

**ITEM****48-50 Wellington Road, Chester Hill**

**Construction of a 5-storey residential flat building including 37 affordable housing units with basement car parking.**

**FILE****DA-861/2020****PPSSSH – 33****ZONING****R4 High Density Residential****DATE OF LODGEMENT****28 September 2020****APPLICANT****Land And Housing Corporation****OWNERS****Land And Housing Corporation****ESTIMATED VALUE****\$17,470,376****AUTHOR****Casandra Gibbons****SUMMARY REPORT**

This matter is reported to the Sydney South Planning Panel in accordance with the provisions of State Environmental Planning Policy (State and Regional Development) 2011. The proposed development has an estimated value of \$17,470,376 which exceeds the capital investment threshold of \$5 million for 'Crown Development'. The applicant, Land And Housing Corporation, is a Crown Authority.

Development Application No. DA-861/2020 proposes the construction of a 5-storey residential flat building including 37 affordable housing units with basement car parking and associated landscaping and site works.

The development application has been assessed in accordance with the provisions of Section 4.15(1) of the *Environmental Planning and Assessment Act, 1979* requiring, amongst other things, assessment against State Environmental Planning Policy (State and Regional Development) 2011, State Environmental Planning Policy No. 55 – Remediation of Land, State Environmental Planning Policy (Infrastructure) 2007, State Environmental Planning Policy (Affordable Rental Housing) 2009, State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development, State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, State Environmental Planning Policy (Vegetation in Non-Rural areas) 2017, Bankstown Local Environmental Plan 2015, Bankstown Development Control

Plan 2015 and the Draft Consolidated Canterbury Bankstown Local Environmental Plan 2020.

The application was advertised and notified for a period of twenty-one (21) days, from 21 October 2020 to 11 November 2020 and renotified with amended plans for fourteen (14) days from 3 August to 17 August 2021. One submission was received within the first notification period, which raised concerns with respect to the construction phase of the development. No submissions were received in response to the notification of amended plans.

The proposal seeks some minor variations to State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development and the associated Apartment Design Guide (ADG). The attached assessment report identifies and discusses the proposed non-compliances with the setback, communal open space and solar access provisions, as well as a few minor departures to a number of the controls contained in Bankstown Development Control Plan 2015.

Despite the non-compliances proposed with the application, it is considered that the proposed development represents an appropriate outcome in the context of the surrounding locality and is recommended for approval, subject to the conditions attached.

### **POLICY IMPACT**

This matter has no direct policy implications.

### **FINANCIAL IMPACT**

The matter being reported has no direct financial implications.

### **RECOMMENDATION**

It is recommended that the application be approved, subject to the attached conditions.

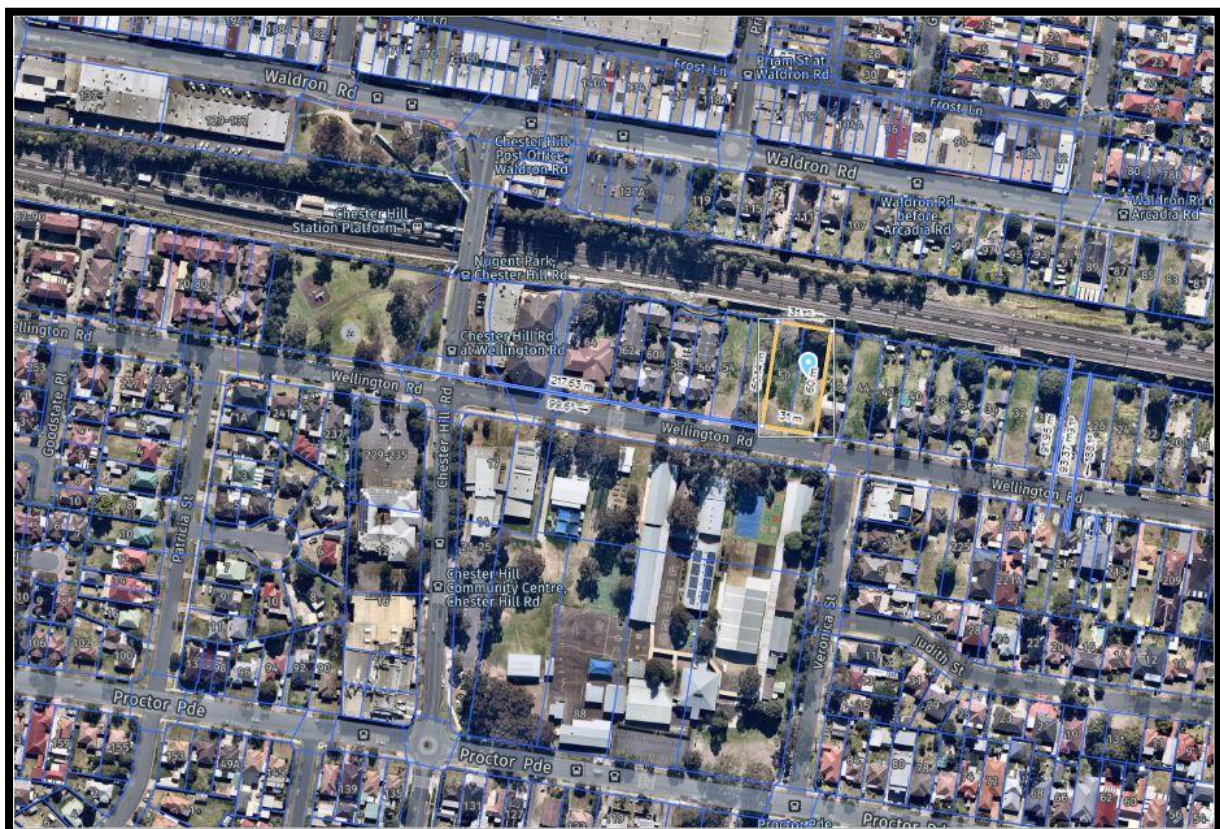
# **DA-861/2020 ASSESSMENT REPORT**

## **SITE & LOCALITY DESCRIPTION**

The subject site is known as Nos 48 and 50 Wellington Road, Chester Hill. The site is a regular shaped allotment that is zoned R4 High Density Residential. The site has a primary frontage to the southern boundary of 30.48m and depths of between 59.78 and 60.05 metres. The total site area is 1826m<sup>2</sup>. The site has a slight fall from south to north (front to back) of approximately 800mm and a cross fall from west to east of approximately 1.1m.

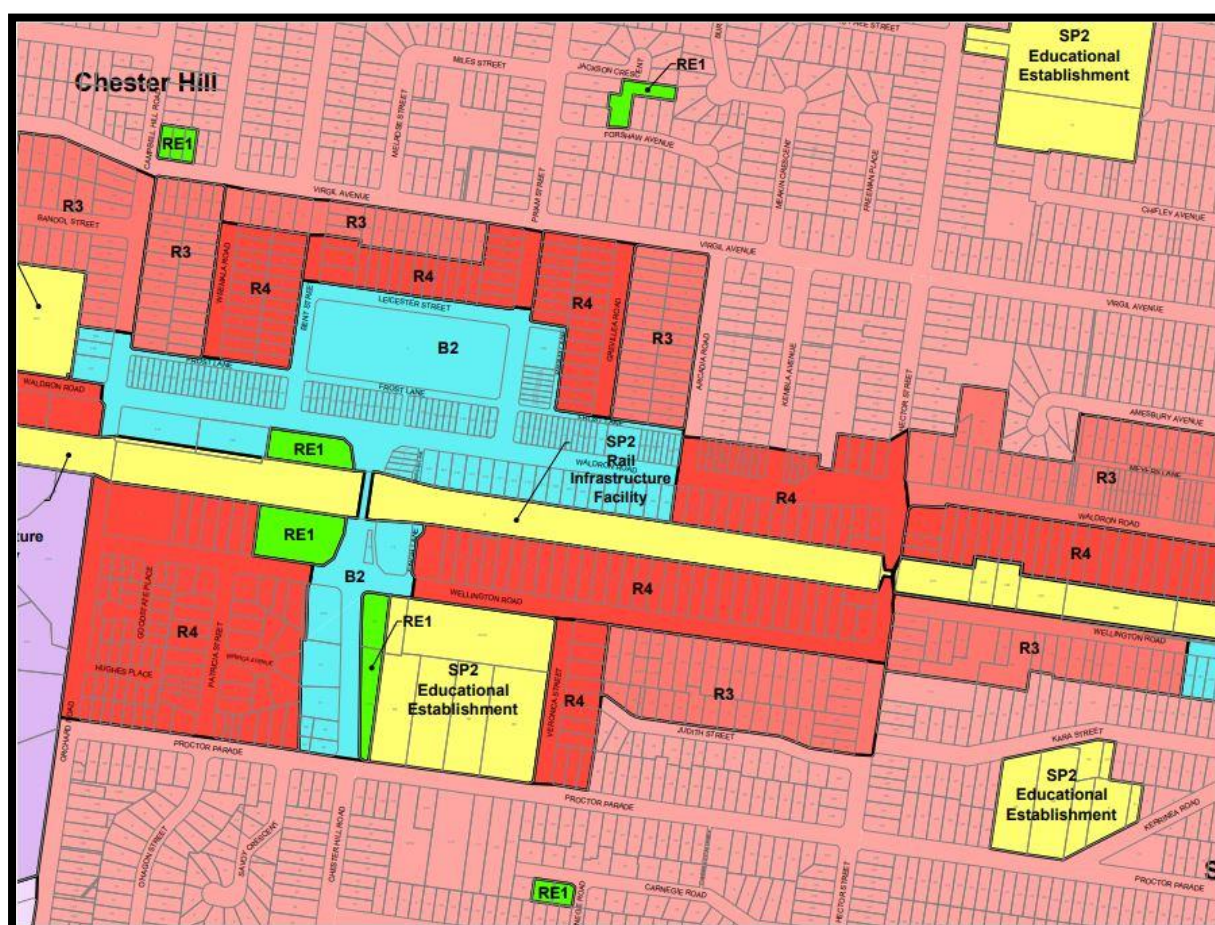
Both lots are currently vacant, containing trees at the rear of the site. The properties to the west known as Nos 52-54 Wellington Road, are also vacant, however No 56 Wellington Road is occupied by a seniors living development. To the east, a single storey dwelling occupies the site. To the rear of the site (north) the site is bound by a railway line. To the south of the site, across Wellington Road, the Chester Hill Public School occupies the land with its associated structures and outdoor areas.

The wider area contains a mix of development types and a variety of zonings. The land to the north of the railway line which adjoins the site, is zoned B2 Local Centre while R4 High Density Residential zoned land is to the north east. The northern side of Wellington Road is zoned R4 High Density Residential while the southern side is predominately zoned R3 Medium Density Residential. Generally, the area is 'underdeveloped', containing predominately low-density residential development types of varying age and size.





**Figure 1:** Aerial of subject site in yellow. **Source:** NearMaps 2021



**Figure 2:** Zoning Map – BLEP 2015

## **PROPOSED DEVELOPMENT**

The development application proposes the construction of a 5-storey residential flat building containing 37 affordable housing units with basement car parking and associated landscaping and site works.

The specifics of the development are as follows:

<b>Floor</b>	<b>Description</b>
Basement Level	18 car parking spaces, 23 bicycle spaces, storage area, lift and stair access, switch room.
Ground Floor	Lobby/ Entrance way, waste storage area, fire pump and sprinkler rooms, lift access, six (6) x one (1) bedroom ground floor residential apartments.
Level 01	Nine (9) apartments: four (4) x one (1) bedroom apartments and five (5) x two (2) bedroom apartments.
Level 02	Nine (9) apartments: four (4) x one (1) bedroom apartments and five (5) x two (2) bedroom apartments.
Level 03	Nine (9) apartments: four (4) x one (1) bedroom apartments and five (5) x two (2) bedroom apartments.
Level 04	Four (4) x two (2) bedroom apartments and storage

	area.
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The vehicular access is proposed adjacent the sites south-eastern corner. A 3D image of the proposal is provided below.



**Figure 3:** 3D image

## **SECTION 4.15 ASSESSMENT**

The proposed development has been assessed pursuant to section 4.15(1) of the *Environmental Planning and Assessment Act, 1979*.

### **Statutory Considerations**

When determining this application, the relevant matters listed in Section 4.15(1) of the Environmental Planning and Assessment Act 1979 must be considered. In this regard, the following environmental planning instruments, development control plans, codes and policies are relevant:

- *State Environmental Planning Policy (State and Regional Development) 2011*
- *State Environmental Planning Policy 55 – Remediation of Land*
- *State Environmental Planning Policy (Infrastructure) 2007*
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*
- *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017*
- *State Environmental Planning Policy (Affordable Rental Housing) 2009*
- *State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development*
- *Bankstown Local Environmental Plan 2015*

- *Draft Consolidated Canterbury Bankstown Local Environmental Plan 2020*
- *Bankstown Development Control Plan 2015*
- *Bankstown Section 94A Development Contributions Plan*

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

**State Environmental Planning Policy (State and Regional Development) 2011**

According to State Environmental Planning Policy (State and Regional Development) 2011, a regional panel may exercise the consent authority functions of Council for the determination of applications included in Schedule 7. Schedule 7 includes 'Crown Development over \$5 million'. The applicant, Land And Housing Corporation, is a Crown Authority and the proposed development has a capital investment value of \$17,470,376. Accordingly, the application is reported to the Sydney South Planning Panel for determination.

**State Environmental Planning Policy 55 – Remediation of Land**

State Environmental Planning Policy 55 – Remediation of Land (SEPP 55) requires the consent authority to consider whether the development site is contaminated and, if it is, whether it is suitable for the proposed development either in its contaminated state or following remediation works.

The site has been used for residential purposes dating back to the mid-20<sup>th</sup> century. No Council records have been located showing any non-residential uses being approved or having been carried out on site. The dwellings and associated structures on both lots have previously been removed. No 48 Wellington Road had a DA for demolition approved in 2008 and the structures occupying No 50 Wellington Road were removed under a complying development approval in 2019. A preliminary site investigation (PSI) report for both lots was submitted. Following a review of the PSI, an asbestos clearance and soil assessment report for No 50 Wellington was requested and provided.

Council officers have reviewed the reports provided and are satisfied that the site is suitable for the proposed ongoing residential use, subject to recommended conditions.

It is therefore considered that the consent authority can be satisfied that the development site is suitable for the proposed development, in accordance with Clause 7 of SEPP 55.

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

*Sydney Trains*

Given its location adjacent a rail corridor, the application requires consideration of State Environmental Planning Policy (Infrastructure) 2007 (ISEPP 2007), Division 15 Railways, Clauses 85, 86 and 87.

The application was referred to Sydney Trains, pursuant to Clauses 85 and 86 of the ISEPP 2007. Sydney Trains have provided concurrence subject to the imposition of

conditions to be satisfied prior to works commencing and during the construction phase.

As such, it is considered that the requirements of Clause 85, 86 and 87 are satisfied, subject to the recommended conditions of consent.

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

In accordance with State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, a BASIX Certificate accompanied this application. The Certificate makes a number of energy/resource commitments relating to water, energy and thermal comfort. The relevant commitments indicated on the BASIX Certificate have been shown on the plans in order to satisfy the objectives of the SEPP. The BASIX Certificate requirements have been incorporated into conditions of consent.

### **State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017**

The proposed development seeks approval for the removal of two trees at the rear of the site. Council's Tree Management Officers have reviewed the application and raised no objection to the removal of the trees on site, subject to the replacement tree plantings recommended. Conditions of consent to achieve this requirement are recommended. It is considered that the proposal meets the requirements of Clause 7, 9 and 10 of the SEPP.

### **State Environmental Planning Policy (Affordable Rental Housing) 2009**

The provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARH SEPP) have been considered in the assessment of this development application. The intent of the ARH SEPP is to facilitate the increased supply and diversity of affordable rental and social housing in NSW, including 'in-fill affordable housing' such as that which is proposed under the subject development application.

In the context of the ARH SEPP, 'in-fill affordable housing' relates to development that contains a percentage of affordable dwellings as provided for in Division 1 of the ARH SEPP. The following table provides an assessment of the development against the requirements of the ARH SEPP.

<b>State Environmental Planning Policy (Affordable Rental Housing) 2009</b>			
<b>DIVISION 1 – In-fill affordable housing</b>			
<b>Standard</b>	<b>Requirement</b>	<b>Proposal</b>	<b>Complies</b>
<b>10 - Development to which Division applies</b>	(a) the development is permitted with consent under another environmental planning instrument, and (b) the development is on land that does not contain a heritage item that is identified in an environmental planning	The proposed development is permitted with consent in the 'R4 High Density Residential' zone pursuant to BLEP 2015.  The site does not contain a heritage item pursuant to BLEP 2015.	Yes

	<p>instrument, an interim heritage order or on the State Heritage Register under the <i>Heritage Act 1977</i>, and</p> <p>(c) the percentage of the gross floor area of the development that is to be used for the purposes of affordable housing is at least 20%, and</p> <p>(d) for development on land in the Greater Sydney region, Newcastle region or Wollongong region—all or part of the development is within an accessible area, and</p> <p>(e) for development on other land—all or part of the development is within 400 metres walking distance of land within Zone B1 Neighbourhood Centre, Zone B2 Local Centre or Zone B4 Mixed Use, or within a land use zone that is equivalent to those zones</p>	<p>The development is proposed by Land And Housing Corporation with 100% of the GFA used for the purposes of affordable housing.</p> <p>The site is within the 'Greater Sydney Region' and is within an 'accessible' area.</p> <p>The site is located within an accessible area in accordance with Clause 4 of the SEPP, being located approximately 350m from Chester Hill Train Station.</p>	
<b>13 - Floor space ratios</b>	<p>The max. FSR for the development to which this Division applies is the existing max. FSR for any form of residential accommodation permitted on the land on which the development is to occur (which is 1.75:1 as per BLEP 2015), plus 0.5:1 if the percentage of GFA of the development that is used for affordable housing is 50% or higher.</p>	<p>The development has allocated 100% of the GFA as affordable housing.</p> <p>The maximum permissible FSR on the site (as per the BLEP 2015) is 1.75:1.</p> <p>Based on Clause 13(2)(a)(i) the development is afforded the bonus provision of 0.5:1.</p> <p>The maximum FSR permitted by the SEPP is 2.25:1.</p> <p>The proposal is compliant at 1.70:1.</p>	Yes
<b>14 Standards</b>	<p><u>Site area:</u> At least 450m<sup>2</sup> in site area</p>	1826m <sup>2</sup>	Yes



that cannot be used to refuse consent	<p><u>Landscaped area:</u></p> <p>(i) in the case of a development application made by a social housing provider—at least 35 square metres of landscaped area per dwelling is provided, or</p> <p>(ii) in any other case 30% of the site area (which is 547m<sup>2</sup> of the site) is required for DA made by a non-social housing provider</p>	<p><u>Social housing provider</u> – 37 dwellings proposed</p> <p><b>1,295m<sup>2</sup> landscaping required.</b></p> <p>552m<sup>2</sup> landscaping proposed.</p> <p>To achieve the 35m<sup>2</sup> per dwelling, approximately 70% of the site would need to comprise of landscaped areas.</p> <p>The control applies to all in fill affordable housing developments that are made by a social housing provider.</p> <p>It is considered strict application of the 35m<sup>2</sup> per dwelling is not appropriate, as the landscape area required would be more than double the area required by a non-social housing provider.</p> <p>When the proposal is considered against Clause 14(1)(c)(ii) the site achieves compliance with 30% landscaped areas required for non-social housing providers.</p> <p>It is considered the landscape area provided is acceptable in this instance.</p>	No, however considered that compliance with the 30% requirement is sufficient in this instance.
	<p><u>Deep soil zones:</u></p> <p>(i) there is soil of a sufficient depth to support the growth of trees and shrubs on an area of not less than 15 per cent of the site area (the <b>deep soil zone</b>), and</p> <p>(ii) each area forming part of the deep soil zone has a minimum</p>	<p>280m<sup>2</sup> of deep soil provided which equates to 15% of the site area.</p> <p>Minimum dimension of 6m. The deep soil area is generally co-located within communal open space adjacent the eastern elevation. It is considered that the location of the communal open space with the deep soil is practical and well placed,</p>	Yes

	dimension of 3 metres, and (iii) if practicable, at least two-thirds of the deep soil zone is located at the rear of the site area,	notwithstanding it's not within the rear setback.	
	<u>Solar access:</u> Min. 70% of dwellings (i.e. 26 dwellings) living areas and POS areas receive min. 3 hours direct sunlight between 9am - 3pm in mid-winter	A minimum 26 of the 37 units are required to achieve compliance.	No – refer to detailed discussion in the ADG assessment below for consideration.
	<u>Parking:</u>  (i) in the case of a development application made by a social housing provider for development on land in an accessible area—at least 0.4 parking spaces are provided for each dwelling containing 1 bedroom, at least 0.5 parking spaces are provided for each dwelling containing 2 bedrooms and at least 1 parking space is provided for each dwelling containing 3 or more bedrooms	18 – one bedroom $18 \times 0.4 = 7.2$  19 – two bedrooms $19 \times 0.5 = 9.5$  Total - $7.2 + 9.5 = 16.7$  (17) required  18 proposed.	Yes
	<u>Dwelling size:</u> .... (ii) 50 square metres in the case of a dwelling having 1 bedroom, or (iii) 70 square metres in the case of a dwelling having 2 bedrooms, or ....	All one and two bedroom apartments achieve the minimums required.	Yes
<b>16 – Continued Application of the SEPP 65</b>	Nothing in this Policy affects the application of <i>State Environmental Planning Policy No 65—Design Quality of Residential Flat Development</i> to any	SEPP 65 assessment to follow.	Noted

	development to which this Division applies.		
<b>16A – Character of the Local Area</b>	A consent authority must not consent to development to which this Division applies unless it has taken into consideration whether the design of the development is compatible with the character of the local area.	<p>In accordance with planning circular PS 18-001 (issued 16 Jan 2018), character is <i>‘the way a place ‘looks and feels’</i>”. The circular goes on to say <i>“Character can be reflected in a LEP in its aims (Clause 1.2 of the Standard Instrument LEP) where a council can describe the characteristics of the LGA, through zone objectives, in principal development standards (such as height and FSR controls)”</i>.</p> <p>It is noted that the proposal is different from the existing surrounding developments in the locality in terms of height and scale. The surrounding development consists of lower to medium scale residential developments, adjoins the railway corridor at the rear boundary and Chester Hill Public School located to the south, across Wellington Road.</p> <p>The development complies with the maximum permitted building height of 19 metres as provided in BLEP 2015 while also observing the minimum required front setback as stipulated in BDCP 2015.</p> <p>The development will provide a streetscape that is consistent with the anticipated and desired future character along the northern side of Wellington Road.</p> <p>The ‘design of the development’ is therefore considered to be compatible with the</p>	Yes

		expected, and desired character of the local area as permitted by the SEPP and BLEP.	
<b>18 Subdivision</b>	- Subdivision may be carried out with the consent of the consent authority.	Subdivision is not proposed.	NA

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

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

SEPP 65 aims to improve the design quality of residential apartment development across NSW and provides an assessment framework, the Apartment Design Guide (ADG), for assessing 'good design'. Clause 50(1A) of the Environmental Planning and Assessment Regulation 2000 requires the submission of a design verification statement from a qualified designer (registered architect) at lodgement of the development application that addresses the design quality principles contained in SEPP 65 and demonstrates how the objectives in Parts 3 and 4 of the ADG have been achieved. A satisfactory design verification statement was submitted.

The proposal has been considered against the various provisions of the Apartment Design Guide in accordance with Clause 28(2)(c) of SEPP 65. The development is considered to be consistent with the objectives and Design Quality Principles contained in the SEPP and ADG and responds appropriately to the site's context. Moreover, the application generally conforms with the key 'design criteria' contained in the Apartment Design Guide, as illustrated in the table below, with the exception of communal open space, solar access and setbacks.

'DESIGN CRITERIA'	PROPOSED	COMPLIES?
3B – Orientation <u>Design Guidance:</u> <ul style="list-style-type: none"> <li>Solar access to living rooms, balconies and private open spaces of neighbours should be considered</li> <li>Where an adjoining property does not currently receive the required hours of solar access, the proposed building ensures solar access to neighbouring properties is not reduced by</li> </ul>	52 Wellington Street is a vacant lot  46 Wellington Street contains a single storey dwelling. The dwelling contains windows to both the eastern and western elevations. The northern elevation contains significant awning structures. The windows to the eastern and western	No, however considered satisfactory.



<p>more than 20%</p> <ul style="list-style-type: none"> <li>• If the proposal will significantly reduce the solar access of neighbours, building separation should be increased beyond minimums contained in section 3F Visual privacy</li> <li>• Overshadowing should be minimised to the south or downhill by increased upper level setbacks</li> <li>• A minimum of 4 hours of solar access should be retained to solar collectors on neighbouring buildings.</li> </ul>	<p>elevations are currently boarded up.</p> <p>From a visual inspection it appears that the living area would be located on the south western corner of the floor plan, fronting Wellington Road. No floor plan was available for review.</p> <p>The dwelling at No 46 is owned by Land And Housing Corporation and is currently vacant. The state of the dwelling, upon inspection, appears unlikely to be occupied, rather would be subject to redevelopment in the future, given the R4 zoning.</p> <p>The setback of this development will allow for natural light to the western windows on the adjoining dwelling, albeit not direct solar access, and the private open space provided to the dwelling will have access to sunlight to a minimum of 50 percent of its area in midwinter. As such, it is considered that the issue of overshadowing to the single storey dwelling is not of significant weight to justify a redesign of the application.</p>	
<p>3C – 1 Transition between public and private domain <u>Design Guidance:</u></p> <ul style="list-style-type: none"> <li>• Direct street entry (terraces, balconies, courtyards) where appropriate</li> <li>• Changes in levels from street to private courtyards – improve surveillance and visual privacy</li> <li>• Fences permeable materials, solid fences max 1m</li> <li>• Length of solid walls should be limited along street frontages</li> <li>• Opportunities for concealment should be minimised.</li> <li>• Multiple entries should be</li> </ul>	<p>The development does not contain any ground floor street facing apartments.</p> <p>The development incorporates windows to the upper levels to provide visual interest and opportunities for passive surveillance.</p> <p>The front fence shown is an open aluminium palisade style fence at a height of 1.5m (within landscaping that's proposed at the front of the site). A solid brick component containing pump assembly provisions screened</p>	<p>Yes</p>

differentiated.	<p>with batten slatting is also proposed.</p> <p>Where the design of the residential apartment building has incorporated ground floor units adjoining the communal open space, a level change is utilised in the design and landscape treatment to the area. This has allowed the development to provide a legible, walkable grain, providing a visual cue for the separation of the public and private spaces within the development at the pedestrian level.</p> <p>There is limited opportunity for people to be concealed within the development. The design of the development has ensured adequate provision of secure entrances subject to conditions.</p>	
<p>3C – 2 Amenity of public domain <u>Design Guidance:</u></p> <ul style="list-style-type: none"> <li>• Minimise visual prominence of underground carpark</li> <li>• Substations, pump rooms, garbage areas etc. to be in basement or out of view.</li> <li>• Ramping for accessibility should be minimised by building entry location and setting ground floor levels in relation to footpath levels.</li> </ul>	<p>Car parking does not dominate the streetscape as it is concealed within the basement. Services and garbage areas have been suitably designed within the development and do not dominate the public domain.</p> <p>Where services have been provided within the building it is considered that they have limited façade appearance.</p> <p>The site has a cross fall from west to east of approximately 1m. The ground floor level is within 700mm of the footpath level at the highest point. The ground floor levels are suitable for the proposal in relation to the street level. The entrance and access points have been designed to reduce any level changes when accessing the development.</p>	Yes
<p>3D – Communal open space <u>Design Criteria:</u> 25% of the site area is to be communal open space, and 50% of the COS must receive at least</p>	<p>The site has an area of 1826m<sup>2</sup>. The ADG requires 25% i.e. 456.5m<sup>2</sup> of communal open space (COS) be provided.</p>	No, however considered satisfactory.

<p>2 hours direct sunlight between 9am-3pm on 21 June.</p> <p><u>Design Guidance:</u></p> <ul style="list-style-type: none"> <li>• Communal open space should be consolidated into a well-designed, easily identified and usable area</li> <li>• Minimum dimension 3m and larger developments should consider greater dimensions</li> <li>• Co-located with deep soil zones</li> <li>• Direct access to communal area from entries, lobbies &amp; circulation areas.</li> <li>• Where communal open space cannot be provided at ground level, provide at podium or roof</li> <li>• Where unable to achieve design criteria (small lots, business zones, dense urban areas) should: <ul style="list-style-type: none"> <li>○ provide COS elsewhere (landscape roof top, terrace or common room), provide larger balconies or</li> <li>○ provide larger balconies/POS</li> <li>○ demonstrate good proximity to public open space and facilities</li> </ul> </li> <li>• Facilities are provided within communal open spaces and common spaces for a range of age groups and can incorporate seating, BBQ areas, play equipment/areas, swimming pools, gyms, tennis courts or common rooms</li> <li>• COS visible from habitable rooms and POS while maintaining privacy, bay windows, corner windows or balconies.</li> <li>• Safe - fenced/contained for young children</li> <li>• Connect to public street along one edge</li> <li>• Clear boundaries between public and private open space</li> </ul>	<p>The application proposes 428m<sup>2</sup> of communal open space on the ground floor with a minimum dimension of 3m included. The COS is accessible for all residents.</p> <p>The communal open space is north east facing and provides one area of consolidated space. The area is overlooked by residential apartments within the development located to the west of the area and is considered a well-designed, functional, accessible, usable space for a range of activities. Solar access is achieved to more than 50% of the COS between 9am and 3pm on the 21 June. The COS provided is co-located where possible in areas of deep soil and is able to be used for both active and passive recreation.</p> <p>The 428m<sup>2</sup> of communal open space equates to a short fall of 28.5m<sup>2</sup>.</p> <p>The applicant has sought to utilise the front setback area to achieve compliance for the proposal. Should the front setback area be included, the proposal would achieve compliance, however from a desired future character and streetscape Council does not support the provision of these areas to function for the purpose of communal open space.</p> <p>The design and functionality of the space is considered sufficient to enable use for future residents; achieving a high level of amenity for users. Considering the design put forth and the minor departure, the departure is considered to have merit and considered worthy of support in this case.</p>	
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<p>3E – 1 Deep Soil Zones</p> <p><u>Design Criteria:</u> Sites with an area greater than 1500m<sup>2</sup> is to provide 7% of the site as deep soil zone with a minimum dimension of 6m</p>	<p>The site has an area of 1826m<sup>2</sup> which requires 127.82m<sup>2</sup> of deep soil zone on site.</p> <p>A deep soil zone of 280m<sup>2</sup> (15%) has been provided along the eastern and northern boundary adjoining the communal open space. The minimum width of the deep soil zone is 6m.</p>	<p>Yes</p>												
<p>3F – 1 Visual Privacy (Building separation)</p> <p>Minimum required separation distances from buildings to the side and rear boundaries are as follows:</p> <table border="1" data-bbox="209 835 644 1312"> <thead> <tr> <th>Building height</th><th>Habitable rooms &amp; balconies</th><th>Non-habitable rooms</th></tr> </thead> <tbody> <tr> <td>Up to 12m (4 storeys)</td><td>6m</td><td>3m</td></tr> <tr> <td>Up to 25m (5-8 storeys)</td><td>9m</td><td>4.5m</td></tr> <tr> <td>Over 25m (9+ storeys)</td><td>12m</td><td>6m</td></tr> </tbody> </table> <p>Note: Separation distances between building on the same site should be combine required building separations depending on the type of room.</p> <p>Design Guidance</p> <p><u>No separation is required between blank walls</u></p>	Building height	Habitable rooms & balconies	Non-habitable rooms	Up to 12m (4 storeys)	6m	3m	Up to 25m (5-8 storeys)	9m	4.5m	Over 25m (9+ storeys)	12m	6m	<p><u>North (rear)</u></p> <p>Ground: 3.695m setback to building wall containing habitable rooms and 0.5m setback to courtyards.</p> <p>Level 1-3: 3.695m setback to building wall containing habitable rooms and to balconies.</p> <p>Level 4: 6m setback to building walls containing habitable rooms and 3.695m to a balcony.</p> <p><u>East (side)</u></p> <p>Ground: 6m setback to building walls containing habitable rooms and 4.7m to balcony.</p> <p>Level 1-3: 6m setback to building walls containing habitable rooms and 5.42m to balconies facing east.</p> <p>Level 4: 9m setback to building walls containing habitable rooms and to balconies.</p> <p><u>West (side)</u></p> <p>Ground: 6m setback to building walls containing habitable rooms and 3.5m to a balcony.</p> <p>Level 1-3: 6m setback to the building walls containing habitable rooms and 5.42m to balconies facing west.</p>	<p>No, see discussion below.</p>
Building height	Habitable rooms & balconies	Non-habitable rooms												
Up to 12m (4 storeys)	6m	3m												
Up to 25m (5-8 storeys)	9m	4.5m												
Over 25m (9+ storeys)	12m	6m												



	<p>Level 4: 9m setback to building walls containing habitable rooms</p> <p><u>South (front)</u></p> <p>All levels – 7m setback to building wall or balconies when proposed.</p>	
<p>3G – 1 Pedestrian access and entries</p> <ul style="list-style-type: none"> <li>• Building entries should be clearly identifiable and communal entries should be clearly distinguishable from private entries</li> <li>• Access, entries and pathways are accessible and easy to identify</li> </ul>	<p>The residential entry to the building is legible and easily identified.</p>	Yes
<p>3H – Vehicle access</p> <p>Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and creates high quality streetscapes.</p>	<p>One vehicle access point is proposed on the south east of the site. The location and design of the access is considered to be acceptable from both a functionality and a streetscape perspective.</p>	Yes
<p>3J – 1 Bicycle and parking</p> <p>Minimum car parking requirement must be provided on site</p> <p>The minimum car parking required under SEPP ARH (addressed above), requires:</p> <p>0.4 space per one (1) bedroom dwelling and; 0.5 space per two (2) bedroom dwelling.</p>	<p>Development contains 37 units. 18 one bed and 19 two bedroom units.</p> <p>18 – one bedroom <math>18 \times 0.4 = 7.2</math></p> <p>19 – two bedrooms <math>19 \times 0.5 = 9.5</math></p> <p>Total - <math>7.2 + 9.5 = 16.7</math> (17) required</p> <p>18 proposed.</p> <p>The development complies with the minimum car parking requirement of 17 spaces as contained in the ARH SEPP.</p>	Yes
<p>4A-1 Solar access</p> <p>70% of apartments should receive two hours solar access between 9am - 3pm midwinter.</p>	<p>The development contains 19 compliant units which equates to 51%.</p> <p>This is increased to 21 units as per the recommended conditions of consent with clerestory windows required to units 4.02 and 4.03.</p>	No, see discussion below.

<p>4A-3 Solar access</p> <p>A maximum 15% of apartments receive no direct sunlight between 9am and 3pm mid winter</p>	<p>All apartments would receive at least 15 minutes direct sunlight between 9am and 3pm.</p>	<p>Yes</p>
<p>4B – 3 Natural cross-ventilation</p> <p>60% of apartments to be naturally cross-ventilated.</p> <p>Overall depth cross-over or cross-through apartment does not exceed 18m, when measured glass line to glass line</p>	<p>A wind analysis report by a qualified engineer was submitted to demonstrate compliance for the proposal. The report identified 26 of the 37 units (70%) as compliant with the requirement for natural cross ventilation.</p> <p>All cross through apartments are 18m or less.</p>	<p>Yes</p>
<p>4C-1 Ceiling heights</p> <p>Min. 2.7m for habitable rooms. If variation is sought, then satisfactory daylight access must be demonstrated.</p>	<p>Floor-to-ceiling heights are 2.8m to all residential floors.</p>	<p>Yes</p>
<p>4D-1 Unit size</p> <p>Studio – min 35m<sup>2</sup>  1 bed – min. 50m<sup>2</sup>  2 bed – min. 70m<sup>2</sup>  3 bed – min. 90m<sup>2</sup>  Add 5m<sup>2</sup> for each additional bathroom/WC</p> <p>Every habitable room must have a window in an external wall</p>	<p>1 bed, 1 bath – min. 50m<sup>2</sup>  2-bed, 1 bath – min. 70m<sup>2</sup></p> <p>All habitable rooms have a window in an external wall</p>	<p>Yes</p>
<p>4D-2 unit performance maximised</p> <p>In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window</p>	<p>All units comply with this requirement.</p>	<p>Yes</p>
<p>4D – 3 Apartment layouts</p> <ul style="list-style-type: none"> <li>• Master Beds: 10m<sup>2</sup> min</li> <li>• Other beds: 9m<sup>2</sup> min</li> <li>• Bedrooms min dimension of 3m</li> <li>• Living rooms 3.6m wide (studio or 1-bedroom apartments)</li> <li>• Living rooms at least 4m wide (2 or 3-bedroom apartments)</li> </ul>	<p>All main bedrooms are at least 10m<sup>2</sup> and other bedrooms are a minimum of 9m<sup>2</sup> with a minimum dimension of 3m.</p> <p>All living rooms within the apartments have a minimum dimension of 3.6m or 4m as required.</p>	<p>Yes</p>
<p>4E -1 Private Open Space</p> <p>1 bed: Min. 8m<sup>2</sup>, 2m depth to primary balconies.</p>	<p>All units meet the required minimum areas and dimensions</p>	<p>Yes</p>

<p>2 bed: Min. 10m<sup>2</sup>, 2m depth to primary balconies.</p> <p>3 bed: Min 12m<sup>2</sup>, 2.4m depth to primary balconies.</p> <p>Ground level units: Min 15m<sup>2</sup>, 3m depth</p>		
<p>4F – 1 Internal circulation</p> <p>Max. 8 units accessed from a single corridor.</p> <p>Where design criteria 1 (above) is not achieved, no more than 12 apartments should be located off a circulation corridor on a single level.</p>	<p>One main corridor with two lifts proposed providing access to each floor. The corridor is in excess of 12m long, with 9 units on level 1-3 (inclusive) having access from the associated corridor.</p> <p>The development has less than the design criteria specified maximum of 12 units per corridor and has been considered in this instance acceptable.</p>	Yes
<p>4G-1 Storage</p> <p>1 beds: 6m<sup>3</sup>,</p> <p>2 beds: 8m<sup>3</sup>,</p> <p>3 beds: 10m<sup>3</sup></p> <p>(At least half to be provided within the unit)</p>	<p>All units are provided with sufficient storage, and at least half is provided within the unit. A condition of consent will be imposed to ensure compliance as shown.</p>	Yes
<p>4H – Acoustic privacy</p> <p>Acoustic privacy is about protecting sound transmission between external and internal spaces, between apartments and communal areas and between apartments within a building</p>	<p>An acoustic report was prepared and submitted for the proposed development that detailed the development's ability to achieve satisfactory internal amenity for residential units in proximity to the railway tracks to the north.</p> <p>The design of the apartments has also generally configured the internal layouts to protect acoustic amenity and potential sound transmission between units.</p>	Yes
<p>4K – Apartment mix</p> <p>A mix of apartment choice provides housing choice and supports equitable housing access</p>	<p><u>Apartments</u></p> <p>1 bedroom x 18</p> <p>2 bedrooms x 19</p> <p>The development provides for an appropriate level of housing choice with the development proposed by Land And Housing Corporation. In this instance the mix of only one and two bedroom units is considered suitable and a more diverse mix</p>	Yes

	is not sought.	
<p>4M-Facades</p> <p>The design of facade contributes greatly to the visual interest of the building and the character of the local area.</p> <p>Facades that face the street have an impact on the public domain, while side and rear facades often influence the amenity of neighbouring buildings and communal and private open spaces.</p>	<p>The streetscape design and the external finishes proposed are not inconsistent with the likely future character of the area. It is considered that the development will not detract from the existing streetscape and identity of the residential zone.</p>	Yes
<p>4O – Landscaping</p> <p>Greater than 1,500m<sup>2</sup></p> <p>1 large tree or 2 medium trees per 80m<sup>2</sup> of deep soil zone</p>	<p>Council's tree management officer has provided conditions of consent to require the development comply with the submitted landscape plan and to contain a minimum of 4 replacement Eucalyptus / Corymbia species within the site.</p>	Yes
<p>4P – Planting on structures</p> <p>Planting on structures can provide amenity, improve air quality and microclimate and reduces direct energy use and stormwater runoff. It can also supplement deep soil planting on site where opportunities for this area limited or restricted, e.g. in high density areas.</p>	<p>The proposed development incorporates landscaping within planter boxes adjacent to the side setbacks and to the communal open space areas on the ground floor. The location of the larger trees will be in the area containing deeper soil to the north east. The landscaping proposed is consistent with the design guidance.</p>	Yes
<p>4Q – Universal design</p> <p>Universal design is an international design philosophy that enables people to continue living in the same home by ensuring that apartments are able to change with the needs of the occupants. Universally designed apartments are safer and easier to enter, move around and live in. They benefit all members of the community, from young families to older people, their visitors, as well as those with permanent or temporary disabilities.</p>	<p>The development is satisfactory with regard to the universal design principles.</p>	Yes
<p>4U – Energy efficiency</p> <ul style="list-style-type: none"> <li>• The development incorporates passive environmental design.</li> <li>• Development incorporates</li> </ul>	<p>The development application complies with the requirements of <i>State Environmental Planning Policy (Building Sustainability</i></p>	Yes



passive solar design to optimise heat storage in winter and reduce heat transfer in summer • Adequate natural ventilation minimises the need for mechanical ventilation	<i>Index: BASIX) 2004.</i> The development meets the objectives and design guidance that relates to energy efficiency.	
4V – Water management and conservation • Potable water use is minimised • Urban stormwater is treated on site before being discharged to receiving waters. • Flood management systems are integrated into the site design.	The development application complies with the requirements of <i>State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004.</i> The development meets the objectives and design guidance that relate to water management and conservation.	Yes
4W – Waste • Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents. • Domestic waste is minimised by providing safe and convenient separation and recycling.	The development meets the requirements of Council's Waste Management Guide for New Developments and BDCP 2015 – Part 13 Waste Management and Minimisation. Council's waste team have reviewed the proposal and consider it to be satisfactory in this regard, subject to conditions.	Yes

## Setbacks

The application proposes variations to the minimum required rear (northern) setback and side (eastern and western) setbacks as contained within the ADG.

### *Rear setback*

The setback proposed from ground level is 0.5m from the patio edge, with a building wall setback of 3.695m. Levels 1-3 (inclusive), contain a building wall/balcony setback of 3.695m. Level 4 proposes a 3.6m setback to the balcony and a 6m setback to the building wall.

The rear of the site is bound by the railway corridor to the north. The applicant has submitted an acoustic report which demonstrates that the acoustic attenuation measures at the 3.6m setback and the ADG required 6m setback, are comparable.

A reduced setback to the rear is considered reasonable as the acoustic report has shown that compliance with the acoustic criteria can be achieved. An increase in the setback by 2.4m would not result in a development that does not require acoustic treatment. A reduction in the setback, when considered from a block/street context, could be supported to adjoining development and is not considered that insisting on

strict compliance would achieve any benefit to the overall design, or increase any visual privacy to the north as a result of the compliance, given the location of the railway line.

### *Side setbacks*

The proposal incorporates minor variations to the side setback controls contained within the ADG for the location of patio and balcony areas.

#### *East (side)*

*Ground: 6m to building wall containing habitable rooms and 4.7m to balcony.*

*Level 1-3 - 6m to the building wall containing habitable rooms and 5.42m to balconies facing east.*

#### *West (side)*

*Ground: 6m to building wall containing habitable rooms and 3.5m to a balcony.*

*Level 1-3 - 6m to the building wall containing habitable rooms and 5.42m to balconies facing west.*

All building walls to the west and east comply with the ADG, however encroachments to the side setback occur in relation to the ground floor patios and the balconies proposed on levels 1-3 (inclusive). The ground floor patios are setback between 3.5m and 4.7m, with eastern levels 1-3 (inclusive) containing three (3) balcony point encroachments and the western levels 1-3 (inclusive) containing four (4) balcony point encroachments all at a 5.42m setback to the boundary.

The point encroachments are considered minor and provide for a break in the building design along the side elevations. It is not considered that the minor variation of 600mm will result in any unreasonable issues in terms of visual privacy to adjoining sites. As such the reduced setbacks can be considered and support of the variation is justified in this instance.

### Solar access

The application fails to achieve solar access to 70% of the units for 2 hours between 9am and 3pm at midwinter. The proposed development currently achieves compliant solar access to 19 of the 37 units, equating to 51%.

This number is increased to 21 units (57%) if clerestory windows are provided to Units 4.02 and 4.03. While it is noted that these units currently obtain solar access via the provision of skylights, in light of the fact that these units are provided on the top floor of the development, improved internal amenity would be achieved for the future occupants of these units if these skylights were replaced with clerestory windows. Conditions of consent have been recommended to be imposed accordingly.

The applicant has requested that solar access to a number of the units be considered outside the hours of 9am- 3pm in order to achieve the minimum 2 hours to 70%. The specific units are 1.07, 1.08, 2.07, 2.08 and 3.08.

If the 'window' for allowing solar access to be counted for these 5 units is extended to include 8am to 9am and 3pm and 4pm, this would see compliance increased from 21 units (subject to the conditions for clerestory windows), to 26 units, achieving the minimum 70% required by the ADG.

The applicant has stated the below:

*Through a design review, we can confirm that the 70% of apartments indicated in the DA documentation receive solar access for 2 hours and greater, including the apartments highlighted by Council (refer to attached). Where appropriate dwp have varied windows to allow greater solar penetration of the apartment living spaces. However, while apartments 1.07, 1.08, 2.07, 2.08 and 3.08 have solar access into the living room, the area of solar access reduces from 1 sqm of sunlight at 10:30 am to 0.5 sqm at 11:00 am for 1.07, 1.08, 2.07, and 2.08 and at 10:50 for 3.08 (refer to attached). Accordingly, strict compliance is unable to be achieved in relation to these 5 apartments, where the 1sqm reduces to 0.5sqm over a period of 30min within the 2-hour period.*

*Further to the above, additional studies have since been undertaken in relation to solar compliance to Unit 1.07, 1.08, 2.07, 2.08 and 3.08. These studies concluded that Unit 1.07, 2.07, 2.08 and 3.08 will receive 2 hours of sunlight with a minimum 1sqm from 8am – 11am (refer to supporting solar diagrams), while Unit 1.08 does not achieve 2 hours of sunlight with minimum 1sqm due to adjacent building with similar bulk and height, which limits sun penetration between 8am-9am.*

*It is expected that, due to the orientation of the site, there will be some level of non-compliance to solar access and sunlight received to apartments on the site. The shortfall of solar access to the five (5) apartments noted above (or 13% of apartments) is not unreasonable within the context of the site and proposal which provides a total of 37 apartments, which provides a greater number of small apartments than a development which was not for the purpose of social housing.*

On the basis of the above, consideration has been given in this instance to accepting the time period outside of the ADG's prescribed 9am – 3pm. Council have reviewed the request and are supportive of the variation sought.

It is considered that support of the variation would not result in an unreasonable level of amenity for the residents by accepting the variation to these 5 units.

It is further considered that the variation would not unreasonably impact the development of the adjoining sites. The applicant has provided modeling of the impact of a similar built form on the adjoining sites to demonstrate reasonable development potential of those sites. The built form modelling has assumed setbacks and massing, that contain upper level setbacks in excess of the ADG minimums and this development. The review of the massing and likely built form (when additional shadowing is assumed) only looks to impact those units which are already generally considered non-compliant with the ADG in this assessment.

The ADG provisions for assessing the retention of solar access to an existing development when that development does not comply with the solar access provisions does not preclude a development to impact the proposal. Rather it enables the reasonable development of those sites by limiting the further impact, as opposed to requiring that current solar access is maintained. The proposed development would not be impacted by more than the 20% allowed for within the ADG (the 5 already are not compliant and likely forecasting is that 3-4 more could potentially be impacted in the future), permitting the reasonable development of the adjoining sites.

Based on the above in this instance, it is the position of Council that the variation to solar access can be supported.

### **Bankstown Local Environmental Plan 2015 (~~BLEP 2015~~)**

This site is zoned R4 High Density Residential under the Bankstown Local Environmental Plan 2015 (BLEP 2015). The following clauses of the BLEP 2015 were taken into consideration:

Clause 1.2 – Aims of Plan

Clause 2.1 – Land use zones

Clause 2.2 – Zoning of land to which Plan applies

Clause 2.3 – Zone objectives and Land Use Table

Clause 4.1B – Minimum lot sizes and special provisions for certain dwellings

Clause 4.3 – Height of buildings

Clause 4.4 – Floor Space Ratio

Clause 6.2 – Earthworks

#### Clause 1.2 Aims of Plan

The aims of the BLEP 2015 are as follows:

##### *1.2 Aims of Plan*

- (a) to manage growth in a way that contributes to the sustainability of Bankstown, and minimizes the needs and aspirations of the community,*
- (b) to protect and enhance the landform and vegetation, especially foreshores and bushland, in a way that maintains the biodiversity values and landscape amenity of Bankstown,*
- (c) to protect the natural, cultural and built heritage of Bankstown,*
- (d) to provide development opportunities that are compatible with the prevailing suburban character and amenity of residential areas of Bankstown,*
- (e) to minimize risk to the community in areas subject to environmental hazards by restricting development in sensitive areas,*
- (f) to provide a range of housing opportunities to cater for changing demographics and population needs,*
- (g) to provide a range of business and industrial opportunities to encourage local employment and economic growth,*
- (h) to provide a range of recreational and community service opportunities to meet the needs of residents of and visitors to Bankstown,*
- (i) to achieve good urban design in terms of site layouts, building form, streetscape, architectural roof features and public and private safety,*
- (j) to concentrate intensive trip-generating activities in locations most accessible*

- to rail transport to reduce car dependence and to limit the potential for additional traffic on the road network,*
- (k) *to consider the cumulative impact of development on the natural environment and waterways and on the capacity of infrastructure and the road network,*
- (l) *to enhance the quality of life and the social well-being and amenity of the community.*

Comment: The proposal complies with the relevant aims of this Plan as demonstrated by its consistency with the provisions contained within the BLEP 2015 and, as later demonstrated, the Bankstown Development Control Plan 2015.

### Clause 2.3 Zone objectives and Land Use Table

Clause 2.3(2) of BLEP 2015 states that the consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.

The objectives of the R4 High Density Residential Zone are as follows:

- To provide for the housing needs of the community within a high density residential environment.
- To provide a variety of housing types within a high density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.

The proposed development meets the objectives of the R4 High Density Residential zone as it provides for residential housing in the form of a residential flat building. The development provides for the housing needs of the community as reflected in the provision of a mix of layouts and floorplans of one and two bedroom apartments.

Provision/ Standard	Requirement	Proposal	Complies
<b>Part 2 Permitted or Prohibited Development</b>			
2.1-2.3 Zoning	The site is zoned R4 High Density Residential	The proposed residential flat building is permissible with the consent of Council in this zone	Yes
<b>Part 4 Principal Development Standards</b>			
4.1B Minimum lot sizes and special provisions for certain dwellings	Min. lot width of 30m	30.48m	Yes
	Min. lot size of 1500sqm	1826m <sup>2</sup>	Yes
4.3 Height of Buildings	Max. height of 19m	Max. of 18.75m	Yes
4.4 Floor Space Ratio	Max. FSR of 1.75:1	1.70:1	Yes
<b>Part 6 Local Provisions</b>			
6.2 Earthworks	Before granting consent to development including earthworks, the following must be considered:	The proposal is not inconsistent with this clause.	Yes

Provision/ Standard	Requirement	Proposal	Complies
	(a) drainage patterns and soil stability (b) the likely future use or redevelopment of the land, (c) quality of the fill or the soil to be excavated, or both, (d) effect of development on existing and likely amenity of adjoining properties, (e) the source of any fill material and the destination of any excavated material, (f) the likelihood of disturbing relics, (g) the potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area, (h) appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.		

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

The Draft Canterbury Bankstown Local Environmental Plan 2020 (CBLEP 2020) applies to the subject site. The Draft CBLEP 2020 has been publicly exhibited and adopted by the Canterbury Bankstown Local Planning Panel on 30 June 2020 and is now being reviewed by the Department of Planning. While the draft instrument proposes the introduction of some additional provisions, in the most part, the Draft CBLEP 2020 provides for an administrative conversion of both the BLEP 2015 and CLEP 2012 into a combined document under the Standard Instrument LEP template.

With respect to the proposed development the proposal remains consistent with the aims and objectives of the draft instrument. The proposed development is not inconsistent with the draft provisions.

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

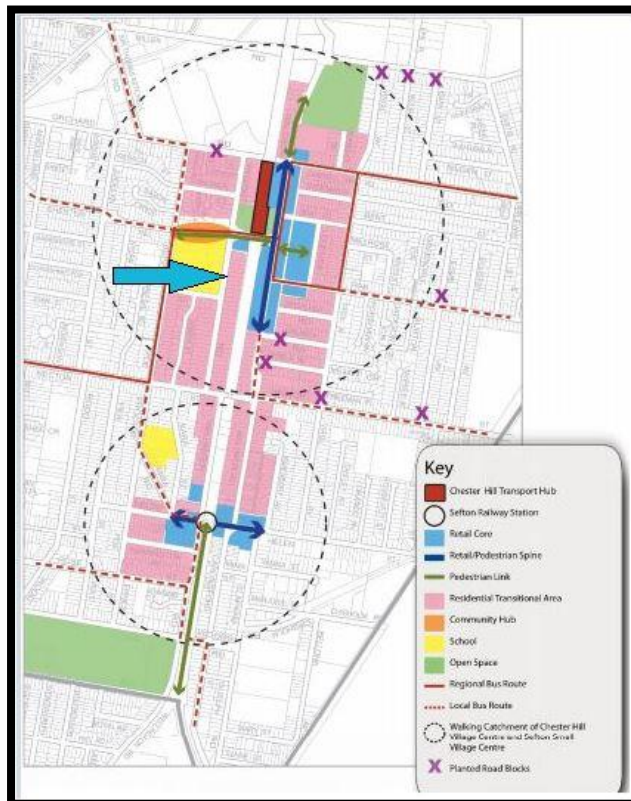
The development application has been assessed against the controls contained in Part A1 and B1 of Bankstown Development Control Plan 2015 (BDCP 2015).

#### **Part A1 of BDCP 2015**

The Chester Hill Village Centre and Sefton Small Village Centre are connected by Waldron Road and the railway line. These two precincts complement and support each other in their role as a village centre and a small village centre for the North West Local Area. Figure 4 below outlines the desired structure plan with a retail core along Waldron Road and a surrounding residential transitional area. The two precincts offer



an effective base to outline the desired character objectives to implement the development controls at a local level.



**Figure 4:** DCP Map Excerpt – site located by with blue arrow added

The subject site is shown as being located within the residential area of transition. The development is consistent in achieving the objectives of the control as it provides for a redevelopment and increase in housing stock. Section A1 contains controls for development, typically applying to only the business zone, however clause 2.5 of Section 4 of Part A1 applies to this site and has been assessed below.

**Figure 3: Minimum rear setback for dwellings on certain allotments in the Chester Hill Village Centre**



**Figure 5: DCP map excerpt – Figure 3 of Part A1, Section 4**

Standard	Requirement	Proposal	Complies
Part A1, Section 4			
2.5 Setbacks to the rear boundary of allotments	<p>Despite clause 2.4, dwellings on allotments identified in Figure 3 (above) must comply with:</p> <p>(a) the minimum setbacks shown in Figure 3; or</p> <p>(b) incorporate appropriate measures to ensure that the following LAeq levels are not exceeded:</p> <p>(i) in any bedroom in the building—35 dB(A) at any time between 10.00 pm and 7.00 am; and</p> <p>(ii) anywhere else in the building (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.</p> <p>This clause applies to certain allotments in the Chester Hill Village Centre affected by the Southern Sydney Freight Line. The rear setback should form part of a landscape buffer zone.</p>	<p>The application has been accompanied by an acoustic report. The acoustic report has been reviewed by Councils Health officers and it is considered that subject to conditions the proposal can achieve satisfactory acoustic amenity for the residents.</p>	Yes

Part B1 of BDCP 2015

Standard	Requirement	Proposal	Complies
<b>Part B1 Section 9</b>			
<b>Isolation</b>	The consent authority must not grant consent to any development on land within Zone R4 High Density Residential if the proposed development will have the effect of isolating land with an area of less than 1,200m <sup>2</sup> and a width of less than 20 metres at the front building line so as to preclude the reasonable development of that land.	<p>This development will not result in the isolation of adjoining sites.</p> <p>This development will leave two undeveloped lots to the west at Nos 52 and 54 Wellington Road. Both lots are vacant. The sites to the east at Nos 44 and 46 Wellington Road, contain single storey dwellings and are capable of redevelopment.</p> <p>Both development sites to the east and west achieve a minimum frontage of approximately 30m and an area of more than 1200m<sup>2</sup>.</p>	Yes
<b>Storey limit</b>	<p>Development must comply with the storey limit that corresponds with the maximum building height shown for the site on the Height of Building Map as follows:</p> <p><b>Maximum building height as shown on the Height of Buildings Map (Bankstown LEP 2015)</b></p> <p><b>Storey limit (not including basements)</b></p> <p>13 metres 4 storeys (no attic)  16 metres 5 storeys (no attic)  19 metres 6 storeys (no attic)  25 metres 8 storeys (no attic)</p>	Max. height of 18.75m and 6 storeys proposed (as basement projects more than 1m above NGL). No attics proposed.	Yes
<b>Site works</b>	The siting of residential flat buildings, serviced apartments, shop top housing and landscaping works must be compatible with the existing slope and contours of the allotment and any adjoining property. Council does not allow any development that involves elevated platforms on columns; or excessive or	<p>The development has provided a basement for the purposes of car parking. The site has a general fall of 500-800mm from north to south (back to front) with a slight cross fall of 1.1m from west to east.</p> <p>The design has located the entry within 100mm of the street level. The interface of the public domain (COS) is positioned adjoining the eastern boundary</p>	Yes

	unnecessary terracing, rock excavation, retaining walls or reclamation.	where the level change is most significant within the development. The level change has been incorporated into the design and allowed for the topography to assist in informing the separation of the public and private domain on the eastern boundary.	
	Any reconstituted ground level on the allotment must not exceed a height of 600mm above the natural ground level of an adjoining property except where: (a) the residential flat building, serviced apartments or shop top housing is required to be raised to achieve a suitable freeboard in accordance with Part B12 of this DCP; or (b) the fill is contained within the ground floor perimeter of the residential flat building, serviced apartments or shop top housing to a height no greater than 1 metre above the natural ground level of the allotment.	The site has a cross fall, resulting in a basement excavation that presents in excess of 1m above existing natural ground on the eastern elevation. This is considered an appropriate response to the constraints of the site.  No fill is proposed.	Yes
<b>Primary setback</b>	The minimum setback for a building wall to the primary frontage is: (a) 3 metres for the allotments at Nos.1–9 Leonard Street and Nos. 74–80 Restwell Street in Bankstown; and (b) 6 metres for all other allotments.	7m to front building wall on all levels.	Yes
<b>Side and rear setbacks</b>	For a building with 3 or more storeys, the minimum setback to the side and rear boundaries of the allotment is 4.5 metres provided the average setback is 0.6 multiplied by the wall height.	See ADG assessment and discussion above	See ADG assessment and discussion above.
	The minimum setback for a basement level to the side and rear boundaries of the allotment is 2 metres.	The development proposes a setback of 5.6m to the east, 8.1m to the north and 1.76m to the west.  The minor encroachment shown is to the piers, with a 2m setback to the basement wall. The piers encroaching within the 2m setback will not result in any	No, however it is considered that the minor encroachment of 240mm

		impacts on the adjoining properties through the construction and underpinning required for the basement.	can be considered favourably subject to a condition of consent to ensure construction is contained within the site.
	The minimum setback for a driveway to the side and rear boundaries of the allotment is 1 metre.	6m setback proposed.	Yes
<b>Private open space</b>	Development must locate the private open space behind the front building line. This clause does not apply to any balconies where it is used to provide articulation to the street facade.	The development has no private open space areas within the front setback.	Yes
<b>Building design</b>	Council applies the design quality principles of State Environment Planning Policy No. 65–Design Quality of Residential Apartment Development and the Apartment Design Guide to residential flat buildings, serviced apartments and shop top housing. This includes buildings that are two storeys or less, or contain less than four dwellings.	SEPP 65 and the Apartment Design Guide have been considered in the assessment outlined above.	Yes.
	Development for the purpose of residential flat buildings, serviced apartments and shop top housing must demolish all existing dwellings (not including any heritage items) on the allotment.	No structures exist on site.	NA
	Residential flat buildings, serviced apartments and shop top housing with 10 or more dwellings must provide at least one adaptable dwelling plus an adaptable dwelling for every 50 dwellings in accordance with AS 4299–Adaptable Housing.	A total of 4 adaptable apartments are proposed (1 x 1 bedroom and 3 x 2 bedroom apartments)	Yes

	The maximum roof pitch for residential flat buildings, serviced apartments and shop top housing is 35 degrees.	5 degree roof pitch proposed.	Yes
	Council may allow residential flat buildings (up to 3 storeys), serviced apartments (up to 3 storeys) and shop top housing (up to 3 storeys) to have an attic provided the attic design: (a) accommodates no more than two small rooms (for the purposes of a bedroom and/or study) and a bathroom plus an internal link to the storey below; and (b) ensures the attic does not give the external appearance of a storey.	No attics proposed.	Yes
	The design of dormers must: (a) be compatible with the form and pitch of the roof; and (b) must not project above the ridgeline of the main roof; and (c) must not exceed a width of 2 metres; and (d) the number of dormers must not dominate the roof plane.	No dormers proposed.	Yes
	Council does not allow residential flat buildings, serviced apartments and shop top housing with 4 or more storeys to have attics.	No attics are proposed.	Yes
	Council does not allow residential flat buildings, serviced apartments and shop top housing to have roof-top balconies and the like.	Ground floor communal open space provided, roof top balconies are not proposed.	Yes
	The siting of a plant room, lift motor room, mechanical ventilation stack, exhaust stack, and the like must: (a) integrate with the architectural features of the building to which it is attached; or (b) be sufficiently screened when viewed from the street and neighbouring properties.	The plant and equipment shown on the roof plan are located away from the street. Further a condition has been imposed to ensure all plant is suitably screened and within the approved building envelope.	Yes
<b>Building design car park</b>	Development must locate the car parking spaces behind the front building line.	All parking is contained within the basement.	Yes

<b>Building design (substations)</b>	The location and design of substations must be shown on the plans.	Substation not required.	NA, conditions imposed.
	Substations should locate underground. Where not possible, substations are to be integrated into the building design and concealed from public view.	Substation not required.	NA, conditions imposed.
	Substations must not locate forward of the front building line.	Substation not required.	NA, conditions imposed.
<b>Building design (utilities and building services)</b>	<p>The location and design of utilities and building services (such as plant rooms, hydrants, equipment and the like) must be shown on the plans.</p> <p>Utilities and building services are to be integrated into the building design and concealed from public view.</p>	<p>The pump room and sprinkler system are integrated into the ground floor layout. The fire booster has been shown at the front of the site. The applicant was requested to relocate this service provision, however has advised that they cannot and has requested consideration for the integration of the booster into the design of the entry and incorporated screening to the services.</p> <p>Given the screening provided the service is concealed from public view.</p>	Yes
<b>Landscaping</b>	Development must retain and protect any significant trees on the allotment and adjoining allotments. To achieve this clause, the development may require a design alteration or a reduction in the size of the residential flat building, serviced apartments and shop top housing.	The tree removal was reviewed by Council's tree officer, who subject to the proposed replanting in accordance with the landscape plan submitted, and the inclusion of a minimum of 4 replacement trees, is satisfied with the proposal.	Yes
	Development must landscape the following areas on the allotment by way of trees and shrubs with preference given to native vegetation endemic to the City of Bankstown (refer to Appendix 4 and Appendix 5 for a list of suitable species): (a) a minimum 45% of the area between the building and the primary frontage; and	The proposal provides a minimum 45% landscaped front setback and tree plantings are required.	Yes

	<p>.....</p> <p>(c) plant more than one 75 litre tree between the building and the primary frontage (refer to Appendix 5 for a list of suitable trees in the City of Bankstown); or...</p>		
<b>Security</b>	<p>Where the allotment shares a boundary with a railway corridor or an open stormwater drain, any building, solid fence or car park on the allotment should, wherever practical, be setback a minimum 1.5 metres from that boundary. The setback distance must be:</p> <p>(a) treated with hedging or climbing vines to screen the building, solid fence, or car park when viewed from the railway corridor or open stormwater drain; and</p> <p>(b) the hedging or climbing vines must be planted prior to the completion of the development using a minimum 300mm pot size; and</p> <p>(c) the planter bed area must incorporate a commercial grade, sub-surface, automatic, self-timed irrigation system; and</p> <p>(d) the allotment must be fenced along the boundary using a minimum 2 metre high chain-wire fence; and</p> <p>(e) the fence provides an appropriate access point to maintain the landscaping within the setback area; and</p> <p>(f) where a car park adjoins the boundary, hedging or climbing vines must also be planted along the sides of any building or solid fence on the allotment that face the railway corridor or open stormwater drain. If a setback for landscaping under this clause is not practical, other means to</p>	<p>An existing acoustic wall adjoining the railway already exists on site. The development seeks to include 500mm landscaping between the northern boundary and the adjoining patio areas.</p> <p>It is considered that given the existing infrastructure on site the treatment of the interface of the area is satisfactory.</p>	Yes



	avoid graffiti must be employed that satisfies Council's graffiti minimisation strategy.		
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**Planning agreements [section 4.15(1)(a)(iia)]**

There are no planning agreements applicable to the proposed development.

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

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

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

The proposed development is not considered likely to result in any significant detrimental environmental, social or economic impacts on the locality. As detailed in this report, where non-compliances with the relevant 'design criteria' in the ADG occur, they have been addressed and are considered worthy of support. As such, it is considered that the impact of the proposed development on the locality would be acceptable.

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

The site is considered suitable for the proposed development.

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

The application was advertised and notified for a period of twenty-one (21) days, from 21 October 2020 to 11 November 2020, then renotified with amended plans for fourteen (14) days from 3 August to 17 August 2021. One submission was received within the first notification period, which raised concerns with respect to the construction phase of the development.

Objection: The development may have impacts on the safety of school children during construction. There is no information in the Construction Management Plan which identifies the measures that will be taken to manage risks associated with:

- construction vehicles and children crossing the street and being picked-up and dropped off;
- noise and vibration impacts during school hours; and
- dust and air quality.

Comment: A condition of consent has been recommended requiring the Construction Management Plan to ensure that truck movements occur outside of school pick-up and drop-off hours. Further the conditions require liaison with the school is undertaken prior to works and as necessary throughout the construction process.

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

Approval of the proposed development is not considered to contravene the public interest as it allows for Land And Housing Corporation to service a public housing need within the local area.

### **CONCLUSION**

The Development Application has been assessed in accordance with the provisions of Section 4.15(1) of the *Environmental Planning and Assessment Act, 1979* requiring, amongst other things, assessment against State Environmental Planning Policy (State and Regional Development) 2011, State Environmental Planning Policy No. 55 – Remediation of Land, State Environmental Planning Policy (Infrastructure) 2007, State Environmental Planning Policy (Affordable Rental Housing) 2009, State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development, State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, State Environmental Planning Policy (Vegetation in Non-Rural areas) 2017, Bankstown Local Environmental Plan 2015, Bankstown Development Control Plan 2015 and the Draft Consolidated Canterbury Bankstown Local Environmental Plan 2020.

The proposal seeks consent for a 5 storey residential flat building and proposes some minor variations to State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development and the associated Apartment Design Guide (ADG). In particular, the report identifies and discusses the proposed non-compliances with the setbacks, communal open space, solar access, as well as a few minor departures from the controls contained in the Bankstown Development Control Plan 2015.

Despite the non-compliances proposed with the application, it is considered that the development application is an appropriate outcome in the context of the surrounding locality and has been recommended for approval, subject to the conditions attached to this report.

### **RECOMMENDATION**

It is recommended that the application be approved subject to the attached conditions.