

SYDNEY SOUTH PLANNING PANEL - ASSESSMENT REPORT

Panel Reference	PPSSSH-80
DA Number	DA-512/2021
LGA	Canterbury Bankstown Council
Proposed Development	Demolition of all existing structures, excavation, site remediation, new road, removal of 23 trees, site landscaping and construction of 138 units with 62 terraces and residential flat buildings for 76 units over a single level basement car park
Street Address	165-171 Milton Street, Ashbury
Applicant/Owner	Mecone/Ashbury Developments Pty Limited
Date of DA lodgement	7 July 2021
Number of Submissions	31 Submissions
Recommendation	Approval
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	Part 2.4 clause 2.20 and Schedule 6 in SEPP (Planning Systems) 2021 the application is declared as regionally significant development. Schedule 7 includes 'General Development over \$30 million'. The proposed capital investment value of \$62,395,506 and falls within this category.
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> • State Environmental Planning Policy (Planning Systems) 2021 • Water Management Act 2000 • State Environmental Planning Policy (Resilience and Hazards) 2021 • State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development (SEPP 65) • State Environmental Planning Policy 2004 (Building Sustainability Index: BASIX) • Canterbury Local Environmental Plan 2012 (CLEP 2012) • Canterbury Development Control Plan 2012 (CDCP 2012) • Canterbury Development Contributions Plan 2013 (Contributions Plan 2013)
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> • Attachment 1 - Architectural Plans • Attachment 2 – Landscape Plans • Attachment 3 – SEPP 65 Design Statement • Attachment 4 - Statement of Environmental Effects • Attachment 5 – Heritage Impact Statement • Attachment 6 – Transport Assessment • Attachment 7 – Urban Design Report • Attachment 8 - Arborist Report • Attachment 9 – Waste Management Plan • Attachment 10 - Google Street view and aerial • Attachment 11- Proposed New Access Road. CIV Sheets 1-3
Summary of key submissions	<ul style="list-style-type: none"> • Removal of significant trees on site. • Loss of on-street parking along Milton Street • Privacy impacts from roof top terraces • Overshadowing on POS areas of existing neighboring dwelling

	houses <ul style="list-style-type: none"> Traffic Impacts
Report prepared by	Kaitlin McCaffery – Senior Planner
Report date	7 June 2022

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report? **Yes**

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? **Yes**
e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **Not Applicable**

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)? **Not Applicable**
Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Conditions

Have draft conditions been provided to the applicant for comment? **Yes**

Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report

EXECUTIVE SUMMARY REPORT

This matter is reported to the Sydney South Planning Panel as the development application is for a regionally significant development that exceeds a capital investment value of \$30 million in accordance with Part 2.4 clause 2.20 and Schedule 6 in SEPP (Planning Systems) 2021.

Development Application No. DA-512/2021 proposes the demolition of all existing structures and removal of 23 trees at 165-171 Milton Street, Ashbury as well as the excavation, site remediation, new road, site landscaping and construction of 62 terraces and two residential flat buildings accommodating 76 units over a single level basement car park.

DA-512/2021 has been assessed against the relevant provisions of State Environmental Planning Policy (State and Regional Development) 2011, State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development (SEPP 65), Apartment Design Guide (ADG), State Environmental Planning Policy No. 55 – Remediation of Land, State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, Canterbury Local Environmental Plan (CLEP) 2012 and Canterbury Development Control Plan (CDCP) 2012.

The application was advertised for 28 days (from 21/7/2021 - 18/8/2021) and a further 28 days (from 29/11/2021 – 17/1/2022) in accordance with the Canterbury Bankstown Community Participation Plan. A total of thirty-one (31) submissions were received from both periods and are discussed in detail further within the assessment report.

POLICY IMPACT

This matter has no direct policy implications.

FINANCIAL IMPACT

This matter has no direct financial implications.

RECOMMENDATION

It is recommended that the Panel support Council's recommendation to approve the application subject to conditions of consent.

DA-512/2021 ASSESSMENT REPORT

SITE & LOCALITY DESCRIPTION

- The subject site is legally identified as being Lot A in Deposited Plan 30778, No. 165-171 Milton Street, Ashbury. The site has an area of 14,876m² and is irregular in shape. It has an eastern frontage to Milton Street of 47.7m and a frontage to WH Wagener Oval of 133.9m.
- The site has an uneven topography with an approximate 5.5 metre change in level from the north-eastern corner (RL 41) to the south-western corner (RL 35.5).
- The site is largely devoid of existing structures as the former industrial buildings, which accommodated a 'Tyres R Us' business and have been demolished except the one facing Milton Street. The only structure remaining on-site is a small office building that faces Milton street.
- Vehicular access to the proposed basement level will be via the proposed new private road that is to service the subject site and adjoining northern site, No. 149-165 Milton Street, Ashbury.
- Adjoining the site to the north at 149-163 Milton Street which was the former Chubb Security Services, warehousing and administration building. On 2 December 2021, DA-826/2020 was approved for the demolition of all existing structures, removal of 57 trees, excavation, site remediation, civil works, new road, site landscaping and construction of two residential flat buildings and seven multi-dwelling housing buildings comprising 129 dwellings over a single level common basement for parking.
- Located to the east of the site lies low scale residential dwellings that form the broader suburb of Ashbury. Adjoining the site to the south are residential dwellings that orientate towards Trevenar Street. West of the site interfaces with dense canopy tree plantings that provide a buffer between the site and adjoining WH Wagener Oval and Whitfield Reserve.
- The site is not within an identified Heritage Conservation Area nor does it contain or is in the vicinity of any heritage items of significance. The site does however adjoin the Ashbury Heritage Conservation Area to the south and east.



Figure 2: Aerial View of the Subject Site outlined in yellow (Source: Six Maps)



Figure 3: The Subject Site



Figure 4: Existing Dwellings facing Milton Street, located within the Ashbury HCA.

PROPOSED DEVELOPMENT

The DA seeks approval for the demolition of all existing structures, excavation, site remediation, half of a new road (shared with 149-163 Milton Street), removal of 23 trees, site landscaping and construction of 138 units comprising 62 terraces and residential flat buildings for 76 units over a single level basement car park.

In summary, the proposed development includes the following components:

- Demolition of existing buildings;
- Site preparation works, bulk excavation and remediation;
- Construction of residential buildings (ranging in height from 3 to 6 storeys), including:
 - Two (2) residential flat buildings containing 76 units;
 - Three (3) buildings containing 62 terraces;
 - Shared basement with vehicular access from the proposed northern internal road;
 - A single level shared basement with 258 car parking spaces, containing 223 residential, 28 visitor and 25 accessible spaces.
- Associated landscape works, including the removal of the 23 existing site trees and the and provision of through-site links and communal open space areas;
- Extension and augmentation of physical infrastructure and utilities as required.



*Figure 5: Proposal Viewed from the Corner of Milton Street and Trevenar Street, Ashbury
(Source: SJB)*

BACKGROUND

In 2014, the then owners of the subject property, known as the 'Tyres R Us' site and identified as No. 165-171 Milton Street, Ashbury, submitted a planning proposal. In 2015, another planning proposal was submitted for the adjoining northern site. Both Planning proposals sought approval to rezone the site from Light Industrial (IN2) to High Density (R4) and seek substantial building height increases in respect of the site. In 2016, Council resolved that both proposals be rejected and instead, a Council led Planning proposal take its place, allowing for the holistic redevelopment of the Ashbury Industrial Precinct.

Council initiated Planning Proposal (PP_2017_CBANK_001_03) which was prepared in 2017 in support of the following amendments to Canterbury Local Environmental Plan (CLEP) 2012:

- Rezone the site from IN2 Light to R4 High Density Residential;
- Increase the FSR from 1:1 to 1.1:1; and
- Introduce maximum building height controls, ranging from 8.5 metres, 11 metres, 14 metres, 18 metres and 21 metres.

The intent of the Council led planning Proposal was to enable the redevelopment of the Ashbury industrial Precinct into a high density residential precinct with landscaping, common access and a built form that adequately responded to the Ashbury Heritage Conservation Area (HCA) and Wagener Oval.

The Planning Proposal was accompanied by a site specific DCP which contains controls to minimise the visual impact of future development and to provide appropriate scale and massing sensitive to the adjoining Ashbury HCA to ensure that redevelopment occurs in an integrated manner.

In preparing the Planning Proposal, Council assessed the sites suitability for future urban development, including environmental, built, social and economic impacts associated with the planned density. Extensive site specific studies were undertaken that investigated the environmental capabilities of the site. This included, *inter alia*, contamination, geotechnical, stormwater, traffic and waste. Council and the Department of Planning and Industry (DPI) by way of the LEP amendment, determined that the site was suitable for residential purposes and that the height and density is appropriate for the site and surrounding context.

In addition to this, extensive community consultation was undertaken by Council. This included public briefing sessions, Councillor briefing sessions and display and discussion sessions. The community consultation was highly attended and the feedback from the community was considered by Council in the formation of the site specific DCP.

Amendment No. 18 of CLEP 2012 was gazetted on 20 March 2020. Consequently, Part F Specific Land Uses and Specific Sites of CDCP 2012 was amended to include Part F11 for 149-163 and 165-171 Milton Street, Ashbury.

On 19 May 2020, a formal pre-lodgement meeting was held with Council and on 28 May 2020, Council forwarded a letter to the Applicant outlining outstanding issues that need to be addressed prior to lodgement of the application. The issues raised within this letter related to waste collection, infrastructure, drainage, traffic, building footprints and separation, building scale, character and massing within the heritage context, landscape design and contamination and remediation of the site.

RELEVANT APPLICATIONS TO SUBJECT PROPOSAL

On 21 September 2020, DA-826/2020 was lodged with Council for 149-165 Milton Street, Ashbury, (the adjoining northern site) and sought approval for demolition of all existing structures, removal of 57 trees, excavation, site remediation, civil works, new road, site landscaping and construction of two residential flat buildings and seven multi-dwelling housing buildings comprising 129 dwellings over a single level common basement for parking. On 6 April 2021, Council was served with an Appeal for the Deemed Refusal of this application. The Application was referred to the Sydney South Planning Panel on 15 July 2021 where the matter was deferred to allow further information to be submitted following a

Section 34 Conciliation Conference. A Section 34 Conference was held on 29 July 2021 and was terminated due to unresolved matters. On 2 December 2021, the Class 1 Appeal (Case Number: 2021/89891) was finalised by way of a Section 34 Agreement.

On 20 July 2021, DA-599/2021 was lodged with Council and seeks approval for early works including bulk excavation and the construction of the shared basement associated with residential development proposed under DA-512/2021 (the current proposal). On 30 August 2021, the Applicant withdrew this application.

Statutory Considerations

When determining this application, the relevant matters listed in Section 4.15C 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:

- *Water Management Act 2000*
- *State Environmental Planning Policy (Planning Systems) 2021*
- *State Environmental Planning Policy (Resilience and Hazards)*
- *State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development (SEPP 65)*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*
- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*
- *State Environmental Planning Policy 2004 (Building Sustainability Index: BASIX)*
- *Canterbury Local Environmental Plan 2012 (CLEP 2012)*
- *Canterbury Development Control Plan 2012 (CDCP 2012)*
- *Canterbury Development Contributions Plan 2013 (Contributions Plan 2013)*
- *Community Participation Plan (CPP)*
- *Draft Consolidated Canterbury Bankstown Local Environmental Plan*

SECTION 4.15 ASSESSMENT

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

Characterisation of Buildings/Development

The characterisation of the buildings and development is a key assessment aspect of this report. Therefore, the following summary is provided which outlines the two differing opinions between the Applicant and Council in terms of which environmental planning instruments apply to each building and the development.

During the assessment of the subject application, Council wrote to the applicant advising that the development failed to address several controls outlined within Part C3- Multi-dwelling of CDCP2012. The applicant, in the submitted SEE, contended that the ADG applied to the entire site and that Part C3 did not apply. The Sydney South Planning Panel (SSPP) required the applicant provide legal advice to Council regarding their position.

The following provides a summary of the legal opinion of the applicant and Council which forms the basis of the characterisation of the developments and guides this assessment report.

On 9 November 2021, the applicant (Mecone) submitted a 'Response Letter', prepared by Mecone which stated that these non-compliance issues (with Part C3) have not been addressed as *'these provisions do not apply to the development given the proposal constitutes a residential flat building and is therefore subject to State Environmental Planning*

Policy No. 65 – Design Quality of Residential Apartment Development (SEPP 65) and the associated ADG’.

On 24 December 2021, Council wrote to the applicant (after briefing the SSPP) requesting further information (RFI) for the subject application as well as legal advice to justify if its legitimate that the common basement makes the entire development a residential flat building development, for Council’s consideration.

On 20 January 2022, Council received a letter from Boskovitz Lawyers which stated that Boskovitz Lawyers agreed with the contents of the ‘response letter’ submitted by Mecone.

On 21 February 2022, Council’s General Counsel reviewed the above legal advice and Council sent a further RFI to the applicant advising that the argument provided did not answer the question of characterisation and contended the development comprised of both residential flat buildings and multi-dwelling buildings.

On 15 March 2022, a Memorandum of Advice (attachment 12), on behalf of the applicant, was prepared by Jeremy Farrell, dated 15 March 2022 and submitted as part of the application *‘to advise whether the provisions of SEPP 65 apply to the Proposed Development, and if so, to which parts of the Proposed Development’.*

The summary of this advice is as follows:

- 7. In my opinion, SEPP 65 applies to the entirety of the Proposed Development (with the exception of building A1), because pursuant to clause 4(1), the Proposed Development is development for the purpose of a ‘mixed use development with a residential accommodation component’, that:
 - a. consists of the erection of a new building; and*
 - b. the relevant buildings concerned are least 3 or more storeys above basement or carparking level; and*
 - c. the relevant buildings concerned contain at least four or more dwellings.**
- 8. The provisions of clause 4(3) of SEPP 65 do not alter this position.*

On 6 April 2022, Council sent a final RFI to the applicant which outlined Council’s General Counsel’s legal position which in summary stated that *‘Council does not agree that this development can be defined as mixed-use (as set out above) and that it comprises residential flat buildings and multi-dwelling housing. Therefore, SEPP 65 applies to Buildings B, C and E1 and does not apply to Buildings A1, A2, D1, D2 and E2’.*

It must also be noted that the approved development at 149-163 Milton Street, Ashbury which forms part of the same Site Specific LEP and DCP was characterised as a development incorporating both residential flat buildings and multi-dwelling housing. Therefore, Council is required to be consistent with its assessment and the decision to enter a Section 34 Agreement as approved by the Sydney South Planning Panel.

Based on the above, Buildings A1, A2, D1, D2 and E1 have been assessed against Part C3- Multi-dwelling Housing of CDCP 2012 and Buildings B, C and E2 have been assessed against the ADG and Part C4- Residential Flat Buildings of CDCP 2012.

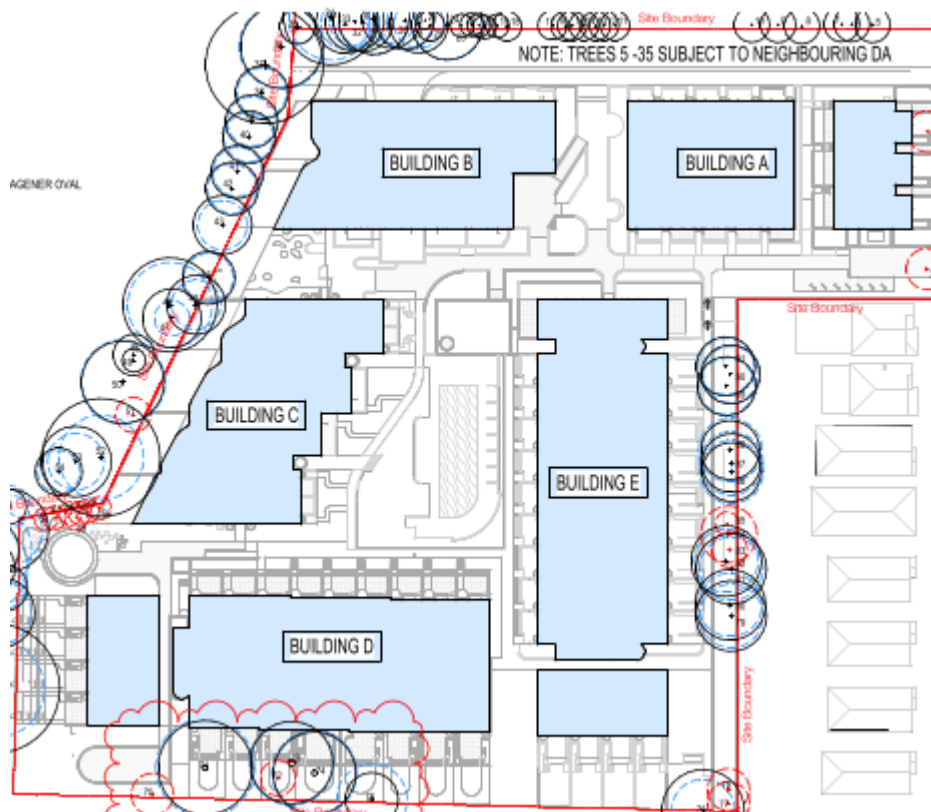


Figure 6: building location and label. Source: SJB architectural plans

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

State Environmental Planning Policy (Planning Systems) 2021

As outlined in Part 2.4 clause 2.20 and Schedule 6 of the SEPP (Planning Systems) 2021 the application is declared as regionally significant development. Schedule 7 includes 'General Development over \$30 million'. The proposed capital investment value of \$62,395,506 and falls within this category

State Environmental Planning Policy (Resilience and Hazards) 2021

SEPP (Resilience and Hazards) 2021 requires Council to consider whether the land is contaminated prior to granting consent to the carrying out of any development on that land. Should the land be contaminated, we must be satisfied that the land is suitable in a contaminated state for the proposed use. If the land requires remediation to be undertaken to make it suitable for the proposed use, we must be satisfied that the land will be remediated before the land is used for that purpose.

Prior to rezoning of the site, a Stage 2 Detailed Site Investigation (DSI), a Remedial Action Plan (RAP) and a Site Audit Statement were provided to Council for consideration prior to the rezoning of the land. Council's Environmental Health Officer reviewed the documents and is satisfied subject to the imposition of suitable conditions of consent. Accordingly, the submitted reports demonstrate that the site is suitable for the purpose of the proposed development in accordance with SEPP 55 (Resilience and Hazards) 2021.

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

In accordance with BASIX SEPP, a BASIX Certificate accompanies 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 objectives of the SEPP. The BASIX Certificate requirements have been incorporated into conditions of consent.

State Environmental Planning Policy (Biodiversity and Conservation) 2021

The proposed development seeks approval for the removal of 23 trees. Council's Tree Management Officer has reviewed the application and raised no objection to the removal of the 23 trees, subject to conditions relating to the retention, removal and replacement of trees.

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, 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 design verification statement that fulfils the requirements of Clause 50(1AB) has not been submitted as part of the application.

Based on the above and the legal advice prepared by Council's General Counsel, SEPP 65 and the ADG applies to Building B, C and E1 of the development as they are considered to be Residential Flat Buildings (see figure 6. above)

These principles are discussed as follows:

Principle 1: Context and Neighbourhood Character

The proposed development is generally consistent with the ADG and Council's building separation, communal open space, siting and building setback requirements and aligns with the desired future character of the locality.

Principle 2: Built Form and Scale

The built form and scale of the development aligns with the desired future character of the site and the immediate locality and is satisfactory.

The proposal appropriately contributes to the character of the streetscape and is sympathetic to the adjoining Ashbury Heritage Conservation Area.

Principle 3: Density

The density of the proposed development is considered to be satisfactory and reasonable to cater for social and affordable housing.

Principle 4: Sustainability

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

Principle 5: Landscape

The proposed development provides 2,470m² of deep soil zone which equates to 16.6% of the total site area. further, the ground floor 'central' communal open space area equates to 1,440m² which is inclusive of a swimming pool, common pavilion, seating etc. The central area plus other areas of communal space on the ground floor total 4,070m² or 27% of the total site area.

Council's Landscape Architect reviewed the application and raised no objections subject to conditions of consent. Therefore, the landscaping provided on site is satisfactory and this principle is satisfied.

Principle 6: Amenity

The proposed development is able to provide solar access to at least 70% of the units and that 60% of the apartments are naturally cross-ventilated. Therefore, it has been demonstrated that the proposed units will achieve good internal amenity.

Principle 7: Safety

The applicant has considered Crime Prevention through Environmental Design (CPTED) principles as outlined in CDCP 2012 in the design of the project. The proposal provides increased activation and passive surveillance of Milton Street and Wagener Oval.

Principle 8: Housing Diversity and Social Interaction

The proposed design incorporates various dwelling sizes promoting diversity, affordability and access to housing choice.

Principle 9: Aesthetics

The proposal seeks to use a range of finishes and colours that would be visually compatible and responds to the existing and local context of the area.

The proposal also seeks to provide three, 3 storey terraces along the Milton Street frontage (see image extract below) that are of appropriate scale and massing that is sensitive to the Ashbury HCA and Milton Street which is a key objective in Part F11.4 of the site specific DCP. Further, Council's Heritage Advisor and Urban Designer reviewed the application and raise no issues subject to conditions of consent.



Apartment Design Guide

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

Section	Design Criteria	Proposed	Complies
Part 3 Siting the Development			
3C Public Domain Interface	<ul style="list-style-type: none"> - Avoid long, high blank walls and fences - Direct access from the street to ground floor apartments and windows overlooking the street improve safety and social interaction; - Key components to consider when designing the interface include entries, private terraces or balconies, fence and walls, changes in level, services location and planting. - Safety considerations (real or perceived) and consideration of social interaction opportunities when viewed from the public domain. - Terraces, balconies and courtyard apartments to have direct street level entry where possible; - Changes in levels between ground floor and terraces to balance passive surveillance and privacy; - Provide seating at building entries, letter boxes and private courtyards adjacent the street. - Multiple building entrances to be clearly defined through architectural detailing, changes in materials, plant species and colours; - Concealment opportunities minimized. 	<p>The development adequately addresses the design criteria for Section 3C.</p> <p>The proposal provides good public connection from Milton Street to Wagener Oval. Clear view corridors from Milton Street to the oval to enhance wayfinding and legibility are provided.</p> <p>The entrance to the site along Milton Street is clearly defined.</p> <p>Further to this, Council's Heritage Advisor and Urban Designer raised no objections to the overall design, materials and finishes, subject to conditions of consent.</p>	Yes
3D Communal and Public Open Space	<p>Communal open space has a minimum area equal to 25% of the site. Total site area is 14,876m², requiring a minimum 3,719m².</p> <p>Minimum dimension 3metres</p>	<p>The ground floor 'central' communal open space area equates to 1,440m² which is inclusive of a swimming pool, common pavilion, seating etc. The central area plus other areas of communal space on the ground floor total 4,070m² or 27% of the total site area.</p>	Yes

Section	Design Criteria	Proposed	Complies		
		Minimum dimension of 3m. *CDCP 2012 includes site specific communal open space requirements with which the development is not compliant- this is discussed further down in this report.			
	(2) Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter).	The central COS receives 2 hours of solar access between 11am and 1pm.	Yes		
3E Deep Soil Zones	Deep soil zones are to meet the following minimum dimensions:		Proposed = 2,470m ² = 16.6% *CDCP2012 includes site specific deep soil requirements with which the development is not compliant.	Yes	
	Site Area	Minimum Dimensions			Deep Soil Zone (% of site area)
	Less than 650m ²	-			7%
	650m ² - 1500m ²	3m			
	Greater than 1500m ²	6m			
	Greater than 1500m ² with significant existing tree cover	6m			
Required = 1,041.32m ²					
3F Visual Privacy/ Building Separation	Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:		<u>Up to 12m (4 storeys):</u> <ul style="list-style-type: none">12m setback is provided to the site's southern and eastern boundaries which interface with residential dwellings. *The setbacks comply with both the ADG and the CDCP 2012. <ul style="list-style-type: none">8m is proposed between Building D and Building E. <u>Up to 25m (5-8 Storeys)</u> <ul style="list-style-type: none">12m proposed between Building A and Building B (ground floor) and	Yes	
	Building Height	Habitable Rooms & Balconies			Non-habitable Rooms
	Up to 12m (4 storeys)	6m			3m
	Up to 25m (5-8 storeys)	9m			4.5m

Section	Design Criteria	Proposed	Complies
		26m (upper storeys) • 26m provided between Building C and Building E. • 12m between Building B and Building C (habitable rooms).	
3J Bicycle and Car Parking	For development within 800 metres of a railway station the minimum car parking requirement for residents and visitors is the lesser of that set out within the Guide to Traffic Generating Developments or Council requirements. Otherwise, the CDCP 2012 controls apply.	As the site is 1.6km from Ashfield Train Station therefore, this control does not apply.	N/A
	The car parking needs for a development must be provided off street.	All parking provided within 1 level of basement parking.	Yes
3G Pedestrian Access and Entries	<p>Multiple entries should be provided to activate the street edge.</p> <p>Entry locations relate to the street and subdivision pattern / existing pedestrian network.</p> <p>Building entries should be clearly distinguishable from private entries.</p> <p>Building access areas (lift lobbies, stairwells and hallways) should be clearly visible from public domain and communal spaces.</p> <p>Minimise ground floor and underground level changes along pathways and entries. Steps and ramps integrated into design.</p> <p>Provide way finding maps for large developments. Electronic access and audio/video intercoms required.</p> <p>Provide pedestrian links to streets and destinations with clear sight lines.</p>	<p>Two (2) pedestrian entries are provided along Milton Street and these entrances are clearly defined.</p> <p>Individual entries are provided for all terraces which activate the ground plane.</p> <p>Proposal provides good public connection from Milton Street to Wagener Oval. Clear view corridors from Milton Street to the oval to enhance wayfinding and legibility are provided.</p>	Yes
Part 4 Designing the Building			

Section	Design Criteria	Proposed	Complies
4A Solar and Daylight Access	Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter.	<u>Building B</u> 2 hours = 33/38 (86%) 15 mins = 1/38 (2.6%) No solar = 6/38 (15.7%) <u>Building C</u> 2 hours = 30/38 (78.9%) 15 mins = 8/38 (21%) No solar = 0/38 (0%) Building E1 (E.11-E.14 are excluded as they are multi-dwelling) 2 hours = 15/24 (62.5%) 15 mins = 9/24 (37.5%) No solar = 0/24 (0%) Total 2 hours = 78/100 = 78% 15 mins = 18/100 = 18% No solar = 6/100 = 6%	Yes
	A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter	No solar = 6/100 = 6%	Yes
4B Natural Ventilation	At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartment at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.	<u>Building B</u> = 24/38 (63.1%) <u>Building C</u> = 24/38 (63.1%) <u>Building E1</u> (E.11-E.14 are excluded) = 24/24 (100%) <u>Total</u> = 72/100 = 72%	Yes
	Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	Achieved.	Yes

Section	Design Criteria	Proposed	Complies											
4C Ceiling Heights	Measured from finished floor level to finished ceiling level, minimum ceiling heights are:	Habitable rooms have a minimum height of 2.7m and non-habitable are 2.4m	Yes											
	Minimum Ceiling Height for Apartment and Mixed Use Buildings													
	Habitable rooms			2.7m										
	Non-habitable			2.4m										
	For 2 storey apartments			2.7m main living area floor 2.4 for second floor, where its area does not exceed 50% of the apartment area										
	These minimums do not preclude higher ceilings if desired.													
4D Apartment Size and Layout	Apartment are required to have the following minimum internal areas:	All units comply with the minimum internal area requirements.	Yes											
	<table><tr><th>Apartment Type</th><th>Minimum Internal Area</th></tr><tr><td>Studio</td><td>35m²</td></tr><tr><td>1 bedroom</td><td>50m²</td></tr><tr><td>2 bedroom</td><td>70m²</td></tr><tr><td>3 bedroom</td><td>90m²</td></tr></table>			Apartment Type	Minimum Internal Area	Studio	35m ²	1 bedroom	50m ²	2 bedroom	70m ²	3 bedroom	90m ²	
	Apartment Type			Minimum Internal Area										
	Studio			35m ²										
	1 bedroom			50m ²										
	2 bedroom	70m ²												
	3 bedroom	90m ²												
	The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m ² each.													
	A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m ² each.													
	Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.	Achieved.	Yes											
In open plan layouts (where the living, dining and kitchen are combined) the maximum	Achieved.	Yes												

Section	Design Criteria	Proposed	Complies															
	habitable room depth is 8m from a window.																	
	Master bedrooms have a minimum area of 10m ² and other bedrooms 9m ² (excluding wardrobe space).	Achieved.	Yes															
	Bedrooms have a minimum dimension of 3m (excluding wardrobe space).	Achieved.	Yes															
	Living rooms or combined living/dining rooms have a minimum width of: <ul style="list-style-type: none">3.6m for studio and 1 bedroom apartments4m for 2 and 3 bedroom apartments	Achieved.	Yes															
	The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts.	Noted.	Yes															
4E Private Open Space and Balconies	All apartments are required to have primary balconies as follows:	Achieved.	Yes															
	<table><tr><th>Dwelling type</th><th>Minimum Area</th><th>Minimum Depth</th></tr><tr><td>Studio apartments</td><td>4m²</td><td>-</td></tr><tr><td>1 bedroom apartments</td><td>8m²</td><td>2m</td></tr><tr><td>2 bedroom apartments</td><td>10m²</td><td>2m</td></tr><tr><td>3+ bedroom apartments</td><td>12m²</td><td>2.4m</td></tr></table>			Dwelling type	Minimum Area	Minimum Depth	Studio apartments	4m ²	-	1 bedroom apartments	8m ²	2m	2 bedroom apartments	10m ²	2m	3+ bedroom apartments	12m ²	2.4m
	Dwelling type			Minimum Area	Minimum Depth													
	Studio apartments			4m ²	-													
	1 bedroom apartments			8m ²	2m													
	2 bedroom apartments	10m ²	2m															
	3+ bedroom apartments	12m ²	2.4m															
The minimum balcony depth to be counted as contributing to the balcony area is 1m.																		
For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m ² and a minimum depth of 3m.		The POS ground floor units exceed a minimum 15m ²	Yes															
4F Common Circulation and Spaces	The maximum number of apartments off a circulation core on a single level is eight.	Building B = 8 - achieved. Building C = 4 and 4 off two separate core's. Building E = 3- achieved.	Yes															

Section	Design Criteria	Proposed	Complies										
4G Storage	In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:	Each unit has internal storage which meet these minimum requirements. No nominated storage within the basement	Yes										
	<table><tr><th>Dwelling type</th><th>Storage size volume</th></tr><tr><td>Studio apartments</td><td>4m³</td></tr><tr><td>1 bedroom apartments</td><td>6m³</td></tr><tr><td>2 bedroom apartments</td><td>8m³</td></tr><tr><td>3+ bedroom apartments</td><td>10m³</td></tr></table>			Dwelling type	Storage size volume	Studio apartments	4m³	1 bedroom apartments	6m³	2 bedroom apartments	8m³	3+ bedroom apartments	10m³
	Dwelling type			Storage size volume									
	Studio apartments			4m³									
	1 bedroom apartments			6m³									
	2 bedroom apartments			8m³									
	3+ bedroom apartments			10m³									
At least 50% of the required storage is to be located within the apartment.													
4H Acoustic Privacy	<p>Adequate building separation is provided within the development and from neighbouring buildings/adjacent uses</p> <p>Noisy areas within buildings including building entries and corridors should be located next to or above each other and quieter areas next to or above quieter areas</p> <p>Rooms with similar noise requirements are grouped together</p> <p>Noise sources such as garage doors, driveways, service areas, plant rooms, building services, mechanical equipment, active communal open spaces and circulation areas should be located at least 3m away from bedrooms</p>	<p>Compliance with building separation controls within the ADG and setback controls in CDCP 2012. Building A, D and E provide minimum 12m setback to adjoining residential neighbours to the east and south.</p> <p>Service cupboards and circulation areas are centrally located, with bedrooms sitting on the outside of the apartments and non- habitable spaces on the inside of the apartments.</p> <p>Plantrooms have been designed in the basement. Mechanical equipment has been placed on the roof.</p>	Yes										

Canterbury Local Environmental Plan 2012

This site is zoned R4 High Density Residential under CLEP 2012. The controls applicable to this application are discussed below.

Clause 1.2 Aims of Plan

The proposed development is consistent with the relevant aims of the CLEP 2012:

Clause 2.3 Zone objectives and Land Use Table

Clause 2.3(2) of CLEP 2012 outline 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 zone as it provides for residential housing within three residential flat buildings and multi-dwelling terraces. The design comprises a mix of residential types through incorporating one, two and three bedroom apartments to contribute to the needs of the community. Further to this, the proposal provides a variety of housing types in the design response that respects the sites location between a significant area of open space and an HCA.

Provision/ Standard	Requirement	Proposal	Complies
Part 2 Permitted or Prohibited Development			
2.1-2.3 Zoning	R4 High Density Residential	Mixed-use development comprising 2 x Residential Flat Buildings (RFB's) and 6 x multi-dwelling unit buildings.	Yes
2.7 Demolition requires development consent	The demolition of a building or work may be carried out only with development consent.	Demolition of the entire site approved under CDC.	Yes
Part 4 Principal Development Standards			
4.3 Height of Buildings	Ranges from 8.5m to 21m	See Table 1 below- development complies with the LEP height limits.	Yes
4.4 Floor Space Ratio	1.1:1	See below Table 2 for GFA and FSR breakdown. SA = 14,876m ² Proposed Total GFA = 16,335m ² FSR = 1.1:1	Yes
5.10 Heritage Conservation	(5) The consent authority may, before granting consent to any development— a) on land on which a heritage item is located, or (b) on land that is within a heritage conservation area, or (c) on land that is within the vicinity of land referred to in	The proposal is not a heritage listed item nor is it located within a heritage conservation area (HCA). It is however surrounded by the Ashbury HCA to the east, west and south, exclusive of Wagener Oval and 149-163 Milton St to	Yes

Provision/ Standard	Requirement	Proposal	Complies
	paragraph (a) or (b), require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.	the North. A Heritage Impact Statement (HIA) was submitted with the application and it confirms that the proposal will have no impact on the heritage values in the surrounds. Further to this, Councils' Heritage Advisor reviewed the application and HIA and raised no issues subject to conditions of consent.	
Part 6 Local Provisions			
6.1 Acid Sulfate Soils	Development consent must not be granted under this clause for the carrying out of works unless an acid sulfate soils management plan has been prepared for the proposed works in accordance with the Acid Sulfate Soils Manual and has been provided to the consent authority.	The site is not identified as containing acid sulfate soils. It is also not located in proximity to land classified as containing acid sulfate soils.	Yes
6.2 Earthworks	Before granting consent to development including earthworks, the following must be considered: (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.	A Geotechnical Report has been submitted with the application. The report identifies that the development requires excavation to a depth of 3m – 4m. The report provides an overview of the sites subsurface conditions and details the measures that will be adopted to minimise the impacts associated with the excavation activities. Further to this, Council's Environmental Health Officer (EHO) and Development Engineer have each reviewed the application and raise no issue subject to conditions of consent. The basement is setback a minimum 6m to the east and south nearest residential boundaries.	Yes
6.3 Flood Planning	This clause applies to land at or below the flood planning level.	The site is not flood affected.	Yes

Provision/ Standard	Requirement	Proposal	Complies
6.4 Stormwater Management	Consent must not be granted unless: (a) Water permeable surfaces are maximized having regard to soil characteristics affecting on-site stormwater infiltration. (b) Includes on-site detention if practical as an alternative means of water supply. (c) Avoids significant impacts of run-off on adjoining land or the environment or minimises and mitigates impacts.	The proposed development includes a stormwater management system for the site. This system requires the installation of an OSD tank. Appropriate stormwater measures will be addressed at the construction phase. Further to this, Council's Development Engineer has reviewed the application and raise no issue subject to conditions of consent.	
6.6 Essential Services	Essential services must be available or adequate arrangements have been made to make them available, including: <ul style="list-style-type: none"> - the supply of water; - the supply of electricity (substation); - the disposal and - management of sewage; - stormwater drainage or on-site conservation; - suitable vehicular access. 	The existing services, including water, electricity and drainage services can be augmented to support the proposed development. The proposal makes provision for adequate stormwater works. Vehicular access will be made available from the future road along the northern boundary and will provide access to the shared basement. A detailed discussion regarding the access arrangements is below in this report	Yes

Table 1. LEP and DCP Heights and Number of Storeys breakdown:

Building	No. of storeys	Proposed Height	LEP height	Complies	DCP Height	Complies
A1	2	8.5m	8.5m	Yes	8.5m	Yes
A2	3	14m	14m	Yes	11m	No
B	6	21m	21m	Yes	21m	Yes
C	5	18m	18m	Yes	18m	Yes
D1	3	10m	11m	Yes	11m	Yes
D2	3	10.7m	11m	Yes	11m	Yes
E1	4	14m	14m	Yes	14m	Yes
E2	3	9.7m	14m	Yes	11m	Yes

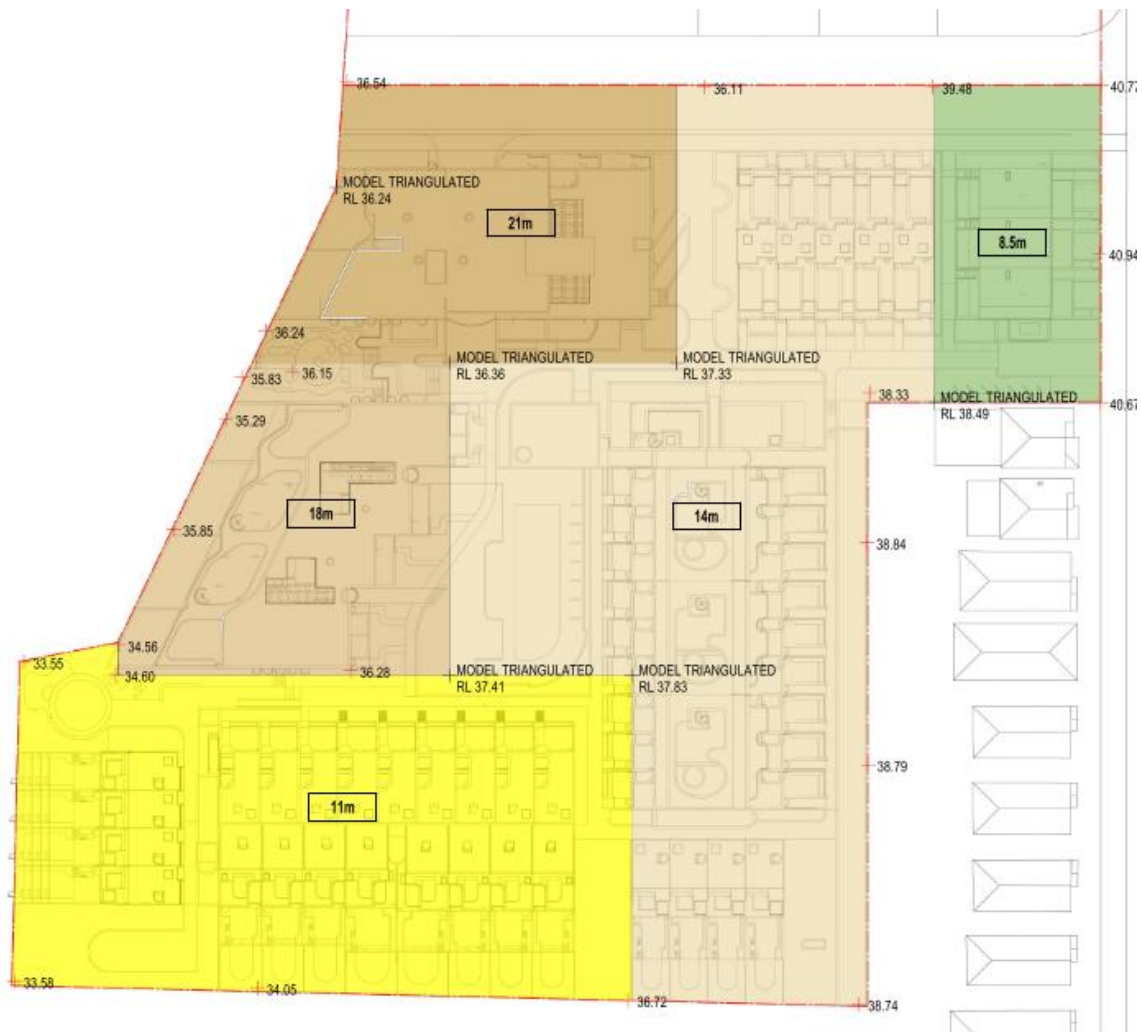


Figure 6. CLEP Height Map over proposed buildings. **Source:** SJB architectural plans

Table 2. Gross Floor Area Breakdown for each building (in m²):

Level	Basement	A (1+2)	B	C	D (1+2)	E (1+2)
Basement/Sub-Floor	Gym = 125	-	-	430	-	-
Ground	-	558	537	755	1,219	1,290
Level 1	-	608	557	708	954	1,044
Level 2	-	580	689	723	721	914
Level 3	-	-	689	723	-	528
Level 4	-	-	1,142	379	-	-
Level 5	-	-	459	-	-	-
TOTAL = 16,336m²	125	1,747	4,075	3,719	2,894	3,776

Site Area = 14,876m²

Maximum allowable GFA = 16,363m²

Proposed GFA = 16,336m²

FSR = 1.1:1

Draft environmental planning instruments [section 4.15(1)(a)(ii)]

Draft Consolidated Canterbury Bankstown local Environmental Plan

On 6 March 2020 the Canterbury Bankstown Local Planning Panel endorsed the Planning Proposal to undergo exhibition. The Draft CBLEP is on public exhibition from 9 March 2020 until 24 April 2020

The Planning Proposal (PP_2019_CBANK_005) seeks to produce a single set of planning rules and combine and align the Bankstown LEP 2015 and Canterbury LEP 2012 into a consolidated Local Environmental Plan.

- Produce a single land use table consistent with the Local Strategic Planning Statement, Standard Instrument (Local Environmental Plans) Order 2006 and other State requirements.
- Resolve differences between Bankstown LEP 2015 and Canterbury LEP 2012.
- Comply with the Gateway Determination issued by the Department of Planning, Industry & Environment (dated 20 February 2020), namely the conditions to preclude any changes to residential land uses and development standards, and to preclude the rezoning of any land other than those included in current land use strategies.

Planning Proposal (PP_2019_CBANK_005) is a draft instrument and is a matter for consideration under Section 4.15 (1)(a)(ii) of the Environmental Planning and Assessment Act, 1979.

Council is seeking the addition of a Design Quality Clause within the Draft CBLEP. This draft clause which formed part of the Planning Proposal (PP_2019_CBANK_005).

Draft Design Quality Clause

6.14 Design Quality

(1) *The objective of this clause is to ensure that development achieves good urban design and supports quality places for people.*

(2) *This clause applies to the following development: residential flat buildings, multi dwelling housing, boarding houses, seniors living, mixed use development, shop top housing, commercial premises, industrial buildings, warehouse or distribution centres, centre-based child care facilities, schools, places of worship, registered clubs, community facilities, in relation to:*

- *the erection of a new building, or*
- *in the Council's opinion, significant alterations or additions that are visible from the public domain.*

(3) *Before granting consent for development, the consent authority must have regard to the following matters, to the extent it considers them relevant to the proposed development:*

- whether the development positively contributes to the urban context and site conditions in terms of natural features, built form, streetscape, street wall height, building separation, setbacks, amenity, building bulk and modulation,*
- whether the development positively contributes to the quality and amenity of the public domain in terms of landscaping, passive surveillance, visual interest and the interface of public and private domain,*
- whether the development uses external materials that are good quality, durable and low-maintenance,*
- whether the development achieves a high standard of architectural detailing and colours that are appropriate to the building type and location,*
- whether the development achieves the principles of ecologically sustainable development,*

- (f) *whether the development achieves internal layouts that are functional, efficient and fit for purpose,*
- (g) *whether the development integrates a high quality landscape design with the built form,*
- (h) *how the development satisfactorily addresses the following matters:*
 - *impacts on heritage items, heritage conservation areas or historically significant buildings on the site or in the vicinity of the site,*
 - *environmental impacts such as solar access, visual and acoustic privacy, wind, reflectivity, urban heat and water sensitive urban design,*
 - *pedestrian, cycle, vehicular and service access and circulation requirements,*
 - *the integration of waste management infrastructure in the site layout and building design.*

Given the assessment made throughout this report, the proposal would be in line with the envisaged design quality and would not be inconsistent with the Draft CBLEP and draft Design Quality Clause. However, as this draft CBLEP is not certain and imminent, determinative weight should not be given to it.

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

The following table provides a summary of the development application against the controls contained in *Canterbury Development Control Plan 2012*.

Canterbury Development Control Plan 2012 (CDCP 2012)

The proposed development has been compared to the requirements of CDCP 2012 as follows:

Part B1 – Transport and Parking

An assessment of the proposal against the car and bicycle parking rates in Part B1 of CDCP 2012 is provided below:

Standard	Requirement	Proposal	Complies
Car Parking	<ul style="list-style-type: none"> • 1 bedroom: 1 space per dwelling $29 \times 1 = 29$ spaces required). • 2 bedroom: 1.2 spaces (the 0.2 space to remain as common property) per dwelling $(26 \times 1.2 = 31.2 (5.2))$ spaces required). • 3 bedroom: 2 spaces per dwelling $(83 \times 2 = 164)$ spaces required). • Visitor: 1 space per 5 dwellings $138/5 = 27.6$ or 28 spaces required). Note: 1 per 3 required in some instances. • Car wash bay: 1 car 	<p>Proposed: 223 residential spaces, 28 visitor spaces plus 1 x car wash bay required in the basement</p> <p>6 x spaces in the lower ground basement exclusive to the 3 terraces in Building A1</p> <p>Total proposed = 229 residential spaces.</p>	Yes

	<p>wash bay.</p> <p>Total: 224 residential spaces, 28 visitor spaces plus 1 x car wash bay required.</p>		
Bicycle Parking	<ul style="list-style-type: none"> • Residents: 1 space per 5 dwellings (28 spaces required). • Visitors: 1 space per 10 dwellings (14 spaces required) <p>Total: 42 spaces required.</p>	<p>Proposed = 42 in the basement.</p> <p>14 x bicycle spaces on the ground floor.</p>	Yes

Part B2 – Landscaping and Part B3 – Tree Preservation

The application provided a landscape plan and an Arboricultural Statement (prepared by Naturally Trees Consulting, dated: 17 January 2022, Rev. B) which has been assessed by our Landscape Architect who has advised that they support the proposal in its current form subject to strict conditions of consent relating to tree protection, replacement planting etc.

Part B4 – Accessible and Adaptable Design

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

Part B5 – Stormwater and Flood Management

The application was referred to Council's Development Engineer who reviewed the proposal and raises no issues subject to strict conditions of consent.

Part B7 – Crime Prevention and Safety

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

Standard	Requirement	Proposal	Complies
Crime Prevention through Environmental Design	Avoid blind corners	The proposal does not include any blind corners.	Yes
	Provide natural surveillance for communal and public areas.	The proposal provides for natural surveillance. The proposal has allowed for dwellings to face Milton Street and internal communal areas for natural surveillance.	Yes
	Provide clearly visible entries.	The entries into the multi-dwelling houses have been emphasised by the entry portico.	Yes
	Design the fence to	The use of an open	Yes

	maximise natural surveillance from the street to the building.	palisade style fence will allow for maximised natural surveillance.	
	Avoid landscaping that obstructs natural surveillance.	The landscaping proposed within the front setback is not considered to obstruct the natural surveillance.	Yes
	Ensure buildings are clearly identified by street numbers.	Can be achieved via a condition.	Yes
	Use materials that reduce the opportunity for vandalism.	The proposed development incorporated the use of mainly brick work and therefore the opportunity of vandalism is reduced.	Yes
	Provide an appropriate level of security for individual dwellings and communal areas through use of intercoms, self closing doors and signage.	Can be achieved via a condition.	Yes

Part B9 - Waste

The application was referred to Council's Project Officer – Resource Recovery who raised no objection with the current design, subject to conditions of consent.

Part F11 – 149-163 and 165-171 Milton Street, Ashbury of CDCP 2012

Page 1, Part F11 of CDCP 2012 states that 'if there are any inconsistencies between the objectives and controls in this chapter and any other objectives and controls in this DCP, the objective and controls in this chapter will prevail, but only to the extent that inconsistency'.

An assessment of the proposal against the relevant provisions contained in Part F11 of CDCP 2012 is provided below:

Standard	Requirement	Proposal	Complies
F11.3 – Siting the Development	C1 Locate building form within the development in accordance with the building footprints and envelopes shown in Figure F11.5 – Minimum Setbacks and Building Separation and Figure F11.3 – number of storeys.	The proposal is generally consistent with the building footprint and envelopes shown in Figure F11.5. Minor variations are proposed for the purpose of providing a superior design outcome.	No [see comment 1 below]
	C2 Any variation from the building footprints and heights shown in these figures must demonstrate that it achieves a higher quality outcome in terms of: <ul style="list-style-type: none"> • Scale transition across the site • Response to the conservation 	As per C1 above, the proposal seeks a number of variations to the setback and building envelopes. A further discussion is provided below.	No [see comment 1 below]

	<p>character and scale of Milton Street</p> <ul style="list-style-type: none"> • Amenity to adjacent residential lots, the oval and dwellings within the site itself • Visibility to and visual impact from the conservation area • Visual and physical permeability through and into the site • Consolidated landscape areas throughout the site 		
	C3 The buildings backing onto the internal pathways shall be designed to address the internal public domain with active edges to all roads, pathways and communal open space.	The design adequately addresses this control. The ground floor units have direct access to internal pathways and provide a positive interaction between building and COS.	Yes
	C4 Communal open space throughout is to be designed as public domain with active street edges, street furniture, lighting and planting.	Achieved.	Yes
	C5 All buildings (other than those facing Milton Street) must have an entry and identifiable address to a street or pathway within the development, with clear and legible pathways for residents, visitors and deliveries.	The terraces fronting Milton Street are afforded an entry and an identifiable address to the street	Yes
	C6 Any proposed future developments will also need to comply with the requirements of this DCP and Apartment Design Guidelines and be subject to a design peer review.	The proposal is compliant with the ADG (as shown above) and generally compliant with this DCP.	Yes
F11.4 – Building Height and Density	<p>The detailed distribution of height within the maximum height allowed within the precinct is to be in accordance with the height in metres and the maximum height in storeys designated in Figure F11.3 – Number of Storeys.</p> <p>1 Storey – Max. 3.8 metre height</p> <p>2 Storeys – Max. 6.2 metre height plus roof form</p> <p>Roof form – 8.5 metres to top of</p>	<p>The proposal is compliant with the CLEP 2012 maximum height limit and storey limits. However, building A2 is 3 storeys and has a 14m building height which exceeds the 11m height limit under the DCP. Notwithstanding this, the max height limit under the LEP is 14m.</p> <p>Whilst the DCP storey limit control envisages a</p>	Yes

	<p>ridge</p> <p>2 Storey transition to residential lots at side boundaries - 6.2 metres plus 1 metre allowance for the balustrade to any third floor balconies setback above</p> <p>3 Storeys including allowance for plant, lift overrun and roof form – 11 metres</p> <p>4 storeys including allowances for plant, lift overrun and roof form – 14 metres</p> <p>5 storeys including allowance for plant, lift overrun and roof form – 18 metres</p> <p>6 storeys including allowance for plant, lift overrun and roof form – 21 metres</p>	<p>3 storey building at 11m, tapered down to a 2 storey building facing Milton Street, the building remains 3 storeys which tapers down to a 8.5m and two storey height to face Milton Street. the additional 3m (14m-11m) does not result in any amenity impacts on the subject site or adjoining neighbours and meets the overall objectives of the control by reducing the bulk and scale of the development towards the street and HCA .</p> <p>Further to this, CLEP 2012 is a higher order planning instrument than CDCP and the minor variation is considered acceptable in this instance.</p>	
	C2 The floor to floor height of all apartments is to be a minimum of 3.1 metres	Achieved.	Yes
	C3 Floor to floor heights <3.1 metres to try and achieve an additional storey within the maximum building height will not be supported	N/A	N/A
	C4 The street wall heights to Milton Street are to comply with Figure F11.6 Upper Level Setbacks. Building form above this street wall height is to be either incorporated within an attic roof form or setback a minimum of 3 metres from the line of the building below	<p>The terraces incorporate a sawtooth and skillion roof forms which are sympathetic to the surrounding heritage area. The terraces fronting Milton Street adopt a fine grain appearance achieved through the use arches and deep reveals. Building A1 and A2 designed to allow for a two storey design facing Milton Street and 3 storeys away from the street.</p>	Yes

	C5 The maximum perceived height of development should be 2 storeys when viewed by a standing person with an average eye level of 1.5 metres (refer to Figure F11.4 – Scale Relationships to R2 zone)	Achieved.	Yes
	C6 The majority of the new dwellings are to be located within the centre of the precinct to the western end of the new street and along the centre part of the WH Wagener Oval boundary to minimise privacy, scale and acoustic impacts to adjoining residential dwellings	Achieved.	Yes
F11.5 – Front, Side and Rear Setbacks	C1 Provide building setbacks in accordance with Figure F11.5 – Minimum Setbacks and Building Separation	The proposal seeks minor variations to the setback and building envelopes required as part of Part F11. The proposal is generally compliant with the required massing and envelopes under Part F11 however how minor variations to the numerical controls. This is discussed further below.	No [see comment 1 below]
	C1 The minimum front setback to Milton Street is to be 4 metres	4m provided.	Yes
	C2 The front setback area is to be free from any projections or encroachments from any part of new buildings	Achieved.	Yes
	C3 Existing mature trees are to be retained wherever possible and entries to new development is to be designed to maximise retention	Councils Landscape Architect and Tree Management Officer reviewed the application raised no issues subject to conditions of consent.	Yes
	C1 Provide side and rear setbacks in accordance with Figure F11.5 – Minimum Setbacks and Building Separation	The minimum setbacks to the side and rear boundaries are compliant noting the building massing departs from the DCP to a minor degree.	Yes
	C1 Each ground level dwelling to Milton Street is to be provided with its own direct access from Milton	Achieved.	Yes

	Street		
	C2 Provide articulation to building frontages through expression of party walls, deep eaves, projecting bays, setbacks to second floor to provide balconies (if attic forms are not used) or canopies over entries	Building A is the only building with a front street address. It is defined by a sawtooth and skillion roof form. The façade features dark brick work along with arches and deep reveals. A 3m upper level setback is provided in accordance with the DCP. The other 4 buildings provide adequate articulation and expression.	Yes
	C3 Paved areas within the front setback are to be associated with either the front door or living areas and are to be a maximum 2.4 metres in depth within the front setback zone	Achieved.	Yes
	C4 A level difference of maximum 800mm is encouraged to differentiate private open space from the landscaped setback area	Achieved.	Yes
	C5 Provide front fencing to the street boundary that is complimentary to the height and design of the predominant fencing type in Milton Street (maximum height to be 1.1 metres)	Achieved.	Yes
	C6 A minimum of 1 canopy tree is to be provided in the front garden setback of each dwelling to Milton Street	Achieved.	Yes
	C7 Within the required side and rear setbacks a heavily planted landscape buffer is to be provided with a minimum width of 3 metres	Achieved.	Yes
	C8 Deep soil is to be provided as required and indicated in Figure F11.7 – deep soil zone and communal open space to all side and rear boundaries for a minimum width of between 3 metres and 6 metres	Achieved- also see ADG assessment above.	Yes
	C9 Groupings of large canopy trees are to be provided within all side and rear setbacks. Deep soil	Achieved.	Yes

	is to be provided where these trees are located.		
F11.6 – Upper Level Setbacks	C1 The minimum upper level setbacks are to be in accordance with Figure F11.6 – Upper level Setbacks. The setback for the buildings with the four storey height limit shall apply to the third and fourth floors	<p>Generally Compliant. The compliant upper level setbacks are as follows:</p> <ul style="list-style-type: none"> • Building C provides a 6m upper level setback when measured to the roof courtyards; • A 5.5m upper level setback is provided for E to the eastern boundary; and • A 3m upper level setback is provided for the terraces of Building A to Milton Street. <p>Further discussion regarding the non-complaint building elements follows at comment 2.</p>	No [see comment 2 below]
	C2 The final setback to upper storeys for built form adjacent to side boundaries is to be determined by the line of sight when viewed by a standing person with an average eye level of 1.5 metres from the centre of neighbouring backyards on an adjoining residential property – Figure F11.4 – Scale Relationships to R2 zone.	<p>The proposal presents as being two storeys when viewed from surrounding residential areas.</p> <p>Buildings A and D which border the R2 zone are 3 storey terraces however have a perceived 2 storey appearance due to the slope of the site and the boundary setbacks.</p>	Yes
	C3 Upper level setbacks must be free of any projections or encroachments from any part of building	Achieved but also to be imposed via conditions of consent.	Yes
	C4 All plant rooms and lift overruns are to be positioned to minimise their visibility to the surrounding public domain	Achieved- all plant and lift overruns are recessed from the building line to minimise their visual appearance when viewed from the ground plane.	Yes
F11.7 – Building Separation	C1 Provide minimum separation distances between building forms in accordance with Figure F11.5 – Minimum Setbacks and Building	A minor variation is sought to the minimum separation distances required between Buildings C and E to	No [see comment 1 below]

	separation	facilitate the provision of a improved outcome with respect to architectural expression and articulation.	
	C2 Where the minimum separation distance is less than the separation required by the ADG for habitable rooms or balconies, the building is to be designed to ensure the room uses are appropriate to the separation to ensure compliance with the ADG	The proposal complies with the minimum building separation distances nominated by the ADG.	Yes
	C3 Areas of deep soil are to be provided below the large courtyard areas to ensure a high quality outlook for future residents	Achieved.	Yes
	C4 The minimum separation distances between the narrow ends of building forms are to be clear of projections other than window bays to bedrooms or secondary windows to living rooms. The maximum projection of such elements is to be 1.5 metres within the separation distance	Achieved.	Yes
F11.8 – View Corridors	C1 View corridor and breaks between building forms are to be in the locations shown in Figure F11.8 – Links, View Corridors and Vehicle Entry Points	The proposal complies with the view corridors set out in Figure 11.8. Additional breaks are provided in Building A, Building D and Building E to maximise view corridors across the site.	Yes
	C2 The minimum width of a view corridor is to be in accordance with Figure F11.5 – Minimum Setbacks and Building Separation.	Achieved.	Yes
	C3 Landscape within view corridors should frame views and should not block eye line level views to the oval	Achieved.	Yes
F11.9 – Building Depth	C1 The maximum building length is 40 metres	Th proposal is generally consistent with building massing as per figure F11.5 however, departs from the numerical controls as follows: The building lengths that	No [see comment 3 below]
	C2 Indentations or recesses must be provided every 20 metres to provide articulation and mitigate building depth. The depth of indentations is to be a minimum of		

	3 metres	exceed the control are as follows: • Building B: 41.3m • Building D: 51m The building depth of the non-compliant envelopes are as follows: • Building B: 21.7m • Building C: 28.5m • Building D: 32m	
	C3 The maximum overall building depth is 18 metres from glass line to glass line for buildings within the precinct and along the new street and the street edge of the oval.		
	C4 Building depth to the Milton Street frontage and to the northern side boundary adjacent to the residential lots is to be a maximum of 15 metres including balconies	The maximum building depth of Building A to the northern boundary is 21.7m.	No [see comment 3 below]
F11.10 – Deep Soil Zones	A minimum of 15% of the site area is to be provided as deep soil zone	2,470m ² = 16% of the site comprises deep soil area.	Yes
	The locations of the deep soil areas shall be in accordance with the Figure 11.7 – Deep Soil Zone & Communal Open Space	The location of deep soil is generally in accordance with Figure F11.7. There are slight changes due to the changes to the building envelope but the overall amount and location is consistent with the intent of this control.	Yes
	The minimum width of 3 to 6 metres of deep soil is to be provided to all boundaries in accordance with Figure 11.7 – Deep Soil Zone and Communal Open Space	Achieved.	Yes
	A minimum of 3 metres of deep soil is to be provided to the boundary with Wagener Oval	Achieved.	Yes
	Deep soil is to be provided to the site edges, the verges of the New Street and within the communal open spaces to support substantial tree planting	Achieved.	Yes
F11.11 – Communal Open Space	Communal open spaces are to be provided in accordance with Figure 11.7 – Deep Soil Zone & Communal Open Space	Achieved.	Yes
	Communal open space should be designed as public domain with active edges, street furniture, lighting and planting	Achieved.	Yes

	The layout of internal roads and pathways should be clear and legible for occupants, visitors, and for deliveries, with clearly articulated building entrances	Achieved.	Yes
	Larger communal open spaces should be designed as public parks with appropriate facilities and shade structures	Achieved.	Yes
F11.12 – vehicular and Pedestrian Entries	The number of basement entries is to be minimised	One (1) provided.	Yes
	Vehicular access shall be provided generally in the locations shown in Figure F11.8 – Links, View Corridors and Vehicle Entry Points	Vehicular access is proposed further westward of the access point nominated by Figure 11.8. The driveway entrance is located in the proposed position in order to facilitate the design of Building B and to allow for the delivery of apartments that are appropriately sized with efficient internal floor layouts. However, this is deemed acceptable.	Yes
	No vehicular entry points apart from the new road are to be provided from Milton Street	Achieved.	Yes
	Basement ramps must be within the built form. Exposed basement ramps are not permitted	Achieved.	Yes
	A well-designed pedestrian movement network is to be provided in accordance with Figure F11.8 – Links, View Corridors and Vehicle Entry Points	Achieved.	Yes
	The interface along the western edge of the site with Wagener Oval is to be designed in collaboration with Council to integrate the landscape and tree planting with potential pedestrian and cycle pathways, furniture and lighting within Wagener Oval taking into consideration privacy and safety issues	Achieved.	Yes
F11.13 – New	C1 Location of the new road shall	Achieved.	Yes

Road	be generally along the common boundary and shared equally between both lots in accordance with Figure 11.9.	Further to this, Councils Development Engineer and Infrastructure Specialist reviewed the application and raised no further issues subject to conditions of consent	
	C2 The minimum width of the road carriageway is 13 metres. It shall be allocated equally on both side of the common boundary	Achieved.	Yes
	C3 The road section must be in accordance with Figure 11.10 – New Road (A-A Section).	Achieved.	Yes
	C4 The road shall have a turning circle at an appropriate location to enable vehicles to enter and leave the site in a forward direction without reversing. Details are to be provided at DA stage.	Achieved.	Yes
	C5 Site owners are encouraged to build the new road together	Achieved.	Yes
	C6 The road is to be appropriately designed to prevent vehicular movements onto Wagener Oval	Achieved.	Yes
	C7 The road shall provide for pedestrian access to Wagener Oval at the western end. It shall be designed to provide an attractive entrance treatment to Wagener Oval including landscaping, entrance wall treatment, lighting and seating. Details are to be provided at the DA stage.	Achieved.	Yes
	C8 The road shall be constructed in the first stage of a development. Details are to be provided at the DA stage.	Achieved.	Yes
	C9 The road reserve is to remain in private ownership with an easement to permit access by Council and the public.	Achieved.	Yes
	C10 The road is to be designed and constructed in accordance with Council specifications and to the satisfaction of Council	Achieved.	Yes
F11.14 – Basement	C1 Basement car parking is to be generally located below natural ground level. Any protrusion above	Basement walls do not protrude above 1m	Yes

Parking	natural ground level is not to exceed 1 metre.		
	C2 Basement walls visible above natural ground level must be appropriately finished and appear as an integrated part of the building or landscaping.	Achieved.	Yes
	C3 Basements are to be located directly below building footprints	The shared basement is located beneath the proposed communal open space area located centrally to the site. Notwithstanding this, the proposal exceeds the minimum deep soil requirement. This arrangement provides a practical parking arrangement and reduces the need for further excavation for additional basement levels.	Yes
	C4 On-site waste collection points are to be located within basements which are to be designed to allow access by heavy rigid vehicles including larger garbage disposal trucks with a minimum entry height of 4.5 metres. The design shall allow vehicles to enter and leave the site in a forward direction.	Waste collection will occur within the basement and will be facilitated by a turn table capable of accommodating a Council waste collection vehicle. Further to this, Councils Waste Officer reviewed the application and raised no further issues subject to conditions of consent.	Yes
F11.15 – Excavation	C1 Units more than 1 metre below natural ground level are not permitted	Due to the fall of the site, Building C provides 4 units below Natural Ground Level (NGL), however they are not more than 1m below NGL. Notwithstanding the above, Councils Urban Designer reviewed the design mechanism for these units to ensure they receive solar access and ventilation, whilst maintaining privacy and raises no issues as they	Yes

		provide good amenity.	
F11.16 – Drainage	C1 Surface and groundwater flows (subject to approval) from the development site are to be satisfactorily conveyed to the stormwater drainage system	Achieved. Councils Development Engineer and Infrastructure Specialist reviewed the application and raised no further issues subject to conditions of consent	Yes
	C2 Easements are to be used or created on the development site to drain water in accordance with Council's requirements from the development site to the drainage system. No further easements will be permitted to be created on Wagener Oval		
	C3 The applicant shall comply with Council's requirements for the mitigation of water entering Wagener Oval from the development site		
F11.17 – Tree Retention	C1 Existing key trees on the site are to be retained, especially those that screen development particularly on the western side of the site. Building setbacks may need to be varied to protect trees	An Arboriculture Impact Appraisal and Method Statement was submitted with the application which was reviewed by Councils Landscape Architect and Tree Management Officer. Appropriate conditions of consent have been imposed regarding tree protection, removal and replacement.	Yes
	C2 Any future DA is to include a comprehensive Arborist Report for the site and the trees within Wagener Oval on the western side of the site. This is to identify the location, species, and condition of existing trees, and to identify appropriate building setbacks and deep soil areas to ensure existing trees are easily retained		
	C3 All existing trees are to be protected during construction phase and proposed measures are to be outlined in the Arborist Report		
F11.18 – Waste Management	C1 Residents in properties facing Milton Street are to utilise kerbside waste collection. Bins shall be stored on individual properties and are to be suitably screened from view from the street. Bin carting routes are not to pass through any internal doorways	Waste collection will occur within the basement and will be collected by a Council waste collection vehicle on a weekly basis. All units are equipped with waste and recycling receptacles. A communal bulky goods waste storage bins are	Yes
	C2 The communal storage areas of residential flat building development must be of sufficient		

	<p>size to accommodate all allocated bins, bulky waste and the additional recycling service. This is to be achieved through the provision of a waste communal bin storage area(s) within the basement footprint of the development, which:</p> <ul style="list-style-type: none"> • Provides direct and convenient access for the occupants of the development, at a maximum distance of 30 metres from each dwelling • Allows for the safe and direct transfer of all bins from the bin storage area to the collection point (if required) • Does not adversely impact the occupants within and adjoining the development in relation to visual amenity, noise and odour • Does not interfere with car parking, landscaping and any existing trees and vegetation 	<p>provided in the basement for larger items.</p> <p>Council's Waste Officer reviewed the proposal and raises no further issues subject to conditions of consent.</p>	
	<p>C3 Development must designate an on-site collection point that is integrated into the design of the development. The collection point can be directly from the storage area(s) or a nominated holding area within the site. It will be the responsibility of the property manager or caretaker to move bins from the storage area(s) to the holding area. The bin-carting route is to be:</p> <ul style="list-style-type: none"> • No more than 30 metres in length • Paved and a minimum 2.5 metres wide • Non-slip, free from obstacles and steps • A maximum grade of 1:30 	<p>Achieved.</p>	
	<p>C4 The development is to be designed to integrate with Council's standard Heavy Rigid Vehicle waste service and to enable all allocated bins, bulky waste and additional recycling to be allocated on-site. The on-site collection point must be designed to:</p> <ul style="list-style-type: none"> • Allow collection vehicles to enter 	<p>Achieved.</p>	

	<p>and exit in a forward direction, with minimal reversing</p> <ul style="list-style-type: none"> • Designed to best practice standards for the provision of adequate space for Heavy Rigid Class vehicles to turn around on-site, or the provision of truck turntable, as per AS2890.2 • A minimum basement height of 4.5 metres to allow sufficient overhead clearance heights to ensure collection vehicles to enter basement and operate to empty waste and recycling bins 		
	C5 Separate bulky waste storage areas or rooms are to be provided for residents to store bulky waste awaiting collection to prevent the illegal dumping of materials on the kerbside or in common areas	Achieved.	
	C6 The bulky waste storage areas or rooms are to be designed to comply with the requirements detailed in Waste Management Guide for New Developments	Achieved.	
	C7 The areas or rooms are to be separate to the bin storage areas or rooms, and must be both lockable and accessible to residents	Achieved.	
	<p>C8 On-site collection of additional recycling materials is required where waste and recycling bins are collected on-site. The additional recycling collection area or room must be within 5 metres of the nominated collection point.</p> <p>The carting route from the bulky goods storage area(s) to the collection point is to be:</p> <ul style="list-style-type: none"> • Direct and short as possible. • Paved and a minimum 2.5 metres wide • Non-slip, free from obstacles and steps • A maximum grade of 1:30. 	Achieved.	
	C9 Waste chute disposal points are to be provided on each residential level of the development for the 5 and 6 storey buildings. A recycling	Achieved.	

	cupboard is to be located adjacent to the chute hopper.		
	C10 The hopper and recycling cupboard are to be located no more than 30 metres travelling distance from each dwelling	Achieved.	
	C11 The chute should be behind a cupboard door to improve resident's amenity and reduce odour in the lobby/corridor	Achieved.	
	C12 Signage is to be placed on the chute hopper and recycling cupboard on every residential level providing instructions on how to use the system effectively	Achieved.	
	C13 The bin storage room must be large enough to fit the allocated number of bins with additional room for manoeuvring bins and lift lids	Achieved.	
	C14 There must be sufficient bin volume under the chute for a minimum of three days waste generation	Achieved.	
	C15 Council must be provided with an easement for unimpeded access to and from the waste collection locations for Council and its contractors to enter and exit for the purpose of waste and recycling collection. The development is also required to indemnify Council and its contractors against claims for loss or damage or wear and tear of access roads or other parts of the building. A positive covenant shall be placed on the property title, such as section 88B certificate	Achieved.	

[1- Building Separation]

Part F11.7 requires the minimum setbacks and building separation to be in accordance with Figure F11.5. These minimum dimensions determine the built form envelopes for the development.

The proposal seeks minor variations to these controls as an alternative building envelope has been proposed, see the below comparison diagram (from Plan No. 6065):

deep soil. Specifically, the communal area accommodates 13% of the proposal's deep soil. When combined with the supplementary landscaping along the site's edges, the proposal complies with and exceeds the minimum 15% deep soil requirement.

The variation to the minimum requirement internal building separation needs to be considered in the context of the building's staggered built form. Council's Indicative Master Plan recommends a trapezoidal building envelope for Building C. The proposal adopts a staggered floorplate to assist in breaking down the building's massing when perceived from the internal communal area.

Part F11.7, C2 states that *'where the minimum separation distance is less than the separation required by the Apartment Design Guide (ADG) for habitable rooms or balconies the building is to be designed to ensure the room uses are appropriate to the separation to ensure compliance with the ADG'*. As shown in the above ADG assessment, the proposal is consistent with the minimum separation distances required by the ADG.

Further to the above, a similar design approach was approved by the Sydney South Planning Panel for the adjacent development at 149-163 Milton Street and therefore it is suitable to be consistent for this development. For the reasons set out above, the proposed variations are considered acceptable in this instance.

[2- Upper Level Setbacks]

Part F11.6 C1 requires *the minimum upper level setbacks are to be in accordance with Figure F11.6 Upper Level Setbacks. The setback for the building(s) with the four-storey height limit shall apply to the third and fourth floors.*

The proposal complies with the upper level setbacks; however, Building B (which is found in the north-western corner of the site) provides a consistent 12m setback to the northern boundary which represents a variation to the 3m upper level setback requirement.

The objectives of the upper level setback control are as follows:

O1 To mitigate the scale of buildings adjacent to Milton Street and side boundaries adjacent to low scale residential lots.

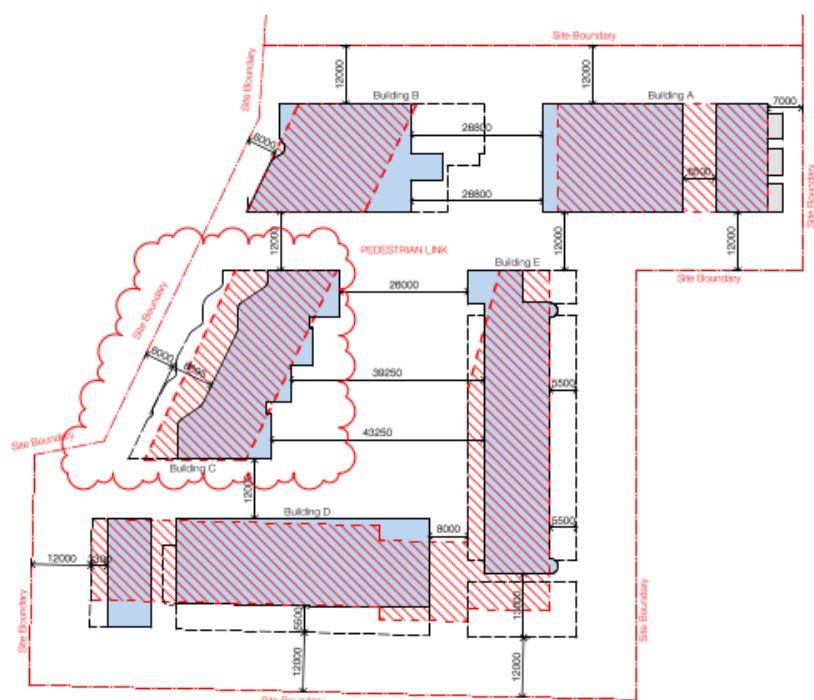
O2 To minimise the visibility of higher built form from when viewed from adjoining residential properties and surrounding public domain and conservation area.

O3 To reduce amenity impacts to adjoining properties and the public domain.

O4 To provide definition to the top of higher building forms.

The 3m upper level setback requirement applies to the eastern portion of Building B. Whilst the building adopts a consistent 12m setback to the upper level, the bulk is massed in the western portion of the site. The proposed massing approach minimises the perceived bulk of the development and provides definition to the upper building form.





Further to this, Building B does not interface with any low density residential dwellings but is instead directed towards the northern adjoining site at 149-163 Milton Street which is earmarked to accommodate medium to high density residential buildings. In turn, the variation to the control will have no impact on the low scale residential development in the surrounds. For these reasons, the variation to the upper setback control does not result in an inconsistency with the control's objectives and can be supported in this instance.

[3- Building Depth]

Due to the variations to the building envelope as seen above, the proposal also seeks variations to the building depth and length controls outlined in Part F11.9. Whilst the proposal has minor variations to the numerical building depth and length controls in Part F11.9, the location and massing of the buildings is generally compliant with the figures outlined in Figure F11.5.

Part F11.9, C1 states the maximum building length is 40 metres and C2 states that indentations or recesses must be provided every 20 metres to provide articulation and mitigate building length. The depth of indentations is to be a minimum of 3 metres. The buildings that exceed the control are as follows:

- Building B: 41.3m (no indentations or recesses every 20m)
- Building D: 51m (no indentations or recesses every 20m)
- Building E: 48m (no indentations or recesses every 20m)

Part F11.9, C3 states the maximum overall building depth is 18 metres from glass line to glass line for buildings within the precinct and along the new street and the street edge of the oval. The building depth of the non-compliant envelopes are as follows:

- Building B: 21.7m
- Building C: 28.5m

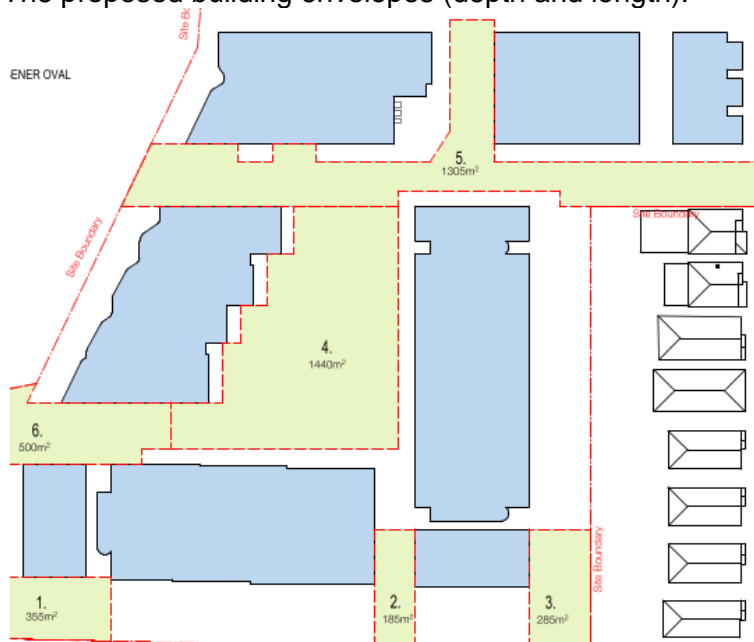
Part F11.9, C4 states that the Building depth to the Milton Street frontage and to the northern side boundary adjacent to the residential lots is to be a maximum of 15 metres including balconies.

- Building A to the northern boundary is 21.7m.

The required building depths and lengths in the DCP and where the indentations and recessed should be are as seen below:



The proposed building envelopes (depth and length):



Council accepts the proposed variations to the building length and depth controls for the following reasons:

- Building B incorporates balconies with some adopting a curvature form which contribute visual interest and break up the built form. Building B has a northerly

aspect and therefore the provision of additional apartments via the additional building length maximises solar access.

- Building C adopts a stepped built form along the eastern aspect. The balconies along the eastern aspect incorporate curvature balconies. Combined these elements assist in providing visual interest and minimise the perceived bulk.
- Building D incorporates deep recesses along the southern façade to assist in breaking down the built form.
- Building E incorporates recesses and landscaped elements which provide a high level of articulation.

The development as a whole, complies with the cross ventilation and solar requirements set out by the ADG. Many of these units exceed the minimum internal area requirements of the ADG and provide an acceptable standard of residential amenity. Further to this, Council's Urban Designer reviewed the application and is supportive of the overall changes to the building envelopes and subsequent variations.

Based on the above, the proposed variations meet the objectives of the control and are considered acceptable in this instance.

C4 - Residential Flat Buildings of CDCP 2012

An assessment of the proposal against the relevant provisions contained in Part C4 of CDCP 2012 is provided below:

Standard	Requirement	Proposal	Complies
C4.2.1.1 - Frontage	Up to 3 storeys 20m frontage (along any local road) 4+ storey building: Min 30m frontage	This site falls under a site specific LEP and DCP and this control is not applicable. = 45.2m	N/A
C4.2.1.2 - Isolated Sites	Neighbouring properties are not to be isolated so that the property will be unable to reasonably accommodate coordinated development.	The proposal will not isolate any adjoining properties.	Yes
	Undertake negotiations with neighbouring owners to seek amalgamation and enable coordinated redevelopment.	Not applicable	N/A
	If adjoining owners do not agree on terms of amalgamation, provide evidence of reasonable offers and demonstrate that the isolated site is capable of reasonable redevelopment.		

C4.2.1.3 - Open space and balconies	Section 6A of SEPP 65 states that a DCP cannot be inconsistent with the provisions of the ADG made under that SEPP in relation to balconies and development to which the SEPP relates. An assessment against the minimum balcony provisions within the ADG has been undertaken earlier within this report. Furthermore, an assessment against the communal open space requirements specified within the ADG has also been undertaken earlier within this report.		
C4.2.1.4 – Layout and Orientation	Orientate development to maximise solar access and natural lighting.	The development has orientated the majority of the apartments to face north and maximise solar access and natural light. And the RFB buildings meet the solar access controls within the ADG.	Yes
	Site the development to avoid casting shadows onto neighbouring dwelling's primary living area, private open space and solar cells.	The development has sited the RFB's further to the west of the site and have been positioned so that there are no overshadowing impacts to the adjoining properties.	Yes
	Site new development and private open space to avoid existing shadows cast from nearby dwellings.	Achieved	Yes
	Site a building to take maximum benefit from cross-breezes and prevailing winds.	Achieved	Yes
C4.2.2.4 - Building Depth and C4.2.2.5 - Separation	Section 6A of SEPP 65 states that a DCP cannot be inconsistent with the provisions of the ADG made under that SEPP in relation to balconies and development to which the SEPP relates. An assessment against the minimum building depth and separation provisions within the ADG has been undertaken earlier within this report.		
C4.2.2.6 - Floor to Ceiling	Section 6A of SEPP 65 states that a DCP cannot be inconsistent with the provisions of the ADG made under that SEPP in relation to balconies and development to which the SEPP relates. An assessment against the minimum floor to ceiling provisions within the ADG has been undertaken earlier within this report.		
Part C4.2.3 – Building Design			
Contemporary Built Form	New building forms and design features shall not mimic traditional features, but should reflect these in a contemporary design	The proposal seeks five buildings with light face brick with a flat roof form. Milton Street is predominately made up of low density dwellings of brick construction with	Yes

		hipped and gabled roof forms.	
		The proposed built forms reflect traditional features in a contemporary design.	
	Access to upper storeys must not be via external stairs.	Access to upper storeys is via internal stairs and a lift.	Yes
	All dwellings must contain one kitchen and laundry facility.	All dwellings contain their own kitchen and laundry.	Yes
Building Entries	Entries to residential buildings must be clearly identifiable.	The entries to the RFB's building are clearly identified.	Yes
	A minimum of one habitable room per dwelling must be oriented towards the street.	Due to the extensive size of the property and the fact that the RFB's are located within the rear of the site, adjacent to Wagener Oval, the RFB's are unable to be viewed from Milton Street. However, the dwellings have been designed so that one habitable room per dwelling is orientated towards Milton Street and the communal area of the site.	Yes
	Ground level private terraces located within the front setback must be setback at least 1m from the street boundary to accommodate a landscape strip which should remain in communal ownership.	The RFB's are located within the rear of the site, adjacent to Wagener Oval.	N/A
Façade Design	Façade design should reflect the orientation of the site using elements such as sun shading devices etc.	Achieved	Yes
	<u>Articulating Façade Panels:</u> Street Elevations: 6m to 8m Side Elevations: 10m to 15m	The front and side facades are provided with articulating panels.	Yes
	Avoid long flat walls along street frontages – stagger the wall alignment with a	The proposal provides articulation along the front façade and does not	Yes

	step.	provide long flat walls.	
	Incorporate contrasting elements in the façade.	The proposal incorporates contrasting elements to the front façade such as face brick, render, paint and aluminium window fins.	Yes
Windows	Windows must be rectangular.	Achieved	Yes
	Windows and openings shall be appropriately located and shaded to reduce summer heat load and maximum winter sun.	Achieved	Yes
Roof Design and Features <u>Building four storeys or greater</u>	Roofs must not exceed a pitch of 10 degrees	The proposed roof form meets the requirements of the roof pitch.	Yes
	Emphasise building articulation with the shape and alignment of the roof	Achieved.	Yes
	Emphasise corner apartments or prominent balcony structures with raised roof elements.	Achieved.	Yes
	Relate roof design to the size and scale of the building, the building elevations and three dimensional building forms – including the design of any parapet or terminating elements, and the selection of roof materials	Achieved.	Yes
C4.2.3.3 - Dwelling Layout and Dwelling Mix	Section 6A of SEPP 65 states that a DCP cannot be inconsistent with the provisions of the ADG made under that SEPP in relation to balconies and development to which the SEPP relates. An assessment against the minimum dwelling layout provisions within the ADG has been undertaken earlier within this report.		
	Min 10% of apartments to be adaptable or accessible	Achieved = 14/138 units = 10.1%	Yes
C4.2.4.1 - Solar Access and Overshadowing	Section 6A of SEPP 65 states that a DCP cannot be inconsistent with the provisions of the ADG made under that SEPP in relation to balconies and development to which the SEPP relates. A discussion on the solar access is made against the provisions under the ADG and addressed earlier within this report.		
Solar Access and Overshadowing – Adjoining Development	Development to retain a minimum of 2 hours of sunlight between 9am-3pm on 21 June for existing living areas and 50% of the	Achieved.	Yes

	principal private open space.		
	Daylight is to be provided to all common circulation areas (including lift wells) that are above ground.	A window located on each level, adjacent to the lift circulation area is provided.	Yes
C4.2.5.1 - Fences	Front fences within the front boundary setback are to be no higher than 1.2m	The front fence is 1.2 metres in height and is consistent with this requirement.	Yes
C4.2.5.2 - Building services	Integrate systems, services and utility areas within the design of the whole development.	Building services for the RFB's have been incorporated within the design of the development and are predominantly located within the basement car park level.	Yes

C3 – Multi-Dwelling Housing and Attached Dwellings of CDCP 2012

The 62 proposed 'terraces' are not a typical style of multi-dwelling housing seen across the Canterbury Bankstown Local Government Area (LGA). However, they have been designed within the objectives of the site specific DCP and respond to the existing developments found within the Ashbury Heritage Conservation Area.

Notwithstanding the above, they are characterized as multi-dwelling units and therefore an assessment of the proposal against the relevant provisions contained in Part C3 of CDCP 2012 is provided below.

Note: as per Council's legal position, only Buildings A1, A2, D1, D2 and E1 are assessed against this chapter:

Standard	Requirement	Proposal	Complies
Part C– Multi Dwelling Housing and Attached Dwellings			
C3.2.2 Isolated Site	C1 No isolation of neighbouring properties.	N/A	N/A
C3.2.3 Private Open Space <u>General Design</u>	C1 Attached Dwellings and Multi Dwelling Housing must provide 40m ² of private open space per dwelling.	<p>Non-compliance: <u>Building A</u> A.01-A.03= area is split up-front/rear (32m² +31m² = 63m²) A.04-A.13 = relying on roof top (ground = 15m² + rooftop = 23m² = 38m²) non-compliant even with the rooftop terrace.</p> <p><u>Building D</u> D.05-D.13 = 17m²</p> <p><u>Building E</u> E.02-E.10 = 32m² E.15- E.17 = 32m² E.18- E.23 = 18m²</p>	No [see comment 4 below]

		<p>= 19/38 do not provide 40m² at ground level</p> <p>= 9/38 provide less than 40m²</p> <p>= 28/38 units do not comply</p> <p>= 73%</p> <p>Further detail is provided in comment 4 below.</p>	
	C2 Private open space must include an area 2.5m by 2.5m suitable for outdoor dining facilities.	Achieved.	Yes
	C3 Private open space must be located adjacent to the main living areas, such as a living room, dining room or kitchen.	= 19/38 do not provide 40m ² at ground level	No [see comment 4 below]
	<p>C4 The principal area of open space for each dwelling may comprise a combination of privacy-screens, sun-shading devices and landscaped areas.</p> <p>C5 Be designed to prevent direct overlooking from a public space, communal place or from neighbouring buildings.</p>	Achieved.	Yes
	C6 Be designed to accommodate both recreation and service activities.	Achieved.	Yes
	C7 Include a suitably screened area for clothes drying facilities.	Achieved.	Yes
	C8 Be oriented to provide maximum exposure to midwinter daylight whilst optimising privacy.	Achieved.	Yes
	C9 Private open space at ground level must be a minimum of 4m in any direction for attached dwellings and multi dwelling housing.	Achieved.	Yes
	C10 Private open space at ground level shall have a maximum gradient of 1:50.	Achieved.	Yes
<u>Ground Level Design</u>	C11 Ensure that balconies, verandas or pergolas do not	Achieved.	Yes

	encroach upon any required deep soil area.		
<u>Balconies</u>	C14 Design and detail the balcony to take advantage of local climate and context.	Achieved.	Yes
	C15 Where practical face balconies predominantly north, east or west to optimise solar access.	Achieved.	Yes
	C16 Orient balconies towards views of local neighbourhoods, prominent open spaces and district city skylines.	Achieved.	Yes
	C17 Use sun screens, pergolas, shutters and operable walls to control sunlight and wind.	Achieved.	Yes
	C18 Consider operable screens, or operable walls/sliding doors with a balustrade where noise or high winds exclude completely open balconies.	Noted, the design has taken this into consideration and achieved this where practicable	Yes
	C19 Consider cantilevered, partially cantilevered or recessed balconies in response to requirements for daylight access, wind protection, acoustic and visual privacy.	Noted, the design has taken this into consideration and achieved this where practicable.	Yes
	C20 Where practical, limit the depth of a balcony so that it does not prevent sunlight entering the apartment below.	Achieved.	Yes
	C21 Design balustrades to allow views and passive surveillance of the street while providing for safety and visual privacy. Use a proportion of solid to transparent materials to address sight lines from the street, public domain or adjacent development.	Achieved.	Yes
	C22 Use screening devices to obscure seated persons, clothes drying areas,	Achieved.	Yes

	bicycle storage or air conditioning units from public view.		
	C23 Provide additional amenity and choice with a secondary balcony or operable wall with balustrades adjacent to bedrooms.	Noted.	Yes
C3.2.4 Layout and Orientation	C1 Orientate development to maximise solar access and natural lighting, without unduly increasing the building's heat load.	Part F11 overrides.	N/A
	C2 Site the development to avoid casting shadows onto neighbouring dwelling's primary living area, private open space and solar cells.	Part F11 overrides.	N/A
	C4 Site new development and private open space to avoid existing shadows cast from nearby buildings.	Part F11 overrides.	N/A
	C5 Site a building to take maximum benefit from cross-breezes and prevailing winds.	Part F11 overrides.	N/A
	C6 Do not compromise the creation of casual surveillance of the street, communal space and parking areas, through the required orientation.	Part F11 overrides.	N/A
<u>Attics and Roof Terraces</u>	C4 Attics and mezzanine floors do not comprise a storey.	Noted	Yes
	C5 Roof top terraces are not acceptable on any building or outbuilding in any residential zone.	Roof top terraces proposed on Building A, D and E.	No [see comment 5 below]
<u>Retaining Walls – Development Without Basement Parking</u>	C11 Walls that would enclose a sub-floor area: (a) Maximum 2m for steeply sloping land; and (b) Maximum 1m for all other land.	Part F11 overrides.	N/A
	C12 Retaining walls that would be located along, or immediately adjacent to, any boundary:	Part F11 overrides.	N/A

	(a) Maximum 3m for steeply sloping land, but only to accommodate a garage that would be located at street level; and (b) Maximum 1m for all other land.		
<u>Exceptions and Other Requirements</u>	C7 External walls that enclose rooms, storage areas and/or garages are not to encroach beyond the specified setbacks.	Noted.	Yes
	C8 Minimum setback of 1m from any side or rear boundary for swimming pools and associated terraces. Landscaping shall be provided in the setback area to screen the pool from neighbours.	A swimming pool is proposed in the middle of the site with significant setbacks from all boundaries.	Yes
	C9 Swimming pools must not be located within any front setback.	A swimming pool is proposed in the middle of the site.	Yes
	C10 One garage or carport may be constructed with a nil rear setback for sites that adjoin a rear laneway. The garage or carport must not comprise more than 50% of the rear boundary frontage to a lane and not be wider than 6m.	Basement parking proposed.	N/A
	C11 For a residential building that does not have basement parking lightweight carports may extend beyond the required side boundary setback.	Not applicable.	N/A
	C13 For existing dwellings one single space carport may encroach beyond the minimum front setback, where it can be demonstrated that vehicular access cannot be provided behind the building line given that side driveway access is less than 2.7m. Carports must not be wider than 3m.	Not applicable	N/A
C3.4 Building Design			
	C3 Access to upper storeys must not be via external stairs.	None proposed.	N/A

	C4 All dwellings must contain one kitchen and laundry facility.	Each dwelling provides one kitchen and one laundry	Yes
<u>Building Entries</u>	C7 Clearly identifiable entries.	Achieved.	Yes
	C8 At least one habitable room window to street and communal areas.	Achieved.	Yes
	C9 Sight lines to the street from habitable rooms or entrances must not be obscured by ancillary structures.	Sigh lines are not obscured.	Yes
	C10 In multiple unit development, face at least one habitable room or private open space area towards a communal space, internal driveway or pedestrian way	Achieved.	Yes
<u>Windows</u>	C30 Large windows should be located at the corners of a building and may be designed as projecting bay-windows.	Noted.	Yes
	C31 Large windows should be screened with blinds, louvres, awnings or pergolas.	Noted.	Yes
	C32 Windows must be rectangular.	Noted.	Yes
	C33 Square, circle and semi-circle windows are acceptable in moderation.	Noted.	Yes
	C34 Vertical proportioned window openings can include multi-panel windows or multi-panel doors.	Noted.	Yes
	C35 Windows and openings shall be appropriately located and shaded to reduce summer heat load and maximise sunlight in winter.	Achieved.	Yes
C3.4.2 Roof Design and Features	C1 Use simple pitched roofs that accentuates the shape of external walls	Achieved.	Yes
	C2 Avoid complex roof	Achieved.	Yes

	forms with multiple gables		
	C4 Parapet roofs that increase height of exterior walls to be minimised.	Noted.	Yes
	C5 Use minor gables only to emphasise rooms or balconies that project from the body of a building.	Noted.	Yes
	C6 Mansard roofs (or similar) not permitted	None proposed.	N/A
	C7 Maximum roof pitch 30 degrees.	Achieved.	Yes
	C8 Roofs with greater pitches will be considered on merit taking into account matters such as streetscape, heritage value and design integrity.	N/A	N/A
C3.4.3 Dwelling Layout and Mix	C1 Design interiors to be capable of accommodating the range of furniture that is typical for the purpose of each room.	Achieved.	Yes
	C2 The primary living area and principal bedroom must have a minimum width of 3.5m.	Achieved.	Yes
	C3 Secondary bedrooms must have a minimum width of 3m.	Achieved.	Yes
	C4 Provide general storage in addition to bedroom wardrobes and kitchen cupboards.	Achieved.	Yes
	C5 The minimum amount of storage required is 6m³ for one bedroom dwellings 8m³ for two bedroom dwellings, or 10m³ for dwellings with three or more bedrooms.	Achieved as per storage plan.	Yes
C3.5 Amenity			
C3.5.1 Solar Access and Overshadowing <u>Solar Access to Proposed Development</u>	C1 Where site orientation permits at least primary living areas of dwellings must receive a minimum of 3 hours of sunlight between 8.00am and 4.00pm on 21 June.	Non-compliances: <u>Building A1 & A2</u> A.09-A13 <u>Building D1 & D2</u> D.05-D.06 D.14-D.21	No [see comment 6]

		<u>Building E2</u> E.12-E.13 (relying on 1 skylight) 16/38 do not receive 3 hours of solar access = 42%	
	C2 Principle areas of private open space must receive a minimum of 3 hours of sunlight between 8.00am and 4.00pm on 21 June to at least 50% of the open space surface area.	Non-compliances: <u>Building A</u> A.09-A13 (relying on rooftop) <u>Building D</u> D.05-D.06 D.14-D.21 <u>Building E</u> E.12-E.14 20/38 receives 3 hours to 50% of POS = 52.6%	No [see comment 6]
<u>Solar Access to Neighbouring Development</u>	C4 Proposed development must retain a minimum of 3 hours of sunlight between 8.00am and 4.00pm on 21 June for existing primary living areas and to 50% of the principal private open space. dwellings	Achieved.	Yes
	C5 If a neighbouring dwelling currently receives less than 3 hours of sunlight, then the proposed development must not reduce the existing level of solar access to that property.	N/A	N/A
	C6 Sunlight to solar hot water or photovoltaic systems on adjoining properties must comply with the following: (a) Systems must receive at least 3 hours of direct sunlight between 8.00am and 4.00pm on 21 June. (b) If a system currently receives less than 3 hours sunlight, then proposed development must not reduce the existing level of sunlight.	Achieved.	Yes

	C7 Clothes drying areas on neighbouring properties must receive 2hrs of sunlight on June 21.	Achieved.	Yes
<u>Shading Devices</u>	C8 Windows and openings shall be appropriately located and shaded to reduce summer heat load and maximise sunlight in winter.	Achieved.	Yes
	C9 Use shading devices to allow direct sunlight to enter and heat a building in winter and prevent direct sunlight entering and heating the building in summer. Devices include eaves, awnings, shutters, louvres, pergolas, balconies, colonnades or external planting.	Achieved.	Yes
	C10 Provide horizontal shading to north-facing windows and vertical shading to east or west windows.	Achieved.	Yes
	C11 Use moveable shading devices on large windows facing east and west, that are capable of covering 100% of glazed areas. Eaves shall be a minimum of 350mm wide and allow for an overhang of approximately 65 degrees above the horizontal.	Achieved.	Yes
	C12 Avoid reducing internal natural daylight or interrupting views with shading devices.	Noted.	Yes
	C13 Use double-glazing, solar coated windows, curtains, or internal shutters to prevent heat loss and provide extra summer protection	Noted.	Yes
	C14 Use high performance glass with a reflectivity below 20%.	Noted.	Yes
	C15 Minimise external glare by avoiding reflective films and use of tint glass.	Noted.	Yes
C3.5.2 Visual Privacy	C1 Locate and orientate new development to maximize visual privacy	As per Part F11 assessment.	Yes

	between buildings on and adjoining to the site.		
	C2 Minimise direct overlooking of rooms and private open space through use of building separation, setbacks and orientation of living room windows and private open space towards the street	As per Part F11 assessment.	Yes
	C3 If living room windows or private open spaces would directly overlook a neighbouring dwelling: (a) Provide effective screening with louvres, shutters, blinds or pergolas; and/or (b) Use windows that are less than 600mm wide or have a minimum sill height of at least 1.5m above the associated floor level.	As per Part F11 assessment.	Yes
	C4 Screening of bedroom windows is optional and dimensions are not restricted	Noted.	Yes
C3.5.3 Acoustic Privacy	C1 Protect sensitive rooms such as bedrooms, from likely sources of noise such as major roads and neighbouring living areas.	Achieved.	Yes
	C2 Bedroom windows in new dwellings that would be located at or close to ground level are be raised above, or screened from, any shared pedestrian pathway.	Bedrooms are on the first floor and are generally located away from a noise source	Yes
	C3 Screen balconies or windows in living rooms or bedrooms that would face a driveway or basement ramp.	Achieved.	Yes
	C4 Address all requirements in 'Development Near Rail Corridors and Busy Roads - Interim Guideline (2008)' published by the NSW Department of Planning.	Noted.	Yes
C3.6 Fences and Ancillary Development			

C3.6.1 Fences	C1 Provide boundary definition by construction of an open fence or low hedge to front street boundary.	Noted.	Yes
	C4 On corner sites where the façade of a building presents to two street frontages, fences are to be no higher than 1.2m.	Part F11 overrides this.	N/A
	C5 Screen walls around private open spaces shall not be taller than 1.2m, although screens with 50% transparency may be up to 1.8m in height.	Noted.	N/A
C3.6.2 Building Services	C1 All letterboxes to meet Australia Post standards.	Noted.	Yes
	C2 Discretely located mailboxes at front of property.	Achieved.	Yes
	C3 Integrate systems, services and utility areas with the design of the whole	Achieved.	Yes
	C4 Facilities should not be visually obtrusive.	Achieved.	Yes
	C5 Appliances fitted to the exterior of a building and enclosures for service meters do not detract from the desired architectural quality of the building and streetscape.	Achieved.	Yes
	C6 Unscreened appliances and meters not to be attached to any façade visible from the street.	Achieved.	Yes
	C7 Screen or treat air conditioning units, TV antennae, satellite dishes, ventilation ducts and other like structures so they are not visible on the street elevation.	Achieved.	Yes
	C8 Coordinate and integrate building services, such as drainage pipes, with overall façade and balcony design.	Achieved.	Yes
	C9 Location and design of	Achieved.	Yes

	<p>service areas should include:</p> <p>(a) Screening of clothes drying areas from public and semi-public places; and</p> <p>(b) Space for storage that is screened or integrated with the building design.</p>		
	C10 Minimise visual impact of solar hot water systems	Achieved.	Yes
	<p>C13 Minimise visual impact of solar hot water systems by:</p> <p>(a) Placing the system as unobtrusively as possible, both to the street and neighbouring properties;</p> <p>(b) Using a colour that is consistent with the colour of roof materials;</p> <p>(c) Designing solar panels, where possible, as part of the roof;</p> <p>(d) Setting the solar panels back from the street frontage and position below the ridgeline; and</p> <p>(e) Separate the water storage tank from the solar collectors and place on a less visually obtrusive part of the roof, or within the building (for example, the roof space or laundry)</p>	Achieved.	Yes

[4- Private Open Space (POS)]

Part C3.2.3, C1 requires '*attached Dwellings and Multi Dwelling Housing must provide 40m² of private open space per dwelling*' and C3 requires private open space must be located adjacent to the main living areas, such as a living room, dining room or kitchen. A number of multi-dwelling units provide a POS area of less than 40m².

The applicant provided a submission which showed an analysis of the proposed developments POS areas as follows:

	Building A	Building D	Building E2
No. of sites with <40m ² of POS at ground	10/13	9/21	0/4
Size of Ground floor POS	15m ²	24m ²	E4 = 64m ²
Additional POS	20m ² rooftop and 5m ² balcony space	5m ² and 4m ² terrace	5m ² and 13m ² terrace
Total POS	40sqm	D1 = 64sqm D2 = 33sqm D3 = 86sqm	82sqm

A total of 19/38 dwellings do not comply, as they provide less than 40m² of POS at ground floor which equals 50% and 9/38 Dwellings have a total POS area of less than 40m².

DA-826/2020 at 149-163 Milton Street had a similar arrangement for the multi-dwelling units. This DA was approved under a Section 34 Conciliation Agreement in which the Sydney South Planning Panel were satisfied with. The applicant's submission provided the following comparison of POS for 149-163 Milton Street:

	Build. A & E (multi)	Build. D (multi)	Build. F (multi)
<40m ² of POS at ground	20/20	10/30	1/12
Ground floor POS	Type 1: 18m ² Type 2: 12m ² +18m ² .	Type 4 = 22m ² to 27m ² Type 3 = 64m ² to 75m ²	57m ² to 76m ²
Add POS	23.32m ² rooftop	Additional POS but no measurements found.	-

Buildings A, E, D & F (which are multi dwellings and similar to this proposal) provides a total of 31/62 dwellings which have ground floor POS of less than 40m² or 49%. A total of 10 Dwellings have a total POS area of less than 40m². Therefore, a total of 41/62 or 66% do not provide a POS of 40m² at the ground floor.

Based on the above comparison, it can be seen that the proposed development provides a similar outcome to the approval at 149-163 Milton St, in terms of variations to the amount of POS provided at ground floor for the terraces.

The relevant objectives of Part C3.2.3 are as follows:

- O1 To ensure that all residents have access to private and functional open space areas*
- O2 To promote the enjoyment of outdoor living.*
- O7 To ensure all residents have access to consolidated, semi-private and functional communal open space.*

The site provides over 4,000m² of open space which is accessible to all occupants of the site which accommodates a swimming pool, gym in the basement, outdoor BBQ and dining facilities and open landscaped area. The site and all dwellings have direct access to Wagner Oval to the western boundary. Therefore, the site overall achieves the above objectives of Part C3.2.3 of CDCP 2012.

Based on the above, and the recent decision by the SSPP at 149-163 Milton Street, the proposal achieves the objectives of the control and therefore, the variations sought to this control are considered worthy of support in this instance.

[5- Attics and Terraces]

Part C3.3.1 - Building Envelope of the CDCP 2012 does not permit the inclusion of roof top terraces in a residential zone. Roof terraces and balconies are proposed for Building A, Building E and Building C within the upper level setbacks.

Building C and E are classified as residential flat buildings and roof terraces are permitted and Building A is the only multi-dwelling development with roof top terraces.

The objective associated with the control is as follows:

- O1 To ensure that development is of a scale that is visually compatible with adjacent buildings, the character of the area, and the objectives of the zone.*

Council raised this issue of non-compliance with the Sydney South Planning Panel in the first briefing note, dated 9 September 2021. The SSPP record of briefing minutes stated in response:

'Noting the CDCP does not allow roof top terraces, roof terraces can give additional amenity, however, may impact neighbours so provision needs to be justified. Design needs to ensure neighbours' privacy and amenity is protected and overlooking mitigated. Rooftop terraces may be considered as secondary or discretionary'

The proposed roof terraces will not prevent the achievement of the above objectives. The roof terraces associated with Building E are setback from the building line and in consequence will have minimal visibility when viewed from the streetscape. The terraces located within Building A are separated from Milton Street and in turn, they will not be visible from its streetscape. These terraces have a north and south orientation and do not overlook Milton Street and therefore the amenity and privacy of the subject site and neighbouring residential development is protected.

Only 2/10 of the dwellings in Building A2 with roof top terraces have the potential for overlooking into the rear yard of 173 Milton Street, however they are setback a minimum 12m plus the 1.3m deep planter box from this boundary.

Further to this, opportunities for overlooking to adjoining properties private open spaces are minimised by the proposed building separation distances, height of building, planter boxes for privacy and the lack of weather protection.

It is noted that the approved development at 149-163 Milton Street provided roof top terraces for several of the multi-dwelling buildings which were supported by the Sydney South Planning Panel. Therefore, the assessment of this application is consistent with this decision on the adjoining site.

The proposed terraces are considered to be acceptable given that they do not contribute to an unacceptable bulk and will have minimal visibility when viewed from the streetscape. Accordingly, they will not detract from the visual character of the area.

[6. Solar Access and Overshadowing]

Part C3.5.1. C1, of CDCP 2012 states that *'where site orientation permits at least primary living areas of dwellings must receive a minimum 3 hours of sunlight between 8am and 4pm on 21 June'*. The proposal fails to comply with this requirement as several dwellings within Buildings A, D and E2 do not receive the minimum 3 hours of solar access on 21 June. It is also noted that the non-compliant dwellings rely on one small lightwell for solar access.

A solar analysis assessment has been provided with the DA which shows that 27 dwellings (71%) have two (2) or more hours of direct sunlight to living areas within the building, 4 dwellings (10%) having at least 15 minutes and 7 dwellings (18%) receiving no direct sunlight. It is noted that the solar assessment is consistent with the ADG guidelines for solar access. For dwellings which have limited potential for solar access, an atrium light well has been designed to provide opportunities for daylight to be refracted within the dwelling. This design element ensures natural sunlight can still permeate the dwelling achieving a suitable level of amenity for dwelling locations which cannot achieve direct sunlight. Rendered images have been provided below and under separate cover which reflect the design intent.

Further to this, C1 states *'where site orientation permits'* and it is noted that several dwellings in building D and E face the south and have limited opportunity for solar access.

Overall, the proposal has made considerable efforts to maximise solar access to individual dwellings and achieves a level of solar access which is acceptable. It should be noted that the solar access of at least two hours was provided to 75% of multi-dwelling units was provided by DA-826/2020 at 149-136 Milton Street which was deemed acceptable by the Sydney South Planning Panel.

Part C3.5.1. C2, of CDCP 2012, requires *'principal areas of private open space must receive a minimum 3 hours of sunlight between 8am and 4pm on 21 June to at least 50% of the open space surface area'*. Several dwellings within Building A, D and E fail to comply with this requirement.

Similarly, to the variations to solar access to living rooms, the solar access analysis of the POS areas show that 20 dwellings are identified as achieving the minimum 3 hours of sunlight to at least 50% of the open space surface area in buildings A, D and E2.

	Building A	Building D	Building E2	Total
3 hours of sunlight to 50% of POS surface area	8/13	11/21	1/4	20/38 (52.6%)

The overall scheme provides a level of sunlight access which is acceptable for the volume of dwellings provided for such a development. In addition, the proposal provides communal

open space areas which achieve considerable sunlight access and is accessible to all dwellings.

It should be noted that similar proportion of variations to solar access to the POS areas (71% and 75%) provided by DA-826/2020 at 149-136 Milton Street were deemed acceptable by the Sydney South Planning Panel. However, many of these dwellings achieved the minimum 3 hours of solar to the roof top terraces.

Based on the above and variations deemed acceptable by the Sydney South Planning Panel for 149-163 Milton St, the proposed variations to C1 and C2 are considered worthy of support in this instance.

Canterbury Development Contributions Plan 2013 (Contributions Plan 2013)

The Canterbury Development Contributions Plan 2013 applies to the site and requires a contribution of \$2,308,501.12. This is included as a condition of consent.

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)]

Based on the above assessment, the likely impacts of the proposed development are minor in nature and considered acceptable for the type and scale of development.

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

Based on the above assessment, the site is suitable for the proposed development.

Submissions [section 4.15(1)(d)]

The application was advertised for 28 days (from 21/7/2021 - 18/8/2021) and a further 28 days (from 29/11/2021 – 17/1/2022) in accordance with the Canterbury Bankstown Community Participation Plan. A total of thirty-one (31) submissions were received from both periods and are discussed below:

Objection: Relationship to Surrounding Area

Comment: The subject site is not located within the Ashbury Heritage Conservation Area and given its historic industrial use and reflective of the need to accommodate a growing residential population across our City, Council has approved a site specific set of controls to guide development on this site. The proposal and its design is generally compliant with the building envelope and height controls of the site specific policy which includes measures to create buildings that reflect the value of the HCA and the area more broadly.

The high-density component of the development has a significant setback from Milton St and towards the rear has a bulk that is offset from the lower density surrounds. This allows the development to be visually consistent with the surrounding area and meet the objectives of its high density residential zone.

Objection: **Zoning Interface**

Comment: The height and density of the development has been designed to scale down towards the adjoining R2 zoned land and existing dwelling housing and increase in scale where the site has a boundary with Wagener Oval. Further, when viewed from Milton Street, the development will have a two-storey appearance.

Objection: **Road Access and Street Parking Impacts**

Comment: The proposed development is compliant with the minimum parking requirements outlined with Part B1 of Canterbury Development Control Plan (CDCP) 2012.

New Road Access Impact

A Traffic Impact Assessment and New Road Management Plan were submitted with the application which was reviewed by Councils Traffic and Infrastructure Department, who raised no objections subject to conditions of consent. Whilst the approved development will increase the traffic movements in Milton Street, the traffic and parking demand is considered to be acceptable.

Further to this, this application is accompanied by both an interim and final road plan which addresses how the site would function when half the road (for this site) is completed without the other half and then when the whole road is built.

Construction Impacts

Conditions of consent have been imposed which requires the applicant to submit a Construction Traffic Management Plan for approval by Councils Traffic Committee, prior to the issue of any Construction Certificate. Further to this, the application is accompanied by an interim and final road management plan for the proposed new road. This outlines the management plan and systems for pre, during and post construction and on-going use of both 149 and 165 Milton Street.

Net Loss of Parking

The new road and its entrance from Milton Street does not result in any loss of existing on-street parking along Milton Street. the applicant originally proposed parking restrictions on the western side of Milton Street on either side of the site access road in conjunction with the No Stopping zones along the site access road. The earlier recommendation by the Applicant for the No Stopping zone restriction (approx. 98m long) on the eastern side of Milton Street opposite the site access road was not supported by Council's Traffic Unit, as this will significantly impact the residents on-street parking. Therefore, it was proposed to install a 'No Right-Turn - Waste Services Vehicles Excepted' ban restricting vehicles to turn right into the site access road, subject to Traffic Committee approval processes. The Applicant must submit a Traffic Management Plan (TMP) for the proposed 'No Right-Turn - Waste Services Vehicles Excepted' and should include signage plan to be referred to Traffic Committee for their consideration prior to issue of construction certificate.

Location of Basement Parking

Each building has a lift, lobby area from the basement up to ground level which provides accessible and efficient access from the basement to their units.

- Objection: **Public Benefit**
 Comment: The subject development will be required to pay a substantial amount of Section 7.11 Contributions for Council to provide open space, recreation and community facilities.
- Objection: **Connections to Wagener Oval**
 Comment: Both the subject application and the approval at 149 Milton Street provide pedestrian site links from Milton Street, through the site, to Wagener Oval through building positions and pathways. There are no boundary fences which restrict public access. The interface with Wagener Oval is acknowledged as being an important element of the design as it is a public and private interface.
- A paved brick pedestrian spine connects to the oval. Seating pods and a raised timber deck are provided off this pathway. Buffer planting along the western boundary will be delivered at this sensitive interface and will complement the existing tree canopy. Buffer planting is also provided to Building B and Building C to promote privacy.
- Objection: **Noise**
 Comment: Strict conditions have been recommended to be imposed around the pre, during and post construction and demolition phases of the development to mitigate any adverse impacts on adjoining neighbours.
- Objection: **Excavation**
 Comment: Strict conditions have been recommended to be imposed around the pre, during and post construction and demolition phases of the development to mitigate any adverse impacts on adjoining neighbours. Further to this, the applicant is required to prepare a dilapidation report which examines the current condition of adjoining neighbours' properties, pipes etc. prior to any works being undertaken.
- Objection: **Heritage**
 Comment: The subject site is not a heritage item however, it is located adjacent to the Heritage Conservation Area (HCA). A Heritage Impact Statement (HIS) was submitted with the application which confirms that the development, inclusive of the alternative envelope arrangements, will have no impact on the surrounding Ashbury Heritage Conservation Area. The HIS also notes that the architectural expression and reduced two storey built form fronting Milton Street responds positively to the development along this frontage.
- The development's street façade and building envelopes are consistent with the area and Council's Heritage Advisor raises no objections.
- Objection: **Contamination/Remediation**
 Comment: The subject site was found to contain contaminants but will be remediated as part of its development. Further to this, the proposal satisfies the requirements of SEPP (Resilience and Hazards) 2021.
- Objection: **Loss of Privacy**
 Comment: The proposal is compliant with the required setback, storey and height controls outlined within CLEP 2012 and CDCP 2012. The development adequately addresses the privacy controls and objectives outlined within CDCP 2012 and the SEPP 65- Apartment Design.

The development provides a 12m setback plus a 1.3m deep planter box for each roof top terrace which minimises the opportunities for overlooking. The buildings provide significant setbacks from adjoining properties private open space and primary living rooms which mitigates direct overlooking impacts.

Further to this, the roof top terraces are being accepted in this application as they were supported by the Sydney South Planning Panel for the development at 149 Milton Street.

Objection: Trees

Comment: The application was accompanied by an Arborist Report and detailed landscape plans which address the removal of trees and their replacement across the site. This is considered to be acceptable and strict conditions of consent have been imposed to ensure the longevity of the replacement trees as well as all other landscaping on the site.

Objection: Overshadowing

Comment: The proposed development is compliant with the solar access and overshadowing controls and objectives within CDCP 2012 and the ADG. Further to this, adjoining properties receive a minimum 3 hours of solar access to the primary living areas and 50% of the private open space (POS) areas.

Due to the orientation of the site, location of buildings and large setbacks, majority of the overshadowing is cast by the buildings in the subject development onto itself and not the adjoining properties.

Objection: Impacts on Local Infrastructure

Comment: The scale, density and impacts of a development of this type and size was considered by Council and the NSW Department of Planning as part of the drafting of the site specific policy that applies to this application and found the impacts of the increased development are acceptable.

Objection: Height difference between subject site and residential boundaries

Comment: The proposed built form has been designed in accordance with the maximum storey heights prescribed under the Indicative Master Plan and the associated CLEP 2012 height limits.

In complying with the massing requirements for the precinct the proposal provides an appropriate bulk and scale that is sensitive to the surrounding Ashbury Heritage Conservation Area and the fine-grained built form along Milton Street.

The height is taken from the existing ground level to the top ridge RL in accordance with the building height definition in CLEP 2012. Further to this, the site is going to be significantly excavated to accommodate the proposed basement level therefore, the existing height disparities between the subject site and adjoining properties will no longer be there.

Objection: Stormwater

Comment: The proposed stormwater system and design is compliant with CDCP 2012 and Council's Development Engineer raised no objections subject to conditions of consent.

Objection: **DCP Height Allowance concerns regarding Building D**
Comment: Building D has a height of 11m which is compliant with the DCP maximum height control outlined with Part F11 of Canterbury DCP 2012.

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

For the reasons outlined within this report, approval of the proposed development would be in the public interest.

CONCLUSION

The Development Application has been assessed in accordance with the provisions of Section 4.15 of the *Environmental Planning and Assessment Act 1979*, relevant State Environmental Planning Policies, *Canterbury Local Environmental Plan 2012* and *Canterbury Development Control Plan 2012*.

This site forms part of a large former industrial land use located between a significant public open space and an important Heritage Conservation Area. In order to best guide development in this locality Council has amended its LEP and provided site specific controls in its DCP.

The proposed development is largely compliant with the site specific controls but where variations are sought, they are minimal and do not pose a significant environmental impact.

This proposal, coupled with the approved development on the northern adjoining property at 149-163 Milton Street, form a significant new element in the locality and have attracted significant public comment. However, the contemporary design response is reflective of the adjoining HCAs values and is worthy of support

RECOMMENDATION

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



Kaitlin McCaffery
SENIOR PLANNER