

COUNCIL ASSESSMENT REPORT

SYDNEY SOUTH PLANNING PANEL

PANEL REFERENCE & DA NUMBER	PPSSSH-182 – DA-1182/2024
PROPOSAL	Redevelopment of the Compass Centre site including the demolition of all existing structures, tree removal, site preparation and early works, bulk excavation, remediation works, and construction of a mixed-use development comprising a 2-level basement and a 5-storey mixed-use podium with 3 towers above, including a 19-storey hotel tower and 2 x 24-storey residential towers.
ADDRESS	Lot 19 and 20, DP 5541 Lot 18B, DP 412699 Lot 15, 16, 17, 21, 22, 23, 24, and 27, DP 5541 Lot 1, DP 507818 Lot 1, DP 207810 83, 85 and 99 North Terrace, Bankstown
APPLICANT	Altis Bulky Retail Pty Limited
OWNER	The Trust Company (Australia) Limited
DA LODGEMENT DATE	22 October 2024
APPLICATION TYPE	Integrated Development Application
REGIONALLY SIGNIFICANT CRITERIA	Section 2.19(1) and Clause 6 of Schedule 6 of <i>State Environmental Planning Policy (Planning Systems) 2021</i> declares the proposal regionally significant development as the proposal is for development that has an estimated development cost of more than \$30 million.
CIV	\$327,084,740 (excluding GST)
CLAUSE 4.6 REQUESTS	Clause 6.16 Design excellence at certain land in Bankstown (see clause 6.16(3)(a) maximum building height)
KEY SEPP/LEP	• State Environmental Planning Policy (Planning Systems) 2021 • State Environmental Planning Policy (Biodiversity and Conservation) 2021 • State Environmental Planning Policy (Housing) 2021 • State Environmental Planning Policy (Resilience and Hazards) 2021 • State Environmental Planning Policy (Transport and Infrastructure) 2021

	• Canterbury-Bankstown Local Environmental Plan 2023 • Canterbury-Bankstown Development Control Plan 2023.
TOTAL UNIQUE SUBMISSIONS	Seven (7)
KEY ISSUES RAISED IN SUBMISSIONS	• Amenity impacts to adjoining residences including overshadowing, privacy and view loss impacts • Overshadowing impacts to future potential development on adjoining sites • Potential implications of future development anticipated on adjoining sites in line with the current planning framework • Impacts to the structural integrity of buildings caused by excavation and construction • Acoustic, vibration and traffic impacts caused by construction works
DOCUMENTS SUBMITTED FOR CONSIDERATION	See below
RECOMMENDATION	Refusal
DRAFT CONDITIONS TO APPLICANT	Not applicable
SCHEDULED MEETING DATE	TBC
PREPARED BY	Independent Assessor, SJB Planning
DATE OF REPORT	31 October 2025

Documents submitted for consideration

- Accessibility Report dated 4 June 2024
- Arboricultural Impact Assessment dated 12 March 2024
- Aviation Assessment dated 3 April 2024
- BCA Report dated May 2024
- Civil Engineering Drawings dated 21 June 2024
- Consultation Outcomes Report dated 23 May 2024
- DCP Compliance Table
- Design Verification dated 22 April 2024
- Embodied Emissions Materials Form
- ESD Report dated May 2024
- Fire Engineering Report dated 27 May 2024
- Flood Impact Assessment dated 30 May 2024
- Groundwater Assessment dated 27 May 2024
- Heritage Impact Statement dated October 2024
- Preliminary Site Investigations dated February 2024
- Previous Site Investigations dated 4 October 2024
- QS Report dated 15 April 2024
- Reflectivity Statement dated 29 April 2024
- Statement of Environmental Effects dated 11 October 2024
- Stormwater Management Report dated 21 June 2024
- Survey Plan dated 1 November 2023
- Traffic Impact Assessment dated 9 Oct 2024
- Urban Design Report dated 30 April 2024
- Utilities Report dated April 2024
- Vertical Transport Assessment dated 23 May 2024
- Waste Management Plan dated May 2024
- Wind Impact Assessment dated 12 April 2024
- RFI Response Letter for DA/1182/2024 dated 1 July 2025
- RFI Response Table
- Design Report dated 23 June 2025
- Updated Landscape Design Report dated 27 May 2025
- Urban Design Analysis dated June 2025
- Water Services Statement dated 29 May 2025
- Civil Engineering Statement dated 26 June 2025
- Flood Engineering Statement dated 4 April 2025
- Tenancy Summary dated 5 May 2025
- Hotel Plan of Management dated 30 April 2025
- Childcare Plan of Management dated 2025
- Clause 4.6 Variation Request for Building Height dated 27 June 2025
- Updated Noise and Vibration Impact Assessment dated 1 May 2025
- Traffic and Transport Statement dated 26 June 2025
- Wind Statement dated 30 May 2025
- Landscape Statement dated 29 May 2025
- Economic Assessment dated May 2025
- Services Statement dated 13 May 2025
- Electrical Vehicle Charging and Future Adaptability Statement dated 17 June 2025
- Updated Plan of Management dated May 2025
- Structural Statement dated 23 June 2025
- Remediation Action Plan dated 17 June 2025

- Contamination Investigations Memo dated 26 June 2025
- Dewatering Management Plan dated 11 June 2025
- BASIX Compliance Report dated 25 June 2025
- Updated BASIX Certificate dated 25 June 2025
- Updated BASIX Stamped Plans dated 23 May 2025
- Updated Architectural Drawings dated 4 September 2025
- Updated Landscape Plans dated 5 September 2025

List of Report Attachments

- **Attachment A:** Draft Reasons for Refusal for DA/1182/2024
- **Attachment B:** General Terms of Approval issued by WaterNSW
- **Attachment C:** Bankstown Airport Comments
- **Attachment D:** Ausgrid Comments
- **Attachment E:** Transport for NSW Comments
- **Attachment F:** Sydney Water Comments
- **Attachment G:** Canterbury-Bankstown Design Review Panel Advice
- **Attachment H:** ADG Assessment Table
- **Attachment I:** CBDCP Assessment Table

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1. EXECUTIVE SUMMARY

The development application No. DA-1182/2024 (“the application”) seeks consent for the redevelopment of the site, including:

- Demolition works,
- Tree removal,
- Site preparation and early works, including bulk excavation, remediation works, and
- Construction of a mixed-use development comprising a two (2) level basement and a five (5) storey mixed-use podium consisting of retail floor space, medical suites, a gymnasium and a child care centre, with three (3) towers, including:
 - One (1) x 19-storey hotel tower comprising 169 rooms, and
 - Two (2) x 24-storey residential comprising a combined total of 336 residential apartments.

The subject site is known as 83, 85 and 99 North Terrace, comprising 13 lots and three (3) street frontages, with Fetherstone Street to the west, North Terrace to the south and The Appian Way to the east. The site is centrally located within the strategic centre of Bankstown, as identified in the Canterbury-Bankstown Development Control Plan 2023 (CBDCP). The site is flood prone and contains several easements and infrastructure for stormwater drainage. An overland flow path and Sydney Water sewer main also traverses the site.

The application is referred to the Sydney South Planning Panel (‘the Panel’) under Schedule 6 – Regionally Significant Development of State Environmental Planning Policy (Planning Systems) 2021 as the proposal is for a general development with an estimated development cost of more than \$30 million.

Planning Framework

The site is zoned B4 Mixed Use under the Canterbury-Bankstown Local Environmental Plan 2023, as in force 2 August 2024 to 26 November 2024 (CBLEP). The proposed mixed-use development comprising retail premises, a centre-based child care facility, medical suites, gymnasium, hotel and shop-top housing, is permitted with consent in the B4 Mixed Use zone pursuant to the Land Use table in CBLEP.

The application identifies that the proposed maximum:

- building height is 86.18 metres (RL 107.95). A written request has been submitted under clause 4.6 of the CBLEP to vary the maximum building height (of 83 metres) applying to the site under clause 6.16(3)(a) of the CBLEP; and
- floor space ratio (FSR) is 5:1 and therefore complies with the maximum FSR (of 5:1) applying to the site under clause 6.16(3)(b) of the CBLEP.

Assessment of the submitted gross floor area (GFA) plans demonstrates that the proposal exceeds the maximum FSR development.

In December 2023, Bankstown was identified for accelerated rezoning (as a Transit Oriented Development (TOD) accelerated precinct) due to its close proximity to metro stations and key public transport interchanges, promoting walking and cycling opportunities. The associated rezoning amended the planning controls for the Bankstown TOD Accelerated Precinct. The Bankstown Rezoning Proposal was exhibited for public consultation between 16 July and 30 August 2024.

Following the lodgement of the DA, the CBLEP was amended on 27 November 2024 to include updated controls for the development of land within the Bankstown City Centre, under which a building height development standard of 83 metres remains, and an increased maximum FSR of 5.8:1 (from 5:1) applies to the site. The controls relating to Bankstown City Centre in the CBDCP have also been updated to align with the LEP amendments. Pursuant to the savings provisions in Clause 1.8A of the CBLEP the amended CBLEP does not apply but is a matter for consideration pursuant to Section 4.15(1)(a)(ii) of the *Environmental Planning and Assessment Act 1979* given its status as a draft instrument at the time of lodgement. Similarly, the amended CBDCP currently in force also does not apply.

Assessment of the Application

The application is integrated development pursuant to section 4.46 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) as the proposed works involves dewatering to facilitate the basement construction which requires a supply work approval under section 90 of the *Water Management Act 2000* (WM Act). On 7 July 2025, WaterNSW issued General Terms of Approval (GTA's). A copy of the GTA's is provided at **Attachment B**.

The development involves the construction of buildings that intrude within a prescribed airspace and requires a controlled activity approval pursuant to section 182 of the *Airports Act 1996*. A controlled activity approval under section 182 of the *Airports Act 1996* has not been issued. The application has been reviewed by Bankstown Airport and assessment by the Civil Aviation Safety Authority (CASA), Airservices and the NSW Department of Infrastructure, Transport Regional Development, Communications, Sport and the Arts (DITRDCA) is pending. A copy of the Bankstown Airport comments is provided at **Attachment C**.

Referrals were sent to Ausgrid pursuant to section 2.48 of the State Environmental Planning Policy (Transport and Infrastructure) 2021 (Transport and Infrastructure SEPP), Transport for New South Wales (TfNSW) pursuant to section 2.122 of the Transport and Infrastructure SEPP, and to Sydney Water and no objections were raised. A copy of the Ausgrid, TfNSW and Sydney Water comments are provided at **Attachment D, E and F** respectively.

The proposal has been reviewed and supported by the Canterbury Bankstown Design Review Panel (DRP). A copy of the latest DRP advice is provided at **Attachment G**.

The key issues identified in this report are summarised as follows:

- **Site contamination** – Over time, the site and surrounding properties have been subject to contamination as a result of high-risk historical land uses including a service station and dry cleaners. The proposal also introduces sensitive land uses including a child care centre and residential accommodation. Assessment of the application by Council's Environmental Health Officer (EHO) has identified that insufficient information has been provided to properly assess and determine the existing geotechnical and soil conditions of the site and whether the site can be made suitable for the proposal, following remediation as required under section 4.6 of State Environmental Planning Policy (Resilience and Hazards) 2021. Specifically, a Detailed Site Investigation (DSI), including certification by A NSW Environment Protection Authority accredited site auditor, has not been provided.
- **Flooding** – Assessment of the application by Council's Asset's Engineer identifies that inadequate information has been provided to demonstrate compatibility with the flood

function and behaviour on the land and enable a proper assessment of the flood impacts as required under clause 5.21 of the CBLEP.

- *Traffic and site access* – Assessment of the application by Council’s Traffic Engineer identifies that the traffic generation of the development has not been calculated in accordance with the Roads and Traffic Authority (RTA) Guide to Traffic Generating Developments. Furthermore, compliance with the relevant Australian Standards relating to access driveways and car park design has not been demonstrated. The application fails to demonstrate that adequate, and safe vehicular access to the site will be provided in accordance with clause 6.9 of the CBLEP.
- *Stormwater drainage* – Due to the insufficient information provided regarding flooding and stormwater management, the application fails to demonstrate that significant adverse impacts of stormwater runoff will be avoided. Furthermore, the application does not clearly specify the proposed location of the required on-site detention (OSD), nor has it been demonstrated that the OSD achieves compliance with the relevant Australian Standards.
- *Building height* – the written request to vary the maximum building height development standard in 6.16(3)(a) of the CBLEP, submitted under clause 4.6 of the CBLEP, fails to identify all components of the development exceeding the maximum building height development standard and consequently does not demonstrate the matters specified in clause 4.6(3) of the CBLEP.
- *FSR* – the Applicant’s calculation of gross floor area (GFA) is inconsistent with the definition of GFA in the Dictionary to the CBLEP. When calculating the total GFA in accordance with the definition, and the resultant FSR, the proposal exceeds the maximum FSR of 5:1 in clause 6.16(3)(b) of the CBLEP. A written request to vary the maximum FSR development standard in 6.16(3)(b) of the CBLEP is not included in the application.
- *Design excellence* – While the proposed built form, bulk and scale achieves an acceptable response to the existing and desired future character of the CBD core of Bankstown City Centre, the proposal does not provide safe and adequate site access, sufficient deep soil areas and modulation to achieve solar access and natural ventilation in accordance with the Apartment Design Guide (ADG). The development does not exhibit design excellence pursuant to clause 6.16(ii), 6.16(v) and 6.16(viii) of the CBLEP in these circumstances.
- *Implications on future development of adjoining sites* – The planning and urban design assessment of the application identified issues regarding the proposed ground floor setbacks to the property located to the north of the site, owned by Council, (62 The Mall), and the potential impacts to the future development potential of the adjoining site, in line with the anticipated envelopes set out in the CBLEP controls for Bankstown (with a maximum FSR of 5.8:1 and height of 83 metres). In response, the Applicant has submitted an Urban Design and Massing Feasibility Study identifying two (2) development scenarios for 62 The Mall and amended plans with an increased ground level setback to the northern boundary. It is considered that the additional documentation satisfactorily addresses this issue.

- *Inconsistencies with the Apartment Design Guide (ADG)* – The application is inconsistent with the design criteria and objectives relating to deep soil, solar access, ventilation and circulation spaces.
- *Construction impacts* – The likely construction related impacts in terms of noise and traffic are not addressed in the application. Therefore, the application in its current form does not adequately demonstrate that the associated construction impacts can be appropriately managed and minimised.

While some of the above issues may be potentially resolved via amended plans and additional documentation, they include jurisdictional prerequisites to the granting of consent. Council has proceeded with the assessment of the amended application in its current form, to prevent further exceedance of the NSW Minister for Planning and Public Spaces expectations for assessment days (i.e., >88 days), set out in the *Environmental Planning and Assessment (Statement of Expectations) Order 2024* ('the Order').

The key outstanding issues are detailed in Section 6 of this Report.

Application Background

The application was lodged on 22 October 2024.

Prior to lodgement, the applicant took part in two (2) rounds of consultation with Council's Design Review Panel and Council Assessment staff, including two (2) pre-lodgement meetings and two (2) Design Review Panel Meetings. The matters raised during the consultation are summarised in Section 3.2.

The original application was placed on public exhibition for a period of 28 days, ending on 19 December 2024 and four (4) submissions were received. The issues raised in the submissions relate to:

- Loss of privacy, overshadowing and view loss impacts on neighbouring residential apartments at 3-7 Fetherstone Street;
- Overshadowing impacts to adjoining sites including No. 1 and 1A North Terrace (Bankstown Central) located to the east of the site;
- Potential implications of future development anticipated on adjoining sites including Bankstown Central as well as 62 The Mall, immediately to the north of the site, in line with the current planning framework (raised by Council);
- The number of driveways proposed on Fetherstone Street; and
- Acoustic, vibration and traffic impacts caused by construction works.

On 1 July 2025, the Applicant applied for an amendment to the application ("the amended application"), under Section 37 of the *Environmental Planning and Assessment Regulation 2021* ("EP&A Regulation"). The application includes an additional information package and was submitted in response to the request for additional information ('the RFI') dated 18 February 2025 and subsequent clarification of RFI items dated 10 June 2025, issued by SJB Planning on behalf of Council. The matters raised in the RFI, and details of the amended application are discussed in Section 3.2 of this Report.

The amended application was placed on public exhibition for a period of seven (7) days, ending on 22 September 2025 and three (3) submissions were received. Several concerns were raised, including the management of construction related impacts and overshadowing.

The matters raised in the public submissions are addressed in Section 5.3 of this Report.

Recommendation

The application in its current form fails to satisfy the jurisdictional prerequisites to the granting of consent imposed by the relevant statutory instruments applying to the development, including:

- Section 4.6 of State Environmental Planning Policy (Resilience and Hazards) 2021 (Resilience and Hazards SEPP) for consideration of whether the site is suitable for the development or can be made suitable following remediation;
- Clause 4.6(3) of CBLEP in relation to the written request submitted to vary the maximum building height development standard in clause 6.16(3)(a);
- Clause 4.6(3) of CBLEP in relation to the exceedance of the FSR development standard in clause 6.16(3)(b) of the CBLEP, noting that a written request to vary the FSR development standard is not included in the application;
- Clause 5.21 of CBLEP in relation to the compatibility of the development with flood function and behaviour of the land and associated flood impacts to adjoining properties;
- Clause 6.2 of CBLEP in relation to the proposed earthworks and lack of information regarding the additional investigations required to render the site suitable for the development, including the associated impacts;
- Clause 6.3 of CBLEP in relation to the management and avoidance of significant adverse impacts of stormwater runoff;
- Clause 6.8(2) of CBLEP in circumstances where a controlled activity approval for the intrusion of the proposed buildings into a prescribed airspace has not been obtained by the Applicant; and
- Clause 6.9 of CBLEP in circumstances where the application fails to demonstrate that adequate arrangements for suitable vehicular access to the site have been made.

Following an assessment of the application against section 4.15 of the *EP&A Act 1979*, the provisions of the relevant State Environmental Planning Policies and the CBLEP, the application cannot be supported.

Accordingly, Development Application No. DA/1182/2024 is recommended for refusal subject to the reasons contained at **Attachment A** of this Report, pursuant to Section 4.16(1)(b) of the *EP&A Act 1979*.

The site has frontage to Fetherstone Street to the west of 74.87 metres, North Terrace to the south of 94.65 metres and The Appian Way to the east of 109.43 metres.

The site has a total land area of 8,175m².

The site contains existing development, including:

- At 83 North Terrace, a single storey commercial development comprising several retail, business and office premises fronting North Terrace and The Appian Way;
- At 85 North Terrace, a two (2) storey commercial development comprising retail and commercial tenancies; and
- At 99 North Terrace, an eight (8) storey office building fronting Fetherstone Street, two (2) storey retail and commercial premises fronting North Terrace and Fetherstone Street, single storey retail tenancies fronting The Appian Way and an at-grade paid public car park accessed via The Appian Way (entry) and Fetherstone Street (exit).

The site contains several easements and other encumbrances including:

- a 1.83 metre wide privately owned easement;
- a 3-metre- wide Council owned easement for drainage;
- an outlet actively discharging to the Appian Way culvert; and
- a sewer main traversing from the north to the centre of the site, and then to The Appian Way.

There are also existing thru-site links which provide for north-south and east-west connections across the site.

The surrounding street network falls towards the north along Fetherstone Street, the east along North Terrace and towards the south along The Appian Way.

The site is within the Salt Pan Creek catchment and is subject to flooding.

The site is located within the B4 Mixed Use zone pursuant to the Canterbury Bankstown Local CBLEP (Version 2 August 2024 to 26 November 2024).

2.2 The Locality

The site is centrally located within the Northern CBD Core of the Bankstown City Centre as identified in the CBD CP.

Various developments and land uses surround the site and block, consisting of the following:

- To the north, on the opposite side of The Mall includes Paul Keating Park, Council Chambers, Bankstown Library and Knowledge Centre, Bankstown Civic Tower, Western Sydney University Bankstown Campus, the Bryan Brown Theatre and Function Centre, and HOYTS Bankstown.
- To the east, on the opposite side of The Appian Way, is the Bankstown Central Shopping Centre site including Bankstown bus interchange, also located within the B4 Mixed Use zone. Redevelopment of this site has been the subject of a Planning

Proposal for a multi-storey mixed use development comprising three office buildings up to 25 storeys in height, ground floor retail uses and an upgraded retail precinct.

- To the south, on the opposite side of North Terrace, is Swane Reserve and the Bankstown Train Station and future Metro site.
- To the west, on the opposite side of Fetherstone Street are various commercial developments ranging between one (1) to three (3) storeys in height including office and retail premises fronting Fetherstone Street and North Terrace.

The site and the surrounding locality is illustrated in Figure 2.



Figure 2: Site Locality Map

3. THE PROPOSAL AND BACKGROUND

3.1 The Proposal

The proposed development detailed in the application is summarised as follows:

Physical Works and Land Use

- Demolition of existing structures on site.
- Site preparation and early works including tree removal, bulk earthworks and site remediation.
- Bulk excavation to a maximum depth of up to 10 metres (RL 14.8) and associated dewatering to facilitate the basement construction. Due to the extent of excavation required, the ground water level is required to be lowered by approximately 4 metres for Basement Level 2.
- Augmentation of the existing sewer main (as required).
- The development is proposed to be constructed in stages as follows:
 - Stage 1 – Demolition, remediation, excavation and site preparation works
 - Stage 2 – Basement construction
 - Stage 3 – Podium construction
 - Stage 4 – Tower construction
 - Stage 5 – Public domain works
- Construction of a mixed-use development comprising:
 - Two (2) levels of basement car parking for 494 car parking spaces, 185 bicycle spaces and 27 motorcycle spaces, including loading and waste, residential storage areas, end of trip facilities and mezzanine level comprising on-site detention area and services;
 - A five (5) storey mixed-use podium (with four-storey street wall height) consisting of:
 - non-residential uses at the ground and first floor including ground floor thru-site links, retail tenancies, a supermarket, gymnasium and car parking;
 - car parking, hotel plant and end-of-trip facilities, and residential apartments on the second floor;
 - additional car parking, hotel staff facilities and services, and residential communal space on the third and fourth floors; and
 - hotel reception and guest facilities, medical centre consisting of seven (7) medical suites and a child care centre on the fifth floor/podium rooftop.
 - Three (3) tower forms including a:
 - 19 storey hotel building (**Building A**) comprising 169 rooms;
 - 24 storey residential building (**Building B**) comprising 165 residential apartments; and
 - 24 storey residential building (**Building C**) comprising 171 residential apartments.

An extract of the submitted site plan illustrating the location of the thru-site links, Building A, Building B and Building C is included at Figure 3.

The proposed built form, including maximum building height, FSR and setbacks, is detailed in Table 1.

- Ancillary site works including the installation of stormwater infrastructure, services and utilities and landscaping.

Site Access

- Provision of vehicular access via two (2) main access points on Fetherstone Street including:
 - A shared (2-lane) hotel/residential car park entry/exit which provides direct access to the basement levels. This access point is for residents, residential visitors and hotel visitors and hotel service vehicles (i.e., small-rigid service vehicles (SRV's)), including waste collection vehicles; and
 - A shared (4-lane) retail car park and loading zone entry/exit which provides direct access to the loading docks on Basement Level 01 and the podium car parking. This access point is for the staff and customers of the non-residential uses and delivery and waste collection vehicles (trucks).

An extract of the submitted site plan illustrating the location of vehicle access points is included at Figure 3 below.

- Three (3) separate pedestrian entries including a southern entry via North Terrace, a western entry via The Appian Way and a northern entry via 62 The Mall.
- A primary north-south thru-site link, "Compass Way" which provides access between the site and the future metro station to the south and Phil Engisch Reserve and Paul Keating Park to the North.
- East-west connections via Compass Way which provide access to Fetherstone Street to the west and The Appian Way to the east, as shown in Figure 3.

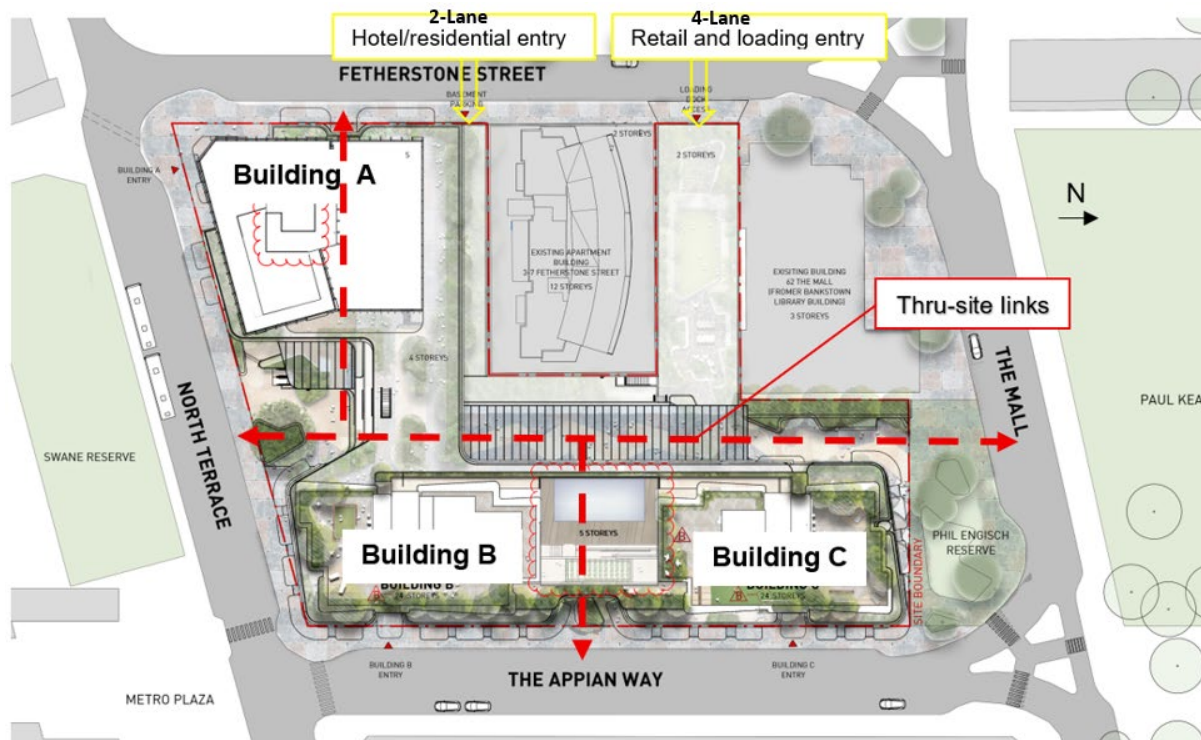


Figure 3: Site Plan (Source: PTW Architects and SJB Planning)

Operational Details for Non-Residential Uses

Retail Tenancies

- Twenty-seven (27) retail tenancies are proposed at the ground and first floor (Level 1 and Level 2) of the podium.
- The future tenants/uses of the retail floor space within the podium are specified in the Tenancy Summary prepared by Retail Strategy Group dated 5 May 2025, and include a range of food and drink premises, consisting of cafes and a wine bar, specialty shops, two (2) pharmacies and a supermarket. The Statement of Environmental Effects (SEE) prepared by Ethos Urban, dated 11 October 2024, and the Updated Noise Impact Assessment prepared by E-Lab Consulting, dated 1 May 2025, identify that the future use of the retail tenancies may be subject to separate development applications.
- The SEE identifies that the operating hours of the proposed:
 - **Food and drink premises and cafes** are 6am to 10pm Monday to Thursday and Sunday, and 6am to 11pm on Fridays and Saturdays; and
 - **Shops** are 6am to 11pm Monday to Thursday, Sunday and public holidays, and 6am to 12 midnight on Fridays and Saturdays.
- Deliveries to the tenancies fronting The Appian Way will be carried out via the proposed good lifts below Building B and Building C which are accessed from the basement and the associated back-of-house areas at ground level. The submitted Tenancy Summary identifies that the remaining tenancies will be “front-loaded”.

Gymnasium (Level 1 and Level 2)

- A two (2) storey gymnasium is proposed on the first and second floor (Level 1 and Level 2) of the podium with a GFA of 435.5m².

- The proposed gymnasium will be open to the public.
- The SEE identifies that the proposed operating hours of the gymnasium are 6am to 11pm Monday to Thursday, Sunday and public holidays, and 6am to 12 midnight on Fridays and Saturdays. However, the Updated Noise Impact Assessment identifies that the gymnasium is proposed to operate on a 24-hour basis.

Medical Suites

- Seven (7) medical suites are proposed on the fifth floor (Level 4) of the podium occupying a total GFA of 708m².
- The SEE identifies that the proposed operating hours of the medical suites are 6am to 11pm Monday to Thursday, Sunday and public holidays, and 6am to 12 midnight on Fridays and Saturdays. Different operating hours are not specified elsewhere in the application for the proposed medical suites.

Hotel (Building A)

- Building A will be used for the purpose of a hotel accommodating 169 rooms.
- The hotel includes a range of guest amenities and facilities including:
 - All-day dining restaurant and associated external terrace area on Level 4;
 - Rooftop bar on Level 19;
 - Several function rooms and ballroom on Levels 4 and 5;
 - Gymnasium and library lounge on Level 4.
- Back of house and waste storage areas are located on Basement Level 01.
- Staff facilities and offices are located on Level 2.
- The Hotel Plan of Management prepared by THSA Hotel Advisors, dated 30 April 2025, identifies that the maximum capacity of the hotel at any one time, including staff, is 850 persons.
- The proposed hotel operating hours as identified in the submitted Hotel Plan of Management are as follows:
 - **Hotel restaurant:** 6.30am to 9.30pm Monday to Sunday;
 - **Hotel Restaurant Terrace:** 8am to 8.30pm Monday to Sunday;
 - **Hotel Bar:** 4pm to 10pm Monday to Sunday;
 - **Hotel rooftop bar:** 4pm to 11pm Monday to Sunday; and
 - **Meeting/Incentives/conferences/exhibition rooms:** 8am to 12midnight Monday to Sunday.
- The Updated Noise Impact Assessment identifies the maximum capacity of the following areas to minimise noise impacts:
 - 7 people within the bar balcony;
 - 28 people within the rooftop bar; and
 - 35 people within the Level 4 external terrace adjacent to the hotel ballroom.

Child Care Centre

- A child care centre is proposed to be located on the fifth floor (Level 4) of the podium.
- The application is seeking consent for the operational parameters of the future child care centres including maximum number of children, internal and external areas, operating hours, and car parking spaces. The future use and fit out of the child care centres will be subject to a separate development application.
- The child care centre will accommodate a maximum of 100 children, distributed across the following age groups:
 - **0-1 years** – 8 children
 - **1-2 years** – 12 children
 - **2-3 years** – 20 children
 - **3-4 years** – 20 children
 - **4-5 years** – 20 children
 - **5-6 years** – 20 children
- The proposed operating hours are 7:00 am until 6:30pm Monday to Friday.
- The internal area of the child care centre is 576m².
- The external area of the child care centre is 735m².
- A total of 25 car parking spaces for staff and parent drop-off/pick-up, including an accessible car space, is provided for the child care centre, located on the fourth floor (Level 3) of the podium car park, directly below the child care centre.
- Vehicular access to the child care centre car parking spaces will be provided via the combined retail/loading zone access point on Fetherstone Street.
- Lifts are located within the Level 3 podium car park which will provide pedestrian access between the child care parking spaces and the child care centre on Level 4 above.
- The child care centre Plan of Management prepared by ECF Group identifies that deliveries will occur between 9.30am and 3.30pm on weekdays within the child care centres car parking spaces on Level 3 of the podium car park.

Residential Use

- The residential apartments are located within Building B and Building C. There are also residential apartments located on the third (Level 2) and fourth floor (Level 3) of the podium.
- The communal open space areas and facilities are located on the third and sixth floors (Levels 2 and 5) of the podium.
- The Noise Impact Assessment identifies that the use of the communal open space areas is limited to between the hours of 7am and 10pm daily.
- A designated gymnasium for residents is located on Level 5. The Noise Impact Assessment identifies that the residential gymnasium will be closed during the night-time.

Landscaping

- The proposed landscaping includes the establishment of three (3) separate deep soil zones located at the pedestrian entries of the site. These zones are located at the southern, western and northern site boundaries.

The location of the ground level deep soil zones are marked in yellow in Figure 4.

- The updated Landscape Plans dated 5 September 2025, prepared by Site Image demonstrate a series of on-structure plantings to supplement the deep soil areas at ground level.
- Plantings comprising a range of ground covers, shrubs and trees are proposed at the southern and western interfaces with 3-7 Fetherstone Street on the third floor (Level 2) of the podium.
- Tree plantings are also provided along the perimeter of the communal open space area located on Level 2 adjoining the former library building at 62 The Mall.

The ground floor plan and street elevations of the proposed development are provided in Figures 4 to 8. The internal elevations of the proposed buildings and wider streetscape elevations are provided in the set of architectural plans prepared by PTW Architects dated 4 September (see Drawings C150010-11, C160010-12, C170010 and C180010).

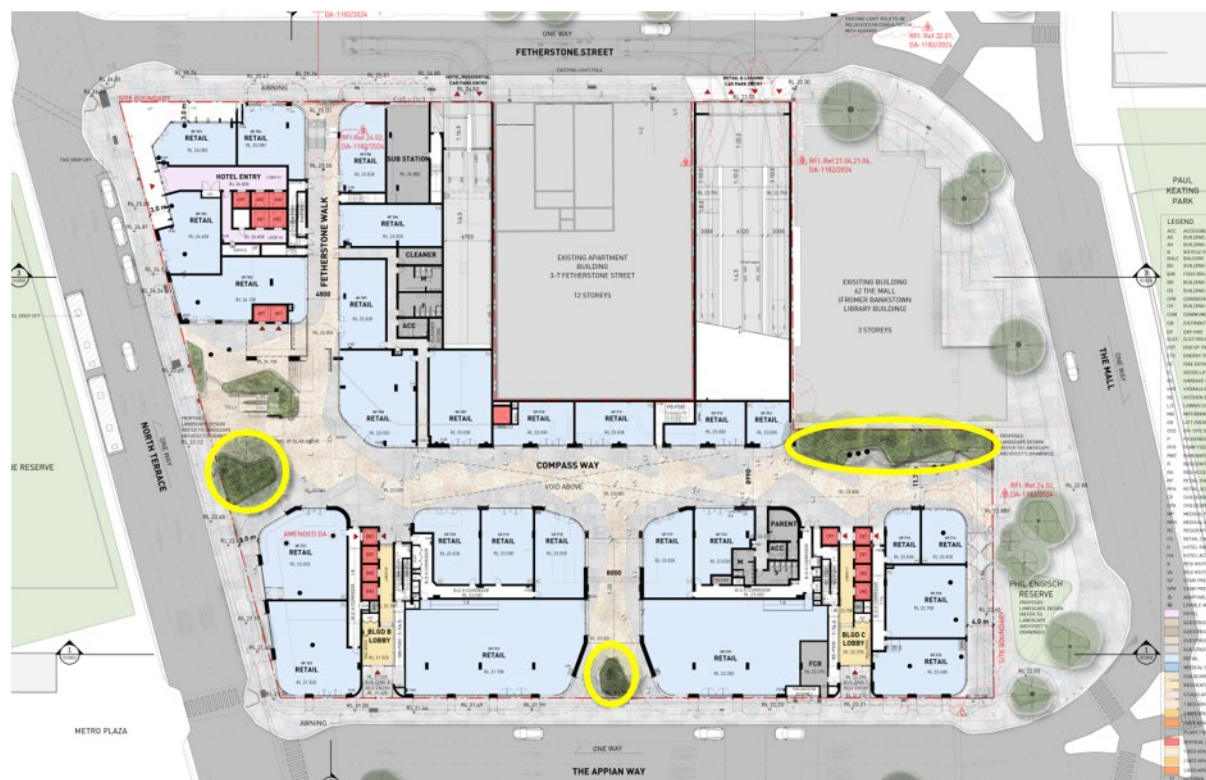


Figure 4: Ground Floor Plan (Source: PTW Architects)

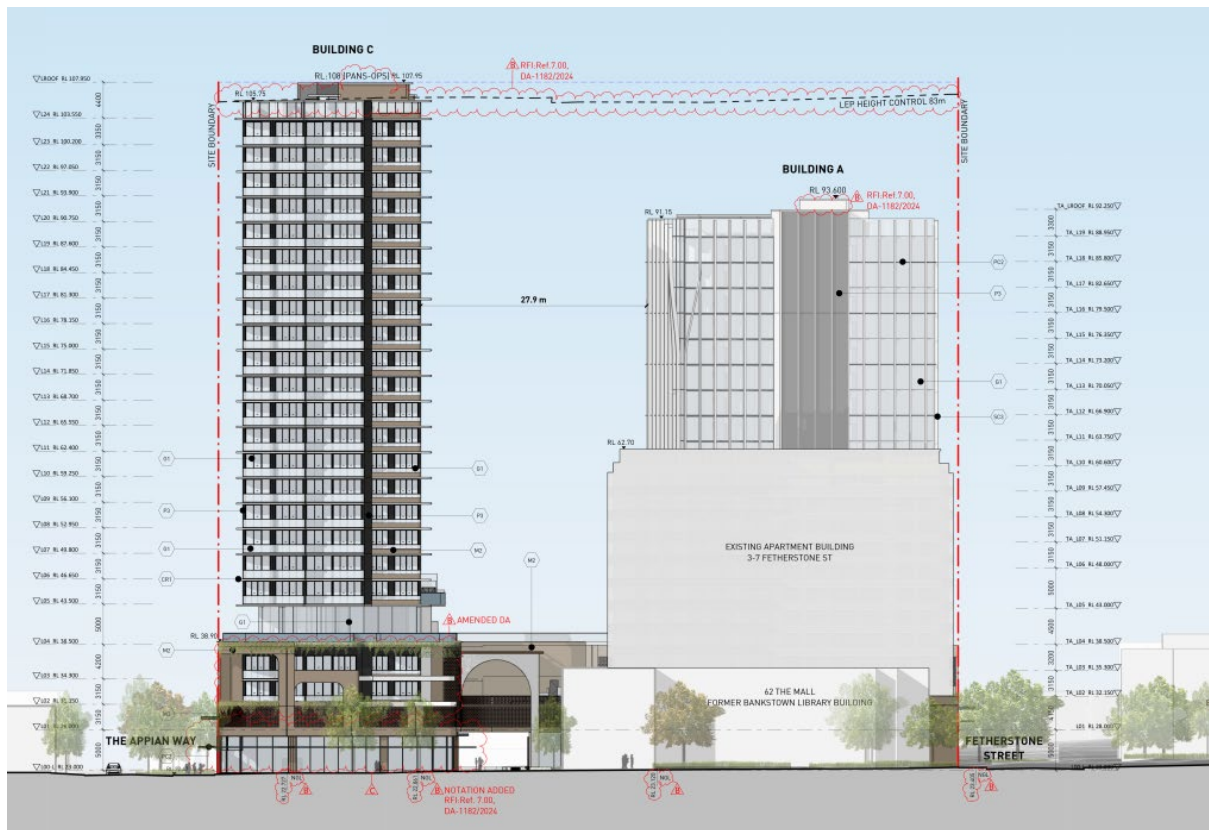


Figure 5: North elevation (Source: PTW Architects)



Figure 6: East Elevation (Source: PTW Architects)

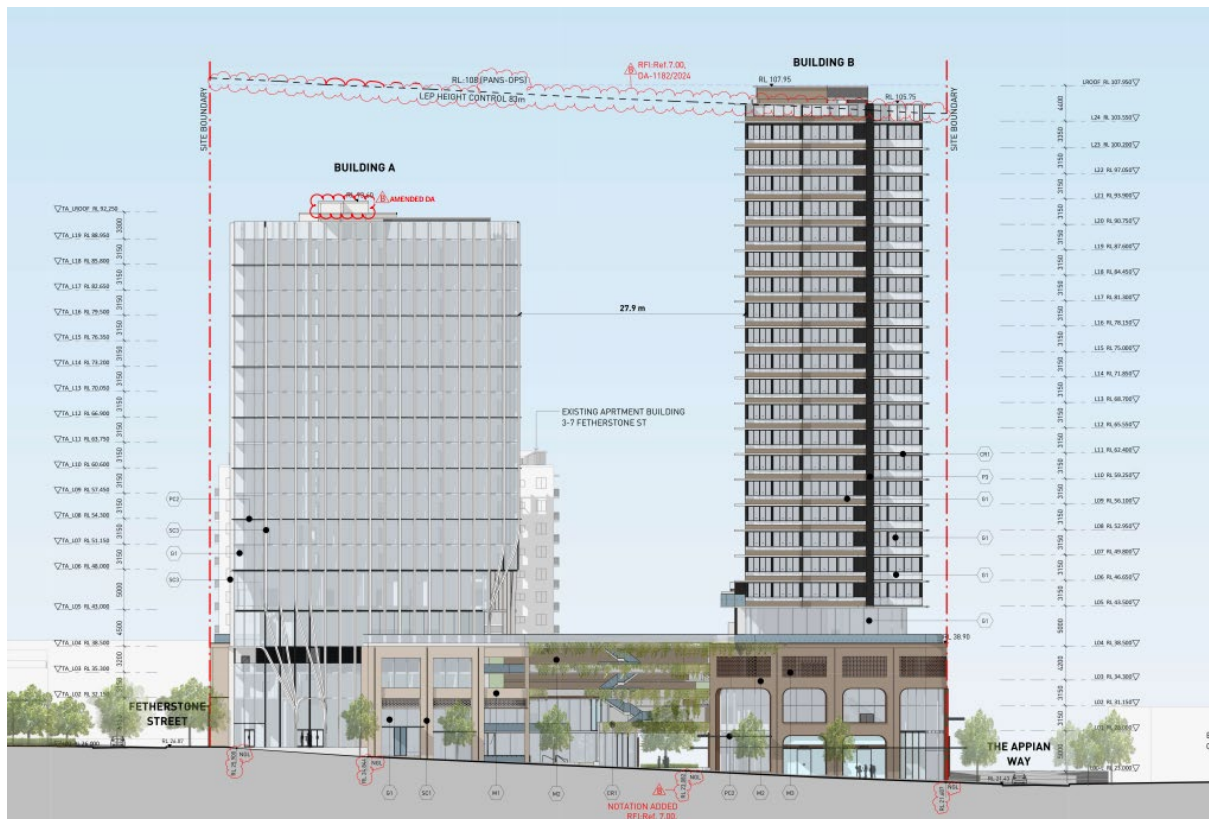


Figure 7: South Elevation (Source: PTW Architects)

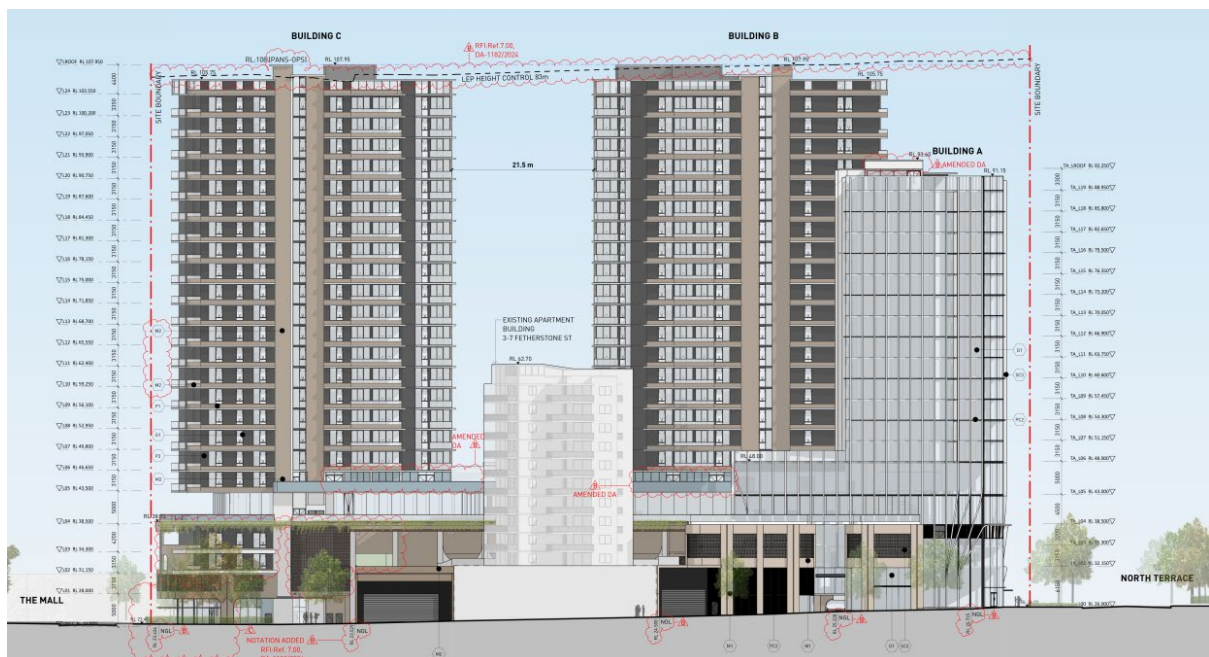


Figure 8: West Elevation (Source: PTW Architects)

An extract of the proposed schedule of finishes is included in Figure 9.

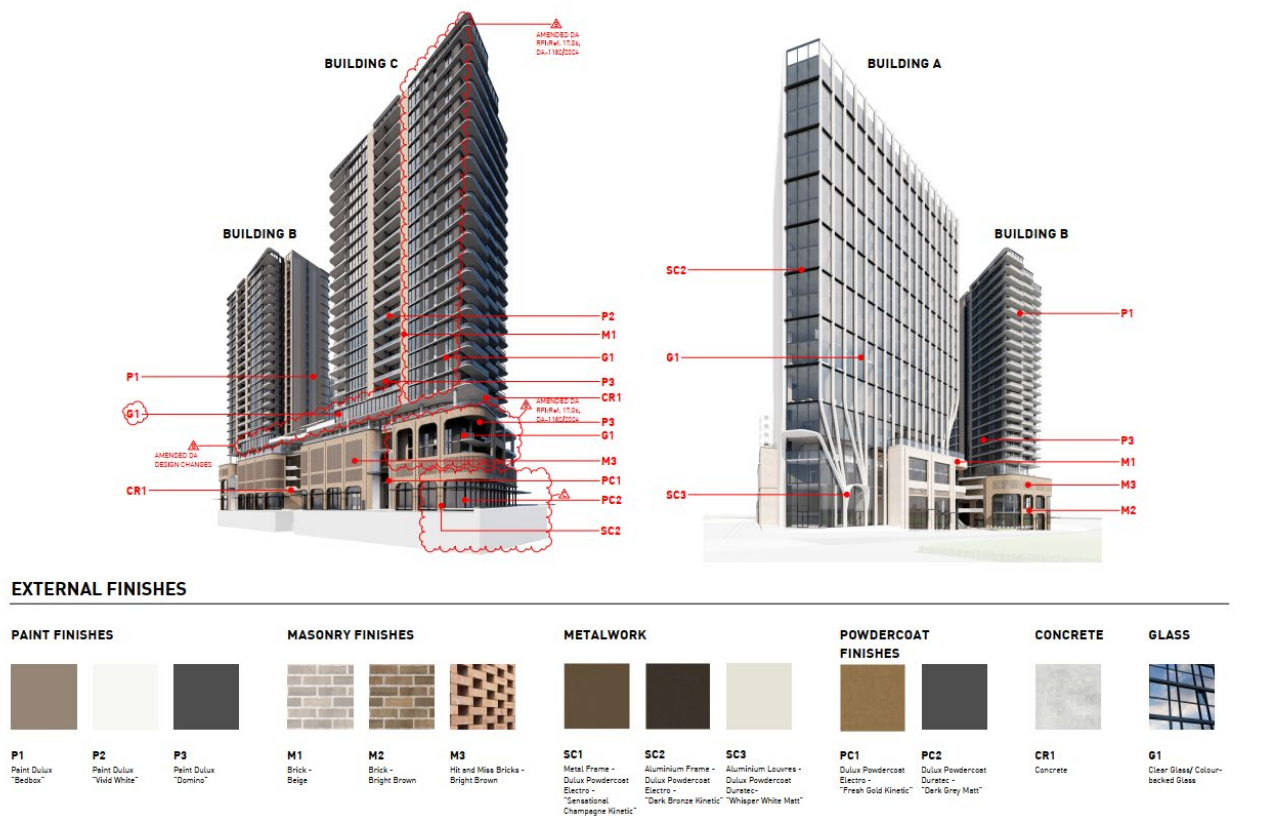


Figure 9: External Finishes (Source: PTW Architects)

Table 1: Development Data

Control	Proposal
Site area	8175m ²
GFA/FSR	The proposed GFA and FSR as identified in the application is: • GFA: 40, 837m² • FSR: 5:1 (Refer to GFA diagrams included in the set of architectural plans on Drawing Q310020) Note: Assessment of the of updated architectural plans and accompanying GFA diagrams indicates a greater FSR than that specified in the application. Refer to discussion of FSR under clause 6.16(3)(b) of the CBLEP in Section 4.1(g) of this Report.
Building height	86.18 metres (RL 107.95)
Clause 4.6 Requests	Yes. A written request to vary the maximum building height development standard in clause 6.16(3)(a) is included with the application and is further discussed under clause 4.6 of the CBLEP in Section 4.1(g) of this Report.
No. of apartments	336
Dwelling mix	• Studio: 54 (16%) • 1 bed: 130 (39%) • 2 bed: 131 (39%) • 3 bed: 21 (6%)
Deep soil area	1.6% (139.44m ²) of site area as identified in the SEE, Updated Architectural Design Report prepared by PTW Architects and Updated Landscape Design Report dated 27 May 2025, prepared by Site Image, which equates to.
Communal open space	2076.4m² (or 25.4% of the site) Located on Level 2, 5 and rooftop level of Building B and Building C.
Car Parking spaces	494 spaces distributed as follows: • Residential: 239 (including 34 accessible spaces) • Retail and gym: 124 (including 3 accessible spaces) • Hotel: 78 (including 2 accessible spaces) • Medical suites: 28 (including 1 accessible space) • Child care centre: 25 (including 1 accessible space)
Bicycle spaces	185

Motorcycle spaces	24
Setbacks	Podium setbacks: The podium is built to all site boundaries and street frontages with ranging setbacks incorporated at various locations including: • The corner of North Terrace and Fetherstone Street where a 3-metre podium setback is provided, • Along the northern site boundary adjoining 62 The Mall where a 4-metre setback is provided at ground level. The remainder of the podium levels above are setback between 1 metre to 4.4metres from this boundary; and • Along the northern boundary adjacent to the mixed-use commercial/residential building at 3-7 Fetherstone Street at Level 4 and Level 5 (i.e., the interface between the Hotel function room, gym and ballroom and the adjoining residential apartments). Tower setbacks: Building A, B and C are setback 3 metres from all street frontages. Increased (Building C) tower setbacks ranging between 3.1 metres and 5.4 metres are provided to the northern boundary shared with 62 The Mall/Phil Engisch Reserve and a 17 metre setback to the western boundary shared with 62 The Mall/former library building. The proposed building setbacks are illustrated in Figure 10.
Building Separation	Within the site: A minimum separation distance of 21.5 metres is provided between the proposed buildings within the site (i.e., between the two residential towers, Building B and C). To adjoining development: The following minimum separation distances to adjoining development are proposed: • 3-7 Fetherstone Street: 16.2 metres • 62 The Mall (former library): 13.1 metres The above minimum distances are measured from the podium level. Increased distances are provided at the upper tower levels. The proposed building separation distances are illustrated in Figure 10.

Loading Facilities	Two separate loading areas/docks located on Basement Level 1, accessed via Fetherstone Street, for: • Hotel and Residential uses comprising two small rigid vehicle (SRV) loading spaces (within the Hotel/Residential car park); and • Retail and other non-residential uses comprising one Medium Rigid Vehicle (MRV) and two Heavy Rigid Vehicle (HRV) loading spaces (within the Retail/loading car park).
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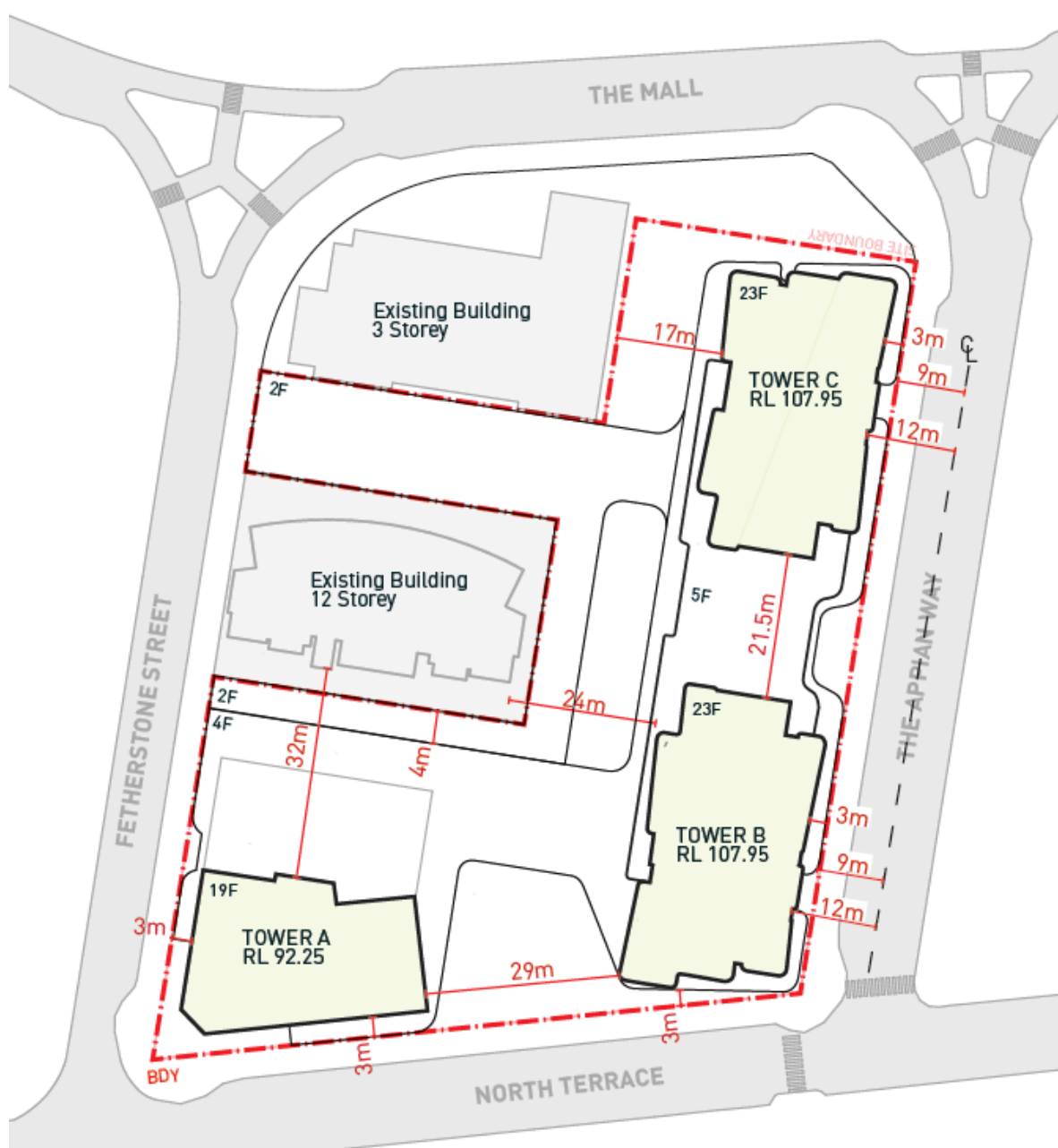


Figure 10: Building Separation (Source: Updated Architectural Design Report, Figure 8, PTW Architects)

3.2 Background Summary

Prior to lodgement, the applicant took part in two (2) rounds of consultation with Council's DRP and Council Assessment staff, including two (2) pre-lodgement meetings and two (2) Design Review Panel Meetings.

Following the second session, the DRP outlined their support for the proposal based on design improvements made to the development. A copy of the latest DRP advice is provided at **Attachment G**.

A range of design and technical matters were raised by Council's Assessment staff during each of the pre-lodgement meetings relating to flooding, stormwater drainage, traffic and site access, overshadowing and potential implications for the redevelopment potential of 62 The Mall as well as impacts of future development of 62 The Mall on the proposal. The matters raised during the pre-lodgement consultation are summarised in Table 2.

The application was lodged on 22 October 2024.

The application was placed on public exhibition for a period of 28 days, ending on 19 December 2024 and four (4) submissions were received. The issues raised in the submissions relate to:

- Loss of privacy, overshadowing and view loss impacts on neighbouring residential apartments at 3-7 Fetherstone Street;
- Overshadowing impacts to adjoining sites including Bankstown Central located to the east of the site;
- Potential implications of future development anticipated on adjoining sites including Bankstown Central as well as 62 The Mall, immediately to the north of the site, in line with the current planning framework, raised by Council; and
- Acoustic, vibration and traffic impacts caused by construction works.

On 1 July 2025, the Applicant amended the application and provided additional information in response to the RFI, dated 18 February 2025 and subsequent clarification of RFI items dated 10 June 2025, issued by SJB Planning on behalf of Council. The matters raised in the RFI, and details of the amended application are outlined in Table 2.

The amended application was placed on public exhibition for a period of seven (7) days the Bankstown Community Participation Plan, ending on 22 September 2025 and three (3) submissions were received which raised the following:

- Overshadowing impacts to the Bankstown Central site;
- Potential implications to of future development anticipated for 62 The Mall; and
- Acoustic, vibration and traffic impacts caused by construction works to properties adjoining the site to the west.

Assessment of the amended application identified outstanding planning and technical issues. Some of these issues may potentially be resolved via further amended plans and additional information, due to the number of assessment days lapsed (i.e., >88 days), Council proceeded to assess the application in its current form, without a further RFI, to prevent further exceedance of the NSW Minister for Planning and Public Spaces expectations for assessment

days, set out in the Order. Some of the issues raised are jurisdictional prerequisites to the granting of consent.

A chronology of the proposal, prior to and following lodgement is provided in **Table 2**.

Table 2: Chronology of the DA

Date	Event
12 October 2023	DRP (Session 1) advice issued
26 October 2023	Pre-lodgement (Session 1) advice issued
22 February 2024	Design amendments considered by DRP (Session 2) and advice issued. In terms of built form and scale, the advice states: <i>“The development exhibits both a fine grain relationship to specific aspects of the place, as well as presenting grand urban gestures to surrounding streets and public spaces. There is a clarity to the overall massing, composition and architectural expression, with three main elements reading distinctly: a ground-based, multi-level retail offering, a multi-level podium and the residential towers above. The proposed screens to the upper level car parking areas might have been too monolithic, but the Panel is confident that the proposed refinements to the screens on the basis of engagement with local and Aboriginal artists will give these screens much more three-dimensionality, local civic presence and unique qualities.</i> <i>The proposed hotel tower is a dramatic presence at the corner of Fetherstone Street and North Terrace – this creates a highly visible landmark destination for arrivals from the train/metro station complex. Similarly, the podium addresses corner conditions clearly and boldly, as well as expresses access and entries into the central area and residential lobbies distinctly and in relation to existing and proposed streets and pedestrian access ways.”</i> Other comments raised are summarised as follows: • Consider impacts of the future development of 62 The Mall; • Maximise access across podium levels and between different areas within the podium levels (for example between the gym and communal open space area); • Incorporate shared communal facilities such as laundry rooms; • Provision of increased durable and low maintenance materials as well as climate controls to facades; • Include stormwater management measures in line with Connecting with Country advice; • Insufficient soil depths for “urban forest” (landscaping); • Maximise access to urban forest;

	• Further detail regarding vertical “gullies” (landscaping) required; • Hotel drop off zone requires refinement; • Consider additional uses across above ground car parking areas; • Access to and viability of retail uses require further consideration (despite the retail strategy); • Consider ground level cycling facilities; • Consider potential safety issues associated with the diverse range/configuration of spaces; and • Increase dwelling typologies and sizes.
5 April 2024	Design amendments considered by Council Staff during Pre-lodgement (Session 2) and advice issued. Key issues and comments raised are summarised as follows: • Flooding and stormwater management requires careful consideration; • Management of potential impacts of future development of 62 The Mall remain unclear; • Insufficient deep soil and failure to satisfy the ADG requires further consideration of increased deep soil areas; • Adaptability of above-ground car parking is unclear due to the proposed floor plate and layout of these areas. Increased floor-to-ceiling heights may be required; • The horizontal circulation areas within the residential towers should be enclosed and included in GFA calculations; • Extending the retail tenancies on the upper podium levels should be considered to improve balance of open and solid façade elements; • Management of impacts of the proposed hotel uses on the adjoining development at 3-7 Fetherstone Street; and • Further consideration of overshadowing impacts of future development of 62 The Mall is required.
22 October 2024	DA lodged
19 December 2024	Exhibition of the application for a period of 28 days
16 December 2024	Panel briefing. The key issues discussed as documented in the Record of the Preliminary Briefing are as follows: • <i>“Further clarification was sought on the classification of the development; build to rent provisions included in the Housing SEPP are not being relied on and therefore, to avoid confusion, the residential component of the mixed use development would be shop top housing rather than build to rent housing, which would provide flexibility if the units are to be sold or rented.</i>

	• <i>The Interface with existing apartment buildings. Panel notes the management of Interface areas in the development such as driveway and terrace, including acoustic concerns should be considered.</i> • <i>The proposal includes above and underground car parking. Further clarification of parking arrangements was discussed, and extent of above ground parking should be justified, particularly if not screened by active uses.</i> • <i>Exhibition closes Friday, 20 December 2024. Council has made a submission.</i> • <i>Internal and external referrals are expected by end Dec and an RFI to be issued in January.”</i>
18 February 2025	Request for Information from Council to applicant regarding: • calculation of building height • calculation of GFA • site contamination including the request for a DSI • site access • traffic generation • stormwater drainage • flooding and consideration of existing easements and overland flow path, • building presentation tower form, • communal open space • insufficient deep soil areas • landscaping, • design of the residential apartments in accordance with the ADG provisions including solar access and ventilation, • apartment mix, • ceiling heights • overshadowing • privacy impacts to adjoining sites • implications to future planned development at 62 The Mall • treatment of the boundary interfaces • acoustic impacts • BASIX • operational details • waste management
10 June 2025	Clarification of RFI matters from Council to Applicant regarding land use, building separation and setbacks to 62 The Mall, tower form, Fetherstone street activation,

	communal open space, deep soil provision, apartment mix, site access and car park design.
1 July 2025	Amended plans and additional information submitted to Council. The amendments outlined in the additional information package are summarised as follows: • Reconfiguration of Level 5 including removal and relocation of the central residential apartments and expansion of the communal open space area, new communal facilities including a swimming pool, dining room, communal lounge area and gym; • Minor reconfiguration of the floor layout of the north facing 2 and 3-bedroom apartments residential apartments within Building C; • Relocation of accessible car parking spaces within the basement levels, • Provision of sight triangle at the driveway entries on Fetherstone Street; and • Provision of an additional awning located above Fetherstone Street. While other amendments are proposed, these are considered nominal and/or consequential to the reconfiguration of Level 5 of the development. For example, there has been a slight reduction in the number of residential apartments from 339 to 336 and car parking spaces from 495 to 494. The proposed tower form, building envelopes and height, floor space ratio, floor to floor heights, apartment mix and deep soil areas remain unchanged. Additional information provided included updated plans, urban design analysis, civil engineering statement, flooding statement, traffic statement, a clause 4.6 written request to vary the building height, updated noise impact assessment, wind statement, landscape statement, remedial action plan, memo in relation to contamination investigation, BASIX compliance report and updated BASIX certificate, hotel and child care centre plans of management, services statement and dewatering management plan.
10 July 2025	Letter of Intent - Indicative Public Benefit Offer' ("Letter of Offer"), dated 2 June 2025 submitted by the Applicant. The public benefit works identified in the letter of offer dated 2 June 2025 are summarised as follows: 1. Vehicular access to the property immediately adjoining the site to the north owned by Council (62 The Mall) via basement breakthrough;

	2. Pedestrian access to future ground floor retail space at 62 The Mall via the pedestrian thru-site link proposed under the subject DA; 3. Embellishment works within Phil Engisch Reserve; 4. Provision of an easement for public access and amenities to provide direct access between the site and the embellished Phil Engisch Reserve; and 5. Embellishment to footpaths and the public domain along the full extent of the public road interfaces /frontages of the site. The Letter of Offer and accompanying documentation identified above were considered by Council via a separate process to the assessment of the subject application and no longer apply to the site. Following the consideration of the Letter of Offer, Council's resolution included that <i>"Council does not proceed with the BREA public benefit Offer impacting part of the lot of the former Bankstown Library site at 62 The Mall, Bankstown."</i> There are no planning agreements entered into, nor are there any draft planning agreements proposed for the site.
5 September 2025	Additional information package submitted by the Applicant, containing further amended architectural and landscape plans demonstrating an increased ground level setback to the northern boundary shared with Phil Engisch Reserve (62 The Mall) from a varied setback of 1.4m – 4.4m to allow for a consistent 4m setback. As a result, the total GFA of the development has been reduced by 33m², amounting to a total GFA of 40,837m².

4. 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 are further considered below.

It is noted that the proposal is:

- **Integrated Development (s4.46):** as the proposed works involves dewatering to facilitate the basement construction which requires a supply work approval under section 90 of the *Water Management Act 2000* (WM Act). On 7 July 2025 WaterNSW issued General Terms of Approval; and
- **Requires concurrence/referral (s4.13):** to TfNSW pursuant to section 2.122 of the **Transport** and Infrastructure SEPP and to Ausgrid pursuant to section 2.48 of the **Transport and Infrastructure SEPP**.

The development also involves the construction of buildings that intrude within a prescribed airspace and requires a controlled activity approval pursuant to section 182 of the *Airports Act 1996*. A controlled activity approval under section 182 of the *Airports Act 1996* has not been issued.

4.1 Section 4.15(1)(a)(i) - Environmental Planning Instruments

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

Provisions of Environmental Planning Instruments

The following Environmental Planning Instruments are relevant to this application

- State Environmental Planning Policy (Planning Systems) 2021
- State Environmental Planning Policy (Biodiversity and Conservation) 2021
- State Environmental Planning Policy (Sustainable Buildings) 2022 (Sustainable Buildings SEPP)
- State Environmental Planning Policy (Housing) 2021 (Housing SEPP)
- State Environmental Planning Policy (Resilience and Hazards) 2021 (Resilience and Hazards SEPP)
- State Environmental Planning Policy (Transport and Infrastructure) 2021 (Transport and Infrastructure SEPP)
- CBLEP

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 (Planning Systems) 2021	Chapter 2: State and Regional Development Section 2.19(1) declares the proposal regionally significant development pursuant to section 2 of Schedule 6 as it comprises general development that has an estimated development cost of more than \$30 million.	Yes
State Environmental Planning Policy (Biodiversity and Conservation) 2021	Chapter 2: Vegetation in on-rural areas The application seeks development consent to remove twenty-two (22) trees from within the site and four (4) Council street trees. The application has been assessed by Council's Tree Management and no objections to the proposed tree removal are raised.	Yes
State Environmental Planning Policy (Sustainable Buildings) 2022	An Ecologically Sustainable Development (ESD) Report prepared by E-Lab Consulting has been prepared and provides an assessment of the proposal's consistency with the relevant provisions of the policy. An updated BASIX Certificate and stamped plans have also been provided. No compliance issues have been identified.	Yes
State Environmental Planning Policy (Housing) 2021	Chapter 4: Design of residential apartment development Section 144 – Application of chapter The Housing SEPP lists shop top housing as development that Chapter 4 applies, pursuant to section 144 of the policy. In section 149 it states that where this policy applies, the ADG prevails over development control plans. Section 145 - Referral to design review panel for development applications. Section 145 of the SEPP requires the consent authority to refer a development application to which Chapter 4 applies to the relevant design review panel for advice on the quality of the design of the development prior to determination. The DRP reviewed the proposal on 12 October 2023 and 22 February 2024 prior to lodgement. The formal advice issued by DRP is provided at Attachment G.	No - Refer to discussion below and Key Issues

	Section 147 - Determination of development applications and modification applications for residential apartment development Section 147 of the Housing SEPP requires the consent authority to take into consideration: a) the quality of the design of the development, evaluated in accordance with the design principles set out in Schedule 9 of the Housing SEPP; b) the ADG; and c) any advice received from a design review panel, when determining a development application to which Chapter 4 of the Housing SEPP applies. An assessment against the design principles in Schedule 9 and the relevant provisions of the ADG is provided at Attachment H. It is considered that the application does not adequately demonstrate that the development is consistent with the ADG provisions relating to deep soil, solar access and natural ventilation. The proposed built form and scale of the development is supported by the DRP (refer to Attachment G).	
SEPP (Resilience & Hazards) 2021	Chapter 4: Remediation of Land Section 4.6 - Contamination and remediation to be considered in determining a development application A Preliminary Site Investigation (PSI) prepared by Douglas Partners accompanies the application. Council's Environmental Health Officer has assessed the application, and it is considered that insufficient information has been provided to properly assess and determine the existing geotechnical and soil conditions of the site and whether the site can be made suitable for the proposal, following remediation, as required under section 4.6 of the Resilience and Hazards SEPP. Based on the information currently provided, the DA does not satisfy section 4.6 of the Resilience and Hazards SEPP. The applicant has not demonstrated that the land is suitable or will be made suitable for the proposed land use. Section 4.6 of the Resilience and Hazards SEPP and determining site suitability is a pre-condition to the issuing of consent. Refer to Draft Reasons for Refusal in Attachment A.	No - Refer to discussion below and Key Issues

State Environmental Planning Policy (Transport and Infrastructure) 2021	Chapter 2: Infrastructure Section 2.48(2) (Determination of development applications—other development) – electricity transmission - the proposal is satisfactory subject to conditions The application was referred to Ausgrid for assessment and no objection are raised, subject to conditions. A copy of the Ausgrid referral comments is provided at Attachment D. Section 2.122 - Traffic-generating development The application was referred to TfNSW for assessment and no objections are raised, subject to conditions. A copy of the TfNSW referral comments is provided at Attachment E.	Yes
Canterbury-Bankstown Local Environmental Plan (Version for 2 August 2024 to 26 November 2024)	The relevant provisions in the CBLEP include: • Clause 1.2 – Stormwater Aims of Plan • Clause 2.3 – Permissibility and zone objectives • Clause 2.7 – Demolition requires consent • Clause 4.3 – Height of buildings • Clause 4.4 – Floor Space ratio • Clause 4.6 – Exceptions to development standards • Clause 5.10 – Heritage • Clause 5.21 – Flood planning • Clause 6.2 – Earthworks • Clause 6.3 – Stormwater management and water sensitive urban design • Clause 6.8 – Airspace operations • Clause 6.9 – Essential services • Clause 6.16 – Design excellence at certain land in Bankstown	No - Refer to discussion below and Key Issues
Canterbury-Bankstown Development Control Plan 2023	The relevant provisions in the CBDCP include: • Chapter 2 – Flood Risk Management • Chapter 3 – Development Engineering and Waste Management • Chapter 6 – Bankstown City Centre It is considered that inadequate information has been provided to demonstrate compatibility with the flood function and behaviour on the land and enable a proper assessment of the flood impacts. Refer to the discussion under clause 5.21 of the CBLEP in Section	No - Refer to discussion below and Key Issues

	4.1(g) and Key Outstanding Issues - Flooding in Section 6 of this Report. Assessment of the application by Council's Traffic and Development Engineers has identified issues regarding site access and traffic generation rates. Refer to the discussion under clause 6.9 of the CBLEP in Section 4.1(g) and Key Outstanding Issues – Site access and on-site manoeuvring in Section 6 of this Report. It is considered that the proposal is generally consistent with the built form controls set out in the CBDCP. An assessment of the application against the controls for development located within the Bankstown City Centre is provided at Attachment I.	
Proposed Instruments	Bankstown State-led Rezoning under the TOD program (amendments to CBLEP and CBDCP) Following the lodgement of the DA, the CBLEP was amended on 27 November 2024 to include updated controls for the development of land within the Bankstown City Centre, under which a building height development standard of 83 metres remains, and an increased maximum FSR of 5.8:1 (from 5:1) applies to the site. The controls relating to Bankstown City Centre in the CBDCP have also been updated in line with the LEP amendments. It is considered that the proposal aligns with the aims and objectives of the CBDCP and is generally consistent with the updated built form and design controls.	Refer to Section 4.2

Consideration of the relevant SEPPs is outlined below

a) *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 section 2 of Schedule 6 of the Planning Systems SEPP as the proposal comprises general development that has an estimated development cost of more than \$30 million. Accordingly, the Sydney South Planning Panel is the consent authority for the application.

The proposal is consistent with the relevant provisions of the Planning Systems SEPP.

b) *State Environmental Planning Policy (Biodiversity and Conservation) 2021* ('Biodiversity and Conservation SEPP')

Chapter 2 of the Biodiversity and Conservation SEPP applies to the Canterbury-Bankstown Local Government Area (LGA).

The Biodiversity and Conservation SEPP aims to protect the biodiversity values of trees and other vegetation and to preserve the amenity of non-rural areas of the State through preserving trees and other vegetation.

An Arboricultural Impact Assessment (AIA) prepared by Truth about Trees, accompanies the application and identifies that the application seeks development consent to remove:

- 22 trees from within the site (T7, T19, T20, T21, T22, T23, T24, T25, T26, T27, T28, T29, T30, T31, T32, T33, T34, T35, T36, T37, T38, T39); and
- 4 Council street/public domain trees (T1, T8, T17 and T18) located on Fetherstone Street to the east of the site and Phil Engisch Reserve to the north of the site.

Tree protection zones and measures regarding trees adjoining the site are also outlined in the (AIA).

The application has been assessed by Council's Tree Management and no objections to the proposed tree removal are raised. Should consent be granted, the consent will act as a permit for the removal of existing trees on site and street trees under the Biodiversity and Conservation SEPP.

The proposal is consistent with the relevant provisions of the Biodiversity and Conservation SEPP.

c) *State Environmental Planning Policy (Sustainable Buildings) 2022* ('Sustainable Buildings SEPP')

The Sustainable Buildings 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.

An ESD Report prepared by E-Lab Consulting has been prepared and undertakes an assessment of the proposal's consistency with the relevant provisions of the policy.

The application is accompanied by an updated BASIX Certificate No.1746306M_03 dated 25 June 2025 committing to environmentally sustainable measures. The Certificate demonstrates the proposed development satisfies the relevant water, thermal and energy commitments.

The proposal is consistent with the relevant provisions of the Sustainable Buildings SEPP.

d) State Environmental Planning Policy (Housing) 2022 ('Housing SEPP')

Chapter 4 of the Housing SEPP establishes a consistent approach to the design and assessment of new apartment development across the State to improve the design quality of residential apartment development.

Chapter 4 of the Housing SEPP applies to development for the purposes of residential flat buildings, shop-top housing and mixed-use development with residential accommodation components pursuant to section 144 of the Housing SEPP, and therefore Chapter 4 of the Housing SEPP applies to the application.

Section 149 of the Housing SEPP identifies that where this policy applies, the ADG prevails over development control plans.

Section 145 of the Housing SEPP requires the consent authority to refer a development application to which Chapter 4 applies to the relevant design review panel for advice on the quality of the design of the development prior to determination. The applicant took part in two (2) rounds of consultation with Council's DRP prior to lodgement. At its second session, the DRP identified a series of improvements with the development and provided its support for the proposal. A copy of the latest DRP advice is provided at **Attachment G**.

Section 147(1) of the Housing SEPP requires the consent authority to take into consideration:

- a) the quality of the design of the development, evaluated in accordance with the Design Principles set out in Schedule 9 of the Housing SEPP;
- b) the ADG; and
- c) any advice received from a design review panel, when determining a development application to which Chapter 4 of the Housing SEPP applies.

An assessment against the design principles in Schedule 9 and the relevant provisions of the ADG is provided at **Attachment H**. The assessment concludes that the proposal is generally consistent with the relevant ADG provisions, with the exception of the design criteria and objectives relating to:

- deep soil;
- visual privacy;
- solar access;
- natural ventilation; and
- common circulation and spaces.

For this reason, the application does not satisfy the Design Principles in Schedule 9.

These matters are further considered below.

Objective 3E-1 Deep soil zones

The development provides deep soil areas which are equal to 1.6% of the site area and therefore does not satisfy the minimum 7% requirement set out in Design Criteria 1 under Objective 3E of the ADG. The proposed deep soil areas are provided in three separate zones. The Architectural Design Report and Landscape Design Report describes these as interface areas, located at the three main access points to the site, including:

- Interface 1 – Southern Entry: North Terrace Plaza
- Interface 2 – Eastern Entry: Along The Appian Way

- Interface 3 – Northern Entry: Through-Site Link to the Civic Centre

The lack of deep soil was raised in an RFI and in response, an updated Landscape Design Report and supporting landscape plans were submitted demonstrating the extent of on-structure planting to supplement the deep soil areas at ground level. The updated Landscape Design Report also identifies that the Design Guidance associated with Objective 3E-1 acknowledges that achievement of the required deep soil area may not be possible for sites within urban settings including central business districts.

The total on-structure landscape area and the proposed ground floor deep soil zones are identified in Figure 11.

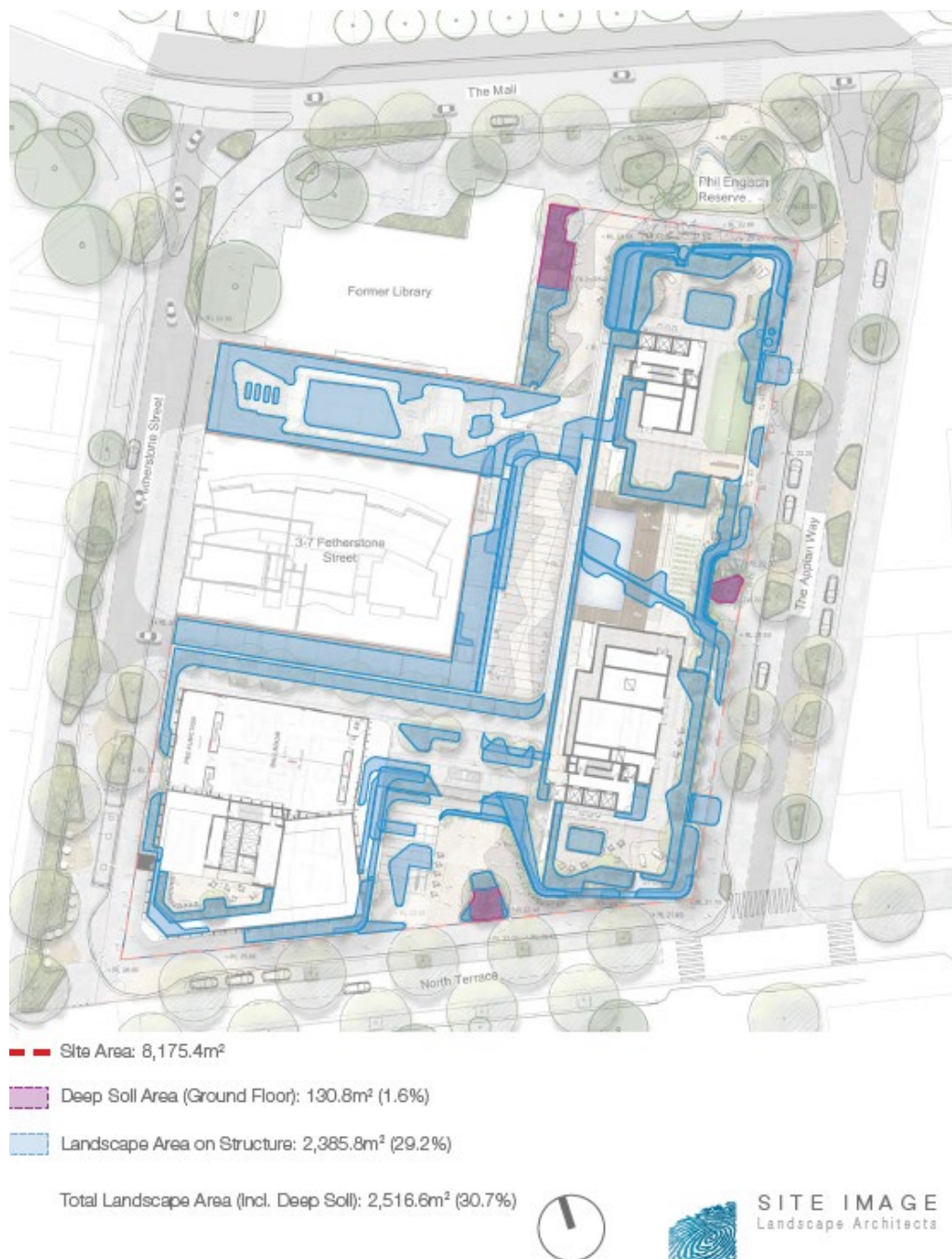


Figure 11: Site Image (Source: Updated Landscape Design Report, Site Image)

The updated Landscape Design Report identifies a range of measures that are proposed to be implemented to ensure the viability of the on-structure planting.

- Contiguous soil trenches where possible (reduce the amount of walls that breakup soil volumes);
- Ensure maintenance access is available;
- Ensure plant selection is appropriate for aspect (for example, shade tolerant species to southern facade);
- Ensure all garden beds are irrigated. Rainwater reuse to be integrated into irrigation design; and
- Ensure soils are appropriate for site conditions.

The landscape plans also demonstrate that a maximum soil depth of 1 metre is provided for all landscaping located above the ground floor.

While requiring strict adherence with the 7% deep soil design criteria may be unreasonable given the site context, it is considered that there is scope to increase the deep soil above the proposed 1.6% to improve satisfaction of Objective 3E-1 which states:

“Deep soil zones provide areas on the site that allow for and support healthy plant and tree growth. They improve residential amenity and promote management of water and air quality.”

This could be achieved with enlarged or additional deep soil plantings/nodes along edges of the site, particularly along The Appian Way and/or Fetherstone Street frontage to maximise plantings, specifically canopy trees. Additional plantings at the ground plane may also contribute to the enhancement of the public domain, in line with the Bankstown Complete Streets Transport and Place Plan, under which the southern end of Fetherstone Street is to be converted to a pedestrian-only thoroughfare, and the northern end is to become a shared zone. The Plan also identifies the conversion of The Appian Way into a shared zone and the main “activity spine” of the Bankstown City Centre.

Objective 3F-1 Visual Privacy

3-7 Fetherstone Street

The proposed separation distances between Building A (hotel) and the residential apartments at 3-7 Fetherstone Street range between 8 and 16 metres and therefore do not meet the building separation requirements in Design Criteria 1 under Objective 3F-1.

Despite this, additional mitigation measures and design amendments have been incorporated which demonstrate that the potential visual and acoustic privacy impacts of the development to the neighbouring residential apartments can be appropriately managed and minimised.

For example, the updated interface treatment between the development (i.e., the Hotel function spaces) and the neighbouring apartments has included the incorporation of a 3-metre-wide planter with landscaping at the edge of the building, and the installation of colour backed glass to prevent overlooking. The Updated Noise Impact Assessment also includes additional management measures to control the use of the hotel spaces located along the interface.

The updated interface treatment between the development (i.e., the Hotel function spaces on Level 4 and Level 5) and the neighbouring apartments are identified on the amended floor plans (refer to Level 4 floor plan (Drawing B1L0410), Level 5 floor plan (Drawing B1L0410))

and additional sections and Building A North Elevation (Drawing C150010), Section 3 (Drawing D110030) and Detailed Sections (Drawing D110040).

The setbacks to 3-7 Fetherstone Street are consistent with Objective 3F-1 which states:

“Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy”

62 The Mall

The proposed setback distances of the upper residential levels of Building C to the eastern extent of the northern boundary, shared with 62 The Mall/Phil Engisch Reserve, range between 3.1 and 5.4 metres. Therefore the proposal does not satisfy the relevant design criteria under Objective 3F-1 which requires setback distances to the northern boundary ranging between 9 metres and 12 metres for the tower levels.

The (Building C) tower setbacks to the northern boundary are circled in yellow in Figure 11a below.

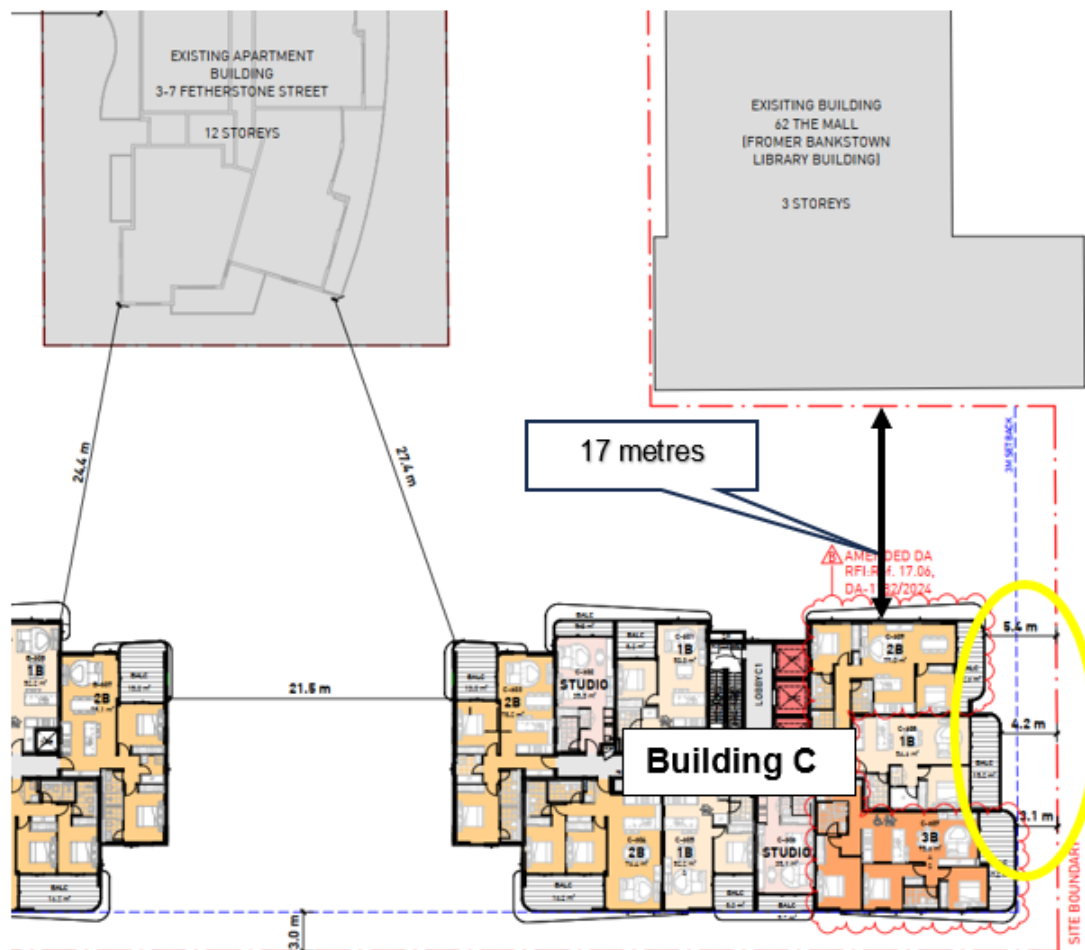


Figure 11a: Northern setbacks of Building C to Phil Engisch Reserve (Source: Drawing B1L0610, PTW Architects)

Achieving strict adherence of the design criteria by increasing the northern tower setbacks of Building C would have no material benefit for the redevelopment of the eastern portion of 62 The Mall, occupied by Phil Engisch Reserve. If the equivalent ADG compliant setbacks were

applied within the adjoining site, a tower form could not be realised noting the configuration and width of the eastern portion of the lot (i.e., 18 metres, approximately).

The northern boundary is shared with Phil English Reserve which is existing open space, and it is considered that the development achieves the design guidance under Objective 3F-1.

As detailed in Figure 11a, the development provides a compliant setback to the western boundary shared with the former library building occupying the western portion of the lot, also located at 62 The Mall, which could potentially accommodate a tower form as per the ADG provisions.

Objective 4A-1 Solar access

The architectural plans do not demonstrate that the living rooms and private open spaces of at least 70% of the proposed apartments receive a minimum of 2 hours of sunlight between 9am and 3pm in accordance with Design Criteria 1 in Objective 4A-1. For example:

- The solar access diagrams for Level 6 to 23 included in the architectural plans (Drawing Q110060) indicate that all east facing 1, 2 and 3-bedroom apartments in Building B and Building C receive more than 2 hours of direct sunlight. This is contrary to the sun-eye view diagrams which demonstrate that these apartments receive direct sunlight between 9am and 10am only (Drawing Q110030-31). The diagrams do not demonstrate that solar access is provided to the living rooms of these apartments after 10am. Extracts of the solar access diagram and sun eye-view diagrams at 9am, 10am and 11am are included at Figures 12a to 14 below. The east facing apartments are marked in red.
- Solar access to the private open space areas of apartments is not identified on the solar access diagrams (Drawing Q110060) or the ADG Compliance Assessment in Section 10 of the updated Architectural Design Report.

On this basis, the development is inconsistent with objective 4A-1 which states:

"To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space"

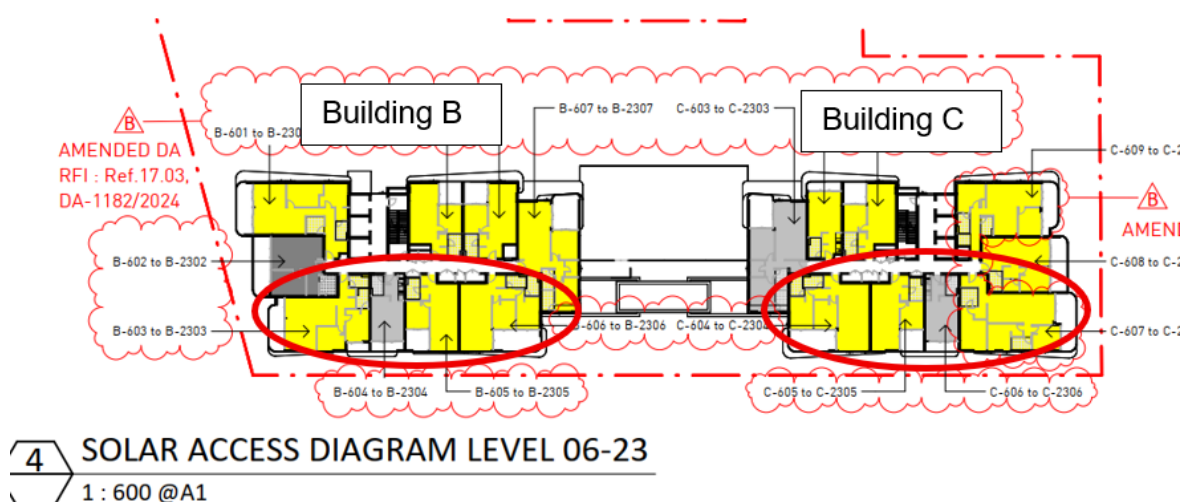


Figure 12a: Extract of solar access diagram – Level 6 to 23 (Source: Drawing Q110060, PTW Architects)

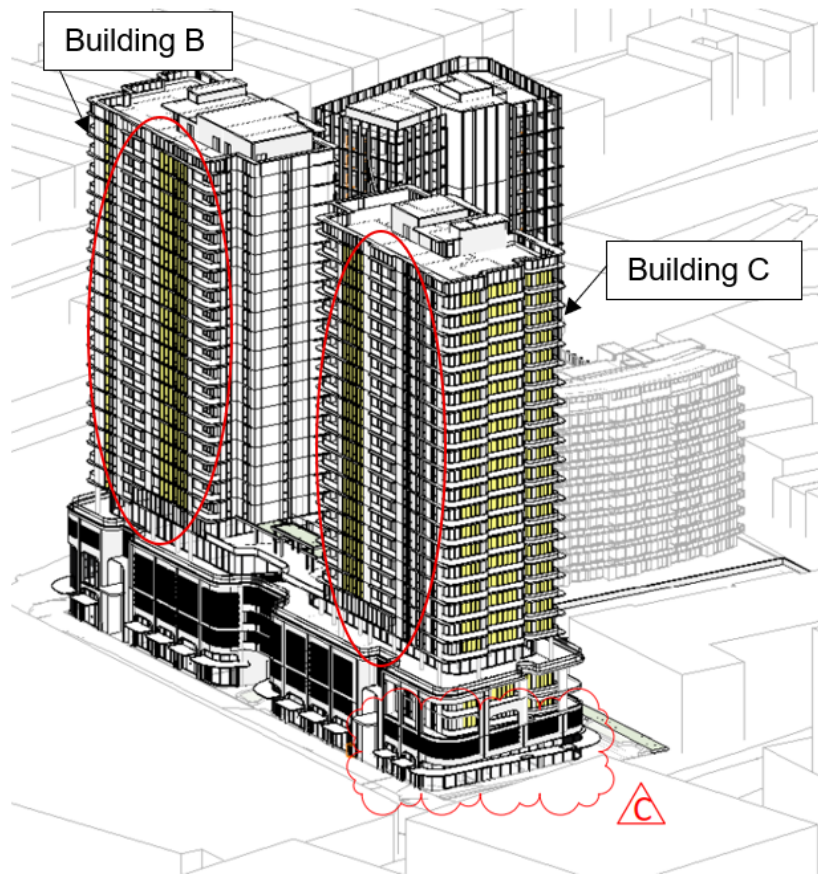


Figure 12: Extract of sun-eye view diagram – 9am (Source: Drawing Q110030, PTW Architects)

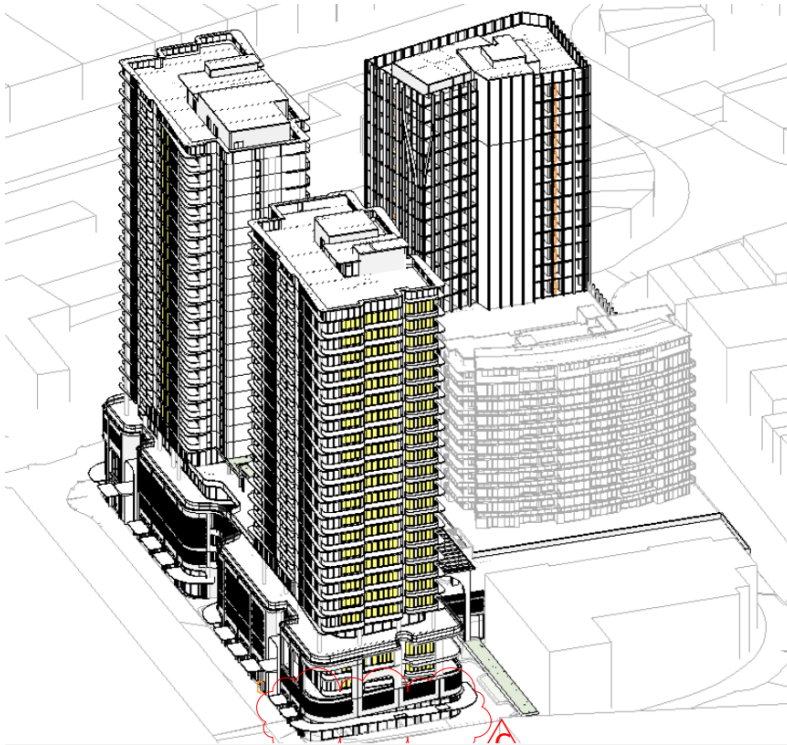


Figure 13: Extract of sun-eye view diagram – 10am (Source: Drawing Q110030, PTW Architects)

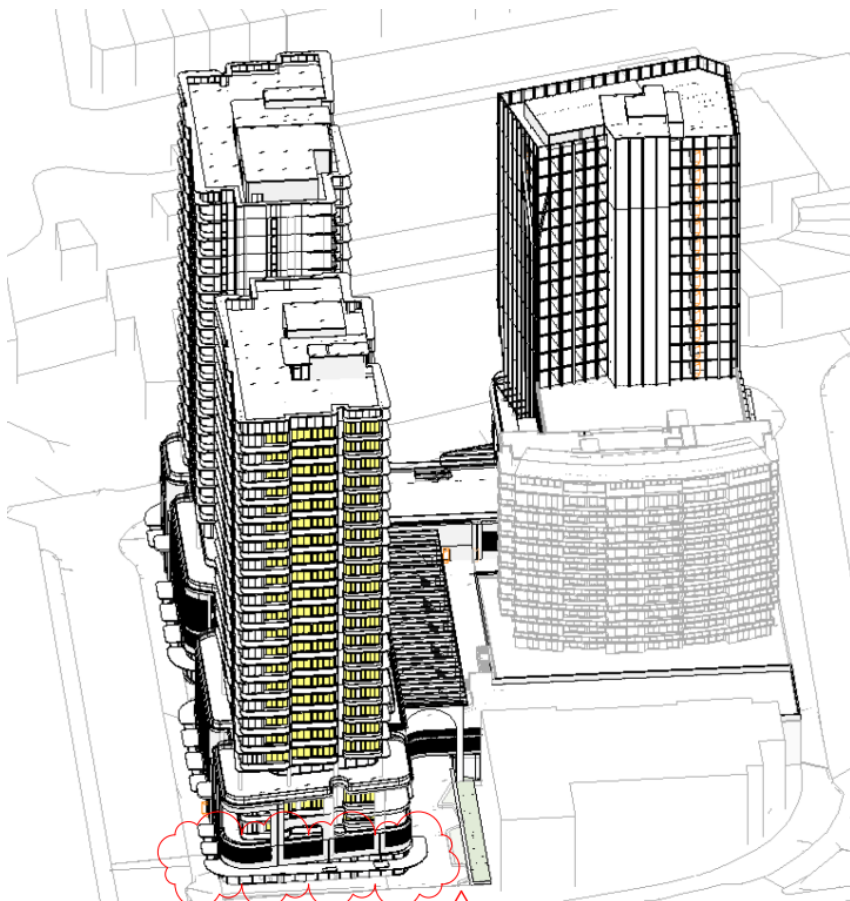


Figure 14: Extract of sun-eye view diagram – 11am (Source: Drawing Q110030, PTW Architects)

Objective 4B-3 Natural Ventilation

The submitted architectural plans do not demonstrate that at least 60% of apartments are naturally ventilated in the first nine storeys of Building B and Building C in accordance with the Design Criteria in Objective 4B-3. The ventilation diagrams (Drawing Q110061) identify that 18 apartments in Building B and 15 apartments in Building C across levels 6, 7 and 8 are cross ventilated.

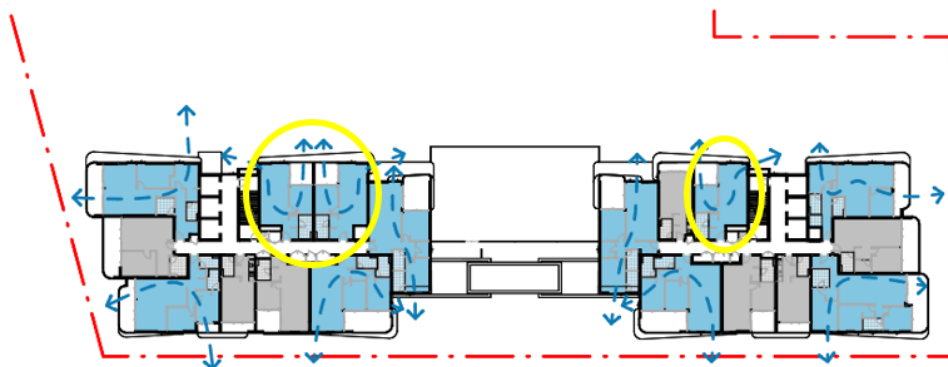
An extract of the ventilation diagram for Levels 6 to 8 is included in Figure 15 below. The diagram identifies that Units B608 B609, B708, B709, B808, B809, B908 and B909 in Building B, as well as unit C601, 701, 801 and C901 in Building C are ventilated. The locations of these apartments are circled yellow in Figure 15.

However, these units are not cross ventilated as they include outlet windows which are significantly smaller in area than the respective inlet openings, as illustrated in the respective typical unit layout (Drawing B1TYP12) in Figure 16 below (outlet window circled yellow). Furthermore, the actual size and details of the windows have not been provided (i.e., relevant sections and elevations).

Given that the inlet and outlet window openings relied on for these apartments are not comparable in area, they will not facilitate effective ventilation and are inconsistent with the design guidance in Objective 4B-3.

On this basis, the development is inconsistent with Objective 4B-3 which states:

“The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents”



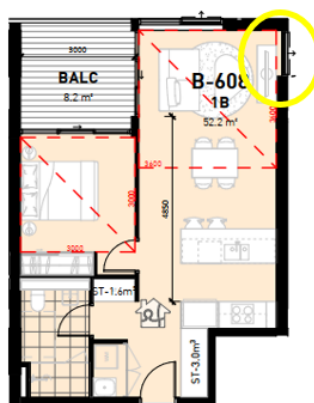
4 CROSS VENTILATION DIAGRAMS LEVEL 06-08 1 : 600 @A1

Figure 15: Extract of cross ventilation diagram – Level 6-8 (Source: Drawing Q110061, PTW Architects)



9 TYPICAL UNIT B-09 1 : 100 @A1

UNIT PLAN REPEATED ON LEVELS
05-23 : **B509-B2309**
UNIT PLAN MIRRORED ON LEVELS
06-23 : **C601-C2301**



8 TYPICAL UNIT B-08 1 : 100 @A1

UNIT PLAN REPEATED ON LEVELS 05-23 :
B508-B2308
UNIT PLAN MIRRORED ON LEVELS 06-23 :
C605-C2305

Figure 16: Typical floor plan Unit (Source: Drawing B1TYP12, PTW Architects)

Objective 4F-1 Common circulation and spaces

The development includes nine (9) apartments on each level of the residential towers (Building B and Building C). This is inconsistent with the design criteria 1 in Objective 4F-1 which restricts the maximum number of apartments off a single circulation core on each level to eight

(8). Furthermore, the number of apartments sharing a single lift is 55 based on a minimum of 165 apartments sharing three (3) lifts. This is inconsistent with design criteria 2 which restricts the maximum number of apartments sharing a single to 40.

The Applicant has submitted a Vertical Transport Assessment indicating that a total of three (3) lift cores will be provided for each building, all of which will incur a maximum wait time of 60 seconds. Notwithstanding this, it is considered that the proposed exceedance of the design criteria is unacceptable noting that the development is inconsistent with the associated design guidance under Objective 4F-1. The common circulation spaces are greater than 12 metres in length and are not articulated, nor are they provided with daylight, natural ventilation, and windows.

On this basis, the development is inconsistent with Objective 4F-1 which states:

“Common circulation spaces achieve good amenity and properly service the number of apartments”

In summary, the application in its current form does not satisfy the solar access and natural ventilation provisions contained in Objective 4A-1, 4B-3 and 4F-1 of the ADG.

Furthermore, it is considered that there is scope to further maximise deep soil plantings at ground level in line with the relevant provisions set out in 3E-1 of the ADG.

e) State Environmental Planning Policy (Resilience and Hazards) 2021 ('Resilience and Hazards SEPP')

Chapter 4: Remediation of Land

Chapter 4 of the Resilience and Hazards SEPP applies to the whole of the State.

In accordance with Section 4.6 of the Resilience and Hazards SEPP 2021, the consent authority must not consent to the carrying out of any development unless it has taken into consideration whether the land is contaminated and if the land can be made suitable for the purpose for which the development is proposed to be carried out.

A Preliminary Site Investigation (PSI) has been prepared for the site and the findings are summarised as follows:

- Assessment of the site's development history has revealed potential contaminating activities including on-site and nearby service stations motor garages and dry cleaners.
- The fieldwork and associated soil testing demonstrated no significant contamination risk with the exception of a faint hydrocarbon odour at a single borehole location (BH 206).
- There were limitations in the testing and associated results provided due to existing structures and access constraints.
- Potential contamination may exist in untested areas.
- A detailed site investigation involving additional intrusive contamination testing soils and expanded groundwater investigation, with consideration of soil vapor testing, is required to render the site suitable for development.

- A Remediation Action Plan (RAP) and an Unexpected Finds Protocol may be required depending on the findings of further investigations as described above.
- Further groundwater investigation is also expected to enable the development of a dewatering management plan for use during construction.

A memorandum identifying previous site investigations undertaken was also submitted with the original application.

The application has been assessed by Council's EHO, and it is considered that the PSI is inadequate for the purposes of demonstrating that the site can be made suitable for the proposal. An RFI was issued to the Applicant requesting the preparation and submission of a Stage 2 Detailed Site Investigation (DSI) in accordance with Council's Contaminated Land Policy, the relevant Environment Protection Authority (EPA) Contaminated Land Management Guidelines and the National Environment Protection (Assessment of Site Contamination) Measure 1999, amended in 2013.

In response, the Applicant provided additional documentation, including the following:

- RAP prepared by Douglas Partners, Project No. 213805.05, dated 17 June 2025; and
- Memorandum, subject 'Comment on contamination investigations proposed management', dated 26 June 2025.

A Stage 2 DSI as requested by Council's EHO has not been provided.

The memorandum provided by Douglas Partners Pty Ltd dated 26 June 2025 states:

"In addition to a desktop assessment, the PSI included a limited intrusive sampling regime (soil, groundwater and vapour assessment) as limited by access due to the presence of existing buildings (noted to be currently still existing). Additional targeted groundwater and vapour investigation was conducted as part of the current revision of the DMP. Key potential contamination risks identified in the PSI have therefore been assessed to date based on the limited site access, including targeted groundwater and vapour assessment of a former dry cleaners, and former service station / motor garage, and more generally, assessment of risks posed by uncontrolled fill in accessible parts of the site. The RAP identified that existing data gaps remain for soils beneath inaccessible parts of the site, and to a lesser extent, groundwater which will require management as part of the DMP (i.e., during basement excavation), albeit noting that no significant risks from the former service station / motor garage or dry cleaners have been identified to date in soils, groundwater and vapour.

Based on current site access limitations it is considered that the requirements for systematic testing could currently not be undertaken to complete a detailed site investigation (DSI), and therefore Douglas has prepared a RAP to outline the requirements for further investigation once further site access is possible (e.g., following demolition).

..

Based on the outcomes of the data gap investigation, the RAP is intended to be revised, i.e., to determine if more specific management strategies are required, or otherwise if no further contamination is identified and if no further contamination is identified, and if continued implementation of a RAP is required."

The additional information has been reviewed by Council's EHO and is considered inadequate for the following reasons:

- A RAP cannot be developed when the nature and extent of contamination is unknown. A DSI is required to determine this.
- It would be inappropriate and premature to accept and impose conditions regarding a RAP that is subject to future change without further review from Council. If the RAP can be altered depending on future circumstances, it is effectively unenforceable.
- The proposed development includes sensitive receivers (childcare centre and residential) and the site has a history of high-risk activities such as a service station and dry cleaners. For these reasons, expert oversight is considered both reasonable and necessary.

The Council's EHO Officer's assessment concludes that an NSW Environment Protection Authority (EPA) accredited site auditor must be appointed to audit reports compiled as part of the contaminated land assessment, remediation, and validation process due to the lack of documentation and investigations undertaken.

Accordingly, the application in its current form does not demonstrate that the land is suitable or will be made suitable for the proposed land use pursuant to section 4.6 of the Resilience and Hazards SEPP and development consent could not be granted in this circumstance.

f) State Environmental Planning Policy (Transport and Infrastructure) 2021 ('Transport and Infrastructure SEPP')

The relevant provisions of the Transport and Infrastructure SEPP are considered below.

Chapter 2 Infrastructure

Section 2.48(2) (Determination of development applications - other development)

The application was referred to Ausgrid for assessment under section 2.48 of the Transport and Infrastructure SEPP regarding the proximity and connection to its infrastructure/network and no objection are raised, subject to conditions. A copy of the Ausgrid referral comments is provided at **Attachment D**.

Section 2.100 – Impact of rail noise or vibration on non-rail development

Section 2.100 applies to development for the purpose of residential accommodation on land adjacent to a rail corridor. Development consent must not be granted under this section, unless it has been demonstrated that the noise levels set out in section 2.100(3) will not be exceeded.

Section 2.100(3) states:

- “(3) If the development is for the purposes of residential accommodation, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded—*
- (a) in any bedroom in the residential accommodation—35 dB(A) at any time between 10.00 pm and 7.00 am,*

(b) anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.”

The updated Noise Impact Assessment prepared by E-Lab Consulting, dated 1 May 2025, concludes, that with the recommended window glazing, internal noise levels will satisfy the applicable criteria set out in section 2.100(3) of the Transport and Infrastructure SEPP.

Further discussion of acoustic privacy is provided in the consideration of the likely impacts of the development at Section 4.6 of this Report.

Section 2.122 - Traffic-generating development

The development is for residential accommodation, including more than 300 dwellings and is traffic generating development pursuant to section 2.122 of the Transport and Infrastructure SEPP. The application was referred to TfNSW and referral comments were issued on 18 December 2024, which state that *“the proposed development will have a negligible impact on the surrounding state road network. As such TfNSW has no objections regarding the application”*. The referral comments also requested consideration of the the Bankstown Complete Streets Transport and Place Plan.

The Applicant provided additional information addressing the Bankstown Complete Streets Program and the Bankstown City Centre Master Plan. Council's Traffic Engineer has reviewed the application including the additional information, and several key issues are raised regarding the proposed site access arrangements. These are discussed under clause 6.9 of the CBLEP and Key Outstanding Issues – Site access and Traffic Generation in Section 6 of this Report.

Chapter 3 Educational establishments and child care facilities

Chapter 3 of the Transport and Infrastructure SEPP applies to the State and identifies the provisions for centre based child care centres.

As detailed in Section 4.13 of the SEE, the application is not seeking consent for the use and fit out of the child care centre which will be the subject of a separate development application. Therefore, a detailed assessment of the child care centre provisions in Part 3.3, including the Child Care Planning Guideline (referred to in section 3.23 of the Transport and Infrastructure SEPP) is not required.

However, review of the architectural floor plans (refer to Drawing B1L0410) demonstrates that the proposed internal (576m²) and external areas (735m²) are sufficient to accommodate the proposed number of children (i.e., 100) in accordance with the unencumbered indoor and outdoor space requirements set out in section 4.1 and 4.9 of the Child Care Planning Guideline, respectively.

g) *Canterbury-Bankstown Local Environmental Plan 2023 (Version 2 August 2024 to 26 November 2024)*

The relevant local environmental plan applying to the site is the Canterbury-Bankstown Local Environmental Plan. The aims of the CBLEP are set out in clause 1.2 and are reproduced below:

“1.2 Aims of Plan

- (1) *This Plan aims to make local environmental planning provisions for land in Canterbury-Bankstown in accordance with the relevant standard environmental planning instrument under section 3.20 of the Act.*
- (2) *The particular aims of this Plan are as follows—*
 - (aa) *to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,*
 - (a) *to manage growth in a way that contributes to the sustainability of Canterbury-Bankstown,*
 - (b) *to protect landforms and enhance vegetation, especially foreshores and bushland, in a way that maintains the biodiversity values and landscape amenity of Canterbury-Bankstown,*
 - (c) *to identify, conserve and protect the Aboriginal, natural, cultural and built heritage of Canterbury-Bankstown,*
 - (d) *to provide development opportunities that are compatible with the desired future character and amenity of Canterbury-Bankstown,*
 - (e) *to restrict development on land that is sensitive to urban and natural hazards,*
 - (f) *to provide a range of residential accommodation to meet the changing needs of the population,*
 - (g) *to provide a range of business and industrial opportunities to encourage local employment and economic growth and retain industrial areas,*
 - (h) *to create vibrant town centres by focusing employment and residential uses around existing centres and public transport,*
 - (i) *to provide a range of recreational and community service opportunities and open spaces to meet the needs of residents of and visitors to Canterbury-Bankstown,*
 - (j) *to achieve good urban design in terms of site layouts, building form, streetscape, architectural roof features and public and private safety,*
 - (k) *to ensure activities that may generate intensive car usage and traffic are located near public transport that runs frequently to reduce dependence on cars and road traffic,*
 - (l) *to consider the cumulative impact of development on the health of the natural environment and waterways and on the capacity of infrastructure and the road network,*
 - (m) *to support healthy living and enhance the quality of life and the social well-being and amenity of the community,*
 - (n) *to ensure development is accompanied by appropriate infrastructure,*
 - (o) *to promote ecologically sustainable development.”*

The proposal is consistent with these aims as it provides increased mixed-use development and housing choice within the Bankstown City Centre focused around public transport. It will contribute to increased housing density, is comparable with the desired future character of the CBD core of the Bankstown City Centre, and strengthen the role of Bankstown as a strategic centre.

Zoning and Permissibility (Part 2)

The site is located within the B4 Mixed Use zone pursuant to Clause 2.2 of the LEP. An extract of the CBLEP Land Zoning Map is included at Figure 17, with the site marked in red.

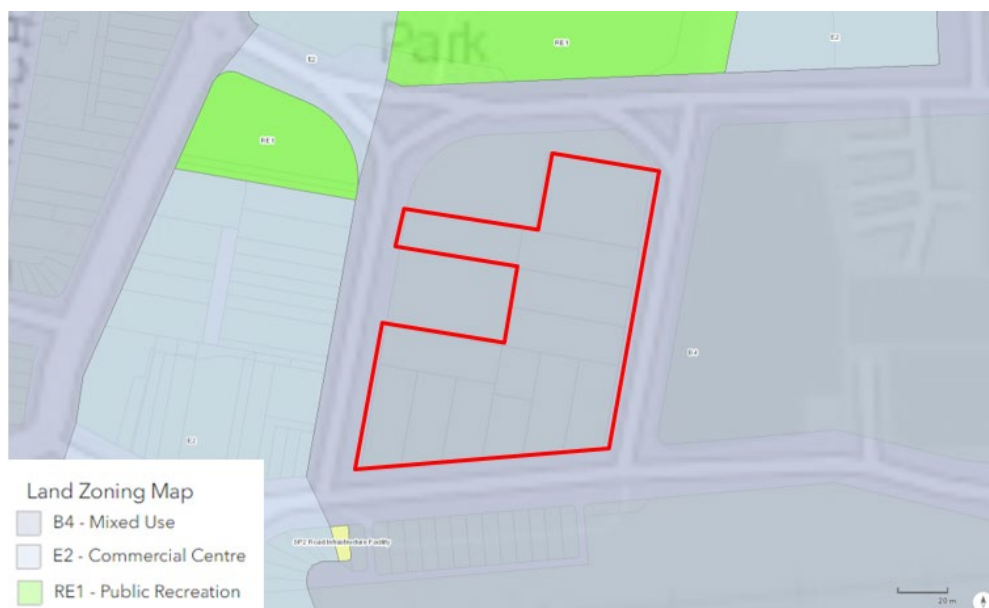


Figure 17: Extract of the CBLEP Land Zoning Map

The proposed mixed-use development comprising retail premises, a centre-based child care facility, medical suites, gymnasium, hotel and shop-top housing, is permitted with consent in the B4 Mixed Use zone pursuant to the Land Use table in CBLEP.

The zone objectives include the following (pursuant to the Land Use Table in Clause 2.3):

“Zone B4 Mixed Use

1 Objectives of zone

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- *To reinforce the role of the Bankstown CBD as a strategic centre.*
- *To promote a high standard of urban design and local amenity.”*

The proposal is considered to be consistent with these zone objectives as the development supports the viability of the Bankstown City Centre through the provision of commercial and retail floor space integrated with housing in an accessible location, noting the prominent location of the site immediately adjacent the future Bankstown Metro Station and existing bus interchange, and within the Bankstown Accelerated TOD Precinct.

While the DRP considers that the design exhibits a fine grain relationship with the public domain and commends the overall massing, composition and architectural expression of the development, this assessment has identified shortcomings in elements of the design, including site access, deep soil, solar access and ventilation. These matters are addressed under clause 6.9 of the CBLEP (below) and under the Housing SEPP in Section 4.1(d) of this Report.

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

The 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.

The proposal does not comply with the development standard for maximum building height in clause 6.16(3)(a) of the CBLEP. Accordingly, a Clause 4.6 request has been provided with the application.

Assessment of the submitted GFA diagrams also indicates that the Applicant's GFA/FSR calculations are inconsistent with the definition of GFA. When including the total GFA as per the GFA definition, the resultant FSR exceeds the maximum FSR development standard (of 5:1) applying to the site. A Clause 4.6 written request ('the written request') to vary the maximum FSR development standard is not included in the application.

The proposed height and FSR exceedance are discussed further below.

Table 4: Consideration of the relevant LEP Controls (Version 02/08/2024)

Control	Requirement	Proposal	Comply
Demolition requires development consent. (CI 2.7)	The demolition of a building or work may be carried out only with development consent.	The application is seeking development consent for demolition	Yes
Height of buildings (CI 4.3(2))	41 metres Note: Under clause 6.16(3)(a) a building demonstrating design excellence may have a maximum building height of 83 metres	Maximum height of 85.85 metres (RL 107.95)	No Clause 4.6 written request submitted. Refer to discussion below.
FSR (CI 4.4(2))	4.5:1 Note: Under clause 6.16(3)(b) a building demonstrating design excellence may have a maximum FSR of 5:1	5:1 (GFA of 40, 837m ²) Assessment of the of updated architectural plans and accompanying GFA diagrams indicates a greater FSR than that specified in the application.	No Refer to discussion below.
Exceptions to development standards (CI 4.6)	Clause 6.16(3)(a) – maximum building height	A written request to vary the maximum building height development standard in clause 6.16(3)(a) is included in the application. It is considered that the written request fails to	No Refer to discussion below.

		identify all components of the development exceeding the maximum building height development standard and demonstrate the matters in clause 4.6(3) of the CBLEP.	
Heritage (CI 5.10)	The proposal is considered under this clause as the site is in the vicinity of local items of heritage listed under Schedule 5 of the CBLEP.	A Heritage Impact Statement prepared by PTW Architects, dated October 2024, accompanies the application. The application has been assessed by Council's Heritage Advisor, and it is considered that the application demonstrates that the development will not adversely impact the heritage significance of local heritage items located within the vicinity of the site.	Yes Refer to discussion below.
Flood Planning (CI 5.21)	The site is identified as flood prone land.	The application has been assessed by Council's Asset Engineer and Development Engineer, and it is considered that inadequate information has been provided to enable a proper assessment of the flooding impacts of the development.	No Refer to discussion below.
Earthworks (CI. 6.2)	Sub-clause (3) of clause 6.2 states: <i>(3) In deciding whether to grant development consent for earthworks, or for development involving ancillary earthworks, the consent authority must consider the following—</i> <i>(a) the likely disruption of, or the detrimental effect on, drainage</i>	The proposal includes bulk excavation to a maximum depth of up to 10 metres (RL 14.8) and associated dewatering to facilitate the basement construction. An updated Dewatering Management Plan, prepared by Douglas Partners, dated 21 June 2025 accompanies the application which has been	No

	<i>patterns and soil stability in the locality of the development,</i> <i>(b) the effect of the development on the likely future use or redevelopment of the land,</i> <i>(c) the quality of the fill and the soil to be excavated,</i> <i>(d) the effect of the development on the existing and likely amenity of adjoining properties,</i> <i>(e) the source of the fill material and the destination of the excavated material,</i> <i>(f) the likelihood of disturbing relics,</i> <i>(g) the proximity to, and potential for adverse impacts on, a waterway, drinking water catchment or environmentally sensitive area,</i> <i>(h) appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</i>	assessed by WaterNSW. WaterNSW GTAs have been issued. Despite this, the PSI and additional documentation submitted regarding site contamination, identifies that a DSI involving additional intrusive contamination testing soils and expanded groundwater investigation is required and has not been submitted. Based on the assessment by Council's EHO Officer, insufficient information is provided for the consent authority to properly consider the matters in clause 6.2(3)(b), (6.2)(3)(d), 6.2(3)(g) and 6.2(3)(h).	
Stormwater management and water sensitive urban design (WSUD) (CI 6.3)	Sub-clause (3) of clause 6.3 states: <i>(3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development—</i> <i>(a) is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water, and</i>	Due to the insufficient information provided regarding flooding and the management of the existing overland flow path from Fetherstone Street to The Appian Way which traverses the site, the application fails to demonstrate significant adverse impacts of stormwater runoff will be avoided, pursuant to clause 6.3(3)(c) of the CBLEP. Furthermore, the application does not clearly	No

	(b) <i>includes, if practicable, on-site stormwater retention for use as an alternative supply to mains water, groundwater or river water, and</i> (c) <i>avoids significant adverse impacts of stormwater runoff on the land on which the development is carried out, adjoining properties and infrastructure, native bushland and receiving waters, or if the impact cannot be reasonably avoided, minimises and mitigates the impact, and</i> (d) <i>includes riparian, stormwater and flooding measures, and</i> 	specify the proposed location of the required on-site detention (OSD) nor has it been demonstrated that the OSD achieves compliance with clause 7.10.1 of Australian Standard 5300.3.	
Airspace operations (CI 6.8)	Sub-clause (2) of clause 6.8 states: <i>“Development consent must not be granted to development that is a controlled activity within the meaning of the Airports Act 1996 of the Commonwealth, Part 12, Division 4, unless the applicant has obtained approval for the controlled activity under regulations made for the purposes of that division.”</i>	The development involves the construction of buildings that intrude within a prescribed airspace and requires a controlled activity approval pursuant to section 182 of the <i>Airports Act 1996</i>. A controlled activity approval under section 182 of the <i>Airports Act 1996</i> has not been obtained by the Applicant. The Applicant has requested that a condition of consent be imposed that requires the relevant approval to be obtained, as well as the associated approval for the use of cranes, prior to commencing construction works.	No

Essential services (Cl. 6.9)	Development consent must not be granted unless the consent authority is satisfied that suitable vehicular access is available to the site, or that adequate arrangements for suitable site access have been made, in accordance with clause 6.9(f) of the CBLEP.	Vehicular access to the site is proposed via a series of combined driveways via Fetherstone Street. Council's Traffic Engineer has assessed the application and a range of traffic safety and compliance issues regarding the proposed site access arrangements have been identified and remain outstanding.	No Refer to discussion below.
Active street frontages (Cl 6.10)	Development consent must not be granted unless the building will have an active street frontage, consist of design elements that encourage interaction and flow ween the inside of the building and the external public areas of the building, and be used for purposes that encourage the movement and low of people between the internal and the external public areas of the building. Conflict between pedestrians, cyclists and vehicles must also be minimised.	The proposal includes active street frontages and through-site links which can be accessed via each of the street frontages and northern site boundary. Review of the proposal by the DRP has identified that development addresses the corners clearly and boldly as well as expresses access and entries into the central through-site link and residential lobbies distinctly, and in relation to existing and proposed streets and access ways. The proposal satisfies the matters in clause 6.10(3).	Yes
Restrictions on development in Zone B4 (Cl 6.14)	The ground and first floor of the development is to be used for the purposes of commercial premises or other non-residential purposes.	The proposed uses of the ground and first floor of the development are for commercial and non-residential uses only.	Yes
Design Excellence at certain land in Bankstown (Cl 6.16)	The development must exhibit design excellence Clause 6.16(3)(a) permits a maximum building height of 83m	This assessment has identified shortcomings in elements of the design. The proposal exceeds the maximum building height	No Refer to discussion below.

	Clause 6.16(3)(b) permits a maximum FSR of 5:1	permitted under clause 6.16(3)(a). The submitted clause 4.6 written request fails to demonstrate the matters in clause 4.6(3). The application specifies that a maximum FSR of 5:1 is proposed and therefore the proposal complies with clause 6.16(3)(b) of the CBLEP. However, assessment of the submitted GFA diagrams demonstrates that the Applicant's calculation of GFA is inconsistent with the definition of GFA in the Dictionary to the CBLEP.	
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Further consideration of the following CBLEP provisions is provided below:

- Heritage (clause 5.10 of the CBLEP);
- Flood Planning (clause 5.21 of the CBLEP);
- Essential services (clause 6.9 of the CBLEP);
- Design excellence at certain land in Bankstown (clause 6.16 of the CBLEP)
- Exceptions to development standards (clause 4.6 of the CBLEP) – variation of the maximum building height (in clause 6.16(3)(a) of the CBLEP); and
- Maximum FSR (clause 6.16(3)(b) of the CBLEP).

Heritage (clause 5.10)

The site is not an item of heritage nor is it located within a heritage conservation area.

The site is in the vicinity of the following heritage items listed under Schedule 5 of the CBLEP:

- Bankstown Hotel (Item 9)
- Former accommodation building (Item 10)
- Bankstown Railway Station (Item 12)
- Bankstown Council Chambers (Item 14)

An extract of the CBLEP Heritage Map is included at Figure 18, with the site outlined in red.



Figure 18: Extract of the CBLEP Heritage Map

The submitted Heritage Impact Statement identifies the following:

- The physical heritage impact of the proposed development on items of significance in the vicinity of the subject site is assessed as negligible.
- The development will cause overshadowing impacts to Bankstown Station between 10am and 3pm in mid-winter, however this physical impact is assessed as negligible.
- The design is sensitive to the immediate heritage context of Court House Reserve and the former Municipal Library. Any visual impact to these items is mitigated through new building setbacks and new landscape features.
- There would be no impact on any existing significant views.
- The proposed development would not encroach on the heritage listed curtilage of the nearby heritage items.
- Overall, the proposed development would generally respect the heritage values of each item.

Assessment of the application by Council's Heritage Advisor concludes:

- The proposal will have a negligible impact on the heritage items surrounding the site.
- Each heritage item will remain in their lot and not physically impacted by the works.
- The heritage items themselves do not have a visual relationship to the subject site nor with each other and there are no specific view corridors that would be impacted by the proposed works given the established density of the area.
- Each individual building still remains legible within their setting and capable of reflecting their individual heritage values.

Accordingly, the effect of the development on the heritage significance of the surrounding heritage items has been adequately considered pursuant to clause 5.10(4) of the CBLEP. The proposal will not give rise to adverse impacts on the heritage significance of the surrounding items.

Flood planning (clause 5.21)

The site is impacted by flooding and stormwater flows through the site, including an existing overland flow path from Fetherstone Street to the west, to The Appian Way to the east.

There have also been recent upgrades to the existing stormwater infrastructure in The Appian Way adjacent to the eastern site boundary. These upgrades have included the decommissioning of existing box culverts and replacement with an increased twin box culvert, as well as the addition and removal of other pits and pipes.

Clause 5.21(2) identifies the matters that the consent authority must be satisfied of and states as follows:

- “(2) Development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development—*
- (a) is compatible with the flood function and behaviour on the land, and*
 - (b) will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and*
 - (c) will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and*
 - (d) incorporates appropriate measures to manage risk to life in the event of a flood, and*
 - (e) will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.”*

Assessment of the original application, including the submitted Flood Impact Assessment, prepared by Xavier Knight dated 30 May 2024, and Stormwater Management Report prepared by Robert Bird Group dated 21 June 2024, identified a range of issues in relation to the flood affectation of the site, including the following:

- The development conflicts with the existing overland flow path which traverses the site. The proposal includes the obstruction and diversion of the overland flow path.
- The development conflicts with and requires the extinguishment of existing easements and infrastructure located within the site including a 1.83 metre wide privately owned easement, a 3-metre-wide Council owned easement for drainage and an existing outlet actively discharging to The Appian Way culvert which has been retained as part of recent stormwater upgrade works to The Appian undertaken by Council.
- Measures to divert and manage the overland flow path, including associated flood impacts, are not specified in the application.
- The submitted Impact Assessment identifies that the proposal will result in flood impacts upstream due to the obstruction of the flow path.

These matters were raised in an RFI, and in response, additional information, including a Flooding Engineering Statement, prepared by Xavier Knight, dated 4 April 2025 and Civil Engineering Statement dated 26 June 2025, along with amended architectural plans, was provided by the Applicant.

Assessment of the amended application by Council's Asset Engineer has identified that inadequate information has been provided to enable a proper assessment of the compatibility

of the development with the flood function and behaviour on the land, the potential impacts to flood affectation of adjoining properties and, whether the development provides for the safe occupation and efficient evacuation of people in the event of a flood. Specifically, the following deficiencies have been identified:

- The flood impact of the proposed development shall be assessed separately from the drainage upgrade works along Appian Way. This can be undertaken by including the Appian Way drainage upgrade works (recently completed in September 2025) in both baseline and post-development conditions to fully assess the impacts solely from this proposed development.
- The rainfall falling within the model extent between the upstream and downstream boundaries shall be accounted for (in addition to the 1.62ha catchment already included) as the local runoff (not accounted for in the hydrographs provided by Council) can contribute to flooding in the study area.
- The Flooding Engineering Statement does not provide details of flood mitigation measures that will be implemented to manage flood impacts associated with the obstruction and diversion of the overland flow path traversing the site. The connectivity of the existing overland flow path from Featherstone Street to Appian Way via the present day car park (which generally follows the alignment of the existing easements) will be lost once the easements are extinguished and the retail and loading car park entry ramp are constructed. Despite mention of flood mitigation measures to be proposed as part of the development - including on-site flood storage and stormwater upgrades, no details have been provided either in the reports or plans to demonstrate that these measures will be introduced.
- Any off-site flood impacts up to the 1% AEP event including any localised increase in flood level on the former Council library will need to be addressed. The flood impacts indicated below in Figure 19 are a result of blockage of the existing overland flow path by the retail and loading car park entry ramp as discussed in Point 3 above.

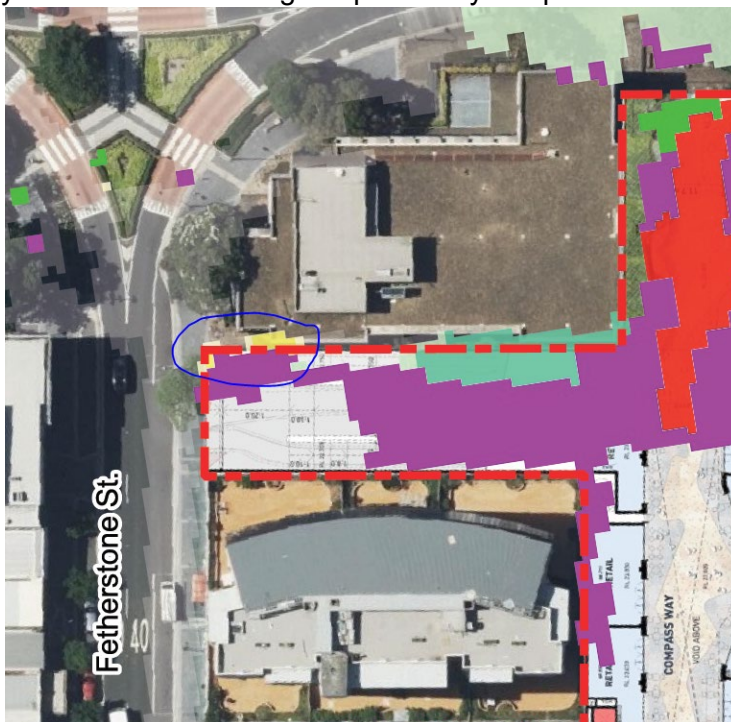


Figure 19: Flood impact assessment (Source: Canterbury-Bankstown Council)

- The inflow hydrographs for the Sydney Water culverts on Appian Way should be incorporated to account for sub-surface flows in addition to the overland flows provided by Council.
- The proposed threshold level of the development shown below does not meet Council's DCP requirements:

Label	Location	Proposed Threshold Level (mAHD)	1% AEP Peak Flood Level (mAHD)
L	Hotel & Residential Car Park Entry	24.50	24.60

- The crest level of the access to the retail and loading car park indicated on the amended architectural plans is RL 23.7 (i.e., RL 23.55 + 0.15 metres) which has not been identified on the engineering drawings.
- In terms of the flood modelling boundary conditions, the inflow hydrographs for the Sydney Water culverts on The Appian Way have not been incorporated to account for sub-surface flows in addition to the overland flows provided by Council.
- In terms of the flood modelling local catchment, the rainfall falling within the model extent between the upstream and downstream boundaries (in addition to the 1.62 hectare catchment already included) as the local runoff not accounted for in the hydrographs provided by Council, can contribute to flooding in the study area
- In terms of the flood planning level (FPL) the proposed threshold level identified below does not meet the requirements of the CBDP.
- A Flood Emergency Response Plan for the whole site including the hotel, residential, commercial and retail components detailing the proposed flood response strategy (i.e., shelter in place or evacuation) in the event of a flood including information regarding the proposed flood gates and how evacuation can be facilitated in the event that the flood gates are raised, with reference to the Flood Risk Management Guideline EM01 - Support for Emergency Management Planning and Department of Planning Housing and Infrastructure's Shelter-in-place Guideline for Flash Flooding, has not been provided.

For the reasons outlined above, the application does not adequately demonstrate the matters in clause 5.21(2)(a), 5.21(2)(b) and 5.21(2)(c) of the CBLEP. Development consent could not be granted in these circumstances.

Essential services (clause 6.9)

Clause 6.9 of the CBLEP identifies matters to be considered to ensure that development is supplied with adequate infrastructure and services.

The application does not clearly specify the proposed location of the required OSD, nor has it been demonstrated that the OSD achieves compliance with clause 7.10.1 of Australian Standard 5300.3. Therefore, the application does not demonstrate that adequate arrangements for stormwater drainage have been made and the consent authority could not

be satisfied pursuant to clause 6.9(d) of the CBLEP. Development consent cannot be granted on this basis.

Furthermore, development consent must not be granted unless the consent authority is satisfied that suitable vehicular access is available to the site, or that adequate arrangements for suitable site access have been made, pursuant to sub-clause 6.9(f).

Councils Traffic Engineer identified the following issues regarding the proposed site access arrangements and associated traffic safety impacts which were raised in the RFI :

- The surrounding road network is subject to future changes as part of Council's proposed 'Complete Streets' masterplan in the 'Bankstown Complete Streets CBD Transport and Place Plan' (refer to Figure 20 below). Fetherstone Street is to become a two-way shared zone with access provided via The Mall (due to the conversion of the southern end of Fetherstone Street to pedestrian only). Due to the location and configuration of the proposed site access driveways Featherstone Street, concern is raised regarding the potential traffic impacts associated with the significant increase in vehicle volumes within the shared zone, as well as impacts to pedestrian safety, in a shared zone environment where pedestrians have priority over vehicles.
- Further consideration of the potential traffic efficiency and pedestrian safety impacts of the proposed site access arrangements is required. Swept path analysis reflecting the street's future configuration should also be provided.
- The proposed access driveway locations on Fetherstone Street and configuration provide for an awkward arrangement whereby the loading (truck) access is situated between the retail entry and exit ramps. This arrangement is likely to cause confusion for drivers and impact traffic safety and efficiency within the future shared zone of Fetherstone Street. Furthermore, the swept paths for the retail and loading dock access ramps overlap and are considered unacceptable. It is recommended that the access ramps are separated by vehicle size.



Figure 20: Extract of Proposed Masterplan with the site marked in red (Source: Bankstown Complete Streets CBD Transport and Place Plan)

In response to the matters raised above, the Applicant submitted additional information including a Traffic Statement prepared by PTC and further swept path diagrams. The Traffic Statement provides further justification of the proposed site access arrangements, including a reference to a similar access arrangement at the Royal Randwick Shopping Centre and the following additional traffic safety measures:

- a flashing light system or rotating beacon to provide priority to trucks accessing the loading dock; and
- signage to indicate accesses for both cars and trucks.

The proposed driveway location and configuration on Fetherstone Street remains unchanged and Council's Traffic Engineer has confirmed that the concerns regarding the proposed site access remain outstanding. Specifically:

- Based on the number of spaces accessed via the Hotel/Residential Car Park and Retail Car Park, both driveway accesses need to be a Category 3 access driveway as per AS2890.1 Table 3.1. This comprises of a 6m entry and 4-6m exit with 1-3m separation. The plans need to be amended to show this. The Traffic Statement states that the "*creation of Category 3 access driveways would be contrary to the Complete Streets Vision*". This is false, Bankstown Complete Streets does not recommend for the Australian Standards to be disregarded.
- As the largest vehicle accessing the loading dock is a HRV (Heavy Rigid Vehicle) the access driveway needs to be at least 12.5m wide as per Figure 3.1 of AS2890.2. The plans need to be amended to reflect this.
- The direction of the swept paths do not reflect the current direction of traffic which is one way northbound.
- Royal Randwick Shopping Centre opened in 1990, while this has been historically approved, it should not set a precedence for a non-compliant future access arrangement. This outdated, unsafe and non-compliant arrangement should not be used as a basis for new development. Creating narrower and non-compliant driveways where there is conflict with heavy and light vehicles as well as pedestrians further compromises safety for all road users.
- Flashing lights are an inadequate solution for addressing the non-compliant design.
- A shared driveway for retail entry and exit with the loading access in between will be confusing for drivers. This also raises safety concerns if drivers enter the wrong access ramp. Furthermore, the NSW Child Care Planning Guidelines state that for mixed use developments the driveway access for the facility is to be separate to parking and manoeuvring areas used by trucks. The driveways for light and heavy vehicles are to be separated.
- The Traffic Statement assumes that a car and truck will not be at the same location on the driveway. The worst-case scenario needs to be accounted for where trucks and vehicles are entering and exiting at the same time. The previous concerns remain, whereby vehicles exiting the retail parking will need to swerve in front of the loading dock access conflicting with heavy vehicles entering/exiting the loading dock.
- The location of the proposed taxi and coach drop-off and pick-up zone conflicts with on-street traffic, the existing taxi stand located on the northern side of North Terrace and the bus zone on the southern side of North Terrace, respectively. This will give rise to unreasonable traffic safety and efficiency impacts.

Having regard to the above, the application fails to demonstrate that arrangements for safe and adequate site access have been made. Therefore, the consent authority could not be satisfied pursuant to clause 6.9(f) of the CBLEP. Development consent cannot be granted on this basis.

Other issues relating to the proposed traffic generation rates have also been raised by Council's Traffic Engineer which are discussed under Key Outstanding Issues – Traffic Generation in Section 6 of this Report.

Design excellence at certain land in Bankstown (clause 6.16)

The objective of clause 6.16 of the CBLEP is to *“ensure that development exhibits design excellence that contributes to the visual and built character values of Bankstown”*.

A maximum building height of 83 metres and a maximum FSR of 5:1 applies to the site provided that the development exhibits design excellence pursuant to clause 6.61(3) of the CBLEP.

Clause 6.16(3) states:

- “(3) If the consent authority is satisfied that development on land to which this clause applies exhibits design excellence, a building may be erected with—*
- (a) a maximum building height of 83m, and*
 - (b) a maximum floor space ratio of 5:1, and*
 - (c) the first floor of the building being used for the purposes of residential accommodation.”*

The proposal exhibits design excellence in that the:

- facade design incorporates a diverse range of finishes, materials and colours, informed by Connecting with Country input and includes:
 - brickwork which extends from the podium to the towers, framing the pedestrian entries into the site;
 - lighter and more subdued material palette of the towers which deliberately contrast with the more textured podium levels below; and
 - a combination of glass and solid balustrades across the residential towers.
- proposed massing, form and scale is generally reflective of the current planning controls applying to the site.
- incorporation of tower forms along the North Terrace (Building A and Building B) will provide legibility and permeability at a major transport node within an Accelerated TOD Precinct.
- the form and expression of the residential towers fronting the Appian Way (Building B and Building C) is intentionally understated and juxtaposed by the vibrancy of the active podium.
- residential tower forms (Building B and Building C) as viewed from the Appian Way will contribute to the activation of this thoroughfare as the “Activity spine” of the CBD as identified in the Bankstown Complete Streets Transport and Place Plan.
- hotel building (Building A) is lower in height to achieve transition in scale from the existing urban fabric located to the southwest of the site as well as create a different landmark within the site.
- the massing of these towers responds to the context and together with the reduced scale of Building A makes for an interesting and positive contribution to the skyline.
- heights of the proposed towers are in keeping with the envelopes anticipated for 62 The Mall immediately adjoining the site to the north and the Bankstown site adjoining the site to east.

- street wall heights provide for continuous street edges, and which generally align with the requirements of the CBD CP.
- proposal provides for an increased, consistent setback (of 4 metres) along the northern boundary shared with Phil Engisch Reserve and future development scenarios for 62 The Mall, in line with the envelopes anticipated for the adjoining site under the current planning framework, have been considered.
- interfaces with 3-7 Fethestone have been appropriately treated to ensure that the visual and acoustic privacy of the neighbouring residential apartments is maintained. This has included the incorporation of setbacks and dense landscaping along the site boundaries as well as updated façade treatment (such as colour-backed glass) to prevent overlooking.
- the retail tenancies at the ground plane provide for continuous active street edges. Glazed shopfronts are also incorporated to maximise visual connection and street engagement.
- awnings which vary between 6 and 11 metres in height are positioned along the retail frontages.
- development is consistent with the solar access and overshadowing provisions set out in the ADG and that the overshadowing impacts are considered acceptable within the surrounding CBD context.
- provision of new through-site links will provide for significant improvements to the public domain and connectivity of the future Bankstown Metro Station to the south of the site and surrounding public open spaces, as well as other key developments such as the Western Sydney University campus and Bankstown library to the north.
- podium includes a void through the centre above the through-site links which are treated with transparent materiality that maximises natural light at the ground level as well as provide for weather protection.
- proposal provides a range indoor and outdoor recreational and communal spaces including open grassed areas, dining areas, co-working rooms a swimming pool and a gymnasium.
- proposal achieves a high level of sustainability as demonstrated in the submitted ESD Report and updated Architectural Design Report.

Furthermore, the proposal has been reviewed by the DRP, and the advice provided identifies that the development exhibits a fine grain relationship with the public domain and commends the overall massing, composition and architectural expression of the development. A copy of the latest DRP advice is provided at **Attachment G**.

Despite this, the application does not achieve the following:

- suitable vehicular access;
- sufficient deep soil areas;
- adequate building modulation to achieve solar access and natural ventilation in accordance with the ADG;

On this basis, the development does not exhibit design excellence pursuant to clause 6.16(ii), 6.16(v) and 6.16(viii) of the CBLEP.

Council' Urban Design Team Review

Council's Urban Design Team has reviewed both the original and amended application and several issues in relation achieving design excellence have been raised.

Table 5 identifies the issues raised by Council's Urban Design Team, and the relevant Sections in this Report where these are addressed, or response where relevant.

Table 5: Consideration of Council's Urban Design comments

Comment	Section/Response
<i>Northern interface</i> - Increased ground floor northern setback supported - Units C209 and C301 adjacent to car park require thoughtful acoustic insulation - Opportunity for Units C201-203 and C301-C303 to be extended further east-west	All noted and capable of being incorporated into the development should consent be granted.
<i>Fetherstone Street activation</i> - Proposed configuration supported - Provision should be made for a future basement connection to the adjoining site at 62 The Mall.	Noted The RFI Response Table prepared by Ethos Urban states: <i>"There is potential to investigate breakthrough panels within the parking of the development to allow for vehicle access to 62 The Mall, subject understanding Council's design and access requirements for 62 The Mall, and an agreed approach between both parties".</i>
<i>Building height</i> - Compliance with CASA requirements - Rooftop services should form an architectural roof feature	Refer to discussion under clause 6.8 Airspace operations of the CBLEP in Section 4.1(g) of this Report. Rooftop structures require further clarification. Refer to discussion under clause 4.6 Exceptions to development standards of the CBLEP in Section 4.1(g) of this Report.

- Variation in height between Building B and Building is recommended	It is considered that the design achieves appropriate transition in scale as well appropriate massing and composition. Refer to discussion under clause 6.16 Design Excellence at certain land in Bankstown of the CBLEP above.
<i>Tower form</i> - Updates required to the towers to achieve a more refined skyline presence - Recessed balconies and other variations should be incorporated to break down the scale of the north and west elevations - Upper level of Tower B should integrate more seamlessly within the overall form	It is considered that the massing, composition and architectural expression is appropriate within the context. Refer to discussion under clause 6.16 Design Excellence at certain land in Bankstown of the CBLEP above and DRP advice in Attachment G.
<i>Child care car park circulation and drop off areas</i> - <i>Pedestrian safety within the car parking areas</i>	The amended application refers to additional treatment of the car park including differentiation of car spaces by surface, colour and lighting. However, a delineated pedestrian path is not provided. Council's Development Engineer has also raised issues regarding car park design. Refer to discussion under Key Outstanding Issues – On-site manoeuvring in Section 6.5 of this Report.
<i>Apartment mix (additional 3-bedroom apartments required)</i>	Refer to discussion under Provisions of any Proposed Instruments – updated CBDCP in Section 4.2 of this Report.
<i>Aesthetics</i> - Residential towers require further refinement by reducing the extent of glazing and glass balustrades - Materiality requires updated and brickwork should continue vertically into selected elements	Refer to discussion of finishes and materials and street activation provided under clause 6.16 Design Excellence at certain land in Bankstown of the CBLEP above.

- | | |
|---|--|
| - Breaks in the awnings should be limited to key entries only | |
|---|--|

Exceptions to development standards (Clause 4.6) – variation of maximum building height development standard in clause 6.16(3)(a)

The Development Standard to be varied and extent of the variation

Clause 6.16(3)(a) of the CBLEP permits the erection of a building to which the clause applies resulting in a maximum building height of 83 metres provided that the development exhibits design excellence.

Assessment of the original application identified that the existing ground levels along North Terrace and associated maximum height plane were not correctly shown on the architectural plans and that the maximum height of the building was not correctly measured in accordance with the building height definition contained in the Dictionary to the CBLEP. These matters were raised in an RFI, and in response, updated architectural plans and a written request to vary the maximum building height development standard (of 83 metres) applying to the site under clause 6.16(3)(a) of the CBLEP were provided by the Applicant.

The written request, prepared by Ethos Urban, dated 27 June 2025, identifies that the proposes a maximum building height of 85.85 metres (RL 107.95) which equates to an exceedance of 2.85 metres (or 3.4%).

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. Clause 4.6(3)(a) – compliance with the development standard is unreasonable or unnecessary in the circumstances; and
2. Clause 4.6(3)(b) – there are sufficient environmental planning grounds to justify contravening the development standard.

Inconsistent information is provided regarding the proposed maximum building height. The submitted written request fails to identify all components of the development exceeding the maximum building height development standard and demonstrate the matters in clause 4.6(3) of the CBLEP as detailed below:

- The proposed maximum building height is unclear. Inconsistent information regarding the proposed building has been provided as follows:
 - The RFI response letter, prepared by Ethos Urban, dated 1 July 2025, identifies a maximum height of 86.18 metres (RL 107.95).
 - Section 1.0 and Table 2 of the written request identify a maximum height of 85.85 metres (RL107.95).

- The “South Elevation” extracts included at Figure 2 of the written request are inconsistent with the southern elevations included in the set of architectural plans. The extracts in Figure 2 appear to reflect the eastern elevations of each building.
- The written request argues that the components that exceed the height limit exclude habitable space which appears to be inconsistent with the elevation drawing extracts provided in the document. Figure 2 of the written request includes elevations which identify window openings and balcony areas exceeding the height limit. For this reason, the external façade design of the uppermost level of Building B and Building C (i.e., rooftop/Level 24) requires clarification. Extracts of the elevations presented in the written request are included in Figure 21 below.
- The architectural plans and landscape plans demonstrate an awning surrounding the lift core and stairs at the rooftop level (i.e., Level 24) of Building B and Building C, elevations of which have not been provided. These awnings will exceed the maximum height limit and have not been included in the written request.
- The Qualitative Wind Assessment, prepared by CPP Wind Engineering Consultants, dated 30 May 2025 (Page 16) recommends a range of wind mitigation measures for the rooftop levels of Building B and Building C. Such measures include the installation of a 1.8-metre-high balustrades and the construction of vertical enclosures by “joining the rooftop awning/canopy to the balustrade or wall”. In the event that the additional wind mitigation measures are incorporated into the development, these structures will exceed the building height limit and are not included in the written request.

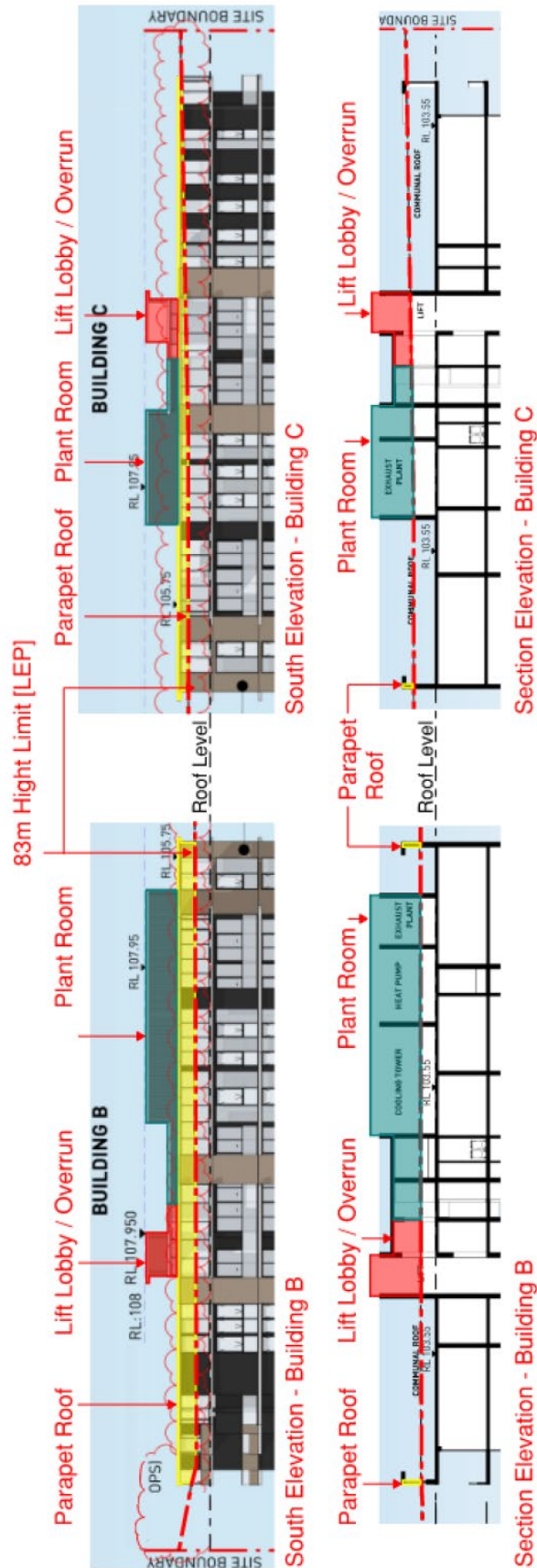


Figure 21: Extract of Figure 2 in written request (Source: Figure 2, Written Request, Ethos Urban)

With regards to the unreasonable and unnecessary test in clause 4.6(3)(a):

- The arguments provided in response to Method 1 of the 'Wehbe Test' require specific examples of how the objectives of the relevant development standard is achieved and must relate to the proposed building height exceedances.
- The objective of clause 6.16 of the CBLEP refers to the achievement of design excellence that contributes to the visual and built character of Bankstown. A design excellence assessment is provided in Table 3 of the written request. This relies on separate documents as grounds for justification and does not provide specific details or explanation. For example, the arguments advanced under clause 6.16(4) broadly refers to the Design Report but fails to provide specific examples and evidence to demonstrate that a high standard of architectural design, materials and detailing will be achieved and how the bulk, massing and modulation of each building has been addressed.

With regards to the environmental planning grounds as required under clause 4.6(3)(b):

- Specific examples and clear demonstration of each of the environmental planning ground relied upon to justify the proposed building height exceedance is not documented in the written request. For example:
 - the argument advanced in the written request identifies that the development exhibits good design and states that the proposal has been carefully designed to ensure that the components exceeding the height limit *"seamlessly integrate with the design of the development to exhibit design excellence"* and that the plant elements have been *"located centrally within the site and are not visually dominant features that are noticeable from the public domain"*. However, specific examples and evidence (such as diagrams of these components within the surrounding context) to demonstrate these arguments are not provided.
 - Avoidance of visual impact in addition to other additional environmental impacts is also mentioned, however the specific impacts which are avoided and how this is achieved is not evaluated or demonstrated in the written request.

Having regard to the above, the Applicant has not clearly identified all components of the development exceeding the maximum building height development standard in clause 6.16(3)(a) of the CBLEP, nor has the Applicant demonstrated the matters in clause 4.6(3). Development consent could not be granted in these circumstances.

Maximum FSR (clause 6.16(3)(b))

Clause 6.16(3)(b) of the CBLEP permits the erection of a building to which the clause applies resulting in a maximum FSR of 5:1 provided that the development exhibits design excellence.

The original application did not include GFA diagrams for the basement levels, ground level and Levels 1 to 15 to enable a proper assessment of the GFA and determine the proposed FSR. In response to the RFI, GFA diagrams for each level of the development was provided.

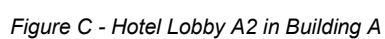
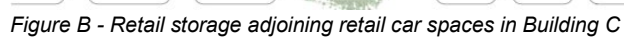
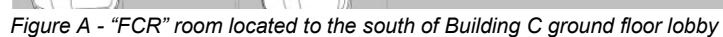
The amended application identifies that that the development has a total GFA of 40,837m² and FSR of 5:1.

Assessment of the GFA diagrams demonstrates that the Applicant's calculation of gross floor area (GFA) is inconsistent with the definition of GFA in the Dictionary to the CBLEP.

The GFA diagrams demonstrate that the following areas are incorrectly excluded from the calculation of GFA:

Level	Area/location	GFA (m²) (scaled from Architectural Plans Rev C, dated 4/9/25)	Figure (refer below)
Ground	“FCR” room located to the south of Building C ground floor lobby <i>Note:</i> Use of this area also requires clarification to verify exclusion of GFA/FSR calculation	30	A
Level 01	Retail storage adjoining retail car spaces in Building C	20	B
Level 01	Hotel Lobby A2 in Building A	26	C
Level 01	Corridor immediately east of Lobby A2 in Building A	10	D
Level 02	Room adjacent Lobby B1 in Building B	6	E
Level 03	Entire Lobby A2 in Building A	7	F
Level 03	Room adjacent Lobby C1 in Building C	6	G
Level 04	Corridor immediately east of Building A Lobby A2, Stairs, Manager Room and bathrooms	17	H
Level 05	Section of corridor immediately west of Furniture Store in Building A	3.5	I
Level 05	Corridor space immediately west of Reception in Building B	5.5	J
Level 06-18	Entire horizontal corridor access to the stair landing in Building A	(3 x 13 levels) =39	K
Total: 170m²			

The areas identified above are circled or marked in yellow in Figures A to K below.



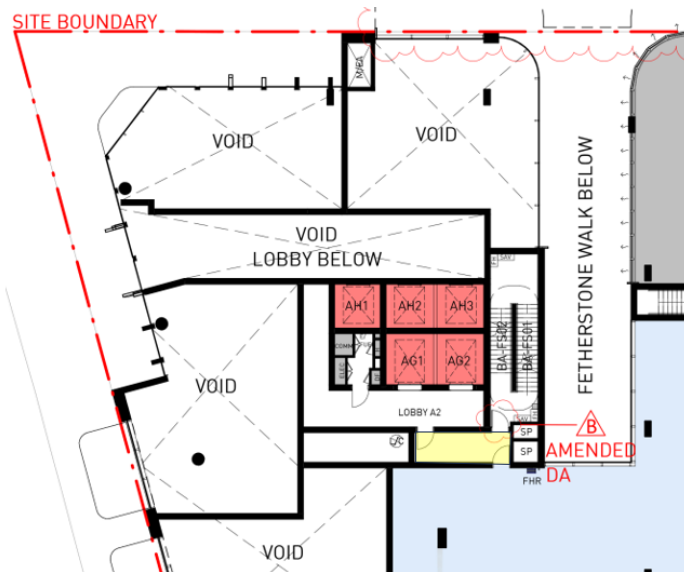


Figure D – Corridor immediately east of Lobby A2 in Building A

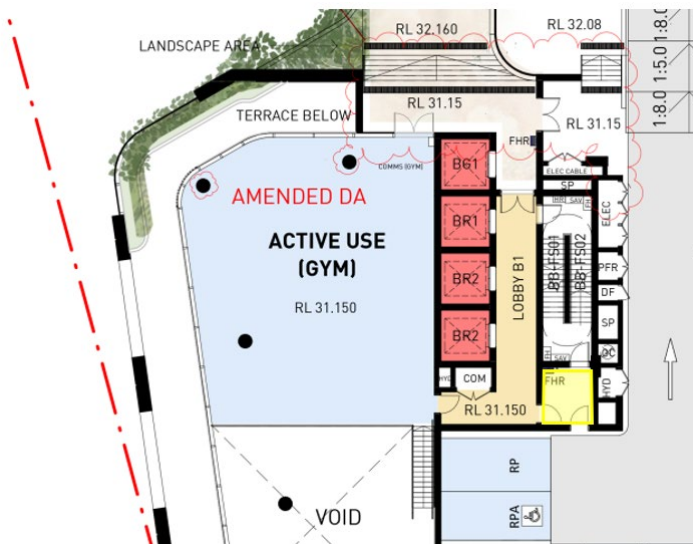


Figure E - Room adjacent Lobby B1 in Building B

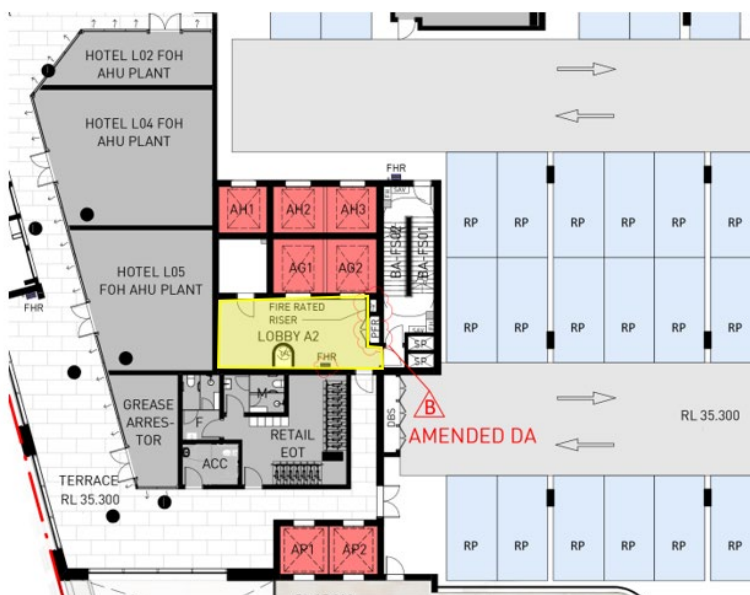


Figure F – Entire Lobby A2 in Building A



Figure G – Room adjacent Lobby C1 in Building C

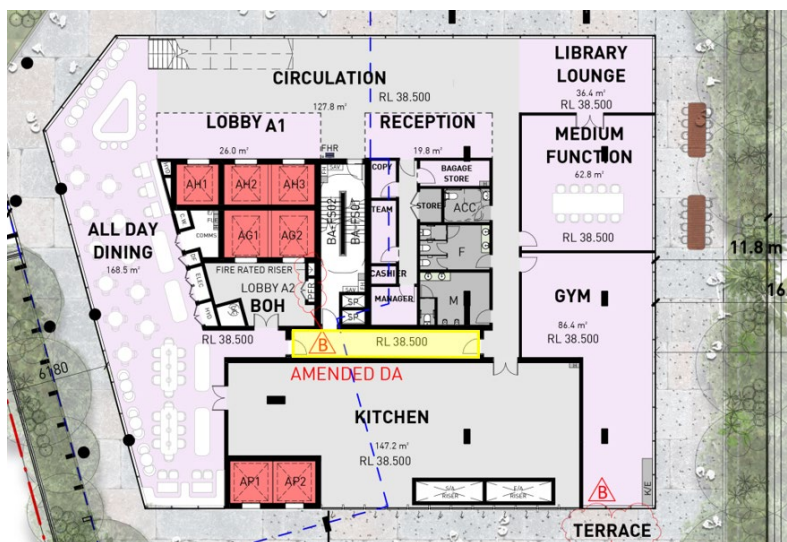


Figure H – Corridor immediately east of Building A Lobby A2, Stairs, Manager Room and bathrooms

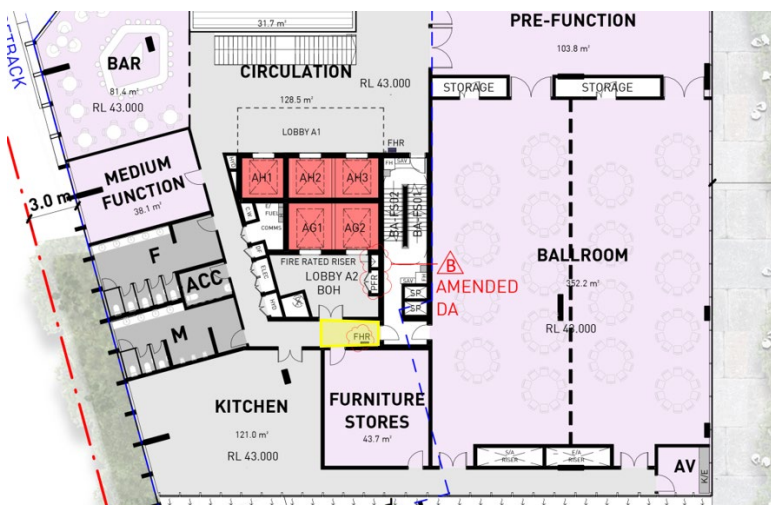


Figure I – Section of corridor immediately west of Furniture Store in Building A

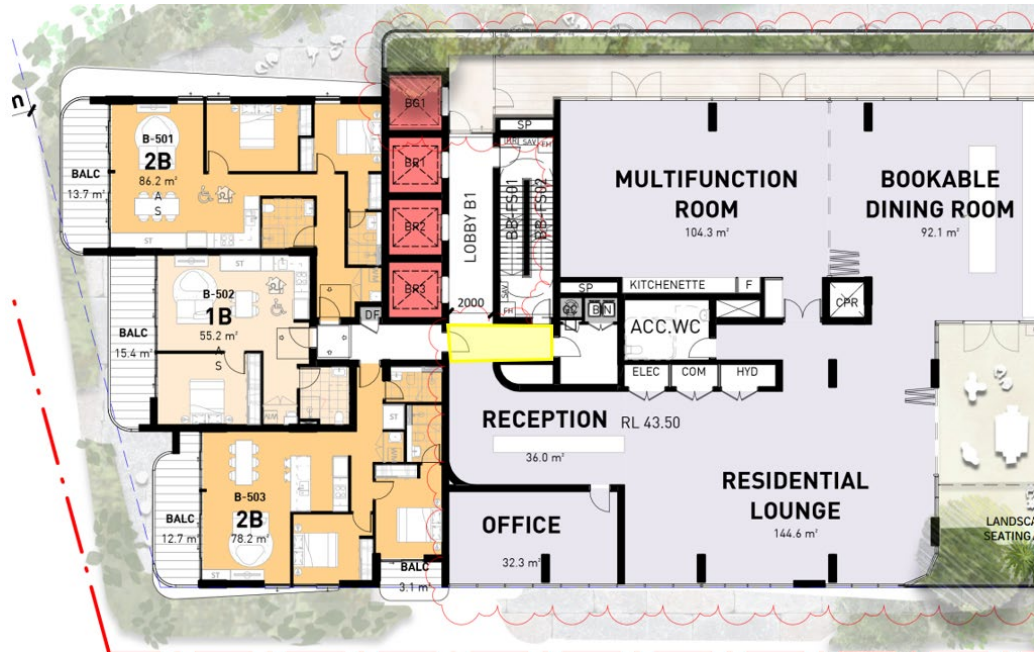


Figure J – Corridor space immediately west of Reception in Building B

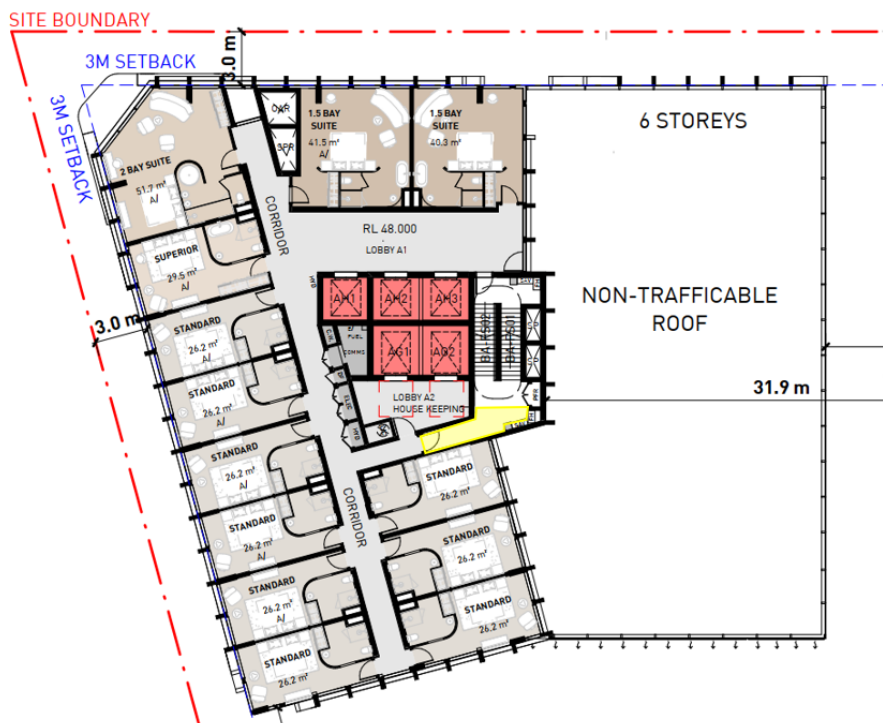


Figure K – Entire horizontal corridor access to the stair landing in Building A

The areas identified in Figures A to K above constitute GFA in accordance with the GFA definition and occupy a combined total area of 170m².

The allowable GFA applying to the site, based on a site area of 8,175m² and a maximum permitted FSR of 5:1, is 40,875m².

When including the above areas in the calculation of GFA as per the GFA definition, the total GFA equates to 41,032m² and the proposal exceeds the maximum FSR of 5:1 in clause 6.16(3)(b) of the CBLEP by 157m².

A written request to vary the maximum FSR development standard in 6.16(3)(b) of the CBLEP is not included in the application and therefore development consent could not be granted on this basis pursuant to clause 4.6(3) of the CBLEP.

4.2 Section 4.15(1)(a)(ii) – Provisions of any Proposed Instruments - Bankstown State-led Rezoning under the TOD program (amendments to CBLEP and CBDCP)

Following the lodgement of the DA, the CBLEP was amended on 27 November 2024 to include updated controls for the development of land within the Bankstown City Centre, under which a building height development standard of 83 metres remains, and an increased maximum FSR of 5.8:1 (from 5:1) applies to the site. The controls relating to Bankstown City Centre in the Canterbury Bankstown Development Control Plan 2023 (CBDCP) have also been updated in line with the LEP amendments.

The updated controls do not apply for the purpose of assessing this application, pursuant to the savings provisions in Clause 1.8A of the CBLEP. Despite this, the amended CBLEP was a proposed instrument at the time of lodgement and is therefore a matter for consideration pursuant to Section 4.15(1)(a)(ii) of the EP&A Act. Similarly, the CBDCP currently in force does not apply.

It is considered that the development is consistent with the provisions of the CBLEP (i.e., MUI Mixed use zone, maximum permitted height of 83 metres and maximum permitted FSR of 5.8:1). The updated controls in the CBDCP are considered below.

CBDCP currently in force

While building envelopes specific to the site are not established in the updated CBDCP, new built form controls apply.

The key changes to the built form controls relevant to the site are summarised as follows:

- The site is no longer identified to be developed as an amalgamated site with 62 The Mall, comprising commercial/retail podium and 4 residential block/towers (refer to Figures 22 and 24 below).
- The updated CBDCP identifies the site as a “key site” within the city centre, to be developed separately to 62 The Mall, and establishes a series of design principles for future development of the site (refer to Figure 24 below).
- The new controls introduce a:
 - building height limit of 24 storeys
 - floor to floor height requirement of 3.2 metres for upper level residential uses
 - maximum street wall height of 2 metres
 - 3 metre upper storey (tower) setback
 - Dwelling mix requirement of 5-10% for studios, 10-30% for 1-bedroom apartments, 40-75% for 2-bedroom apartments and 10% for 3-bedroom apartments.
- The mid-block connection and nil street/ground floor setback requirement is retained.

The updated controls and anticipated site layout/built form in comparison to the former version of the CBDCP (i.e., Version 4 which is the applicable DCP for the purpose of this assessment) is highlighted in Figure 22 to 24 below.

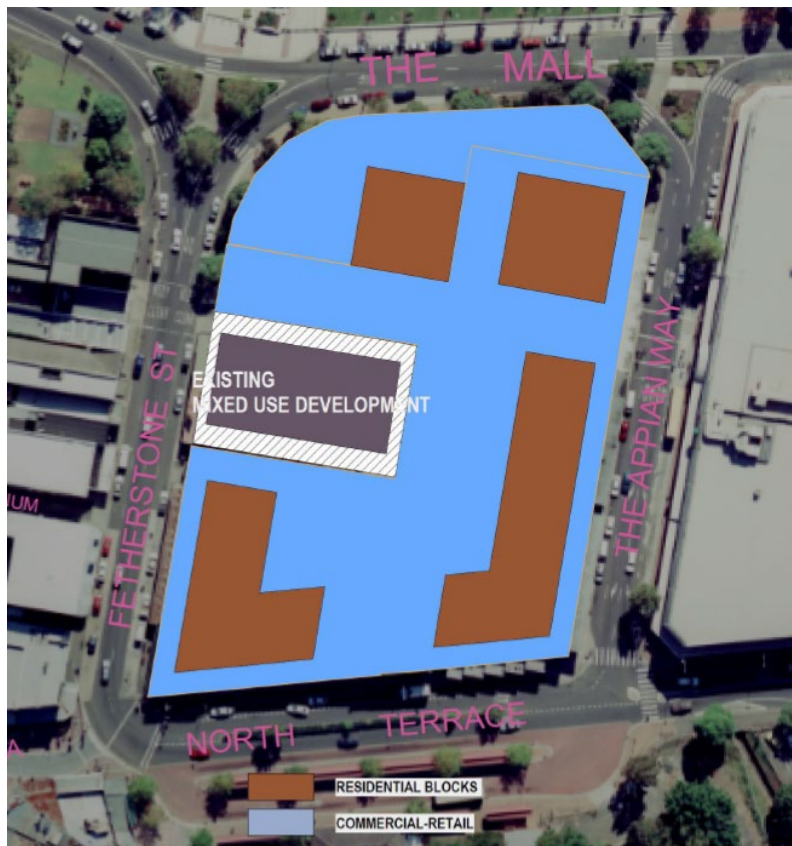


Figure 3b: Proposed site layout for mixed use development on this key strategic site

Figure 22: Extract of Proposed site layout for site (Source: Figure 3B, former CBDCP Version 4)



Figure 3c: Proposed building envelope for mixed use development on this key strategic site as viewed from The Appian Way (not to scale)

Figure 23: Extract of Proposed building envelopes (Source: Figure 3c, former CBDCP Version 4)



Figure 74. Design Principles - KS4. Compass Centre
 Figure 24: Extract of Design Principles diagram (Source: Figure 74, updated CBDP)

The application is inconsistent with the updated CBDP as follows:

- residential floor to floor heights of 3.15 metres which is less than the updated floor-to-floor height requirement (of 3.2 metres); and
- the proposed proportion of 3-bedroom apartments (i.e., 6%) is less than the 10% updated requirement for 3-bedroom apartments.

These matters were raised in an RFI, and in response, the Applicant provided additional documentation including additional detailed sections and a Services Statement prepared by WSP, dated 13 May 2025, which demonstrate that the proposed floor to floor heights will provide for a 530mm services clear zone which is sufficient to accommodate services required for residential development. On this basis, the proposed, floor to floor heights are considered acceptable.

Furthermore, An Economic Assessment, prepared by Ethos Urban, dated May 2025, was also submitted, which presents a number of findings that support the proposed proportion of 3-bedroom apartments. Given that there is not a comparable requirement regarding dwelling mix in the applicable DCP, requiring strict adherence to the updated control would be considered unreasonable.

It is considered that the proposal aligns with the aims and objectives of the updated CBDP and is generally consistent with the updated built form controls.

4.3 Section 4.15(1)(a)(iii) - Canterbury-Bankstown Development Control Plan 2023

The following Development Control Plan is relevant to this application:

- *Canterbury-Bankstown Development Control Plan 2023* ('the CBDCP') (Version 4)

The site is located within the 'Northern CBD Core' and 'Bankstown City Plaza' of the Bankstown City Centre as identified in the CBDCP. Bankstown is also identified as a strategic centre. The relevant controls applying to the site are contained in Chapter 6.2 'Bankstown City Centre'.

As detailed earlier in Section 4.2 of this Report, the site is identified for redevelopment as an amalgamated site with 62 The Mall in the applicable CBDCP, with anticipated site layout and building envelopes provided (refer to Figures 22 and 23). The proposal does not include development of 62 The Mall. Notwithstanding this, it is considered that the application achieves the aims and objectives of the CBDCP and is generally consistent with the built form controls.

An assessment of the proposal against the relevant provisions of the applicable CBDCP is provided at **Attachment I**.

In terms of car parking, the application has utilised the applicable rate set out in the RTA Guide to Traffic Generating Development in accordance with the Design Criteria of Objective 3J of the ADG. The proposal complies with the relevant parking rates. Car parking is addressed in the ADG assessment provided at **Attachment H**.

The following contributions plans are relevant pursuant to Section 7.18 of the EP&A Act and have been considered:

- *Canterbury-Bankstown Local Infrastructure Contributions Plan 2022*

4.4 Section 4.15(1)(a)(iiia) – 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.

4.5 Section 4.15(1)(a)(iv) – Provisions of Regulations

Section 61 of the 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:

- If demolition of a building proposed - provision of A 2601

The application is seeking development consent for the demolition of existing structure located at the site.

The relevant provisions of the EP&A Regulation have been considered and should consent be granted the proposed demolition works can be addressed via the imposition of conditions.

4.6 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 application demonstrates that the proposed built form and massing achieve an acceptable response to the existing and desired future character of the CBD core of Bankstown City Centre. However, the application is inconsistent with the relevant provisions relating to access, deep soil and internal amenity in terms of solar access and natural ventilation.

Implications on future development of 62 The Mall

As part of the rezoning and amendments to the CBLEP for the Bankstown TOD Accelerated Precinct, several key sites, including the subject site and property immediately to the north (62 The Mall) have benefitted from an uplift of height and FSR. Under the CBLEP currently in force, a maximum building height limit of 83 metres, and a maximum FSR of 5.8:1 applies. The CBDCP has also been updated in line with these amendments.

The future development of 62 The Mall was previously anticipated to form part of the site under the former CBDCP – Version 4 and is highlighted in Figures 22 and 23 above.

The anticipated site layout for 62 The Mall in the updated CBDCP identifies that there will be *“future development on former Council library site”* (refer to Figure 24 above). While building envelopes are not provided for 62 The Mall in the updated CBDCP, new built form controls apply to the adjoining site, which introduce a:

- maximum height of 24 storeys;
- maximum a street wall height of 4 metres;
- minimum upper storey setback of 3 metres; and
- nil ground level setback requirement.

While it is considered the size and configuration of the (eastern portion of) 62 The Mall provides for a limited development footprint, the likely impact of the proposal on the development potential of the adjoining site is a key consideration to the assessment of the application.

The planning and urban design assessment of the application identified issues regarding the proposed setbacks of Building C to the northern site boundary shared with 62 The Mall, and the interface with Phil Engisch Reserve, specifically the:

- Potential impacts to the future redevelopment of the adjoining site, in line with the anticipated envelopes set out in the TOD controls for Bankstown pursuant to Chapter 5 of the Housing SEPP and the updated BDCP 2023, including impacts to the redevelopment of the eastern portion of the site with, at least, podium levels built to the boundaries; and
- Creation of a narrow passageway adjacent to a future boundary wall (should Phil Engisch Reserve be developed) and limited functionality of the ground floor area due to the minimal ground floor setbacks provided to the boundary shared with the reserve (i.e., 1.4 to 4.4 metres).

These matters were also raised in submissions received during the public exhibition.

The Applicant has submitted an RFI Response Letter prepared by Ethos Urban, dated 1 July 2025, a Massing Feasibility Study, including sun-eye view diagrams, (refer to Section 12 of the Updated Architectural Design Report prepared by PTW Architects) and an Urban Design Analysis prepared by Hatch, dated June 2025.

The Urban Design and Massing Feasibility Study identifies two development scenarios for 62 The Mall, including:

- **Option A ‘No podium on Phil English Reserve’:** retains Phil English Reserve as public open space and incorporates a 3-storey podium and 17-storey tower form in the western portion of the site.
- **Option B ‘Podium on Phil English Reserve’:** which includes a 2-storey podium across the entire site, and a 16-storey tower within the western portion of the site.

The Massing Feasibility Study demonstrates that the built form and massing in each Option achieves nil street setbacks at the podium levels and minimum tower (upper level) setbacks of 3 metres, in line with the updated CBD CP 2023 built form provisions. Building separation distances to the proposed development in accordance with the ADG is also demonstrated.

Extracts of the massing study presented for Option A and Option B are included in Figures 25 and 26.

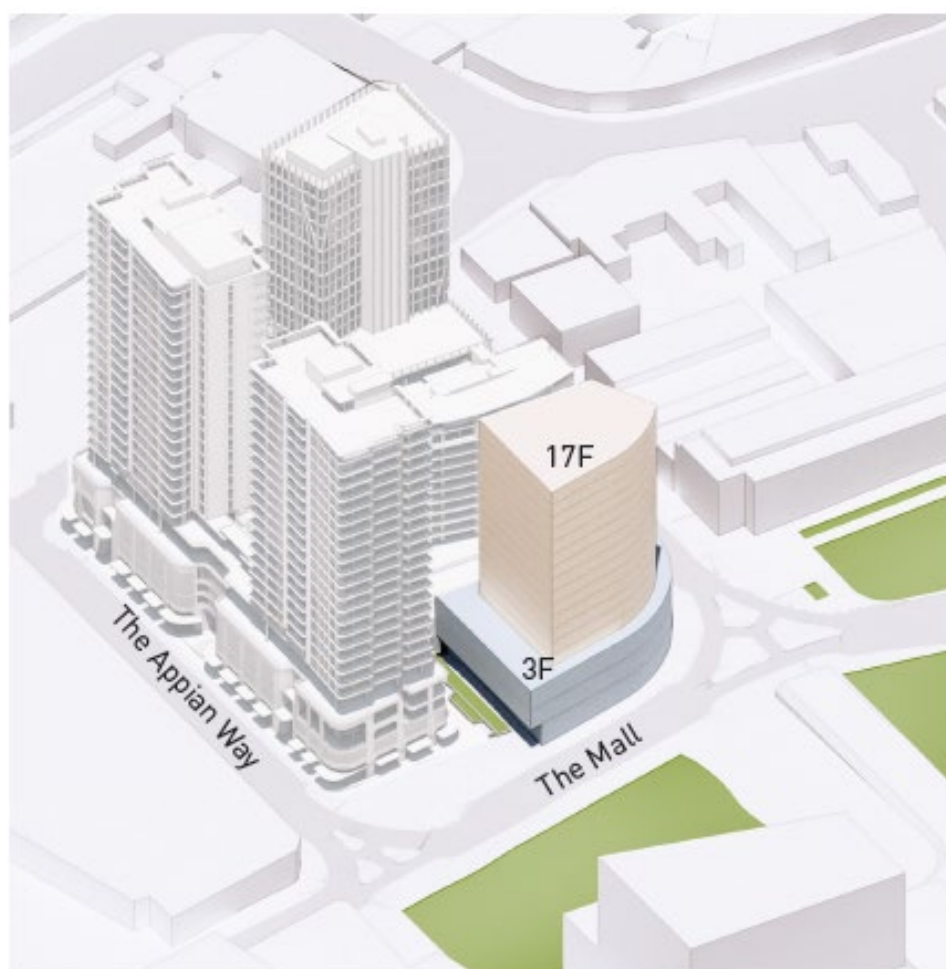


Figure 25: Massing Study – Option A (Source: Section 12, updated Architectural Design Report, PTW Architects)

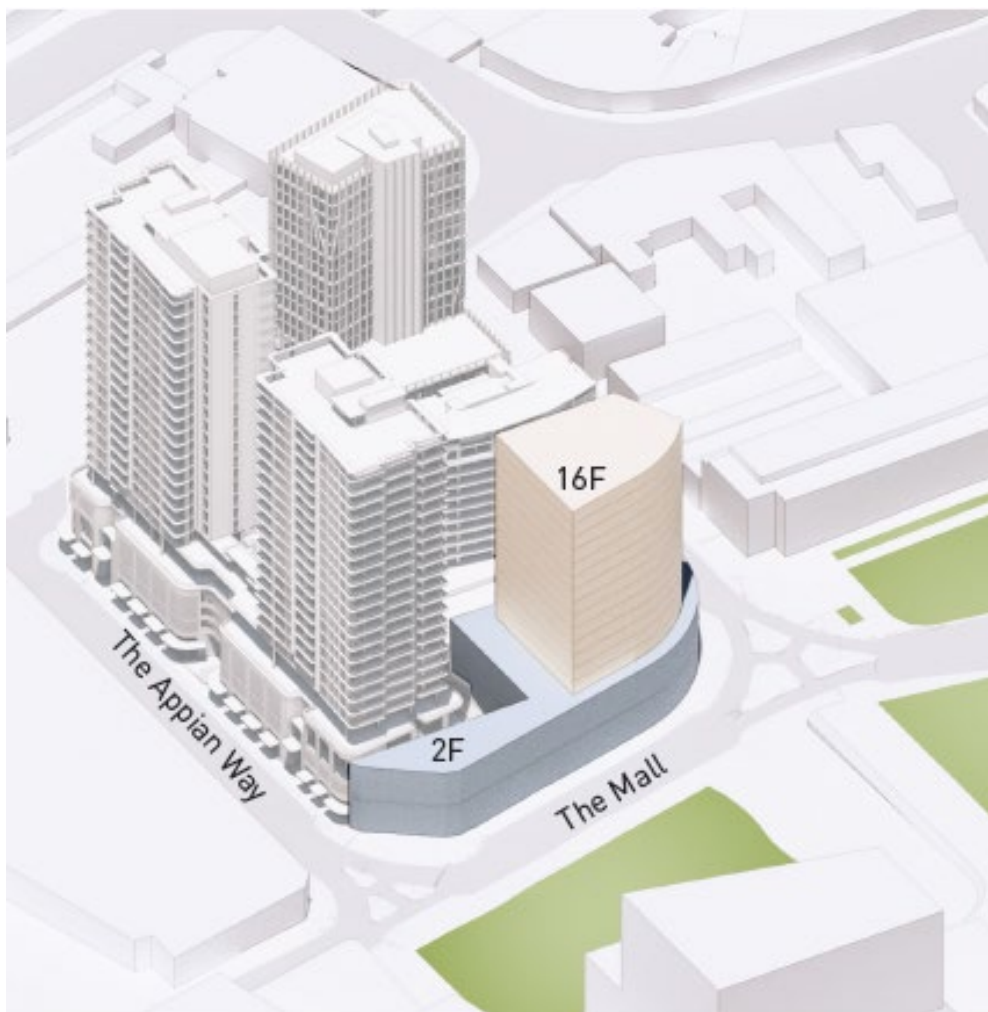


Figure 26: Massing Study – Option B (Source: Section 12, updated Architectural Design Report, PTW Architects)

The Urban Design Analysis, and additional RFI Response Letter presents Option A (i.e., without development on Phil Engisch Reserve) as the “*optimal urban design outcome*” given it:

- Facilitates a north-south through site link;
- Aligns with the mid-block connection requirement in the applicable (former) CBD CP;
- Retains Phil Engisch Reserve as public open space;
- Provides for a high-quality activated edge along the sites’ interface with Phil Engisch Reserve, as opposed to a development outcome that results in a blank wall along the shared boundary; and
- Results in a reduced overshadowing impact to the proposed development in comparison to Option B.

Amended plans also demonstrate an increased ground level setback from Building C to the northern boundary shared with Phil Engisch Reserve, from a varied setback of 1.4 metres to 4.4 metres to allow for a consistent 4 metre setback.

The original proposal and the increased (Building C) ground floor setback to the northern boundary shared with Phil Engisch Reserve is illustrated in Figures 27 and 28, with the setbacks marked in yellow.



Figure 27: Original ground floor setbacks to northern boundary shared with Phil Engisch Reserve (PTW Architects)



Figure 28: Increased ground floor setback to northern boundary shared with Phil Engisch Reserve (Source: PTW Architects)

The proposed setbacks of the residential apartments on the tower levels above range between 3.1 and 5.4 metres from the northern boundary and remain unchanged in the amended application. These are addressed under the Housing SEPP regarding building separation and setbacks in Section 4.1(d) of this Report.

The amended application was notified to adjoining property owners, including Council. No objections were raised regarding the development scenarios for 62 The Mall (Option A and Option B) presented in the Applicant's Massing Feasibility Study or the increased ground floor setback.

Having regard to the above, it is considered that the application, including the additional documentation provided by the Applicant, adequately demonstrates that the proposal would not give rise to unreasonable impacts upon the development potential of 62 The Mall, in line with anticipated built form set out under the current planning framework.

It is also considered that the application adequately demonstrates that an appropriate built form response to the development scenarios in Option A and Option B is achieved noting the architectural expression and materiality along the northern external elevations and the increased ground floor setback to Phil English Reserve.

Overshadowing

Submissions received during public exhibition raised overshadowing impacts on neighbouring properties, including the Bankstown Central site located to the east of the site.

Overshadowing plan diagrams and sun-eye view diagrams were submitted with the original DA for mid-winter. These diagrams did not account for the future planned development at the Bankstown Central site, or the built form anticipated under the current planning framework for 62 The Mall, immediately adjoining the site to the north.

These matters were raised in an RFI, and in response the applicant provided updated sun eye view and shadow diagrams (refer Drawing Q110031, Q110040, Q110050 and Q110051) with future development at 62 The Mall and Bankstown Central.

The updated diagrams demonstrate that the:

- the development causes overshadowing to the:
 - southwest corner of the Bankstown Central site between 1pm and 3pm; and
 - existing development at 3-7 Fetherstone Street between 9am and 10am.
- the future planned development at the Bankstown Central site will cause overshadowing to Building B and Building C between 9am and 10am.

An analysis of the overshadowing impacts to 3-7 Fetherstone is provided in the updated Architectural Design Report demonstrates that approximately 68% of the apartments within the existing development will continue to receive a minimum of 2 hours of sunlight in accordance with the solar access provisions in Objective 4A of the ADG.

The overshadowing of the development is considered acceptable within the CBD context of the site, also noting that the site is centrally located within the Bankstown accelerated TOD precinct.

At the time of writing this report, it has not been identified that the future planned development of the Bankstown Central site is the subject of a development application(s).

Amenity impacts to 3-7 Fetherstone Street

Refer to the discussion provided under the Housing SEPP regarding visual privacy in Section 4.1(d) of this Report.

In terms of visual privacy, the Applicant has provided amended plans with further detail, including additional sections and elevations which clearly demonstrate the interface between the proposed development (i.e., the Hotel function spaces) and the adjoining residential apartments at 3-7 Fetherstone Street (refer to Level 4 floor plan (Drawing B1L0410), Level 5 floor plan (Drawing B1L0410), Building A North Elevation (Drawing C150010) and Section 3 (Drawing D110030).

While the development does not achieve strict compliance with the building separation distances set out in Objective 3F of the ADG, it is considered that design amendments have been incorporated into the development via amended plans which demonstrate that the potential visual and acoustic privacy impacts of the development to the neighbouring residential apartments can be appropriately managed and minimised.

Submissions received during the public exhibition period also raised loss of views to Paul Keating Park available to the north facing residential apartments at 3-7 Fetherstone Street. In response, the Applicant provided a digital view analysis, included in the updated architectural plans (refer to Drawing Q110071), which includes a comparison of the existing views to Paul Keating Park and views to the park including the proposed development.

The analysis demonstrates that while Building C will be visible from the identified viewpoints, views to Paul Keating Park will not be obstructed by the development. The analysis also indicates that the views shown are taken from Level 4 and Level 11 of the development located at 3-7 Fetherstone Street, however the exact location and height of these viewpoints have not been identified. Despite this, it is considered that the development is unlikely to give rise to adverse view loss impacts to Paul Keating Park due to the orientation and siting of the proposed buildings, and that the application has adequately considered these impacts.

Regardless, given the site is currently under-developed, some potential view impacts to the adjoining properties is anticipated with the redevelopment of the site in accordance with the applicable development standards.

Furthermore, the proposed development does not impact significant or protected views to or across the site, or to the surrounding public domain.

Water and soil impacts

Refer to the discussion provided under the Resilience and Hazards SEPP at Section 4.1(e) of this Report.

Assessment of the application by Council's EHO has identified that insufficient information has been provided to properly assess and determine the existing geotechnical and soil conditions of the site. Accordingly, the application fails to demonstrate that the potential soil and water impacts can be appropriately managed.

Flooding

Refer to the discussion provided under clause 5.21 Flooding of the CBLEP at Section 4.1(g) of this Report.

It is considered that inadequate information has been provided to enable a proper assessment of the flooding impacts of the proposal.

Stormwater drainage

Refer to the discussion provided under clause 6.3 Stormwater management and WSUD at Section 4.1(g) of this Report.

Due to the insufficient information provided regarding flooding and the management of the existing overland flow path from Fetherstone Street to The Appian Way which traverses the site, the application fails to demonstrate significant adverse impacts of stormwater runoff will be avoided, pursuant to clause 6.3(3)(c) of the CBLEP.

Furthermore, the application does not clearly specify the proposed location of the required on-site detention (OSD) nor has it been demonstrated that the OSD achieves compliance with clause 7.10.1 of Australian Standard 5300.3.

Access and traffic

Refer to the discussion provided under clause 6.9 Essential Services of the CBLEP at Section 4.1(g) of this Report, and to the consideration of vehicular access, traffic generation and on-site manoeuvring provided under Outstanding Key Issues at Sections 6.3, 6.4 and 6.5 of this Report.

It is considered that the application fails to demonstrate that safe and adequate site access has been provided and that the development will not give rise to adverse traffic safety and efficiency impacts.

Heritage

Refer to the discussion provided under clause 5.10 Heritage of the CBLEP at Section 4.1(g) of this Report.

The effect of the development on the heritage significance of the surrounding heritage items has been adequately considered pursuant to clause 5.10(4) of the CBLEP and it is considered that the proposal will not give rise to adverse impacts on the heritage significance of the surrounding items.

Noise and vibration

The Noise Impact Assessment submitted with the original application did provide an assessment of the noise generated by the proposed non-residential uses within the podium levels. Submissions received during the public exhibition periods also raised noise impacts associated with the construction phase of the development.

These matters were raised in an RFI, and in response an updated Noise Impact Assessment has been provided assesses the noise levels associated with the proposed non-residential uses, noting that some uses are unknown and may be subject to separate development applications and requiring separate noise impacts assessments.

The Noise Impact Assessment concludes that the noise generated by the development achieves the relevant noise criteria and is unlikely to give rise to adverse acoustic impacts, subject to a range of recommended noise management measures including the restriction of use and hours for certain hotel areas which interface with the existing residential apartments at 3-7 Fetherstone Street. Such measures are also detailed under the Proposal in Section 3.1, and Objective 3F of the ADG in Section 4.1(d) of this Report.

Furthermore, the updated Noise Impact Assessment has been assessed by Council's EHO and no objections are raised regarding the likely noise impacts associated with the operational phase of the development.

The Noise and Vibration Report has not considered the noise and vibration impacts arising from the proposed demolition and construction of the buildings on the site. Therefore, insufficient information is provided to enable a proper assessment of the likely construction noise impacts of the development. The likely construction impacts of the development are further discussed below.

Construction noise and traffic

Submissions received during the public exhibition periods raised noise and traffic impacts associated with the construction of the development. In response, the Applicant advised that a Construction Management Plan will be developed to manage the construction impacts including noise, and that the requirement for this plan can be addressed via a condition of consent.

The likely construction related impacts including of noise and traffic, are not addressed in the application. Therefore, the application does not allow for a proper assessment of the likely construction impacts or identify how such impacts can be appropriately managed and minimised.

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

Having regard to the locality, the context and character of the Bankstown City Centre location and the proposed mixed-use development, comprising a total of 336 residential apartments, a series of commercial and retail uses, a child care centre and medical suites, the site is suitable from an overall design perspective.

Despite this, the application in its current form does not adequately demonstrate that the site is suitable for the proposed development as follows:

- The application does not demonstrate that the:
 - proposed development will achieve an appropriate response to the environmental conditions of the site, noting that the site is the subject of contamination. Furthermore, it has not been demonstrated that the site can be made suitable for the development pursuant to section 4.6 of the Resilience and Hazards SEPP.
 - Proposed development is compatible with the flood function and behaviour of the land that the proposal will not result in adverse flooding impacts pursuant to clause 5.21 of the CBLEP.

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

These submissions are considered in Section 5 of this report.

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

The application does not provide sufficient information to properly assess and determine the likely impacts of the proposed development in relation to flooding, stormwater drainage, site access, traffic and the management of site contamination and construction works.

Further, the application in its current form could not satisfy the consent authority of the matters set out in the relevant environmental planning instruments applying to the development regarding the remediation of land, flooding, stormwater management and site access.

The site contamination and flooding considerations are considered fundamental issues to the application. Insufficient information is provided to demonstrate that these matters can be appropriately managed and resolved.

Furthermore, the development involves the construction of buildings that intrude within a prescribed airspace and requires a controlled activity approval pursuant to section 182 of the *Airports Act 1996*. A controlled activity approval under section 182 of the *Airports Act 1996* has not been obtained by the Applicant.

Accordingly, the application in its current form would not be in the public interest as it would not result in the orderly development of the land. Development consent could not be granted on this basis.

5. REFERRALS AND SUBMISSIONS

5.1 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 6**.

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 6: Concurrence and Referrals to agencies

Agency	Concurrence/ referral trigger	Comments (Issue, resolution, conditions)	Resolved
Concurrence Requirements (s4.13 of EP&A Act)			
Not applicable.			
Referral/Consultation Agencies			
Electricity supply authority	Section 2.48 – <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> Development near electrical infrastructure	Ausgrid has reviewed the application and considered that there were no objections, subject to conditions. A copy of the Ausgrid referral comments is provided at Attachment D .	Y
Transport for NSW	Section 2.122 – <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> Development that is deemed to be traffic generating development in Schedule 3.	TfNSW has reviewed the application, and no objections are raised. TfNSW has noted that the potential traffic impacts of the development are negligible and that the Bankstown Complete Streets program should be considered in the assessment of the application. A copy of the TfNSW referral comments is provided at Attachment E .	Y
Sydney Water	Section 73 – <i>Sydney Water Act</i> Section 73 Compliance Certificate	Sydney Water reviewed the application and considered that there were no objections subject to conditions, including a requirement to engage with an approved hydraulic consultant via a Water Servicing Coordinator (WSC) to undertake wastewater modelling during the Section 73 Compliance Certificate Application stage. A copy of the Sydney Water referral	Y

		comments is provided at Attachment F.	
Design Review Panel	CI 145 – Housing SEPP Advice of the Design Review Panel ('DRP')	The advice of the DRP has been considered in the proposal and is further discussed in the Key Issues section of this report. A copy of the DRP advice is provided at Attachment G.	Y
Integrated Development (S 4.46 of the EP&A Act)			
WaterNSW	S90 – <i>Water Management Act 2000</i> water supply work approval	The development requires dewatering to facilitate the basement construction. An updated Dewatering Management Plan was prepared and referred to WaterNSW for comment. On 7 July 2025 WaterNSW issued General Terms of Approval.	Y

5.2 Council Officer Referrals

The development application has been referred to various Council officers for technical review as outlined **Table 7.**

Table 7: Consideration of Council Referrals

Officer	Comments	Resolved
Engineering	Council's Development Engineer has assessed the application and has identified regarding on-site manoeuvring including driveway ramp widths, intersection and car park design and associated compliance with the relevant Australian Standards. Non-compliance regarding the proposed OSD have also been identified.	No
Traffic	Council's Traffic Engineering Officer has assessed the proposal and raised concerns in relation to traffic generation and vehicular access which remain outstanding.	No
Flooding	Council's Asset Engineer has assessed the application and has identified that inadequate information has been provided to demonstrate compatibility with the flood function and behaviour on the land and enable a proper assessment of the flood impacts of the development.	No
Environmental Health	Council's EHO has reviewed the application and raised concerns regarding site contamination which remain outstanding.	No
Waste	Council's Resource Recovery Officer has reviewed the application, and it was identified that insufficient information regarding waste management has been provided.	No

Urban Design	Council's Urban Design Team has reviewed the application and some matters regarding tower form, aesthetics, height and dwelling mix remain outstanding.	Yes
Building	Council's Development Assessment Officer – Building reviewed the application and considered that there were no objections subject to conditions.	Yes
Tree Management	The application has been assessed by Council's Tree Management and no objections to the proposed tree removal are raised.	Yes
Heritage	Council's Heritage Officer/Consultant reviewed the application and considers that the impacts of the development on the heritage items in the vicinity are negligible.	Yes
Landscape	Council's Landscape Architect has reviewed the application and considers that the proposed deep soil provision (of 1.6% of the site) is insufficient.	

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

The application was also referred to the local Police, and no objections were, subject to recommended conditions.

5.3 Community Consultation

The proposal was notified in accordance with the Bankstown Community Participation for a period of 28 days, ending on 19 December 2024 and four (4) submissions were received, including a submission from Council.

Following the submission of amended plans and additional documentation in response to an RFI dated 18 February 2025, the amended application was notified for a period of 7 days, ending on 22 September 2025 and three (3) submissions were received, including a submission from Council.

- Loss of privacy, overshadowing and view loss impacts on neighbouring residential apartments at 3-7 Fetherstone Street;
- Overshadowing impacts to adjoining sites including Bankstown Central located to the east of the site;
- Potential implications of future development anticipated on adjoining sites including Bankstown Central as well as 62 The Mall, immediately to the north of the site, in line with the current planning framework; and
- Acoustic, vibration and traffic impacts caused by construction works.

The Council received a total of 7 unique submissions, which include objection and/or raise concerns with the proposal. The issues raised in these submissions are considered in **Table 8**.

Table 8: Public Submissions

Issue	No of submissions	Council Comments
Visual privacy, acoustic and view loss impacts (regarding views to Paul Keating Park) to residential apartments at 3-7 Fetherstone Street	1	The proposal achieves the relevant objectives and design guidance regarding visual privacy set out in Objective 3F of the ADG. Additional mitigation measures and design amendments have been incorporated into the development via amended plans which demonstrate that the potential visual and acoustic privacy impacts of the development to the neighbouring residential apartments can be appropriately managed and minimised. For example, the updated interface treatment between the development (i.e., the Hotel function spaces) and the neighbouring apartments has included the incorporation of a 3-metre-wide planter with landscaping at the edge of the building, installation of colour backed glass to prevent overlooking. The Updated Noise Impact Assessment also includes additional management measures to control the use of the hotel spaces located along the interface. As detailed under Likely Impacts in Section 4.6 of this Report, it is considered that the development is unlikely to give rise to adverse view loss impacts regarding views to Paul Keating Park from the north facing residential apartments at 3-7 Fetherstone Street, due to the orientation and siting of the proposed buildings, and that the application has adequately considered these impacts.
Overshadowing impacts to adjoining development	2	As detailed in the discussion of overshadowing under the Likely impacts in Section 4.6 of this Report, the submitted shadow and sun-eye view diagrams demonstrate that the existing development at 3-7 Fetherstone Street will not be in shadow after 10am and the future potential development at the Bankstown Central site will not be in shadow between 9am and 1pm. Furthermore, the application demonstrates that the apartments within the existing development at 3-7 Fetherstone Street will still receive a minimum of 2 hours of sunlight in accordance with the solar access provisions in Objective 4A of the ADG. The overshadowing impacts of the proposal are considered acceptable within the site context.

Further solar analysis is required to determine a 'base position' for the level of compliance/solar access achieved for the site and the future planned development at Bankstown Central	1	The determination of this application cannot negate the statutory obligation to consider and adhere to the applicable planning instruments relevant to the future development of adjacent sites. Assessment of the matters in section 4.15 of the EP&A Act required for the purpose of this application regarding overshadowing impacts has been undertaken and is detailed above.
Capacity of existing services and infrastructure are inadequate to accommodate the proposed development	1	A Utilities Report prepared by WSP, dated April 2024, accompanies the application which demonstrates that the suitable arrangements can be made for the provision and connection of the relevant services and infrastructure (sewer, water, utilities) to accommodate the Proposal. Sydney Water has also reviewed the application and no objections are raised, subject to recommended conditions and post consent requirements. A copy of the Sydney Water referral comments is provided at Attachment F.
Construction traffic and noise impacts (including consideration of noise and access impacts to existing development located on the western side of Fetherstone Street and adjoining residents)	3	The likely construction related impacts in terms of noise and traffic are not addressed in the application. Therefore, the application in its current form does not adequately demonstrate that the associated construction impacts can be appropriately managed and minimised.
Implications on future development of 62 The Mall in line with the current planning framework	2	As detailed under the Likely Impacts in Section 4.6 of this Report, it is considered that the application adequately demonstrates that the proposal would not give rise to unreasonable impacts upon the development potential of 62 The Mall, in line with anticipated built form set out under the current planning framework. It is also considered that the application adequately demonstrates that an appropriate built form response to the future potential development scenarios is

		achieved noting the increased ground floor setback to Phil Engisch Reserve.
Incorporation of vehicular access and/or basement car park shared with 3-7 Fetherstone Street should be considered	1	Additional information has been by the Applicant provided in response to this issue which identifies that the existing development at 3-7 Fetherstone Street includes residential and commercial ground floor occupants. Works to facilitate shared access at basement level will cause unreasonable disruption to the existing occupants and operation of the building. The suggested shared access for the purpose of removing a driveway access point on Fetherstone Street is not being considered by the Applicant on this basis. Such works would also require consent of the adjoining land owner.

6. KEY OUTSTANDING ISSUES

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

6.1 Site Contamination

Refer to the discussion under the Resilience and hazards SEPP in Section 4.1(e) of this Report.

The application in its current form does not adequately demonstrate that the land is suitable or will be made suitable for the proposed land use pursuant to section 4.6 of the Resilience and Hazards SEPP and development consent could not be granted in this circumstance.

6.2 Flooding

Refer to discussion under clause 5.21 of the CBLEP in Section 4.1(g) of this Report.

The application in its current form does not adequately demonstrate the matters in clause 5.21(2)(a), 5.21(2)(b) and 5.21(2)(c) of the CBLEP. Development consent could not be granted in these circumstances.

6.3 Site access

Refer to the discussion under clause 6.9 of the CBLEP in Section 4.1(g) of this Report.

Assessment of the application by Council's Traffic Engineer has identified a range of traffic safety and compliance issues with the proposed site access arrangements via Fetherstone Street as well as the taxi and coach access via North Terrace. Specifically:

- the location, configuration and co-location of the retail and loading dock driveways whereby the loading (truck) access is situated between the retail entry and exit driveway compromises safety for all road users and is therefore considered unacceptable.
- Compliance with the relevant Australian Standards in terms of the required driveway widths and swept path analysis has not been achieved.
- The location of the proposed taxi and coach drop-off and pick-up zone conflicts with on-street traffic, the existing taxi stand located on the northern side of North terrace and the bus zone on the southern side of North terrace, respectively, which will give rise to unreasonable traffic safety and efficiency impacts.

6.4 Traffic generation

Assessment of the application by Council's Traffic Engineer identifies that the traffic generation assessment undertaken by the Applicant is inadequate for the following reasons:

- The calculation of traffic generation rates associated with the proposed retail tenancies and medical suites is not in accordance with the Roads and Traffic Authority (RTA) Guide to Traffic Generating Developments, dated October 2002.
- The submitted Traffic Impact Assessment prepared by PTC assumes that Evidence to support the assumptions has not been provided.

Accordingly, it is considered that the traffic assessment does not adequately calculate the traffic generated by the development and insufficient information is provided to properly assess and determine the associated traffic impacts of the proposal.

6.5 On-site manoeuvring

Assessment of the original application by Council's Development Engineer identified a range of issues regarding on-site manoeuvring including driveway ramp widths, intersection and car park design and associated compliance with the relevant Australian Standards (AS2890.1).

In response, the Applicant a Traffic Statement, to further justify the proposed ramp, intersection and car park design, however, the internal access arrangement was not amended. On this basis, Council's development Engineer has identified that the following issues remain outstanding:

Ramp and intersection design

- While the submitted Traffic Statement confirms that the ramp design is for two cars to pass safely (i.e. two-way roadway), assessment of those ramps concludes that compliance with minimum cross-sections design requirement in accordance with Clause 2.5.2 Figure 2.8 (b) is not achieved. Therefore, proposed ramp leading into basement 01 from hotel/residential car park entry off Fetherstone Street, as well as all internal ramps connecting the three podium levels must be designed in accordance with Clause 2.5.2 Figure 2.8 (b) where a minimum 600mm separator is to be designed with a height between 125mm and 150mm.
- In relation to intersection areas, Clause 2.5.2 (c) where two cars are expected to pass each other, the design is required to accommodate B99 & B85 single swept path manoeuvre with the correct clearances, especially for design B99 vehicle. In this regard, 600mm clearances along the outside curvature of the swept path are required in accordance with B3.1 (a) of AS2890.1.

- In addition to the above, if the boundary of the intersection area is an obstruction such as a wall, barrier or kerb higher than 150mm, AS2890.1 requires further clearances of 300mm where the swept path approaches the obstruction.

Car park design

- The submitted Traffic Statement identifies that the “example of Uses” in Table 1.1 of AS2890.1 are not exhaustive however, other user scenarios, such as child care centres should be considered.
- The car parking area comprising the child care centre car spaces located on Level 3 is required to be designed to user classification 3A due to the duration of stay (i.e., less than 10 minutes for parent drop-off and pickup) and the associated high turnover of vehicles accessing the car park. This will require the proposed aisle widths throughout the child centre car park to be increased.
- It is considered that the 3A user class provides the most appropriate design outcome for traffic and pedestrian safety, visibility, functionality as well as satisfy AS2890.1 Table 1.1 in terms of ease of access in and out of parent drop-off and pick up car spaces.

6.6 Stormwater drainage

Refer to discussion under clause 6.3 and 6.9 of the CBLEP in Section 4.1(g) of this Report.

Additionally, assessment of the proposal by Council’s Development Engineer has identified that the proposed design level at the pedestrian entry via Fetherstone Street (RL 25) is approximately 260mm lower than the fronting kerb (RL 25.26), which does not facilitate an appropriate footpath crossfall for both drainage and accessibility purposes.

6.7 Building height

Refer to discussion under clause 4.6 Exceptions to development standards in Section 4.1(g) of this Report.

Assessment of the written request to vary the maximum building height development standard in 6.16(3)(a) of the CBLEP, submitted under clause 4.6 of the CBLEP, fails to identify all components of the development exceeding the maximum building height development standard and demonstrate the matters in clause 4.6(3) of the CBLEP.

6.8 Floor space ratio

Refer to discussion under clause 6.16(3)(b) Floor space ratio in Section 4.1(g) of this Report.

The proposal exceeds the maximum FSR of 5:1 in clause 6.16(3)(b) of the CBLEP. A written request to vary the maximum FSR development standard in 6.16(3)(b) of the CBLEP is not included in the application. Development consent could not be granted in this circumstance, pursuant to clause 4.6(3) of the CBLEP.

6.9 Solar access, ventilation and common circulation

Refer to discussion under the Housing SEPP at Section 4.1(d) of this Report.

The application is inconsistent with Objective 4A-1, 4B-1 and 4F-1 of the ADG.

6.10 Deep soil

Refer to discussion under the Housing SEPP at Section 4.1(d) of this Report.

The proposal is inconsistent with Objective 3E-1 of the ADG.

6.11 Construction impacts

The likely construction related impacts in terms of noise and traffic are not addressed in the application. Therefore, the application in its current form does not adequately demonstrate that the associated construction impacts can be appropriately managed and minimised.

6.12 Waste

Council's Resource Recovery Officer has reviewed the application and identified that insufficient information has been provided to enable a proper assessment of the proposed waste management. Specifically, the following details have not been provided:

- system to rotate bins in the basement chute rooms at the base of the chute (i.e., a linear track system or a carousel system);
- provision of waste and recycling infrastructure for Level 3 residents;
- provision of a HRV path of travel to the waste loading dock with a 4.5m clearance floor to ceiling in accordance with Australian Standard 2890.2.

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 cannot be supported.

As demonstrated by the assessment provided in this report, inadequate documentation is provided to properly assess and determine the likely impacts of the proposed development.

The application does not demonstrate that:

- the proposal will not result in adverse environmental impacts;
- the proposal will facilitate the orderly development of the subject land;
- the site is suitable to accommodate the proposed development; and
- the proposed development is in the public interest.

Additionally, the site contamination and flooding considerations are considered fundamental issues to the application and remain outstanding.

Furthermore, the development involves the construction of buildings that intrude within a prescribed airspace and requires a controlled activity approval pursuant to section 182 of the *Airports Act 1996*. A controlled activity approval under section 182 of the *Airports Act 1996* has not been obtained by the Applicant.

It is considered that the key issues as outlined in Section 6 have not been resolved satisfactorily.

8. RECOMMENDATION

That the Development Application No. DA/1182/2024 be REFUSED pursuant to Section 4.16(1)(b) of the *Environmental Planning and Assessment Act 1979* subject to the draft reasons for refusal attached to this report at **Attachment A**.

The following attachments are provided:

- Attachment A: Draft Reasons for Refusal for DA/1182/2024
- Attachment B: General Terms of Approval issued by WaterNSW
- Attachment C: Bankstown Airport Comments
- Attachment D: Ausgrid Comments
- Attachment E: Transport for NSW Comments
- Attachment F: Sydney Water Comments
- Attachment G: Canterbury-Bankstown Design Review Panel Advice
- Attachment H: ADG Assessment Table
- Attachment I: CBDCP Assessment Table