redeveloping area following a recent rezoning. The area is characterised by various types of dwellings, including the older single storey dwellings on the southern side of Innesdale Road and large multi storey residential flat buildings on much of the northern side. Although the precinct contains a mixture of land uses, the site is within and surrounded by the R4 High Density Residential zone and further to the east and west the B4 Mixed Use zone which is expected to occur overtime.
- Notable developments in proximity to the site include the Novotel Hotel significantly upgraded in the last 5 years to the east fronting Marsh Street, Cahill Gardens mixed use development adjacent to Cahill Park to the north and closer to the site are multi storey residential flat buildings on the northern side of Innesdale Road. Further to the east is the "Cooks Cove", a precinct yet to be redeveloped and further east the Kingsford Smith Airport on the opposite side of the Cooks River. To the west on the opposite side of West Botany Street and then further again to the west on the opposite side of the Princes Highway are industrial land uses on a range of lot sizes. These properties have also been rezoned to B4 Mixed Use. Redevelopment in the precinct is slowly being taking up around the site on land that has been re-zoned to R4 High Density Residential. The rezoning has increased the applicable building height and FSR development standards under the Bayside LEP 2021.
- The site is in a design excellence area and as such, more sustainability initiatives are proposed (e.g., rooftop solar panels) as part of the upzoning LEP and DCP critically applying to the site. The plans do not include EV charging systems within the basement parking levels. A condition shall be imposed requiring a minimum number of car parking spaces to be equipped with EV chargers with other spaces having the conduits and future provision for EV chargers. Subject to conditions, the application is subject to the provisions requiring the 'design excellence' under the BLEP 2021.

2. THE PROPOSAL AND BACKGROUND

2.1 The Proposal

The proposal is for the demolition of the existing structures and construction of four (4) x eight (8) storey residential apartment buildings comprising 196 apartments including 98 residential apartments and 98 affordable housing units over three (3) levels of basement parking. The proposal does not involve any strata subdivision of the site. The allotment at No.15 Innesdale Road is within 800m of a railway station and thus the entire site is within an accessible area under the SEPP (Housing) 2021. The proposal therefore benefits from the provisions of the SEPP, which offers a bonus FSR of 0.5:1.

The development is comprised of four buildings (Buildings A & B – two attached residential buildings and Buildings C & D – two attached affordable housing buildings). Buildings A & B contain 98 residential apartments and are spread over the properties at Nos. 15-25 Innesdale Road. Buildings C & D contain 98 infill affordable apartments and are spread over the properties at Nos. 27-37 Innesdale Road with the area between the two buildings containing common open landscaped area. The breakdown of the 98 units in each building is 24 x 1 bedroom, 56 x 2 bedroom and 18 x 3 bedroom units.

The development includes 12 units per floor in each attached building on the ground floor (24), 14 units per floor in each attached building on levels 1 to 3 (84) and 11 units per floor in each attached building on levels 4 to 7 (88). This results in a total of 196 units on the site. The roof top terrace contains communal open space with seating, barbeque areas, landscape elements and a pergola / roof above.

The SEE submitted with the application indicates the proposal will contain 3,065.6m² of communal open space on the ground floor and roof top levels and 882.1m² of landscaped deep soil area on the ground floor.

The three (3) basement car parking levels will contain 226 car parking spaces including waste rooms, storage rooms, loading bay and bicycle parking spaces. The basement parking has a double driveway ramp direct from Innesdale Road located centrally for each of building, with one for buildings A and B and one for buildings C and D.

The key development data is provided in **Table 1**.

Table 1: Development Data

Control	Proposal
Site area	6,282.1m ²
GFA	16,995.69m ²
FSR (Residential)	2.7:1 (2.2:1 plus bonus 0.5:1 under the SEPP)
Clause 4.6 Requests	Yes – Height of Buildings – 27.7m variation of 1.19m or 4.49% variation at the roof top terrace roof
No of apartments	196 (including 98 affordable)
Max Height	27.7m

Landscaped area and Deep Soil area	3,024.8m ² - landscaped area = 48% (SEPP) 2,227.9m ² – landscaped area = 35.38% (BLEP) 1,396.1m ² – deep soil area = 22.18% (BLEP) 882.1m ² – deep soil area = 14% (based on ADG)	
Common open space	3,065.6m ²	
Setbacks	Ground to level 3 Front – 5m Sides – 6m Rear – 6m	Levels 4 to 7 Front – 8m Sides – 9m Rear – 9m
Car Parking spaces	Total car parking spaces – 113 x 2 = 226 In each attached building: 10 visitor spaces, 1 loading bay and 2 dedicated car wash bays on the mezzanine level, 48 car parking spaces with loading bay, 28 bicycle parking spaces on basement level 1, 55 car parking spaces with 8 motorbike spaces and 20 bicycle parking spaces on basement level 2	



Figure 3: Photomontage of the proposed development viewed from Innesdale Road

2.2 Background

The development application was lodged on 10 November 2022. A chronology of the development application since lodgement is outlined below including the Panel's involvement (briefings, deferrals etc) with the application:

Table 2: Chronology of the DA

Date	Event
10 November 2022	DA lodged

30 November 2022	Exhibition of the application
22 November 2022	DA referred to external agencies
14 December 2022	Referral to the Bayside Traffic Development Advisory Committee
15 February 2023	Email requesting additional information and identifying issues of concern from Council to applicant
7 March 2023	Discussions with Regional Panel chair
6 April 2023	Referral to the Design Review Panel
13 April 2023	Panel briefing held
16 May 2023	Plans and information lodged in response to Council's email to the applicant
18 May 2023	Request for Information from Council to applicant
22 May 2023	Request for information from Council to applicant
20 June 2023	Amended plans received from the portal including stormwater information, architectural and landscape plans. Still awaiting the stormwater plans revision G accepted by Council under Clause 38(1) of the <i>Environmental Planning and Assessment Regulation 2021</i> ('2021 EP&A Regulation') on 20 June 2023.
27 June 2023	Stormwater plans received by Council
28 June 2023	Final referral responses received from Council's Development Engineer and Landscape Architect
29 June 2023	Assessment Report and revised Consent Conditions finalised by Council and referred to management for consideration
4 July 2023	Assessment Report and Consent Conditions edited and finalised by Council and forwarded to the Regional Panel for consideration
18 July 2023	Date of Regional Panel Meeting

2.3 Site History

In summary, the site has a history of the following applications with Council:

- DA-2021/638 - Integrated Development - Demolition of existing structures, removal of trees, construction of two (2) x nine (9) storey residential flat buildings comprising of 76 apartments (including 15 affordable apartments) with basement car parking – Withdrawn on 6 June 2022.
- DA DA-2021/639 - Integrated Development - Demolition of existing structures, removal of trees and construction of two (2) x nine (9) storey residential flat buildings comprising of 104 apartments (including with 42 affordable apartments) and two levels of basement car parking – Withdrawn on 6 June 2022.

- PDA-2021/21 - Demolition of existing structures and construction of two (2) eight (8) storey residential flat buildings – Letter issued on 16 July 2021.
- PDA-2021/22 - Demolition of existing structures and construction of two (2) eight (8) storey residential flat buildings – Letter issued on 29 June 2021.

Prior to DA-2021/638 and 639 being lodged with Council on 12 January 2022 previous applications for the dwellings on the subject site involved various individual applications for dwelling houses and alterations and additions thereto, including a carport, dating back to the early 1990s.

Development application (DA-202/329) the subject of this report, includes the amalgamation of both properties that were the subject of the two previous development applications lodged with Council (DA-2021/638 and DA-2021/639). The applicant withdrew both applications and lodged a combined application to ensure that the entire site is within an “*accessible area*” as defined under the SEPP (Housing) 2021. As such, the applicant confirmed the entire scheme can benefit from the increased floor space ratio (FSR) control (0.5:1) that applies to developments with a minimum provision of 50% affordable housing rather than a reduced benefit of additional FSR.

The two letters for the pre-development applications (PDA-2021/21 and PDA-2021/22) were discussed with the applicant prior to the previous two development applications for the redevelopment of the entire site. A summary of the key issues in both the pre-development applications are outlined below:

- FSR benefits and the definition of “accessible area”
- Streetscape and Urban Design – increased architectural embellishment required to differentiate both buildings
- Car parking
- The Apartment Design Guide requirements
- Car Parking
- Special Infrastructure Contribution
- Design Excellence
- Landscaping and Trees

3. STATUTORY CONSIDERATIONS

When determining a development application, the consent authority must take into consideration the matters outlined in Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* (‘EP&A Act’). These matters as are of relevance to the development application include the following:

- (a) *the provisions of any environmental planning instrument, proposed instrument, development control plan, planning agreement and the regulations*
 - (i) *any environmental planning instrument, and*
 - (ii) *any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*
 - (iii) *any development control plan, and*

- (iiia) *any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and*
- (iv) *the regulations (to the extent that they prescribe matters for the purposes of this paragraph), that apply to the land to which the development application relates,*
- (b) *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- (c) *the suitability of the site for the development,*
- (d) *any submissions made in accordance with this Act or the regulations,*
- (e) *the public interest.*

These matters are further considered below.

It is noted that the proposal is considered to be (which are considered further in this report):

- Integrated Development (s4.46) – WaterNSW - Water Management Act
- Requiring concurrence/referral (s4.13) – Sydney Airport Corporation Ltd

3.1 Environmental Planning Instruments, proposed instrument, development control plan, planning agreement and the regulations.

The relevant environmental planning instruments, proposed instruments, development control plans, planning agreements and the matters for consideration under the Regulation are considered below.

(a) Section 4.15(1)(a)(i) - Provisions of Environmental Planning Instruments

The following Environmental Planning Instruments are relevant to this application:

- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*
- *State Environmental Planning Policy (Housing) 2021*
- *State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development*
- *State Environmental Planning Policy (Planning Systems) 2021*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *Bayside Local Environmental Plan 2021;*

A summary of the key matters for consideration arising from these State Environmental Planning Policies are outlined in **Table 3** and considered in more detail below.

Table 3: Summary of Applicable Environmental Planning Instruments

EPI	Matters for Consideration	Comply (Y/N)
State Environmental Planning Policy	Chapter 2: Vegetation in non-rural areas The proposal will not exceed the clearing threshold on an area of native vegetation, is not located on the	Yes

(Biodiversity & Conservation) 2021	Biodiversity Values map and will not have a significant impact on the threatened species or threatened ecological communities.	
BASIX SEPP	Two BASIX certificates have been submitted to address the requirements of this clause. Cert No. 1329966M_03 for the affordable housing units and Cert No. 1330356M_02 for the residential apartments. No compliance issues identified subject to imposition of conditions on any consent granted.	Yes
State Environmental Planning Policy (Housing) 2021	<p>Chapter 2: Affordable Housing Part 2, Division 1: In-fill Affordable Housing The provisions relating to infill affordable housing apply to the site and the proposal does not involve the Land and Housing Corporation. The proposal shall fall within the income rates specified in clause 13 of the SEPP.</p> <p>The proposal complies with the requirements of clauses 13, 15 and 17 of Chapter 2 as specified in the tables in Attachment B. However, the proposal contains a minor departure from the deep soil and the solar access requirements outlined in clause 18 of the SEPP. Please refer to Attachment B for more information.</p> <p>Chapter 3: Diverse Housing Secondary dwellings, Group Homes, Co-living housing, build-to-rent housing, Housing for Seniors and people with a disability, short-term rental accommodation, manufactured home estates and caravan parks.</p>	<p>No – However, acceptable departures from the deep soil and solar access requirements.</p> <p>N/A</p>
SEPP 65 - Design Quality of Residential Apartment Development	<ul style="list-style-type: none"> • Clause 30(1) - The proposal is consistent with the relevant requirements set out in the ADG in relation to car parking, communal open space, landscaped area, building separation, visual privacy, ventilation, apartment size, and so on. The proposal does not comply with the solar access requirements, and this is discussed in more detail later in this report. • Clause 30(2) - Design Quality Principles - The proposal is consistent with the design quality principles espoused under Schedule 1 of the and the objectives in the ADG. 	No – However, acceptable departure from the solar access requirements.
State Environmental Planning Policy (Planning Systems) 2021	<p>Chapter 2: State and Regional Development</p> <ul style="list-style-type: none"> • Section 2.19(1) declares the proposal regionally significant development pursuant to Clause 2 of Schedule 6 as it comprises development that has a capital investment value of more than \$30 million. • Section 3.10 – declaration as regionally significant development • The proposed development has been considered and is acceptable on the site in this regard. 	Yes
SEPP (Resilience & Hazards)	Chapter 4: Remediation of Land	Yes

	<ul style="list-style-type: none"> Section 4.6 - Contamination and remediation has been considered in the Contamination Report and the proposal is satisfactory subject to conditions. 	
Proposed Instruments	No compliance issues identified.	Yes
Bayside LEP 2021	<ul style="list-style-type: none"> Clause 2.3 – Permissibility and zone objectives Clause 4.3 – Height of Buildings Clause 4.4 – Floor Space Ratio Clause 5.21 – Flood Planning Clause 6.1 – Acid Sulfate Soils Clause 6.2 – Earthworks Clause 6.3 – Stormwater and WSUD Clause 6.7 – Airspace Operations Clause 6.10 – Design Excellence Clause 7.1 - Special Infrastructure Contribution 	Yes – Apart from Height of Buildings (clause 4.3) Refer to the clause 4.6 variation addressed below and Stormwater requirements
Rockdale DCP 2011	<ul style="list-style-type: none"> - 4.1.9 - Lot Size and Consolidation - 4.4.5 - Overshadowing - 4.4.5 - Visual and Acoustic Privacy - 4.4.7 - Wind Impact - 4.5.2 - Social Equity Equitable Access - 4.7 - Site Facilities <p>For information on Section 7.7 Arncliffe and Banksia Special Precinct please refer to Attachment B.</p>	Yes

Consideration of the relevant SEPPs is outlined below.

State Environmental Planning Policy (Biodiversity and Conservation) 2021

The proposal has been considered in respect to the requirements of the SEPP (Biodiversity and Conservation). The site is not located within the Biodiversity area map and the proposal will not remove any threatened species or threatened ecological communities. The proposal will involve the removal of 24 of the existing 27 trees from the site and retain three trees on the site, two trees within Council's nature strip and one tree adjacent to the rear property boundary on an adjoining property to the south. An arborist report has been submitted with the application and this is addressed later in this report.

Accordingly, the proposal complies with the requirements of the SEPP and is acceptable in this regard.

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

State Environmental Planning Policy – Building Sustainability Index BASIX– 2004 ('BASIX SEPP') applies to the proposal. The objectives of this Policy are to ensure that the performance of the development satisfies the requirements to achieve water and thermal comfort standards that will promote a more sustainable development.

The application is accompanied by BASIX Certificate Nos. 1329966M_03 for the affordable housing units and Cert No. 1330356M_02 for the residential apartments prepared by Efficient Living Pty Ltd dated 16 September 2022 committing to environmentally sustainable measures. The Certificate demonstrates the proposed development satisfies the relevant water, thermal

and energy commitments as required by the BASIX SEPP. The proposal is consistent with the BASIX SEPP subject to the recommended conditions of consent.

State Environmental Planning Policy (Housing) 2021

The provisions of chapter 2 of State Environmental Planning Policy (Housing) 2021 ("*SEPP (Housing) 2021*") apply to affordable housing and have been considered in the assessment of this application. In particular, clauses 17 and 18 of the SEPP (Housing) 2021 apply to the scheme. Clause 17 applies a floor space ratio control as per the Bayside LEP 2021 (2.2:1) with an additional bonus FSR of 0.5:1 when the proposal has 50% of the gross floor area for affordable housing. Clause 18 applies the non-discretionary development standards to the proposal, which include minimum landscaped area, deep soil zones, solar access and car parking requirements for this form of development. The proposal contains a minor departure of 1% from the minimum 15% deep soil area requirement and 70.4% of units having 2 hours of natural light instead of the minimum 3 hours of direct solar access required. In this regard, the proposal is not considered unreasonable given the ample provision of open space and common areas on the site and the orientation of the site. Please refer to Attachment B for more information in respect to these non-compliances.

Clauses 13 and 15 of the SEPP have been considered and have been addressed through the imposition of conditions of development consent.

For more information on this SEPP, please refer to the compliance table in Attachment B in respect to the assessment of the proposal under clauses 13, 15, 17 and 18 of the SEPP (Housing) 2021.

Given the above, the proposal generally complies with and is acceptable in respect to the above requirements stipulated within clauses 13, 15, 17 and 18 of the SEPP (Housing) 2021.

State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development

The proposal complies with the provisions of State Environmental Planning Policy No. 65 ("*SEPP 65*") apart from clause 4A which relates to solar and daylight access requirements for new residential flat buildings.

The proposal has been considered in respect to SEPP 65, and in particular, clause 4A of the SEPP which, similar to clause 18 of SEPP (Housing) 2021, requires a minimum of 70% of units with a minimum of 3 hours of direct solar access. The proposal will provide 70.4% of units having 2 hours of natural light instead of the minimum 3 hours of direct solar access required. In this regard, it appears that 122 of the apartments (total for both buildings) comply with a minimum of 3 hours direct natural light which represents 122/196 or 62.2%. In this regard, the proposal represents a deficiency of 7.8% from the standard or approximately 15 of the 196 units.

The proposal is not considered unreasonable given the orientation of the subject site, the design and layout of the units across each building and that a percentage of the units without direct solar access is unavoidable. In this regard, the proposal is not considered to be unreasonable and represents a minor departure from the standard. The proposal is consistent with the objectives of the SEPP and Council's DCP in relation to solar access.

For more information on this SEPP and the advice of the Design Review Panel (DRP) in relation to the scheme, please refer to the compliance table in Attachment B in respect to the

assessment of the proposal under the SEPP 65 – Design Quality of Residential Apartment Development.

State Environmental Planning Policy (Planning Systems) 2021 ('Planning Systems SEPP')

Chapter 2: State and Regional Development

The proposal is *regionally significant development* pursuant to Section 2.19(1) as it satisfies the criteria in Clause 2 of Schedule 6 of the Planning Systems SEPP as the proposal is development for that has a capital investment value of more than \$30 million. Accordingly, the Sydney City East Planning Panel is the consent authority for the application. The proposal is consistent with this Policy.

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 4: Remediation of Land

The provisions of Chapter 4 of *State Environmental Planning Policy (Resilience and Hazards) 2021 ('the Resilience and Hazards SEPP')* have been considered in the assessment of the development application. Section 4.6 of Resilience and Hazards SEPP requires consent authorities to consider whether the land is contaminated, and if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out. In order to consider this, two reports were prepared for the site which included the 'Geotechnical Investigation' (E25318.G03) dated 19 September 2022 and the Acid Sulfate Soil Management Plan' (E25318.E14_Rev3) dated 12 December 2022. (ASSMP) which were both prepared by EI Australia.

Acid Sulfate Soils

The sites are located in Class 3 acid sulfate soils. Intrusive sampling was undertaken for the Geotechnical Investigation. Testing showed that potential acid sulfate soils are located within natural soil layers from 0.6m bgl and below. Greater than 1,000 tonnes of soils will be disturbed and therefore an acid sulfate soil management plan is required. This has been provided. Management of the pH of the groundwater will be required and this must be undertaken in accordance with Section 7.62 of the ASSMP.

Contamination

It is noted that the borehole logs for the geotechnical report do not show any indicators of contamination (i.e., anthropogenic material or ash or slag) and that all the existing lots are 1-2 storey dwelling houses. The sites are not listed as potentially contaminated on Councils information system and have been used for residential purposes since the 1943 aerial. In this regard, it is clear that the sites appear to have been historically used for residential purposes, and there is a low likelihood of contamination. Further assessment of contamination is therefore not required at this stage.

Four boreholes were converted to groundwater monitoring wells with the groundwater level found to be at 1.70 to 2.50m begl (RL 0.05m to -1.70m AHD). As the groundwater is above the bulk excavation level (BEL) and the basement carpark, temporary dewatering during construction will be required with the groundwater table to be maintained at a depth of approximately 1.0m below the BEL, and locally deeper around lift pits. Tanking of the

basement will be required as permanent dewatering is not permitted without appropriate licensing and quantity allocation for the aquifer.

The reports conclude that the site can be made suitable for the proposed residential development subject to conditions of consent. Based on the above, the proposal is acceptable subject to the imposition of conditions relating to dewatering of the site, acid sulfate management plan, any contamination found during building works, any excavated materials and monitoring of the site. Should the application be approved, conditions shall be imposed in this regard. The proposal is considered to be consistent with SEPP 55, subject to imposition of relevant conditions of consent in relation to remediation works during construction on any consent granted.

Bayside Local Environmental Plan 2021

The relevant local environmental plan applying to the site is the *Bayside Local Environmental Plan 2021* ('the LEP'). The relevant aims of the Bayside LEP include the following:

- (b) to provide high quality open space areas and recreational facilities,*
- (c) to reduce community risk and improve resilience to, and from, urban and natural hazards,*
- (d) to encourage sustainable economic growth and development in Bayside,*
- (e) to create a liveable urban place through the application of design excellence in all elements of the built environment and public domain,*
- (f) to encourage diversity in housing to meet the needs of, and enhance amenity for, Bayside residents,*
- (g) to encourage walking, cycling and use of public transport through appropriate intensification of development densities surrounding transport nodes,*
- (g) to encourage walking, cycling and use of public transport through appropriate intensification of development densities surrounding transport nodes,*
- (h) to encourage development that demonstrates efficient and sustainable use of energy and resources in accordance with ecologically sustainable development principles, and*
- (j) to increase urban tree canopy cover and enable the protection and enhancement of green corridor connections.*

The proposal is consistent with these aims as the proposal will involve high quality open space areas, reduce risk from natural hazards, encourage sustainable economic growth, create a livable urban place through design excellence, provide a diversity of housing, encourage walking, cycling and use of public transport, encourage energy efficient development that uses sustainable energy and usable landscaped areas. It will also enhance and increase the urban tree canopy cover and demonstrate efficient and sustainable use of energy and resources.

Zoning and Permissibility (Part 2)

The site is located within the R4 High Density Residential Zone pursuant to Clause 2.2 of the Bayside LEP 2021.

According to the definitions in Clause 4 (contained in the Dictionary), the proposal satisfies the definition of a *residential flat building* which is a permissible use with consent in the Land Use Table in Clause 2.3. The use is permissible in the R4 High Density Residential zone which applies to the site.

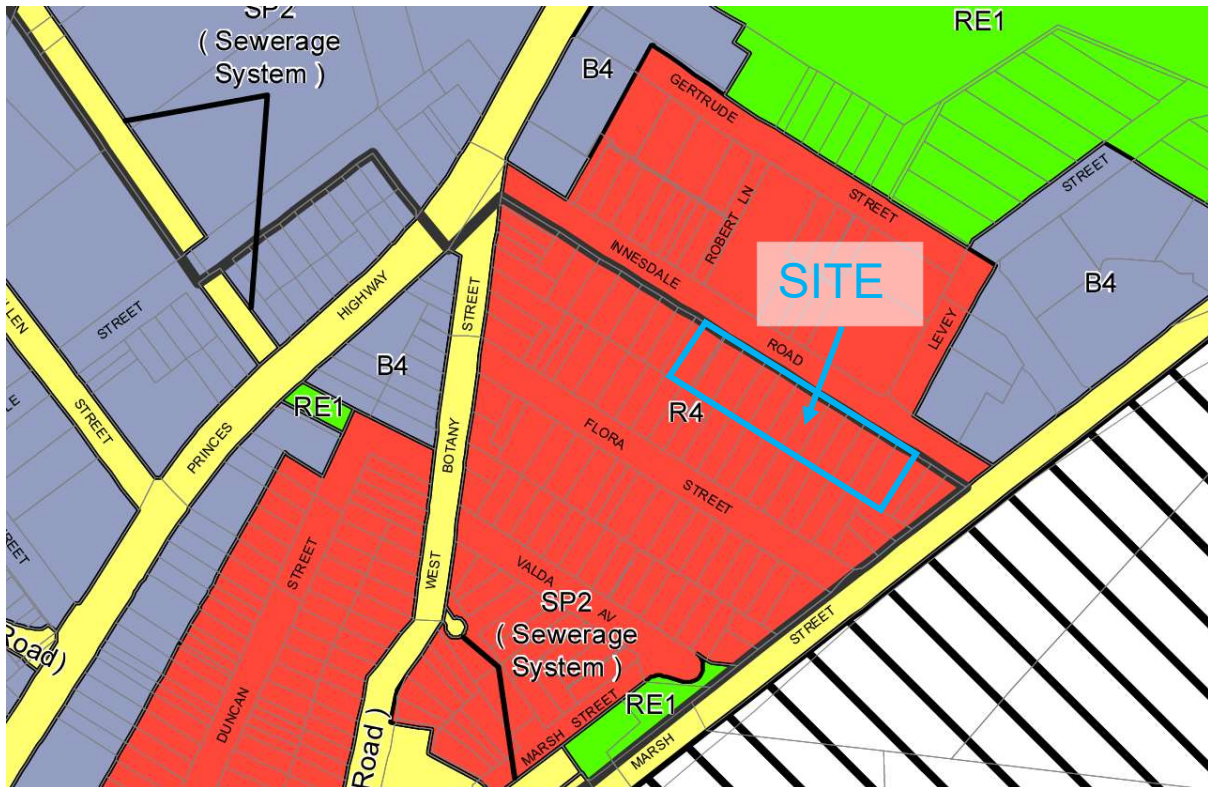


Figure 4: Extract of the zone map of the Site from the Bayside LEP 2021

The objectives of the R4 High Density Residential zone include the following (pursuant to the Land Use Table in Clause 2.3):

- *To provide for the housing needs of the community within a high-density residential environment.*
- *To provide a variety of housing types within a high-density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To ensure land uses are carried out in a context and setting to minimise impact on the character and amenity of the area.*
- *To enable residential development in accessible locations to maximise public transport patronage and encourage walking and cycling.*

The proposal is considered to be consistent with these zone objectives for the following reasons:

- The proposal will include additional high density residential housing for the community in an appropriate precinct.
- The proposal will include a variety of housing types.
- The residential development will meet the needs of the occupants of the precinct.
- The proposal has an appropriate design that is in context with the character and amenity of the area.
- The residential development will maximise the use of public transport and encourage walking and cycling.

General Controls and Development Standards (Part 2, 4, 5 and 6)

The Bayside LEP also contains controls relating to development standards, miscellaneous provisions and local provisions. The controls relevant to the proposal are considered in **Table**

4 below and for more detail, are listed in the compliance table in **Attachment B**. The proposal does not comply with the development standard in Part 4 of the Bayside LEP being Clause 4.3 in relation to building height and accordingly, a Clause 4.6 request has been provided with the application for the exceedance of the maximum height control of 26.5m.

Table 4: Consideration of the LEP Controls

Control	Requirement	Proposal	Comply
Permissibility and zone objectives (Clause 2.3)	Residential Flat Building	A residential flat building is permissible within the R4 High Density Residential zone The use is consistent with zone objectives	Yes
Height of buildings (CI 4.3(2))	26.5 metres	27.7m or a variation of 1.2m for each building (representing a variation of 4.5%)	No – a clause 4.6 variation has been submitted – See Clause 4.6 below for more information
FSR (CI 4.4(2))	2.2:1 (13,848.34m ²) SA: 6,294.7m ²	2.7:1 (16,984m ²) – Note the proposal benefits from the FSR provisions of SEPP (Housing) 2021	No – benefits from SEPP (Housing) 2021
Heritage (CI 5.10)	Heritage Conservation	The site does not contain any items of environmental heritage and is not located in a conservation area	N/A
Flood Planning (CI 5.21)	The development is to address the flooding constraints of the site and minimise impacts on the site and adjoining properties.	The application was referred to Council's Development Engineer who advised that the proposed building complies with the flood planning requirements apart from the driveway crest for the basement level. This can be addressed through the imposition of conditions of consent.	Yes – (Deferred commencement conditions imposed in respect to the driveway crest level and profile that can comply with Council's DCP).
Acid sulphate soils (CI 6.1)	Class 3 Acid Sulfate Soils applies to the site	An acid sulfate soil report was submitted with the application and found to be acceptable subject to conditions	Yes
Earthworks (CI 6.2)	The proposal includes earthworks for the	Geotechnical assessment has been submitted and	Yes

	basement parking levels.	assessed and is acceptable subject to conditions	
Stormwater Management (CI 6.3)	Stormwater management system shall be provided to avoid adverse impacts on the land and adjoining properties, waterways and ground water systems	Stormwater plans were submitted and referred to Council's Development Engineer who stated they were inadequate and not consistent with the architectural and landscape plans – new plans required to be submitted prior to activation of the consent (deferred development conditions to be imposed)	No – (Deferred commencement conditions imposed in respect to resubmitting a stormwater plan and WSUD details that can comply with Council's DCP).
Development in areas subject to Airspace Operations (CI 6.7)	The site is located within 15.23m Civil Aviation Building Height Restriction	The proposal has a height of 27.7m and exceeds the 15.23m height limitation. The application was referred to SACL who advised that the proposal is acceptable subject to conditions being imposed.	Yes
Design Excellence (CI 6.10)	This clause lists specific items for Council to consider for developments located within the Design Excellence area. The proposal is subject to the provisions of this clause by virtue of its location in the Arncliffe / Banksia Precinct - Design Excellence.	The application was considered by the DRP who responded by supporting the scheme and confirming that it exhibits design excellence.	Yes
Special Infrastructure Contribution (CI 7.1)	Intensive urban development requires public utility infrastructure to be available or satisfactory arrangements made in this regard.	The SIC applies to the site. Accordingly, a condition of consent has been imposed in this regard.	Yes – addressed through a condition of consent

The proposal is considered to be generally consistent with the provisions of the Bayside LEP 2021.

Clause 4.6 Request for a variation

The height of each of the proposed buildings is 27.7m (RL 30.2m to the top of the lift overrun and adjacent awning on the roof top terrace level) which exceeds the maximum 26.5m height permitted in Clause 4.3 (Height of buildings) of RLEP 2011. This represents a variation of 1.2m or 4.5% from the maximum height control. The variation to the height control relates to the lift overrun and providing access to the roof terrace, including stair access to this space, as shown in Figure 4 as detailed below:

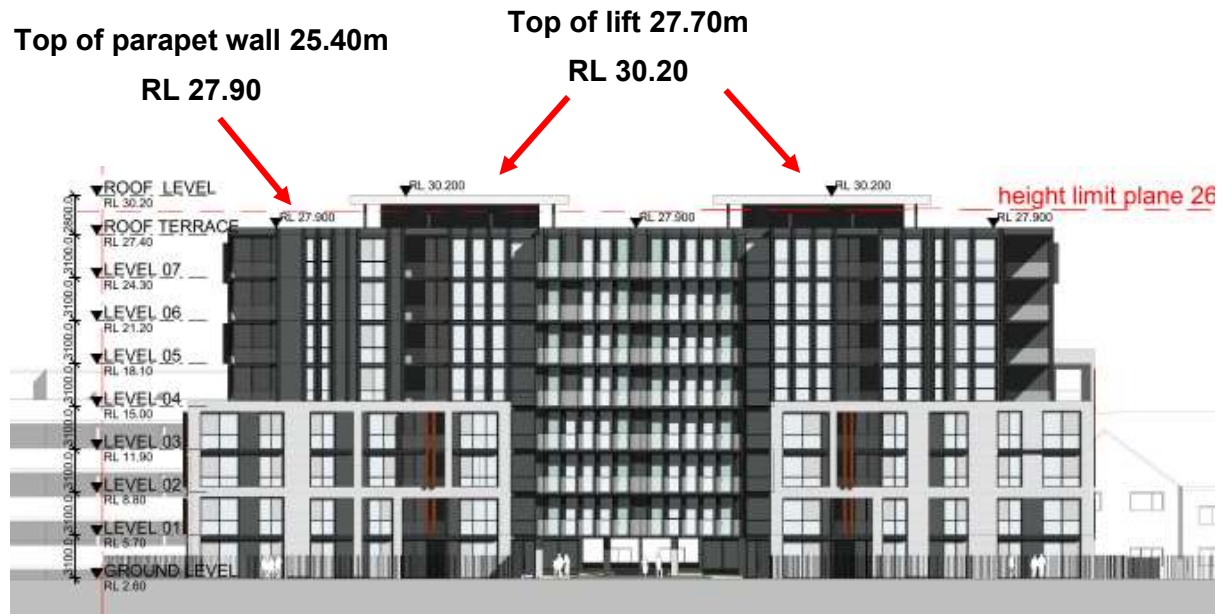


Figure 5 – South elevation plan (residential building) showing the height breach at the lift overrun

The applicant has submitted a detailed justification to the proposed variation of the height standard in accordance with Clause 4.6 of RLEP 2011. A summary of the key rationale provided by the applicant includes:

- Compliance with the development standard would be unreasonable and unnecessary in the circumstances because the proposal achieves the objectives of the development standard;
- The proposal, notwithstanding the variation, is in the public interest because it achieves the objectives of the development standard and is consistent with the objectives of the R4 High Density Residential zone and there is no public benefit in maintaining the standard;
- The variation does not raise any matter of State or Regional Significance and the proposed development meets the relevant objects of the Environmental Planning and Assessment Act 1979, in that it promotes the orderly and economic use of the land and good design and amenity of the built environment;
- By rearranging the building massing and ensuring the variation to the height control is centrally located within the building envelope, the development achieves better urban design outcomes overall and therefore there are sufficient environmental planning grounds to justify the contravention;

- The proposed building height is compatible with neighbouring developments, complementing the residential flat buildings surrounding the site, including the seven (7) to thirteen (13) storey shop top housing development at 40 Levey Street.
- Except for the lift overruns and infrastructure which provides weather protection and amenity for users of the rooftop communal open space, the building and all the habitable floorspace is located below the maximum building height.
- The proposed development has been carefully massed to ensure that the height variation is located centrally within the building envelope which ensures that it causes no adverse impacts to views and ensures that adequate solar access is maintained to adjoining developments.

Preconditions to be satisfied

Clause 4.6(4) of the LEP establishes preconditions that must be satisfied before a consent authority can exercise the power to grant development consent for development that contravenes a development standard. Clause 4.6(2) provides this permissive power to grant development consent for a development that contravenes the development standard is subject to conditions.

The two preconditions include:

1. Tests to be satisfied pursuant to Cl 4.6(4)(a) – this includes matters under Cl 4.6(3)(a) and (b) in relation to whether the proposal is unreasonable and unnecessary in the circumstances of the case and whether there are sufficient environmental planning grounds to justify contravening the development standard and whether the proposal is in the public interest (Cl 4.6(a)(ii)); and
2. Tests to be satisfied pursuant to Cl 4.6(b) – concurrence of the Planning Secretary.

These matters are considered below for the proposed development having regard to the applicant's Clause 4.6 request:

Planner's Comment:

The applicant's rationale is agreed with, and the proposal is found to satisfy the tests under clause 4.6 of Bayside LEP 2021. The proposed 27.7m building height may be 1.2m above the maximum of 26.5m however, this is limited to the pergola on the roof and the lift overrun on the top of each building. In this regard, the development is largely the same height and similar in intensity to other examples of buildings approved in the area.

The applicant has provided some arguments that justify the contravention of the standard. These include appropriate amenity outcomes, enhanced design of bulk and aesthetics that contribute to the area, that the specific location of the non-compliance is barely visible given the building complies with the remaining controls applying to the site and that the environmental capacity of the land is not exceeded. The arguments provided that strict compliance with the standard would result in a less satisfactory outcome for the site, reduced environmental capacity and make no discernible difference in respect to impacts have also been considered.

The proposed area of height non-compliance is not considered to result in a size or scale of development that is incompatible with the desired future character of the locality. The proposed rooftop structures are directly correlated to the design, function and intended use of the rooftop communal open space area which forms an integral part of the proposed development.

The subject site is constrained as a result of a flooding affectation. Accordingly, the ground level of the development is required to be raised in order to provide minimum habitable floor levels which will be above the flood level for the site. The flooding affectation is directly correlated to the additional height proposed in this instance. It is noted that in the event that the site was not subject to a flooding constraint the proposed development to the roof level would comply with the height limit for the site.

The proposal is satisfactory with regards to the setback requirements in the ADG and Council's DCP which set the envelope controls for the site, and which ensure that adequate landscape planting is provided within each setback. Based on the statements above, the arguments put forward in the applicant's written request confirm the proposal achieves the objectives of the standard notwithstanding the non-compliance. Accordingly, compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.

The applicant has made worthwhile points in relation to the variation to the building height standard and the proposal is found to be consistent with the objectives of this control.

Based on the above, strict compliance with the building height control is considered to be unreasonable and unnecessary in the circumstances of the case. The applicant has also demonstrated that there are sufficient environmental grounds to support varying the standard and the variation is in the public interest. The applicant's written statement is therefore found to adequately address the requirements of Clause 4.6 and consideration may be given to the requirements of Clause 4.6(4).

Accordingly, the information submitted by the applicant provides sufficient justification in supporting the non-compliant FSR and has addressed the matters that are stated within Clause 4.6(3) and should be supported.

(b) Section 4.15 (1)(a)(ii) - Provisions of any Proposed Instruments

There are no proposed instruments which have been the subject of public consultation under the EP&A Act, which are relevant to the proposal.

(c) Section 4.15(1)(a)(iii) - Provisions of any Development Control Plan

The following Development Control Plan is relevant to this application:

- *Rockdale Development Control Plan 2011* ('the DCP')

Notwithstanding the above, the Bayside Development Control Plan 2022 was draft at the time of lodgement of the application and has since come into force on 10 April 2023.

The following items were not considered under the previous environmental planning instruments and therefore are assessed under the DCP. For details of assessment pertaining to Section 7.7 Arncliffe and Banksia Special Precinct under the DCP, please refer to the compliance table in Attachment B.

4.1.9 Lot Size and Consolidation

A minimum lot width at the street frontage of 24m is required for residential flat buildings. The proposal residential flat development will have a combined frontage of 155.125m with half of

this being 77.56m for each of the two attached residential flat buildings. As such, the proposal complies with the minimum lot width requirement under this clause of the DCP.

4.4.5 Overshadowing

Access to natural light within the proposal was assessed previously under the two SEPPs previously in this report.

The proposal will result in overshadowing being cast to the southwest over at least 12 of the adjoining residential properties fronting Flora Street particularly during the morning hours up to midday. It is reiterated that the properties directly adjoining the subject site are zoned R4 and have the potential to be redeveloped for high-density development. Due to the orientation of the site and adjoining lots, some overshadowing is unavoidable.

Despite the above, the resulting shadow cast from the proposal will move towards the east in the afternoon allowing each dwelling and part of the rear yard to obtain at least 3 hours of direct solar access. Despite the size and height of the proposed development, the scheme is not considered unreasonable given the orientation of the site (being northeast and southwest). The variation to the height control is not likely to result in any significant or unreasonable increase in the likely shadow cast by the development to the southeast.

Based on the above, the proposal complies with the general controls in clause 4.4.5 of Council's DCP and is acceptable in respect to overshadowing in this regard.

4.4.5 Visual and Acoustic Privacy

The proposal includes two attached residential flat buildings which comply with the setback requirements of the ADG and Council's DCP. Given the compliant building setbacks on all elevations appropriate building separation can be achieved with the future redevelopment of properties to the rear and sides of the site. The communal open space area on the roof top terrace has additional setbacks which will limit the degree of overlooking and encourage looking out rather than down at the development on the adjoining properties and opposite the site.

While some overlooking may occur from the balconies of the proposed units in each building, particularly the upper levels, the proposed setbacks and landscaping elements are considered sufficient to reduce overlooking and privacy impacts to the sides and rear (south) to any significant degree.

Given the above, the proposal is considered to be satisfactory with respect to visual privacy.

The proposal comprises a total of 196 residential dwellings within the high-density residential zone and has a roof top terrace on each building which is setback from the front, sides and rear elevations. In this regard, the proposal is not likely to generate any significant additional noise impacts on the adjoining properties over and above what would normally be associated with a high-density residential development on the site. The proposal is not unlike neighbouring developments in respect to the high-density residential environment within the precinct.

Further to the above, an acoustic report prepared by Koikas Acoustics Pty Ltd dated 3 August 2022 considered aircraft noise, traffic noise and mechanical plant along with floors and wall insulation within the development in order to ensure the acoustic amenity of future occupants within the development is maintained. The proposal has been conditioned to ensure compliance with the requirements of the Building Code of Australia.

Given the above, the proposed development is considered to be satisfactory with regards to acoustic privacy.

4.4.7 Wind Impact

The application was accompanied by two Wind Reports prepared by SLR, dated November 2021. The consultant stipulated that in order to ensure tolerable wind conditions are achieved for all trafficable outdoor areas within and around the site, windbreak mitigation treatments are to be implemented on the site. In addition, the roof top terrace included an increase in balustrade heights.

With the inclusion of the recommendations within the final design of the development, the Wind Consultant advised that the overall effect of the proposal on the local wind microclimate with the wind mitigation treatments recommended, are predicted "to be not significant". As such, the areas around the development will be acceptable for their intended uses.

The proposal has been conditioned to ensure the above recommendations are implemented on site. Based on the above, the proposal complies with the requirements of this clause.

4.5.2 Social Equity Equitable Access

As per the requirements of this clause and as stipulated within the Building Code of Australia, a minimum of 10% of the units (10 in each attached building which contains 98 units) are to be adaptable (i.e., a total of 20) and 10 adaptable car parking spaces are required to be provided within the development, in addition to access to and within the development.

Plans indicate the provision of twenty (20) adaptable units, with a minimum of ten (10) in each attached building on levels 4 and 5. These involve units being capable of being converted into adaptable units and include the following:

- Residential: B.04.04, B.05.04, B.06.04 and B.07.04 & Affordable: D.04.04, D.05.04, D.06.04 and D.07.04 (see Plan DA7.01).
- Residential: B.04.05, B.05.05, B.06.05 and B.07.05 & Affordable: D.04.05, D.05.05, D.06.05 and D.07.05 (see Plan DA7.02).
- Residential: A.00.05 and B.00.02 & Affordable: C.00.05 and D.00.02 (see Plan DA7.03).

The proposal includes adaptable car spaces provided within the abetment parking levels for these units. Further to the above, level and equitable access is provided from the footpath within Innesdale Road to the lobby via a ramp direct to the internal lift core, with access also provided to the residential units above and the rooftop communal open space areas with one central lift core within each attached building.

Given the above and subject to conditions of consent, the proposal is satisfactory with regards to access.

4.7 Site Facilities

The proposal includes waste storage and recycle facilities, plant and service areas within the basement parking levels. Laundry and drying facilities and storage areas have been provided within the proposed apartments with some storage areas in the basement parking

levels. The lobby areas within each residential flat building will contain the letterboxes for the occupants of that building and be covered and secure.

Based on the above, the proposal complies with the requirements in section 4.7 of Council's DCP.

Contributions Plans

The following contributions plans are relevant pursuant to Section 7.18 of the EP&A Act and have been considered in the recommended conditions (notwithstanding Contributions plans are not DCPs they are required to be considered):

- Arncliffe and Banksia Local Infrastructure Contributions Plan 2020

This Contributions Plan has been considered and a recommended draft consent condition has been imposed pursuant to Section 7.11 of the Act for a contribution that has been levied for the provision or improvement of amenities and services in the area. The levy is based on the proposed development and requires payment of a contribution of \$3,680,000 to Council.

(d) Section 4.15(1)(a)(iia) – Planning agreements under Section 7.4 of the EP&A Act

There have been no planning agreements entered into and there are no draft planning agreements being proposed for the site.

(e) Section 4.15(1)(a)(iv) - Provisions of Regulations

Section 61 of the 2021 EP&A Regulation contains matters that must be taken into consideration by a consent authority in determining a development application, with the following matters being relevant to the proposal:

The proposal will involve the demolition of the existing improvements on the site. In this regard, the proposal will be required to comply with the provisions of AS 2601.

The Regulations were updated by the State Government of NSW on 17 December 2021 and came into force on 1 March 2022. The provisions of the Regulations include provisions of the previous regulations and updated provisions but have removed the provisions relating to fire safety for the construction of new buildings which are in a different instrument, namely the SEPP (Development Certification and Fire Safety 2021).

The applicant has submitted a Building Code Assessment report with the application prepared by East Coast Approvals Group Pty Ltd. A condition requiring all work to be compliant with the requirements of the BCA shall be imposed in the draft Notice of Determination.

All relevant provisions of the Regulations have been considered in the assessment of this application and are addressed in the recommended draft conditions (where necessary). Based on the above, the current proposal is consistent with the requirements of the Regulations 2021 and is acceptable in this regard.

4.5 Section 4.15(1)(b) - Likely Impacts of Development

The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality must be considered. In this regard, potential impacts related to the proposal have been considered in response to SEPPs, LEP and DCP controls outlined above and the Key Issues section below.

The consideration of impacts on the natural and built environments includes the following:

- Context and setting – The proposal has been designed to be generally consistent with the context of the site, in that the proposed two building forms relate well with the site and its location within the existing street block. The proposal is appropriate as a result of the zone of the land and future desired character of the precinct and its regional and local context. The proposal will contribute to the existing high density setting of the site and add to the diversity of styles in the area. The proposal will add to the character and amenity of the locality and existing streetscape along Innesdale Road, given its height, scale and form and resulting massing which is not unlike other high density developments in the precinct. The proposal will not dominate the precinct but add to the locality with a unique form and character that is aligned with the design future character of the precinct.
- Access and traffic – The proposal was referred to Council's Development Engineers and the Bayside Traffic Development Advisory Committee (BTDAC) for consideration. In this regard, the likely traffic to be generated was not considered excessive and can be accommodated within the surrounding street network. The site has close proximity to the nearest railway stations and the surrounding road network is capable of accommodating the anticipated increase in traffic generation.

The proposal is midway between with close proximity to the Wolli Creek and Arncliffe Railway Stations. The proposal complies with the on site car parking requirements in the ADG as well as the provision of motorcycle and bicycle parking facilities, visitor parking, loading bay and car wash facilities in accordance with Council's DCP 2011. The proposal was accompanied by a Traffic and Parking Report and has been assessed by Council's Development Engineers.

The proposal was considered and is not likely to result in any significant adverse amenity impacts in respect to road safety or the free flow of traffic within the surrounding road network. The entry and exit points have adequate sight distances along Innesdale Road with room for vehicles to pass and are acceptable. This is apart from the design having to comply with the flooding requirements of Council. In this regard, a Deferred Commencement Condition has been imposed in respect to the resubmission of plans to comply with Council's flooding requirements. Apart from this, the proposal is considered acceptable in respect to traffic and parking subject to the imposition of conditions of development consent. Conditions to be imposed relate to parking, access and the provision of spaces with electric vehicle (EV) charging points. Accordingly, the proposal is not likely to result in any adverse amenity impacts in respect to traffic and parking.

- Public Domain – As conditioned, the proposal is not likely to result in any adverse impacts on the public domain. In this regard, the proposal will contribute to the precinct by introducing a form and function that is consistent with the zone of the land and the objectives of the Wolli Creek precinct. The proposal steps down the site and allows light penetration to the adjoining lots to the south. The proposal will contribute to the public domain through the provision of well landscaped front setbacks along Innesdale

Road. The proposal presents well to the street and will be legible with good pedestrian access to each attached residential flat building.

- Utilities – the site currently has public utilities available. However, an increase in public utilities may be required for the increase in residential density on the site. Accordingly, a condition has been imposed on the draft consent requiring the provisions of clause 7.1 of the Bayside LEP 2021 be satisfied.
- Water/air/soil impacts – The site has a history of residential use and has a low likelihood of being contaminated. The proposal was referred to Council's Environmental Scientist who raised no objections to the proposal subject to the imposition of conditions of development consent. In addition, a Waste Management Plan was submitted with the application.
- Flora and fauna impacts – the proposal will include the provision of additional landscape planting while the site currently does not contain any trees or natural vegetation. The site does not contain any threatened species or ecological communities that will be impacted by the proposed development.
- Natural environment – The proposal will not involve any significant changes to the natural contours of the site and will provide compensatory plantings and well landscaped open space areas within all setbacks. The proposal will make a worthy contribution to the natural environment.
- Noise and vibration – the proposal will involve the excavation of the site in readiness for the proposed basement car parking levels. In this regard, the proposal will involve construction impacts which may affect the adjoining properties. This has been addressed through the imposition of conditions of development consent. The application was referred to Council's Development Engineer who raised no objections to the proposal subject to the imposition of conditions.
- Natural hazards – the site is affected by flooding and has been designed with finished floor levels and a driveway crest to comply with minimum flood planning levels. However, Council's Development Engineer has assessed the architectural plans, stormwater plans and flood levels and has found the plans do not correlate and have contradictions. In this regard, the latest stormwater plans show that the development can be built but require amendment in order to comply with the requirements in Council's DCP relating to stormwater and flooding. The flooding hazard has been addressed by the applicant however the plans do not adequately resolve the flooding issue. Despite this, the proposed stormwater plans can be revised to (including appropriate measures and comply with the GTAs from Water NSW). Accordingly, subject to the imposition of the conditions (including the deferred commencement conditions) the proposal can comply with Council's requirements and is acceptable in this regard.
- Safety, security and crime prevention – The proposal has employed CPTED Principles to increase security and pedestrian safety. Conditions have been imposed as requested by the NSW Police to increase these measures used in the proposed development.
- Social impact – the resulting development will add to the health and safety of the community in the provision of well landscaped private and communal open space for the residential development, provide a sense of place, community facilities on the roof

top terrace and increased social interactions between the occupiers of the new development and the surrounding community.

- Economic impact – the proposal will involve employment generation during the construction of the buildings along with economic benefits to the community with the provision of both residential and affordable housing in the long term for the precinct.
- Site design and internal design – the proposed development is arranged and set out appropriately on the site to minimise any potential impacts on the adjoining properties. The proposal complies with the setback and landscaping requirements and is largely commensurate with the future desired character of the precinct. In this regard, the internal design and site layout is appropriate for the site and no objections are raised in this regard.
- Construction – The potential impacts from the construction process have been adequately mitigated with the imposition of the draft conditions of development consent. The proposed demolition and construction works are restricted to specific hours on the site to minimise any significant disturbance to the residents on the adjoining and adjacent properties. Conditions have been imposed to ensure modern construction techniques are used to minimise the disturbance of land on the adjoining properties.
- Cumulative impacts – The proposal is not likely to result in any adverse cumulative impacts and has been designed with appropriate setbacks and building separation. The proposal is generally consistent with the planning controls applying to the land (apart from a minor height breach which is minimal) and is not likely to result in any adverse cumulative impacts on the site or adjoining properties.

Accordingly, it is considered that the proposal, as conditioned, is not likely to result in any significant adverse amenity impacts in the locality as outlined above.

4.6 Section 4.15(1)(c) - Suitability of the site

The proposal will result in a development that fits within the future desired character of the area. In this regard, the current uses on the adjoining properties are not prohibitive to the proposal. The proposed development will benefit from the existing services to the site being close to transport infrastructure and adjacent open space reserves. The site is affected by flooding and the proposal has been designed to cater for the anticipated flood levels. The application was referred to Council's Development Engineer who raised no objections to the proposal subject to the imposition of conditions.

The relevant matters pertaining to the suitability of the site for the proposed development have been considered in the assessment of the proposal. Additional conditions of consent are proposed to further minimise any impacts on neighbouring properties. There are no known major physical constraints, environmental impacts, natural hazards or exceptional circumstances that would hinder the suitability of the site for the proposed development.

4.7 Section 4.15(1)(d) - Public Submissions

These submissions are considered in Section 5 of this report.

4.8 Section 4.15(1)(e) - Public interest

The proposed development is in the interest of the public given the proposal will increase the supply of high-density housing in the precinct and satisfies the design excellence provisions of the Bayside LEP 2021. The proposed residential flat building will meet the needs of the community and contribute to the provision of housing both residential and affordable with a generally compliant design and minimal adverse amenity impacts on the surrounding residential precinct. The impacts of the scheme have been offset with the imposition of conditions of development consent and the proposal is consistent with the planning controls applying to the site. The proposed use is permissible within the R4 High Density Residential zone and will provide both economic and social benefits throughout construction and for the term of the life of the development.

The proposal will facilitate the provision of residential and affordable housing on the site and is consistent with the principles of Ecologically sustainable development. In this regard, the proposal will make a positive contribution to the site and is in the public interest.

5 REFERRALS AND SUBMISSIONS

5.4 Agency Referrals and Concurrence

The development application has been referred to various agencies for comment / concurrence / referral as required by the EP&A Act and outlined below in Table 5.

There are no outstanding issues arising from these concurrence and referral requirements subject to the imposition of the recommended conditions of consent being imposed.

Table 5: Concurrence and Referrals to agencies

Agency	Concurrence/ referral trigger	Comments (Issue, resolution, conditions)	Resolved
Concurrence Requirements (s4.13 of EP&A Act)			
Environment Agency Head (Environment, Energy & Science Group within DPIE)	S7.12(2) - <i>Biodiversity Conservation Act 2016</i>	The proposal is not likely to result in any significant adverse effects on threatened species or any threatened ecological communities in the vicinity of the site and accordingly, the proposal complies with the requirements of the Act. Concurrence is not required for the application.	N/A
Rail authority for the rail corridor	Section 2.98(3) - <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i>	The proposal does not involve the excavation of ground to a depth of at least 2m below ground level (existing) on land within, below or above a rail corridor. Concurrence is not required.	N/A

Sydney Airport Corporation Ltd (SACL)	Civil Aviation (Buildings Control) Regulations – Height striction to 15.24m	The application was referred to Ausgrid who on 31 November 2022 recommended approval subject to conditions being imposed on the development consent.	Yes
Referral/Consultation Agencies			
RFS	S4.14 – EP&A Act Development on bushfire prone land	Referral not required	N/A
Electricity supply authority	Section 2.48 – <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> Development near electrical infrastructure	The application was referred to Ausgrid who on 8 December 2022 recommended approval subject to conditions being imposed on the development consent.	Yes
Rail authority	Section 2.97 – <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> - Development land that is in or adjacent to a rail corridor.	Referral not required	N/A
Transport for NSW	Section 2.121 – <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> - Development that is deemed to be traffic generating development in Schedule 3.	The application was referred to TfNSW who on 1 December 2022 recommended approval with no conditions being imposed " <i>as the proposed development will have negligible impact on the classified road network.</i> "	Yes
Design Review Panel	CI 28(2)(a) – SEPP 65 Advice of the Design Review Panel ('DRP')	The application was referred to the DRP and on 6 April 2023 the DRP provided advice which has been referred to the applicant and considered in the amended scheme. The proposal has been amended and achieves design excellence in this regard. This is further discussed in the SEPP 65 assessment and the Key Issues section of this report.	Yes
Sydney Water	The proposal will involve the addition of 196 residential apartments. Accordingly, the DA was referred to Sydney Water.	The application was referred to Sydney Water who on 22 December 2022 recommended approval subject to conditions being imposed on the development consent.	Yes
NSW Police	The proposal will involve the addition of 196 residential apartments with part 2 / part 3	The application was referred to the NSW Police who on 9 January 2023 recommended approval	Yes

	basement parking levels. Accordingly, the DA was referred to the NSW Police.	subject to conditions being imposed on the development consent.	
Integrated Development (S 4.46 of the EP&A Act)			
RFS	S100B - <i>Rural Fires Act 1997</i> bush fire safety of subdivision of land that could lawfully be used for residential or rural residential purposes or development of land for special fire protection purposes	The proposal does not involve bush fire safety or subdivision of land.	N/A
Natural Resources Access Regulator	S89-91 – <i>Water Management Act 2000</i> water use approval, water management work approval or activity approval under Part 3 of Chapter 3	The application was referred to WateNSW who on 15 December 2022 responded with approval subject to conditions (GTAs) being imposed in the development consent.	Yes

5.5 Council Officer Referrals

The development application has been referred to various Council officers for technical review as outlined **Table 6**.

Table 6: Consideration of Council Referrals

Officer	Comments	Resolved
Engineering	<p>Council's Development Engineer reviewed the submitted flood management plan and stormwater plan and determined that amendments are required to comply with Council's DCP in respect to flooding and stormwater.</p> <p>Council's Development Engineers found the remaining matters to be acceptable and raised no objections to the proposal subject to conditions. The conditions imposed relate to parking, access, services, construction site management, tanking of the basement levels, flood management, dilapidation and geotechnical matters, and so on.</p>	Yes - (by way of conditions including a Deferred Commencement Condition relating to stormwater and flooding)
Traffic	Council's Traffic Engineering Officer reviewed the proposal and did not raise any concerns in relation to the anticipated traffic generation, access within the site and car parking provision subject to the imposition of conditions of development consent. This is apart from the entry/exit driveway crest level and ramp grades to comply with the flooding requirements in Council's Flood Advice letter. These issues are addressed in the Deferred Commencement Condition while the remaining	Yes (conditions) Refer to key Issues

	<p>traffic matters are considered in more detail in the Key Issues section of this report.</p> <p>The application was referred to the Bayside Traffic Development Advisory Committee on 14 December 2022. Refer to the next section in this table below.</p>	
<p>BTDAC - Bayside Traffic Development Advisory Committee - 14 December 2022</p>	<p>The BTDAC raised no objections to the proposal and required several conditions to be imposed. The committee recommended the following:</p> <ol style="list-style-type: none"> 1 That the development must be revised to provide a compliant loading dock for each building to accommodate MRV vehicle, waste collection vehicles, removalist and deliveries. 2 That the parking along the frontage of the Development is changed to '2P 8:30am-6pm Mon-Fri, 8:30am-12:30pm Sat' hours with no resident parking scheme. 3 That the Developer must investigate the provision of a single driveway entrance to the development as the currently proposed two driveways is excessive for one development. 4 That the Developer provides EV charging bays and other sustainable measures in the development. <p>Response 1: The application has been amended to include a compliant loading dock within each building.</p> <p>Response 2: The southern side of the street is currently restricted to '2P 6am to 10pm – Permit Holders Excepted'. The new parking times along the frontage have been referred to Council's Traffic Section for implementation.</p> <p>Response 3: The proposal contains two driveway entrance/exits with one double for each building. The existing 12 properties each contain one driveway to the street. Amalgamating both proposed driveways would be problematic with traffic volumes and access arrangements given each building has been designed separately with separate basement parking levels.</p> <p>Response 4: The draft notice of determination includes a condition of consent in respect to the provision of EV charging bays on the site.</p>	<p>Yes (conditions)</p>
<p>Building Surveying</p>	<p>The application will involve demolition and the construction of new buildings in accordance with the requirements in the Building Code of Australia (BCA). A condition of development consent has been imposed in this regard.</p>	<p>Yes (conditions)</p>
<p>Environmental Health</p>	<p>The application was referred to Council's Environmental Health Officer who raised no objections to the proposal</p>	<p>Yes (conditions)</p>

	subject to the imposition of conditions of development consent.	
Environmental Scientist	The application was referred to Council's Environmental Scientist who raised no objections to the proposal subject to the imposition of conditions of development consent.	Yes (conditions)
Waste Management	The application was referred to Council's Waste Management Officer who raised no objections to the proposal subject to the imposition of conditions of development consent.	Yes (conditions)
Development Contributions	Council assessed the proposal under the Arncliffe and Banksia Local Infrastructure Contributions Plan 2020. Based on the plan a fee was levied based on the intensity of the development. For more information, please refer to the relevant section previously in this report.	Yes (conditions)
Tree Management Officer	The application was referred to Council's Tree Management Officer who assessed the Arboricultural Impact Assessment Report submitted prepared by Arborist Network Dated 26/08/2022. Council's Tree Management Officer raised no objections to the proposal subject to the imposition of conditions imposed on the draft Notice of Determination.	Yes (conditions)
Landscape Architect	The scheme has been improved in respect to landscaping and complies with the requirements of Council's DCP 2011. The application was referred to Council's Landscape Architect who raised no objections to the proposal subject to the imposition of conditions of development consent.	Yes (conditions)

The outstanding issues raised by Council officers are considered in the Key Issues section of this report.

5.6 Community Consultation

The proposal was notified in accordance with the Rockdale DCP 2011 from 30 November 2022 until 18 January 2023. The notification included the following:

- A sign placed on the site (attached to the front fence of the lots);
- Notification letters sent to adjoining and adjacent properties (1,994 letters sent to the surrounding residents – mostly apartments and shops); and,
- Notification on the Council's website.

The Council received a total of eleven (11) unique submissions all of which comprised objections to the proposal. The issues raised in these submissions are considered in **Table 7** below.

Table 7: Community Submissions

Issue	Council Comments
1. Density and bulk of the development	The proposal has been designed to comply with the FSR and setback controls applying to the site (SEPP and BLEP). In this regard, the proposed residential flat buildings represent a bulk and scale of development that would ordinarily be expected on the site. Accordingly, the proposal is acceptable in respect to density, bulk and scale.
2. Overshadowing and reduced sunlight into apartments	This has been addressed previously in this report. Please refer to the section headed "Provisions of any Development Control Plan".
3. Loss of privacy	This has been addressed previously in this report. Please refer to the section headed "Provisions of any Development Control Plan".
4. Loss of views	<p>The subject site and adjoining properties in all directions are zoned R4 for High-Density Residential development under the Bayside LEP 2021. In this regard, the proposed residential flat buildings represent a bulk and scale of development that would ordinarily be expected on the site. The proposal contains eight (8) storeys and will result in some view intrusion for the residential flat buildings opposite on the northern side of Innesdale Road.</p> <p>The degree of view loss may be significant for those units that face south and overlook the site. However, the proposal is not unreasonable as some views may be retained between the two proposed buildings and some view loss is ordinarily anticipated from developments within the high density residential zone. Furthermore, the proposal complies with the setback controls that will permit some view corridors to be retained.</p> <p>The proposal will benefit from an increase in views to the east and south from the proposed units on the upper levels. In this regard, future development on the adjoining land to the south will then reduce the views from the proposed development. While some view loss will occur, it is not considered to be unreasonable given the arrangement of lots around the site, the high density zone of the land and any further amendments to reduce this view loss would be detrimental to the design of the proposed development.</p>
5. Removal of existing mature trees from the site and negative impact on native bird life; Negative environmental impacts on the environment with tree removal; increased pollution (both air and dust); impact on biodiversity	<p>The proposal will involve the removal of many of the existing mature trees on the site. However, it will also involve the provision of compensatory and replacement plantings of various sizes and heights across the site.</p> <p>In this regard, the application was referred to Council's Tree Management Officer who raised no objections subject to the imposition of conditions of consent. The conditions include the provision of replacement tree plantings and retention of existing street trees within the road reserve.</p> <p>Based on the above, the proposal is not unreasonable in respect to the removal of and provision of replacement trees on the site.</p>
6. Traffic – increased congestion and safety concerns with increased	The proposal will result in the removal of the existing twelve dwelling houses and an additional 98 units in each of the two attached residential flat buildings on the site.

<p>likelihood of accidents – hundreds more vehicles within Innesdale Rd and the intersection with Marsh Street will not cope.</p> <p>7. The right turn from Marsh St in to Innesdale Rd is inadequate and upwards of 100-200 more vehicles will enter the area as a result of the new residential towers.</p>	<p>The proposal will result in an increase in traffic generation from the site and was referred to Council's Development Engineer and the Bayside Traffic Development Advisory Committee for consideration. Both the committee and Council's Development Engineer found that subject to the imposition of conditions of development consent, the likely increase in traffic can be safely accommodated within the surrounding street network without resulting in any unreasonable traffic impacts or the reduction of road safety.</p> <p>Council has been preparing for road upgrades in the precinct that will reduce traffic turning right into Innesdale Road from Marsh Street. For example, the Gertrude Street extension will eventually connect with Marsh Street reducing intersection traffic volumes.</p> <p>In this regard, both the BTDAC and Council's Development Engineer has reviewed the proposal and raise no objections to the traffic and parking arrangements subject to the imposition of conditions of development consent.</p>
<p>8. Insufficient parking both on the site and within the surrounding street network particularly in proximity to the railway station and airport.</p>	<p>The proposal will provide ample on site car parking both for the residents and visitors of the site. While the increase in demand for on street car parking may occur, the proposal is not considered to be unreasonable given the provision of on site car parking proposed within the basement car parking levels. The proposal includes visitor car parking for cars, motorcycles and bicycles.</p> <p>The application was referred to Council's Development Engineer who advised that the surrounding street network is capable of accommodating the increase in traffic likely to be generated by the development with minimal adverse impacts on traffic congestion during the peak periods.</p> <p>Council understands that as a precinct grows, so too does the demand for public and on street car parking. The provision of public car parking in the area will be increased over time and better service the rising demand for car parking. The proposal is one of many that will enable Council to afford the cost of increasing public car parking in the area.</p>
<p>9. Lower quality of life with increased noise and dust throughout construction</p>	<p>An increase in noise emissions from the site may temporarily occur during the construction process which is unavoidable.</p> <p>Construction of the proposed development includes excavation and the construction of the basement. Impacts will be minimized through the use of standard conditions of consent relating to hours of construction, noise, dust suppression, construction techniques, traffic management and the like.</p> <p>Subject to compliance with conditions of consent impacts are not unreasonable.</p> <p>This issue has been satisfactorily addressed subject to the imposition of relevant recommended conditions of consent (Attachment A).</p>
<p>10. Overpopulation – increased density</p>	<p>The subject site was recently re-zoned for an increase in residential density as contained in the Bayside LEP 2021. The</p>

resulting in Wolli Creek becoming less attractive in terms of living and lifestyle	increase in density can be accommodated within the precinct, which is still undergoing considerable growth, including the increase in the provision of commercial services in the area.
11. Long term negative financial impacts – with the range of impacts from the development higher long terms costs and charges on residents will occur. The increased density will reduce house prices, slow growth and less wealth generation for the long term	<p>The subject site is zoned for this form of high density residential development. The proposal will assist in providing diverse residential housing supply in the area which may reduce demand in the market.</p> <p>Long term financial impacts from the development are not a relevant planning consideration under the Environmental Planning and Assessment Act 1979 (as amended).</p>
12. Public facility and shopping centre – parking in front of shops in front of the station is now difficult and increased commerce should accompany increased residential densities	<p>The subject site is zoned R4 High Density Residential under the Bayside LEP 2021. As such, commercial uses are not permissible on the subject site.</p> <p>The precinct is slowing growing and the increasing demand for additional commerce will be satisfied over time in the precinct. Market forces will assist in meeting this demand.</p>
13. A new Post Office should be included on the ground floor of the development as Wolli Creek is growing and doesn't have a PO. Arncliffe PO is too far for people without a car.	The subject site is zoned R4 High Density Residential under the Bayside LEP 2021. As such, commercial uses are not permissible on the subject site. The proposal contains a residential flat building which is permissible within the R4 High Density Residential zone.
14. An additional 98 affordable housing units in a confined area will increase social unrest, crime, disorder and make the area unsafe for the public.	The 98 affordable housing units proposed will ensure the provision of low cost rental residential apartments in the area for the more vulnerable members of the community, including low to moderate income households, seniors and people with a disability. Housing in this location, will make good use of existing and planned infrastructure and services. Without affordable housing, such demographic groups of the community would ordinarily be excluded from living in the precinct.
15. Alcoholic venues nearby are easily accessible which will result in loitering, drunken behaviour and violence.	The proposed residential development will be serviced by commercial premises in proximity to the site within Wolli Creek. While a bottle shop will be accessible to local residents, it will be required to comply with the Liquor laws currently in force and not sell alcohol to intoxicated persons. The management and policing of drunk people and antisocial behaviour is no different to any other residential suburb in NSW.
16. A park is nearby with children's playground where families congregate. A person has to walk past this area to get to Dan Murphy's, a club and the	<p>The subject site has access to open space areas, playgrounds, commercial premises, and Arncliffe and Wolli Creek railway stations in the vicinity of the site.</p> <p>The management and policing of people under the influence of illicit substances in Arncliffe and Wolli Creek is no different to any other residential suburb in NSW.</p>

train station to purchase drugs. This makes the area dangerous for families.	
17. Studies have shown a strong association between crime and affordable housing concentrations. As a suggestion, 1 affordable housing unit should be provided per tower with a total of 4 affordable housing units in the development.	<p>The 98 affordable housing units proposed will ensure the provision of low cost rental residential apartments in the area for the more vulnerable members of the community, including low to moderate income households, seniors and people with a disability. Housing in this location, will make good use of existing and planned infrastructure and services. Without affordable housing, such demographic groups of the community would ordinarily be excluded from living in the precinct.</p> <p>The provision of 4 affordable housing units (2%) is insufficient for a development containing 198 residential units.</p>
18. I am a light sleeper and do night shift work. I will lose quality of life as I will not be able to sleep during the day and may develop health issues due to lack of sleep and rest.	<p>The construction process is temporary and will be managed on site by a qualified builder and foreman. In this regard, the draft Notice of Determination will limit construction hours to minimise noise and amenity impacts throughout the construction process.</p> <p>Residents affected by the development outside the approved construction hours may notify Council who will follow up the matter with the relevant site manager.</p>

6 KEY ISSUES

The following key issues are relevant to the assessment of this application having considered the relevant planning controls and the proposal in detail:

6.4 Traffic and Parking

Traffic and parking matters have been addressed previously in this report. Please refer to Section 4.5 – Likely Impacts of the Development, Table 6 – Consideration of Council Referrals, the Community Consultation section and Attachment B showing the table of compliance in relation to on site car parking.

6.5 Affordable Housing

The proposal will include 98 residential units (or 50% of the total of 196 units) as affordable housing. All of the 98 affordable units will be located in one building while the other will be entirely residential apartments. As such, the proposal benefits from the provisions of the SEPP (Housing) 2021 relating to additional FSR (clause 17). In this regard, the affordable housing has been appropriately designed and is not unlike the other proposed residential flat building. As such, the proposal complies with the requirements of the SEPP and a condition has been imposed in relation to the ongoing use of the affordable housing units for a minimum of 15 years in accordance with the requirements of the SEPP.

Resolution: The issue of affordable housing has been resolved through an appropriate building design and the recommended conditions of development consent.

6.6 Urban Design

The proposed building form presents a sympathetic response to the existing mixed streetscape and is the end result of an ongoing process of refinement and improvement. The

proposal comprises a bulk and scale that contributes to the built form of the precinct within the mixed use zone. Although the residential flat building at numbers 1-7 Innesdale Road has already been approved by the Land and Environment Court of NSW but not built, the proposal is the second development in the street block that makes a positive contribution to the precinct and will be an example to future redevelopment in the area.

The proposal comprises an array of design features with suitable articulation that contribute to its Design Excellence which has been confirmed and approved by the Design Review Panel. In this regard, please refer to Attachment B for more information in respect to the DRP minutes.

The proposal complies with the setbacks which provide sufficient curtilage to accommodate landscape elements that will soften the proposed development.

Resolution: The proposal represents a positive contribution to the existing and future desired character of the area and complies with the requirements of the ADG and Council's DCP 2011 in respect to urban design and streetscape. For more information, please refer to the section previously in this report headed Likely Impacts of the Development and the Table of Compliance in Attachment B.

6.7 Height, Bulk and Scale

The proposal has a building height of 27.7m which exceeds the maximum permissible height control of 26.5m under the Bayside LEP 2021. Despite this, the proposed variation of 1.2m is located in the middle of the building at the lift overrun and includes the pergola on the roof top terrace of each residential flat building.

The bulk and scale of the proposal is compatible with the future desired character of the surrounding residential precinct, despite the non-compliance with the height control. The arrangement of buildings, setbacks and landscape elements are all consistent with the controls applying to the land and will result in a development that has a bulk and scale that would normally be anticipated on the site. In this regard, the minor variation of 1.2m for the lift overrun and roof top pergola has been considered in earlier this report. For more information, please refer to the section titled Clause 4.6 Request for a variation under the Bayside LEP 2021.

The proposal is consistent with the desired future character of the area and acceptable in respect to its height, bulk and scale.

7 CONCLUSION

This development application has been considered in accordance with the requirements of the EP&A Act and the Regulations as outlined in this report. Following a thorough assessment of the relevant planning controls, issues raised in submissions and the key issues identified in this report, it is considered that the application can be supported subject to conditions.

While the stormwater plans and flooding matters require further amendments, subject to the imposition of conditions of consent (including the deferred commencement conditions) the proposal is acceptable and will be compatible with the future desired character of the area.

This report has addressed a range of issues including height, bulk, scale, external appearance, urban design, traffic and parking, noise, intensity of use and affordable housing. Based on this assessment, the proposal is suitable for the site and is compatible with the surrounding locality. The proposal is consistent with the objectives of the planning controls applying to the land and is acceptable in this regard.

It is considered that the key issues as outlined in Section 6 have been resolved satisfactorily through amendments to the proposal and/or in the recommended draft operational conditions and deferred commencement conditions at **Attachment A**.

8 RECOMMENDATION

That the Development Application (DA-2022/329) for Integrated Development – Demolition of existing structures and construction of four (4) x eight (8) storeys residential apartment buildings comprising of 196 apartments including 98 affordable housing units over three (3) levels of basement parking at 15-37 Innesdale Road, Wolli Creek be **APPROVED** subject to a Deferred Commencement pursuant to Section 4.16(3) of the *Environmental Planning and Assessment Act 1979* subject to the draft conditions of consent attached to this report at Attachment A.

The following attachments are provided:

- Attachment A: Draft Conditions of Consent
- Attachment B: Tables of Compliance
- Attachment C: Architectural Plans
- Attachment D: Clause 4.6 Request – Height of Buildings

Attachment B includes tables of compliance relating to the following:

- State Environmental Planning Policy (Housing) 2021
- State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development
- Bayside Local Environmental Plan 2021
- Rockdale Development Control Plan 2011 – Part 7.7 Arncliffe and Banksia Special Precinct