

COUNCIL ASSESSMENT REPORT

SYDNEY WESTERN CITY PLANNING PANEL

| | |
|--|--|
| PANEL REFERENCE & DA NUMBER | PPSSWC-251 – DA-267/2022 |
| PROPOSAL | Construction of six (6) residential flat buildings and two (2) shop top housing developments containing a total of 219 residential apartments, and a 93 place centre-based child care centre above two basement levels including landscaping and site works. |
| ADDRESS | Lot 20 DP 1228502 225 Croatia Avenue, Edmondson Park |
| APPLICANT | KRV Investments Pty Ltd |
| OWNER | Mr I and Mrs LM Doriguzzi |
| DA LODGEMENT DATE | 14 March 2022 |
| APPLICATION TYPE | Development Application |
| REGIONALLY SIGNIFICANT CRITERIA | Clause 2, Schedule 6 of <i>State Environmental Planning Policy (Planning Systems) 2021</i> : Development that has a capital investment value of more than \$30 million. |
| CIV | \$56,977,200 (excluding GST) |
| CLAUSE 4.6 REQUESTS | Clause 4.3 – Height of Buildings – A 4.6 written variation provided but insufficient. Clause 4.4 – Floor Space Ratio – No 4.6 no written variation submitted with the application |
| KEY SEPP/LEP | Housing SEPP, Biodiversity and Conservation SEPP, SEPP 65 – Design Quality for Residential Apartments, Transport and Infrastructure SEPP, Liverpool LEP |
| TOTAL & UNIQUE SUBMISSIONS ISSUES SUBMISSIONS | Two (2) submissions were received. The following issues were raised: <ul style="list-style-type: none"> • Building separation between the neighbouring dwelling and the proposed development. • Overshadowing and privacy impacts as a result of the development generally and including the height of buildings variation. • Insufficient information on the boundary fencing between the development site and the neighbouring property to secure privacy and safety. • Insufficient information on the pedestrian path adjoining the neighbouring property. |

| | |
|---|---|
| | <ul style="list-style-type: none"> Whether the basement excavation impacts on the neighbouring property. Overdevelopment of the site and negative impacts on the eastern subdivision. |
| DOCUMENTS SUBMITTED FOR CONSIDERATION | Architectural plans Clause 4.6 Variation to Height of Buildings Design Excellence Panel advice |
| SPECIAL INFRASTRUCTURE CONTRIBUTIONS (S7.24) | Applies |
| RECOMMENDATION | Refusal |
| DRAFT CONDITIONS TO APPLICANT | No |
| SCHEDULED MEETING DATE | 27 July 2023 |
| PLAN VERSION | 18 February 2022 |
| PREPARED BY | Nabil Alaeddine |
| DATE OF REPORT | 7 July 2023 |

1. EXECUTIVE SUMMARY

The development application (DA-267/2022) seeks consent for the construction of six (6) residential flat buildings and two (2) shop top housing developments containing a total of 219 residential apartments, and a 93 place centre-based child care centre above two basement levels including landscaping and site works at 225 Croatia Avenue, Edmondson Park. The proposal also includes affordable housing under State Environmental Planning Policy (Housing) 2021.

The subject site is known as 225 Croatia Avenue, Edmondson Park ('the site') and comprises a single lot with a frontage to Bernera Road (previously Croatia Avenue) to the west and partial frontages to Hutton Road in the north, Brennan Way, McCay Lane and Dunkirk Road in the east and the partial extension of Poziers Road in the southwest. The overall site area is identified as 2.1ha with an irregular shape and an approximate north-south dimension of 165m and east-west of 125m.

Existing on the site is a one storey split level brick dwelling with a second one storey building, a tennis court and a swimming pool. The dwelling is accessed by a driveway from Bernera Road. The property contains a large number of trees in the vicinity of the driveway and dwellings. The subject application does not seek the demolition of existing structures or the removal of vegetation. These are subject to a separate application DA-1122/2021 that is under a Class 1 appeal and is not determined at the time of writing.

The site is located within the northern precinct of Edmondson Park with recent subdivisions and development to the north, east and west of the site. The site is located in the R1 General Residential zone under the Liverpool Local Environmental Plan 2008 and has a portion of the site zoned R3 Medium Density Residential in the southwest corner.

The application was placed on public exhibition from 28 June 2022 and 13 July 2022, with two (2) submissions being received. The submissions raised issues relating to building separation, building height, privacy impacts, loss of daylight, insufficient information, basement construction impacts, details of the proposed pedestrian paths and their impact on neighbouring properties, and the impact of the development on a residual lot of the eastern subdivision. These issues are considered further in this report.

The application is referred to the Sydney South West City Planning Panel ('the Panel') as the development is '*regionally significant development*', pursuant to Section 2.19(1) and Clause 2 of Schedule 6 of *State Environmental Planning Policy (Planning Systems) 2021* as the proposal is development with a CIV over \$30 million.

The principle planning controls relevant to the proposal include *State Environmental Planning Policy (Housing) 2021* ('*Housing SEPP*'), *State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development* ('*SEPP 65*'), the *Liverpool Local Environmental Plan 2008* and the *Liverpool Development Control Plan 2008* ('*DCP*').

The application required concurrence from Transport for NSW ('TfNSW') as the development is traffic-generating development under the *State Environmental Planning Policy (Transport and Infrastructure) 2021* ('*Transport and Infrastructure SEPP*'). Concurrence has not been received at the time of writing.

Briefings were held with the Panel in July 2022 and 24 April 2023 where key issues were discussed.

The key issues associated with the proposal included:

- 1) *Height of Buildings* – The proposed development varies the building height in both the 12m and 15m prescribed height portions of the land. The submitted Clause 4.6 is not considered well founded or demonstrates sufficient environmental planning grounds to justify contravention of the development standard. Furthermore, the building heights will need to be increased to allow for appropriate floor to floor heights as per the Apartment Design Guide (ADG) and to eliminate units sunken below footpath/street level, which will further increase heights for the proposal.
- 2) *Floor Space Ratio* - The proposal is dependent on the bonus FSR that applies to in-fill affordable housing development within an accessible area. However, the calculation of FSR by the applicant's submission has omitted areas to be included such as the stairs within two storey units, ground level waste areas, enclosed lobby spaces, the highly enclosed outdoor play areas that are roofed and bounded by 2.4m high walls per the acoustic report, large plant areas without justification, and car parking in excess of the requirements of the consent authority. These aspects included result in a non-compliant FSR not supported by a Clause 4.6 Variation.
- 3) *Urban Design* – The proposed buildings have not achieved Design Excellence as determined by Council's Design Excellence Panel. The built form fails to respond to the site, is overly long and bulky, particularly for the central buildings on both lots and has poor secondary street façades notably to the northern elevations on the western lot that fails to take advantage of both a street frontage and the favourable orientation. Variations to setbacks on upper floors are also proposed and not justified. The child care centre lobby is also deeply recessed and disconnected from the public domain. The ground level parking results in a poor streetscape presentation to Poziers Road.
- 4) *Amenity* – The application does not comply with the objectives and controls in the ADG, including but not limited to ground level unit arrangements, visual privacy and security of units to common (and potentially public) spaces, solar access to communal open

space, treatment and landscaping to communal open space, unit sizes, private open space sizes, cross-ventilation, and light and ventilation to lengthy corridors.

- 5) *The Application is Premature* – The application relies upon the demolition of existing structures, vegetation, the subdivision of land and construction of roads under a separate DA that is subject to a Class 1 appeal and is undetermined at the time of preparation of this report (DA-1122/2021). As all aspects of the design are contingent on the levels and lot sizes produced under that application, this entire application is on a foundation of uncertain outcomes of the subdivision application.
- 6) *Site Isolation/Works on Adjoining Properties* – The application identifies a residual lot in the southeastern corner adjacent to a residual lot of the subdivision to the east of the site. This land is sought to be relied upon for access pathways and landscaping. No owner's consent has been provided to undertake this work. It is also not an economic or orderly use of the residual lot land.
- 7) *Contamination* – The information submitted on contamination is insufficient for assurance that the land can be made suitable for the proposed residential accommodation. The contamination documents also do not refer to the proposed child care centre sensitive land use specifically to assure that the land is or will be made suitable for that purpose.
- 8) *Insufficient Information* - The development generally provides inadequate levels of information to undertake a complete assessment of the development, including but not limited to:
 - a. An inconsistent number of children are proposed for the child care centre (e.g. 90, 93 and 100 across the Statement of Environmental Effects and Traffic Report), no specified age ratios of those children, staff numbers, fit-out of the centre to determine play area requirements and compliance, outdoor play area design, whether sufficient administration, bathroom and management facilities are provided, etc.
 - b. Correct calculations or assessment of deep soil area, landscaped area, solar access, and cross-ventilation in accordance with the Housing SEPP and the Apartment Design Guide (ADG).
 - c. Compliance with a number of ADG and DCP matters, including but not limited car parking allocation, storage for units, dimensions to floor plans to assess unit and room sizes, motorcycle and bicycle parking, location of AC units, and services.
 - d. The application seeks five (5) different tenancies varying in size from 46.2m² to 203.9m². The applicant has not provided any justification or economic analysis on how the development will accommodate five separate food and drink premises that remain viable in the long-term with the extensive Ed Square shopping and food precinct 1km to the south.
 - e. The security and public access of the development given the proposal for connecting paths to the public domain with no fencing or gates.
 - f. Whether five (5) food and drink premises can be realistically supported on the site only 1km from the Edmondson Park town centre.
 - g. Uncertainty on how the food and drink premises will be serviced given there is no direct connection from the loading bay to the tenancies.

Other matters of non-compliance or inadequacy include the acoustic report assessing and providing recommendations for a child care centre with no clearly specified children numbers or age ratios or assessing the noise from the operation of retail premises on the residential,

unresolved referrals from Transport for NSW on traffic matters, NSW Rural Fire Service due to bushfire affectation, Water NSW, and internal referrals on traffic, drainage, and fire safety matters. Further details are provided throughout this report.

Following a detailed assessment of the proposal, pursuant to Section 4.16(1)(b) of the *EP&A Act*, DA 267/2022 is recommended for refusal subject to the reasons contained in **Attachment A** of this report.

2. THE SITE AND LOCALITY

2.1. The Site

The subject site consists of one allotment that is commonly known as 225 Croatia Avenue, Edmondson Park and is legally defined as Lot 20 in Deposited Plan 1228502. The allotment is on the eastern side of Bernera Road (formerly Croatia Avenue) and is otherwise bounded by the partial construction of Hutton Road to the north, Dunkirk Road, McCay Lane and Brennan Way in the east and the realigned Croatia Avenue to the south. Refer to Figure 1 Locality Map and Figure 2 Site Location Map.

The site has the following area and dimensions:

- Site area: 2.1ha (21,000m²)
- Western front boundary (Bernera Road): 142.09m
- Arc splay in the southwestern corner: 14.665m
- Additional western frontage between splay and southern boundary: 11.755m
- Northern boundary: 117.965m
- Eastern boundary: 165.945m
- Southern boundary: 128.05m

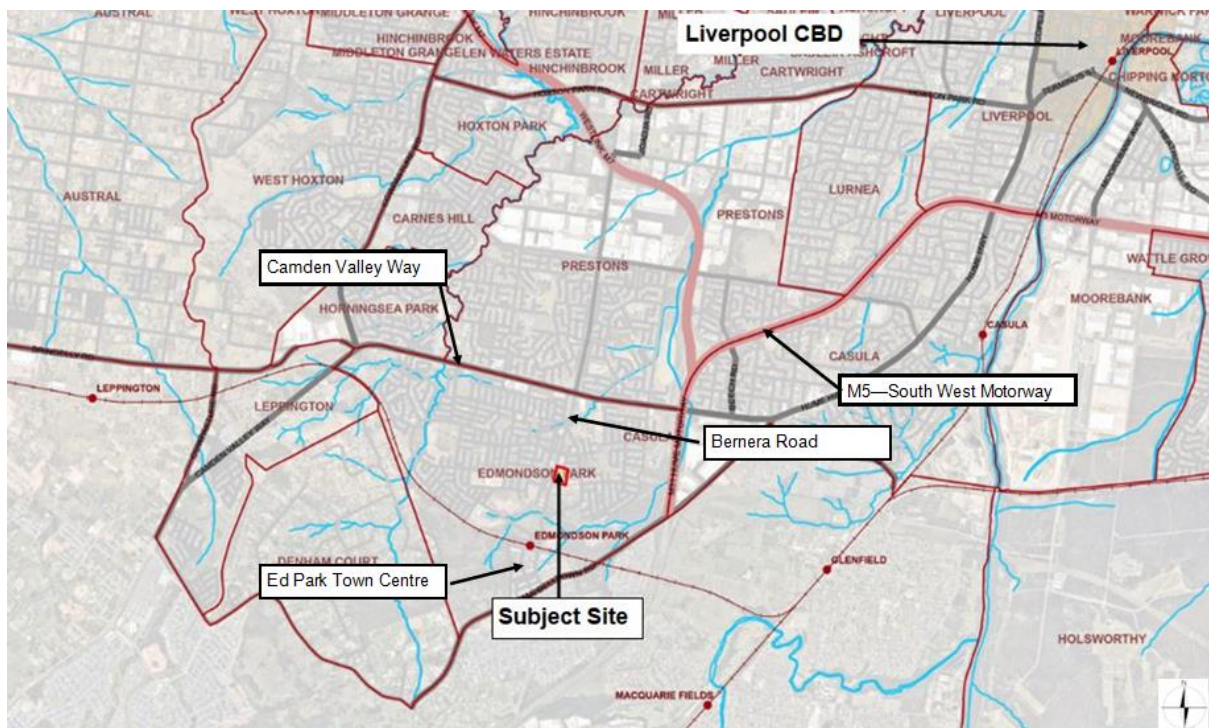


Figure 1: Locality map (225 Croatia Avenue, Edmondson Park identified in red and yellow).



Figure 2: Subject site (225 Croatia Avenue, Edmondson Park) outlined in red.

As indicated in both Figure 2 and the site dimensions, the southwestern corner has been shaped to account for the junction of Bernera Road and the indicative layout road along the southern boundary.

A single storey, split level brick dwelling house with a tile roof is located at the southern end of the site with an additional single storey brick building with a tile roof to the east. The site has a number of ancillary structures including a swimming pool, tennis court and two shipping containers with awnings connecting them in the central eastern portion of the site. The site comprises vegetation generally around the existing driveway and dwelling but is otherwise relatively cleared land.

The site has a fall from the south to the north of approximately 7.28m (RL 55.73 to RL 48.45).

Adjoining development is summarised as follows:

- North: 4 storey residential flat buildings at 51 Hutton Road.
- East: Numerous 2 storey rear-loaded dwelling houses and attached dwellings on Brennan Way, and some cleared land between Lillian Bratkovic Park and the site.
- South: A two storey dwelling at 215 Croatia Avenue over two large, generally vacant lots.
- West: Under construction townhouses at 283-297 Bernera Road and an under construction five storey residential flat building at 261 to 281 Bernera Road.

The property is situated to the north of Edmondson Park Town Centre, and it is approximately 780m between the Edmondson Park Train Station and the southwestern corner of the site.



Figure 3: Subject site as viewed from Bernera Road (southern end; existing dwelling)



Figure 4: Subject site as viewed from Bernera Road (northern end; cleared portion)

The site is largely zoned R1 General Residential with a portion in the southwest of the site zoned R3 Medium Density Residential under the Liverpool Local Environmental Plan 2008. Refer to the zoning map below.

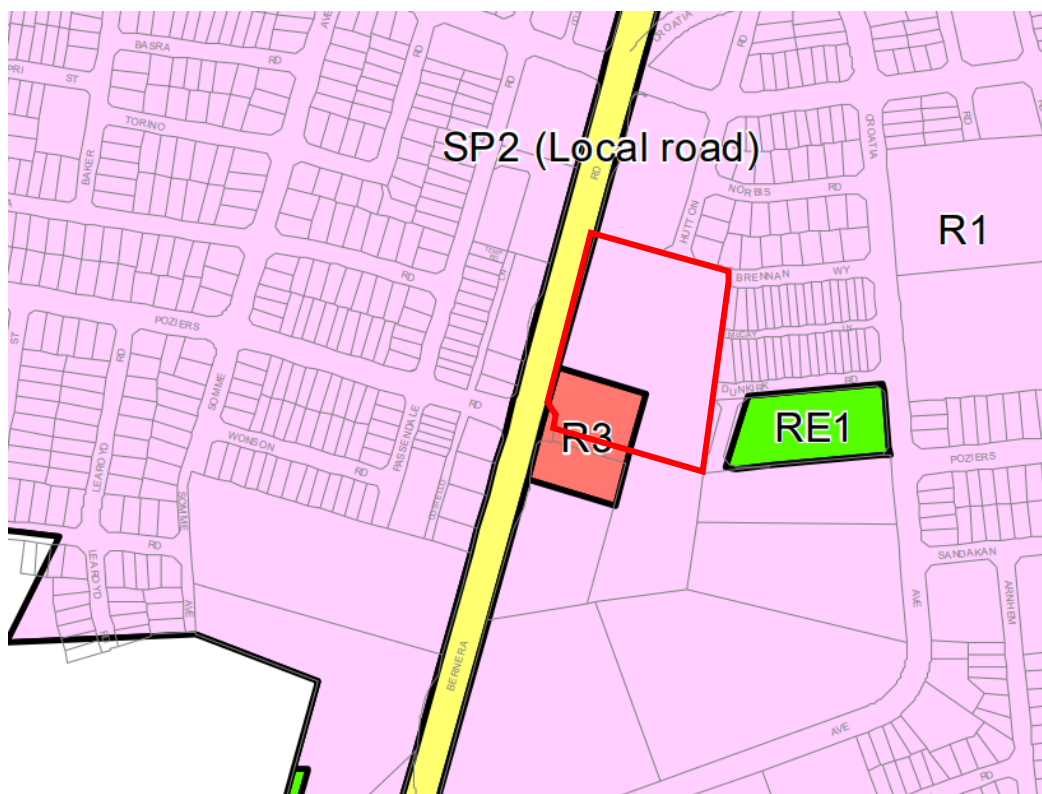


Figure 5: Land Zoning Map (site identified in red)

The site is identified as being bushfire prone land per Figure 6 below.

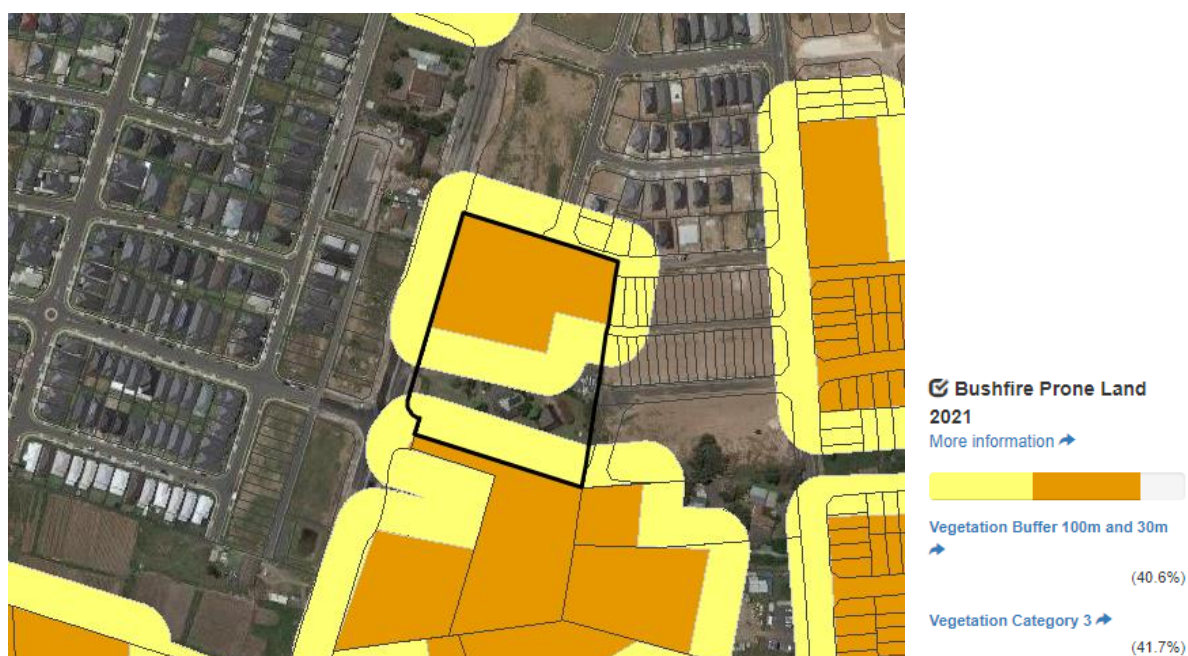


Figure 6: Bushfire Prone Land Map (Source: Liverpool ePlanning maps)

2.2. The Locality

The site falls within the Edmondson Park area that has gradually been urbanised from rural land uses. The development bounding the site to the north, east and west is reflective of this process with a variety of densities, including single dwellings, rear-loaded attached dwellings and residential flat buildings. The locality is primarily zoned R1 General Residential per the zoning map in Figure 5. Bernera Road is zoned SP2 Local Road.

Bus stops are located to the south and west of the site on either side of the intersection of Bernera and Poziers Road. The Ed Square shopping precinct is located 900m to the south of the site.

3. THE PROPOSAL AND BACKGROUND

3.1. The Proposal

The development application (DA-267/2022) seeks consent for the construction of six (6) residential flat buildings and two (2) shop top housing developments containing a total of 219 residential apartments, and a 93 place centre-based child care centre above two basement levels including landscaping and site works.

The proposal will be split into two blocks separated by a central north-south extension of Hutton Road. The west block is known as Site A and B, while the east block is known as Site C, D and E. Refer to the Site Plan below. North is oriented to the left of the image.



Figure 7: Site Plan (Source: Rothe Lowman Property)

The development proposes the following works:

- Earthworks, including excavation for the basement parking and stormwater.
- Construction of the road extensions of the east-west Brennan Way in the north, Hutton Road north-south through the site, and a half-width east-west extension of Poziers Road in the south.
- The construction of 4 x residential flat buildings and 2 x shop top housing developments on Site A and B which consists of five (5) retail tenancies, 142 units and two basements of 29 retail car parking spaces and 275 residential car parking spaces.
- The construction of 2 x residential flat buildings comprising 77 units with two basement levels of 199 car parking spaces and a 93 place three (3) storey child care centre with 18 ground level car parking spaces on Site C, D and E.
- The residential component totals 219 units with the following unit mix:
 - 33 x 1 bedroom units
 - 96 x 2 bedroom units, including 12 x 2 bedroom plus study
 - 90 x 3 bedroom units, including 16 x 3 bedroom plus study
- Site A consists of four (4) x five (5) level residential flat buildings over 2 basement levels shared with Site B with 104 units and 225 car parking spaces.

The ground level and first floor of the residential flat buildings consist of two storey townhouse style apartments with living spaces and one bedroom at ground and two bedrooms on the first floor. The second to fourth storeys consist of some two storey units and single storey units.

Communal open space is proposed at ground level centrally between the buildings.

The basement car parking is partly within 2 car tandem garages with direct access into the townhouse style dwellings and standard single spaces. The basement otherwise comprises waste rooms, storage areas and services. The entry ramp is proposed from Hutton Road.

- Site B consists of two (2) x four (4) level shop top housing buildings over a shared basement with Site A with five (5) retail tenancies, 38 units, 50 residential car spaces and 29 retail parking spaces.

The ground level provides for the five (5) retail (food and drink premises) tenancies from 46.2m² to 203.9m² in size, waste storage and plant areas, a loading dock also for waste collection and a central forecourt area. The residential lobbies are centrally within each building footprint at ground level.

Levels 1-2 consist of seven (7) units on each floor per building, around a central breezeway/lobby space with a partial void to the sky. Level 3 in each building consists of five (5) units.

- Site C is the proposed three (3) storey centre-based child care facility with an inconsistently referred to 93 places or 90 places between the consultant documents and DA form. The applicant has not submitted information on the children's age ratios.

The centre is sought over three storeys with partial use of a basement level for:

- Basement: 13 staff car spaces.
- Ground Level: 18 car spaces, including 11 parent spaces and 7 staff car spaces, accessed from Poziers Road; pedestrian entry is accessed by a large ramp and setback to a foyer facing Hutton Road.
- Level 1: A mixture of indoor and outdoor play areas, reception, office and bathroom spaces.
- Level 2: A mixture of indoor and outdoor play areas with bathroom spaces.

The child care centre seeks the following hours of operation:

- Monday to Friday: 7am to 6pm
 - Weekends and Public Holidays: Closed
- Site D consists of a four (4) storey residential flat building over a shared basement with Site's C and E with 48 units and 105 car parking spaces.

The ground level and first floor of the residential flat buildings consist of two storey townhouse style apartments with living spaces and one bedroom at ground and two bedrooms on the first floor. The second and third storey consist of single storey units.

Communal open space is proposed at ground level around the C shaped building.

The basement car parking is partly proposed as single and two car tandem garage parking with direct unit access and as standard single spaces. The basement otherwise comprises waste areas, storage cages, a loading dock for deliveries and waste collection, and plant areas. The entry ramp is proposed from Hutton Road.

- Site E consists of a four (4) storey residential flat building over a shared basement Site's C and D with 29 units and 93 car parking spaces.

The building is designed with exclusively single storey units. Communal open space is proposed at ground level on the southeastern side of the building.

- An affordable housing component is proposed through Sites A, D and E.
 - Site A: All units on Levels 2-4 are identified as affordable housing.
 - Site D: All units on Level 2 are identified as affordable housing.
 - Site E: All units in the building are identified as affordable housing.

No demolition of the existing structures on the site is proposed under this application as this is sought under the concurrently assessed development application for subdivision (DA-1122/2021). That application is subject to a Class 1 appeal and remains undetermined at the time of preparation of this assessment report.

The photomontages prepared for the development are provided below.



Figure 8: Photomontage of Building A (Source: Rothe Lowman Property)



Figure 9: Photomontage of Building B (Source: Rothe Lowman Property)



Figure 10: Photomontage of Building C – the Child Care Centre (Source: Rothe Lowman Property)



Figure 11: Photomontage of Building D (Source: Rothe Lowman Property)



Figure 12: Photomontage of Building E (Source: Rothe Lowman Property)

The table below provides key data points for the proposed development based on the applicant's submission. Any inconsistencies between what has been presented by the applicant and what is assessed are discussed under their relevant sections later in the report.

Note: This application relies upon the demolition and subdivision under a separate development application – (DA-1122/2022). The current lot sizes under that application are also referenced in the table below as well for reference. The site areas having been altered under the subdivision DA will have flow on effects for the built form in this application including compliance with site area based controls (e.g. FSR, communal open space, deep soil, etc.) which have not been accounted for in the information provided by the applicant to date.

Table 1: Development Data

| Control | Proposal |
|-----------|---|
| Site area | <p>Current site area: 2.1ha</p> <p><u>DA Lodgement Site Areas</u> West Lot: 9,585.1m² East Lot: 6,316.7m²</p> <p><u>Current Site Areas under DA-1122/2022</u> West Lot: 9,553m² (-32.1m²) East Lot: 6,306m² (-10.7m²)</p> |
| GFA | West Lot: 13,973.6m ² East Lot: 7,892m ² |
| FSR | West Lot: 1.46:1 East Lot: 1.2494:1 |

| | |
|---------------------|---|
| Clause 4.6 Requests | Yes – for Clause 4.3 Height of Buildings No – for Clause 4.4 Floor Space Ratio |
| No of apartments | 219 apartments <ul style="list-style-type: none"> • 43 x 1 bedroom units • 96 x 2 bedroom units, including 12 x 2 bedroom plus study • 90 x 3 bedroom units, including 16 x 3 bedroom plus study |
| Max Height | In 15m portion: 15.35m (0.35m/2.33% variation) In 12m portion: 14m (2m/16.7% variation) |
| Landscaped area | West Lot: 3,343.3m ² (34.9%) East Lot: 2,325.4m ² (36.8%) |
| Car Parking spaces | West Lot: 304 spaces East Lot: 230 spaces |

3.2. Background

The development application was lodged on **14 March 2022**. A chronology of the development application since lodgement is outlined below including the Panel's involvement (briefings, deferrals etc) with the application:

Table 2: Chronology of the DA

| Date | Event |
|------------------------|---|
| 14 March 2022 | DA lodged |
| 28 June 2022 | Exhibition of the application (until 13 July 2022) |
| 22 April 2022 | DA referred to external agencies |
| 11 July 2022 | Panel briefing |
| 17 October 2022 | The Applicant filed a Class 1 Application in the Land and Environment Court of NSW for a deemed refusal |
| 9 February 2023 | Design Excellence Panel Meeting |
| 24 April 2023 | Panel briefing |

3.3. Site History

A development application (DA-1221/2021) is currently under assessment for the Torrens title subdivision of the site into 20 lots, with associated civil works.

The above DA is also under a Class 1 appeal and remains unresolved at the time of preparation of this report.

4. STATUTORY CONSIDERATIONS

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

- (a) *the provisions of any environmental planning instrument, proposed instrument, development control plan, planning agreement and the regulations*
 - (i) *any environmental planning instrument, and*
 - (ii) *any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*
 - (iii) *any development control plan, and*
 - (iiia) *any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and*
 - (iv) *the regulations (to the extent that they prescribe matters for the purposes of this paragraph), that apply to the land to which the development application relates,*
- (b) *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- (c) *the suitability of the site for the development,*
- (d) *any submissions made in accordance with this Act or the regulations,*
- (e) *the public interest.*

These matters are further considered below.

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

- Integrated Development (s4.46)
- Requiring concurrence/referral (s4.13)

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

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

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

The following Environmental Planning Instruments are relevant to this application:

- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*
- *State Environmental Planning Policy (Housing) 2021*
- *State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development*
- *State Environmental Planning Policy (Planning Systems) 2021*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*
- *Liverpool Local Environmental Plan 2008.*

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

Table 3: Summary of Applicable Environmental Planning Instruments

| EPI | Matters for Consideration | Comply (Y/N) |
|--|--|--------------|
| State Environmental Planning Policy (Biodiversity & Conservation) 2021 | Chapter 2: Vegetation in non-rural areas Chapter 11: Georges River Catchment | N |
| BASIX SEPP | No compliance issues were identified subject to the imposition of conditions on any consent granted. | Y |
| State Environmental Planning Policy (Housing) 2021 | Chapter 2: Affordable Housing Infill affordable housing | N |
| SEPP 65 | <ul style="list-style-type: none"> • Clause 30(2) - Design Quality Principles - The proposal is consistent/contrary to the design quality principles and the proposal is consistent/contrary to the ADG requirements for communal open space, solar access, public domain interface, natural ventilation, unit and room sizes. | N |
| State Environmental Planning Policy (Planning Systems) 2021 | Chapter 2: State and Regional Development <ul style="list-style-type: none"> • Section 2.19(1) declares the proposal regionally significant development pursuant to Clause 2 of Schedule 6 as it comprises development that has a capital investment value of more than \$30 million. | Y |
| SEPP (Resilience & Hazards) 2021 | Chapter 4: Remediation of Land <ul style="list-style-type: none"> • Section 4.6 - Contamination and remediation has been considered in the Contamination Report but is not satisfactory in its current form. | N |
| State Environmental Planning Policy | Chapter 2: Infrastructure <ul style="list-style-type: none"> • Section 2.118(2) - Development with frontage to classified road | N |

| | | |
|---|--|---|
| (Transport and Infrastructure) 2021 | <ul style="list-style-type: none"> • Section 2.119(2) Impact of road noise or vibration on non-road development • Section 2.121(4) - Traffic-generating development <p>Chapter 3: Educational Establishments</p> <ul style="list-style-type: none"> • Section 3.23 - Centre-based childcare facility—matters for consideration by consent authorities | |
| Proposed Instruments | No compliance issues were identified. | Y |
| Liverpool Local Environmental Plan 2008 | <ul style="list-style-type: none"> • Clause 2.3 – Permissibility and zone objectives • Clause 4.3 – Height of buildings • Clause 4.4 – Floor Space Ratio • Clause 4.6 – Exceptions to Development Standards • Clause 7.11 – Dwelling Density • Clause 7.31 – Earthworks | N |
| Liverpool DCP 2008 | <ul style="list-style-type: none"> • Part 1 – General Controls for all Developments • Part 2.11 – Edmondson Park | N |

Consideration of the relevant SEPPs is outlined below.

- ***State Environmental Planning Policy (Biodiversity and Conservation) 2021***

Chapter 2 Vegetation in Non-Rural Areas

Chapter 2 of *State Environmental Planning Policy (Biodiversity and Conservation) 2021* applies to the proposal. The objectives of this Policy are to protect the biodiversity values of trees and other vegetation in non-rural areas of the state and preserve the amenity of non-rural areas through the preservation of trees and other vegetation.

The submitted demolition plan identifies the removal of all existing vegetation on the site, though all demolition and tree removal is stated in the applicant's Statement of Environmental Effects to be sought under the concurrently assessed subdivision development application DA-1221/2022 which is also under a separate court appeal. Consequently, there is no tree removal sought under this application. Any approval that could or would be issued would not permit tree removal.

As the subdivision application is not yet resolved, it is uncertain whether any trees are required to be retained or if full removal will be granted consent. On the basis that all trees are to be removed via the subdivision application, there are no further considerations under Chapter 2.

Chapter 11 Georges River Catchment

The subject land is located within the Georges River Catchment and therefore Chapter 11 of the SEPP applies to the application.

Chapter 11 of the SEPP generally aims to maintain and improve the water quality and river flows of the Georges River and its tributaries.

The development proposal has submitted stormwater and erosion and sediment control plans for assessment.

The application in its current form is not supported by Council's Land Development Engineer as a number of matters relating to the proposed OSD tank are not yet resolved including a

demonstration of the temporary easements required for the temporary OSD tank, a staging plan for the decommissioning of the temporary OSD tank, clarification on how emergency overflows have been designed and incorrect DRAINS modelling.

In view of the unresolved matters, it cannot be determined that there will be no impact on the Georges River Catchment and the application is not supported.

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

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

The application is accompanied by BASIX Certificate Nos. 1274467M, 1267819M_02 and 1261916M_04 prepared by SLR Consulting Pty Ltd dated 1 March 2022 committing to environmentally sustainable measures. The Certificate demonstrates the proposed development satisfies the relevant water, thermal and energy commitments as required by the BASIX SEPP. The proposal is consistent with the BASIX SEPP.

- **State Environmental Planning Policy (Housing) 2021**

The development application has been sought under Chapter 2, Part 2, Division 1 of *Statement Environmental Planning Policy (Housing) 2021* (the Housing SEPP) In-fill affordable housing. The Housing SEPP aims to enable the development of diverse housing types including affordable housing.

Following is a table which summarises the relevant clauses and the proposal's compliance.

| Provisions | Comment |
|---|--|
| 16 Development to which this Division applies | |
| <p>This Division applies to residential development if—</p> <p>(a) the development is permitted with consent under another environmental planning instrument, and</p> <p>(b) at least 20% of the gross floor area of the building resulting from the development will be used for the purposes of affordable housing, and</p> | <p>Complies</p> <p>Residential flat buildings are permissible with consent in the R1 General Residential zone.</p> <p>Complies.</p> <p>The total GFA for affordable dwellings has been identified by the applicant as:</p> <ul style="list-style-type: none"> • Site A & B: 45.77% of GFA • Site D & E: 50.1% of GFA <p>However, the applicants GFA calculations do not include and number of areas such as ground floor stairs, landings, circulation areas ground floor garbage rooms and spaces that are enclosed with walls greater than 1.4m with a roof overhead. Furthermore, there are a number of other rooms and spaces within all the buildings</p> |

| Provisions | Comment |
|---|---|
| <p>(c) for development on land in the Greater Sydney region, Newcastle region or Wollongong region—all or part of the development is within an accessible area, and</p> <p>(d) for development on other land—all or part of the development is within 800m walking distance of land within 1 or more of the following zones or an equivalent land use zone—</p> <ul style="list-style-type: none"> (ia) Zone E1 Local Centre, (ib) Zone MU1 Mixed Use, (iii) Zone B1 Neighbourhood Centre, (ii) Zone B2 Local Centre, (iii) Zone B4 Mixed Use. <p>In this Division, residential development carried out by, or on land owned by, a relevant authority is taken to be used for the purposes of affordable housing.</p> | <p>which are not noted and not indentifiable which is contributing to inaccurate GFA calculations by the applicant and not allowing a detailed GFA calculation to be undertaken. This would significantly reduce the compliance of 20% affordable housing from what is indicated.</p> <p>Complies Bus stops along Bernera Road on the southern side of the Poziers Road intersection and opposite the site satisfy the accessible area criteria.</p> <p>Noted.</p> |
| 17 Floor space ratio | |
| <p>The maximum floor space ratio for development to which this Division applies is the maximum permissible floor space ratio for residential accommodation on the land plus an additional floor space ratio of—</p> <ul style="list-style-type: none"> (a) if the maximum permissible floor space ratio is 2.5:1 or less— <ul style="list-style-type: none"> (i) if at least 50% of the gross floor area of the building resulting from the development will be used for affordable housing—0.5:1, or (ii) if less than 50% of the gross floor area of the building will be used for affordable housing—Y:1, <p>where—</p> <p>AH is the percentage of the gross floor area of the building that is used for affordable housing.</p> <p>$Y = AH \div 100$</p> | <p>No Refer to the comments below the table.</p> |
| 18 Non-discretionary development standards - The Act, s 4.15 | |
| <p>The following are non-discretionary development standards in relation to the carrying out of development to which this Division applies—</p> <ul style="list-style-type: none"> (a) a minimum site area of 450m², | <p>Complies Although the final site areas for both lots are undetermined, they will exceed 450m². The</p> |

| Provisions | Comment |
|---|--|
| <p>(b) for a development application made by a social housing provider—at least 35m² of landscaped area per dwelling,</p> <p>(c) if paragraph (b) does not apply—at least 30% of the site area is landscaped area,</p> | <p>lots are 9,585.1m² and 6,316.7m² as stated in this submission.</p> <p>N/A</p> <p>Insufficient Information The applicant states the following on their calculation plan: Site A-B: 34.9% Site D-E: 38.3%</p> <p>However, these calculation plans are not in accordance with the Housing SEPP definition of landscaped area and include a number of areas that would be excluded, such as at-grade retail car parking spaces, fire stair structures and substations. Compliance cannot be confidently stated and a variation is not supported for a greenfield development.</p> |
| <p>(d) a deep soil zone on at least 15% of the site area, where—</p> <p>(i) each deep soil zone has minimum dimensions of 3m, and</p> <p>(ii) if practicable, at least 65% of the deep soil zone is located at the rear of the site,</p> | <p>No The deep soil calculation plans submitted are not in accordance with the Housing SEPP clause. The plan states a total of 17.1% of deep soil across both sites, but does not distinguish deep soil areas 3m and greater (it includes areas below 3m) and has included areas above a basement on Site D.</p> |
| <p>(e) living rooms and private open spaces in at least 70% of the dwellings receive at least 3 hours of direct solar access between 9am and 3pm at mid-winter,</p> | <p>Insufficient Information The sun-eye diagrams are of a scale that is not possible to accurately assess solar access. Inconsistencies have also been identified in the solar access matrix provided. As such, compliance or otherwise cannot be accurately assessed.</p> |
| <p>(f) for a development application made by a social housing provider for development on land in an accessible area—</p> <p>(i) for each dwelling containing 1 bedroom—at least 0.4 parking spaces, or</p> <p>(ii) for each dwelling containing 2 bedrooms—at least 0.5 parking spaces, or</p> <p>(iii) for each dwelling containing at least 3 bedrooms—at least 1 parking space,</p> <p>(g) if paragraph (f) does not apply—</p> <p>(i) for each dwelling containing 1 bedroom—at least 0.5 parking spaces, or</p> | <p>N/A</p> <p>Complies A total of 253 car parking spaces are required for the residential component. A total of 410 residential spaces are proposed,</p> |

| Provisions | Comment |
|--|--|
| (ii) for each dwelling containing 2 bedrooms—at least 1 parking space, or (iii) for each dwelling containing at least 3 bedrooms—at least 1.5 parking spaces, | which exceed the requirements of the consent authority and are considered GFA. 43 x 1 bed = 21.5 spaces 96 x 2 bed = 96 spaces 90 x 3 bed = 135 spaces Total: 252.5 spaces |
| (h) for development for the purposes of residential flat buildings—the minimum internal area specified in the Apartment Design Guide for each type of apartment, | No Some units are identified as below their minimum required sizes under the ADG. This is discussed in more detail in that section of this report. |
| (i) for development for the purposes of dual occupancies, manor houses or multi dwelling housing (terraces)—the minimum floor area specified in the Low Rise Housing Diversity Design Guide, | N/A |
| (j) if paragraphs (h) and (i) do not apply, the following minimum floor areas— | N/A |
| (i) for each dwelling containing 1 bedroom—65m ² , or (ii) for each dwelling containing 2 bedrooms—90m ² , or (iii) for each dwelling containing at least 3 bedrooms—115m ² plus 12m ² for each bedroom in addition to 3 bedrooms. | |

Floor Space Ratio

A bonus FSR can be applied to an affordable housing development subject to a minimum of 20% of the development being set aside as affordable housing for 15 years. The bonus FSR is based on the percentage of the GFA that is set aside as affordable.

The table below outlines the FSR for the site by the applicant's submission.

| Lot | Base FSR | Bonus FSR | Max FSR | Applicant FSR Calculation |
|------|----------|-----------|----------|---------------------------|
| West | 1:1 | 0.4577:1 | 1.4577:1 | 1.4577:1 |
| East | 0.75:1 | 0.5:1 | 1.25:1 | 1.2494:1 |

The above is based on the applicant's submission and their gross floor area calculation plan. However, a number of areas have not been included in GFA on this plan which will result in an increase in GFA proposed and create a variation to the maximum permitted FSR by the bonus under the Housing SEPP. These areas include:

- The stairs within each two storey unit.
- Waste rooms at ground level and above.

- The enclosed residential lobbies for the residential (and for the child care centre).
- Horizontal corridors within fire stairs that exceed 'landings' as part of the common vertical circulation.
- The central areas for the two shop top housing buildings are largely covered and too deeply recessed from the voids to be excluded.
- The acoustic report identifies a need for 2.4m high acoustic walls around the perimeter of the outdoor play areas of the child care centre. The majority of these spaces are enclosed and as such will be GFA.
- Large, unjustified plant areas (e.g. ground floor of Building B2)
- All additional car parking spaces proposed that exceed the relevant requirements under the Housing SEPP, as relevant to the residential parking provision.

The number of instances of exclusions will result in an exceedance of the maximum permitted FSR inclusive of any bonuses. This is not supported by written Clause 4.6 variation. The consent authority is therefore unable to grant development consent for the proposed development.

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

The proposal has been evaluated against the provisions of SEPP 65 which aims to improve the design quality of residential apartment development. SEPP 65 does not contain numerical standards but requires Council to consider the development against 9 key design quality principles and against the guidelines of the associated Apartment Design Guide (ADG). The ADG provides additional detail and guidance for applying the design quality principles outlined in SEPP 65. The development was referred to the Design Review Panel (DEP). The principles are assessed against the development and summarised as attached under Attachment A to this report below.

The design quality principles, under Clause 30(2) of SEPP 65 also requires residential apartment development to be designed in accordance with the ADG. The development does not comply with or address the following matters from the ADG as summarised. Further details are located in the table Attachment B provides an assessment of the development against the relevant provisions of the ADG.

- In the placement of buildings, the design fails to consider the constraints or take into consider the attributes of the site to maximise solar access.
- By the proposal of the ground level being sunken below the natural ground level building development fails to adequately consider the public domain interface. This is especially evident in the retail frontage proposed which doesn't interface with the street.
- The development fails to comply with the private open space or communal open space requirements in the ADG.
- The development fails to comply with minimum deep soil requirements.
- Privacy and overshadowing is compromised by non compliant building separation and lack of treatments to the façade to reduce these impacts.
- The proposed pedestrian access and entries are compromised within no direct connection to the public domain for sites D-E.
- There is insufficient consideration of the vehicle access and its impact with pedestrian entries for the eastern lot.
- Lack of information relating to solar access and daylight access.
- The development fails to comply with minimum natural ventilation to apartments.
- The ceiling height if levels is non-compliant.

- The development fails to comply with minimum apartment sizes with a number of units below the minimum requirements and a number of rooms sizes below the minimum widths.
- The development fails to comply with minimum common circulation and internal space arrangement, in particular the number of units per floor being serviced by one lift.
- No BASIX certificate provided with the development.

Given the above assessment and matters raised in Attachment A and B, the application fails to satisfy a large number of ADG matters and is not supported.

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

Chapter 2: State and Regional Development

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

- ***State Environmental Planning Policy (Resilience and Hazards) 2021***

Chapter 4: Remediation of Land

The provisions of Chapter 4 of *State Environmental Planning Policy (Resilience and Hazards) 2021* ('the Resilience and Hazards SEPP') have been considered in the assessment of the development application. Section 4.6 of Resilience and Hazards SEPP requires the consent authority to consider whether the land is contaminated, and if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out. In order to consider this, a Site Contamination Investigation Report has been prepared for the site.

The investigation report involved a site inspection and soil sampling and analysis program. The report concluded that:

Based on the assessment undertaken, the following conclusions and recommendations can be made:

- *All the analytes' concentrations were found to be below the Site Assessment Criteria.*
- *Based on the scope of works undertaken in this investigation, the site is considered suitable for the proposed land use for the residential development.*
- *A data gap assessment of subsurface soils below the dwellings, sheds and stockpiles is to be performed after demolition of the dwellings and the sheds and removal of the stockpiles.*

Despite the conclusions of the report, Council's Environmental Health Officer referral identified the need for a clearly defined Stage 2 Detailed Site Investigation and for the contamination

reports to be peer reviewed by a suitably qualified and experienced contaminated land consultant. The peer review process is a standard part of Council's assessment process of contamination to provide certainty in the methods and outcomes of the reporting.

As Council's Environmental Health Officer has not been satisfied with the information submitted to date, the application is not considered to have adequately addressed the provisions of the Resilience and Hazards SEPP and cannot be supported.

- ***State Environmental Planning Policy (Transport and Infrastructure) 2021***

Chapter 2: Infrastructure

The provisions of Chapter 2 of *State Environmental Planning Policy (Transport and Infrastructure) 2021* (the Transport and Infrastructure SEPP) have been considered in the assessment of the development application.

The proposed development is traffic-generating development under Clause 2.122. The development includes car parking exceeding 200 car spaces and a referral to TfNSW was undertaken.

The referral response was that the application was not supported and that a request for further information is issued in relation to the traffic modelling and cumulative impact of the development to be assessed. As this matter has not been resolved, concurrence has not been granted and the application is recommended for refusal.

Chapter 3: Educational Establishments and Child Care Facilities

The provisions of Chapter 3 of the Transport and Infrastructure SEPP have been considered in the assessment of the child care centre component of the application.

The application has not presented the detail of the child care centre to determine the fit-out, number of children, age ratios and other key facets required to assess the application. A complete assessment of the matters under this Chapter and the Child Care Planning Guide cannot be undertaken.

The key associated matters are summarised in the following table and Attachment C of this report.

Part 3.3 Early Education and Care Facilities Assessment Table

| Provisions | Comment |
|--|---|
| Part 3.3 Early Education and Care Facilities-Specific Development Controls | |
| 3.23 Centre-based child care facility—matters for consideration by consent authorities Before determining a development application for development for the purpose of a centre-based child care facility, the consent authority must take into consideration any applicable provisions of the <i>Child Care Planning Guideline</i> , in relation to the proposed development. | No Key aspects of the Guide are assessed in the table below, attachment C of this report.. However, there is insufficient information is available to assess the application. |
| 3.25 Centre-based child care facility—floor space ratio | N/A |

| Provisions | Comment |
|---|---|
| Development consent must not be granted for the purposes of a centre-based child care facility in Zone R2 Low Density Residential if the floor space ratio for the building on the site of the facility exceeds 0.5:1. | Not within an R2 Low Density Residential zone. |
| <p>3.26 Centre-based child care facility—non-discretionary development standards</p> <p>The following are non-discretionary development standards for the purposes of section 4.15(2) and (3) of the Act in relation to the carrying out of development for the purposes of a centre-based child care facility—</p> <p>(a) location—the development may be located at any distance from an existing or proposed early education and care facility,</p> <p>(b) indoor or outdoor space</p> <p>(i) for development to which regulation 107 (indoor unencumbered space requirements) or 108 (outdoor unencumbered space requirements) of the <i>Education and Care Services National Regulations</i> applies—the unencumbered area of indoor space and the unencumbered area of outdoor space for the development complies with the requirements of those regulations, or</p> <p>(ii) for development to which clause 28 (unencumbered indoor space and useable outdoor play space) of the <i>Children (Education and Care Services) Supplementary Provisions Regulation 2012</i> applies—the development complies with the indoor space requirements or the useable outdoor play space requirements in that clause,</p> <p>(c) site area and site dimensions—the development may be located on a site of any size and have any length of street frontage or any allotment depth,</p> <p>(d) colour of building materials or shade structures—the development may be of any colour or colour scheme unless it is a State or local heritage item or in a heritage conservation area.</p> | <p>Noted</p> <p>Insufficient Information</p> <p>As the application has not been submitted with a clear number of children (SEE states 90, 93; the Traffic Report states 100, etc.) and a fit-out plan, compliance cannot be assessed with either the indoor or outdoor play areas. Only the lowest number (90) could be accommodated with the outdoor play area proposed by volume which remains subject to an assessment of the design and any encumbered areas proposed.</p> <p>Noted</p> <p>Noted</p> |

Given the above, the proposed child care centre is not supported.

- **Liverpool Local Environmental Plan 2008**

- (i) *Zoning and Permissibility*

The site is located within the R1 General Residential and R3 Medium Density Residential Zone pursuant to Clause 2.2 of the LEP per the extract of the Land Zoning Map in Figure 5.

According to the definitions in Clause 4 (contained in the Dictionary), the proposal satisfies the definition of residential flat buildings, shop top housing and centre-based child care facility which are permissible uses with consent in the Land Use Table in Clause 2.3.

In the case of the shop top housing, this is proposed over the R3 Medium Density Residential. Shop top housing is defined under the LEP as:

residential flat building means a building containing 3 or more dwellings, but does not include an attached dwelling, co-living housing or multi dwelling housing.

Note—

Residential flat buildings are a type of **residential accommodation**— see the definition of that term in this Dictionary.

shop top housing means one or more dwellings located above the ground floor of a building, where at least the ground floor is used for commercial premises or health services facilities.

Note—

Shop top housing is a type of **residential accommodation**—see the definition of that term in this Dictionary.

centre-based child care facility means—

(a) a building or place used for the education and care of children that provides any one or more of the following—

- (i) long day care,
- (ii) occasional child care,
- (iii) out-of-school-hours care (including vacation care),
- (iv) preschool care, or

(b) an approved family day care venue (within the meaning of the [Children \(Education and Care Services\) National Law \(NSW\)](#)),

Note—

An approved family day care venue is a place, other than a residence, where an approved family day care service (within the meaning of the [Children \(Education and Care Services\) National Law \(NSW\)](#)) is provided.

The applicant has identified the ground floor as retail premises. The only form of retail premises permissible in the R3 zone is food and drink premises, which depend on Schedule 1(5) for permissibility.

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

R1 General Residential

- To provide for the housing needs of the community.
- To provide for a variety of housing types and densities.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To ensure that housing densities are broadly concentrated in locations accessible to public transport, employment, services and facilities.
- To facilitate development of social and community infrastructure to meet the needs of future residents.

The proposal is considered to be inconsistent with the zone objectives in that it seeks a density that exceeds what is permitted inclusive of the bonus applicable under the Housing SEPP.

R3 Medium Density Residential

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To provide for a concentration of housing with access to services and facilities.*
- *To provide for a suitable visual transition between high density residential areas and lower density areas.*
- *To ensure that a high level of residential amenity is achieved and maintained.*

The proposal is considered to be inconsistent with the zone objectives in that a high level of residential amenity is not achieved for the development in view of non-compliances and insufficient information presented for landscaped area, sunken units below ground level, solar access, cross-ventilation, visual privacy and the like.

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

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

Consideration of the LEP Controls

| Control | Requirement | Proposal | Comply |
|--|---|---|--|
| Minimum subdivision Lot size (CI 4.1) | 300m ² | Does not contain subdivision. Subdivision is sought under a separate application. | N/A |
| Height of buildings (CI 4.3(2)) | 12 metres (east) 15 metres (west) | 14m (east) 15.35m (west) | No |
| FSR (CI 4.4(2)) | 0.75:1 (4,737.25m ²) (east) 1:1 (9,585.1m ²) (west) | West Lot: 1.46:1 East Lot: 1.2494:1 | No (refer to section under Housing SEPP) |
| Public Utility Infrastructure (CI 6.5) | Public utility infrastructure must be available | Acceptable | No |
| Minimum Dwelling Density (CI 7.11) | 17 dw/Ha (east) 28 dw/Ha (west) | 122 dw/Ha (east) 148 dw/Ha (west) | Yes |
| Earthworks (CI 7.31) | Council to consider matters such as cut and fill, general excavation and drainage for the site. | Council's Land Development Engineer does not support the proposal in its current form for drainage matters. | No |

The proposal is considered to be inconsistent with the key portions of the LEP which are not adequately justified by Clause 4.6 variations.

Clause 4.3 Height of Buildings

The development application has been submitted with a Clause 4.6 Variation, acknowledging a contravention to the height of buildings development standard is being sought. The proposed variation has been identified as:

- In 15m portion: 15.35m (0.35m / 2.33% variation)
- In 12m portion: 14m (2m / 16.7% variation)

The architectural plan sections have identified where elements of the height are breached. Refer to the images below.

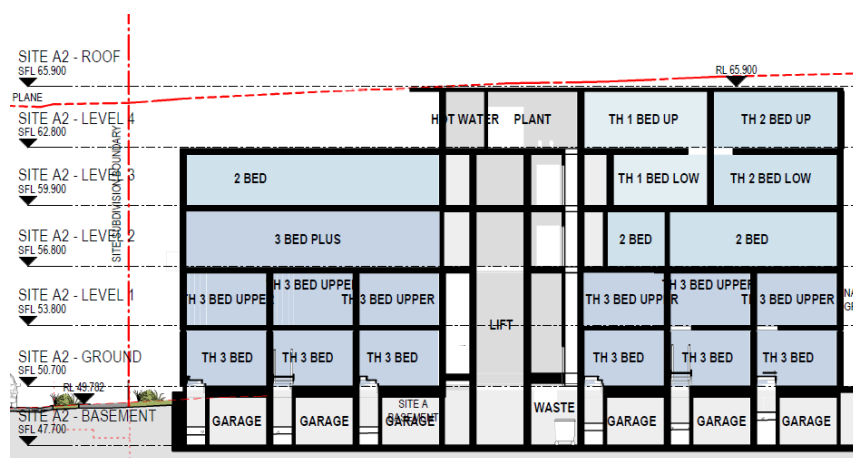


Figure 14: Height breach to Site A (Source: Rothe Lowman plans)

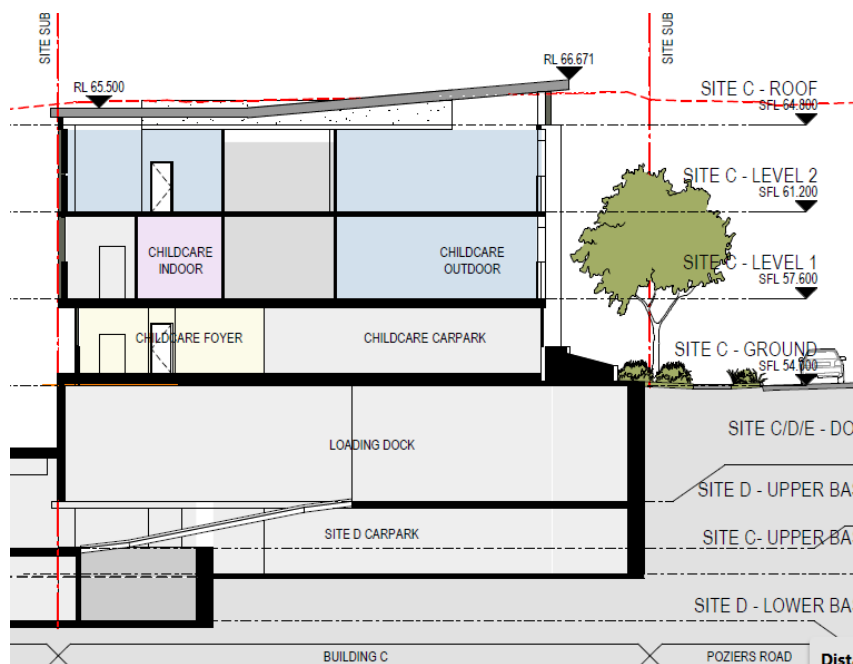


Figure 15: Height breach to Site C (Source: Rothe Lowman plans)

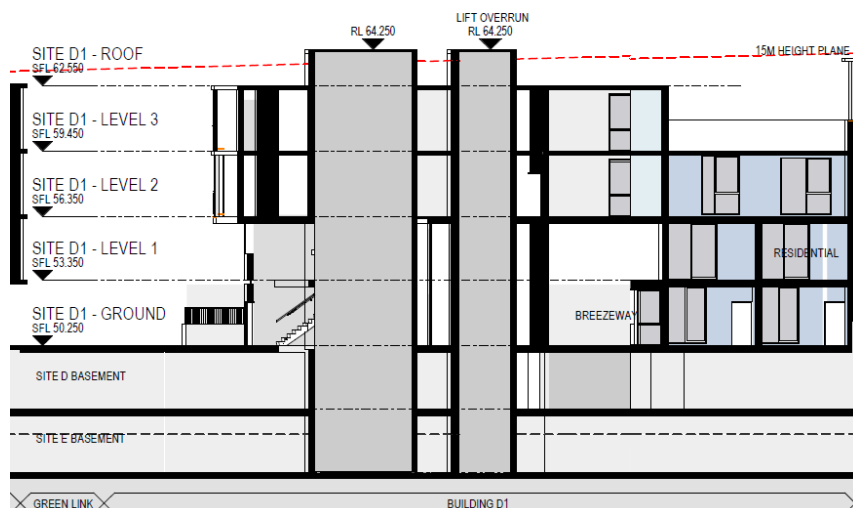


Figure 16: Height breach to Site D (Source: Rothe Lowman plans)

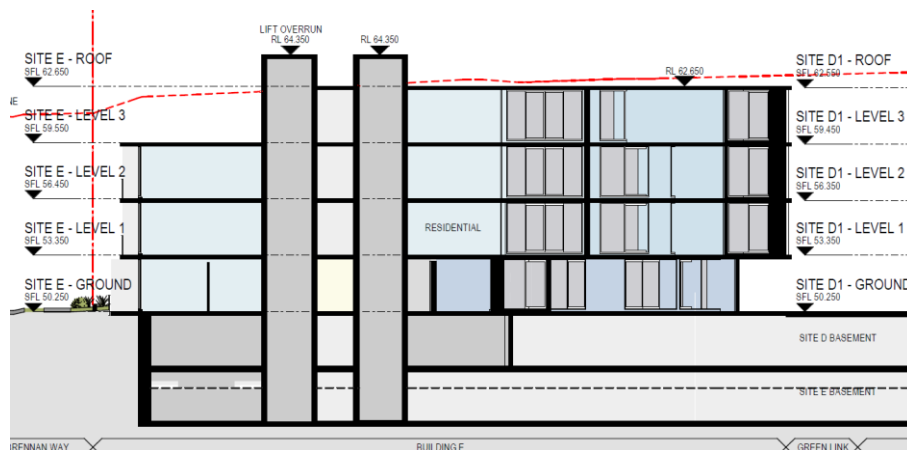


Figure 17: Height breach to Site E (Source: Rothe Lowman plans)

As noted, a Clause 4.6 variation has been prepared which is assessed below.

Clause 4.6 Request

The Development Standard to be varied and extent of the variation.

The height of buildings development standard that applies to the land is 15m to the western lot and 12m as indicated in Figure 18 below.

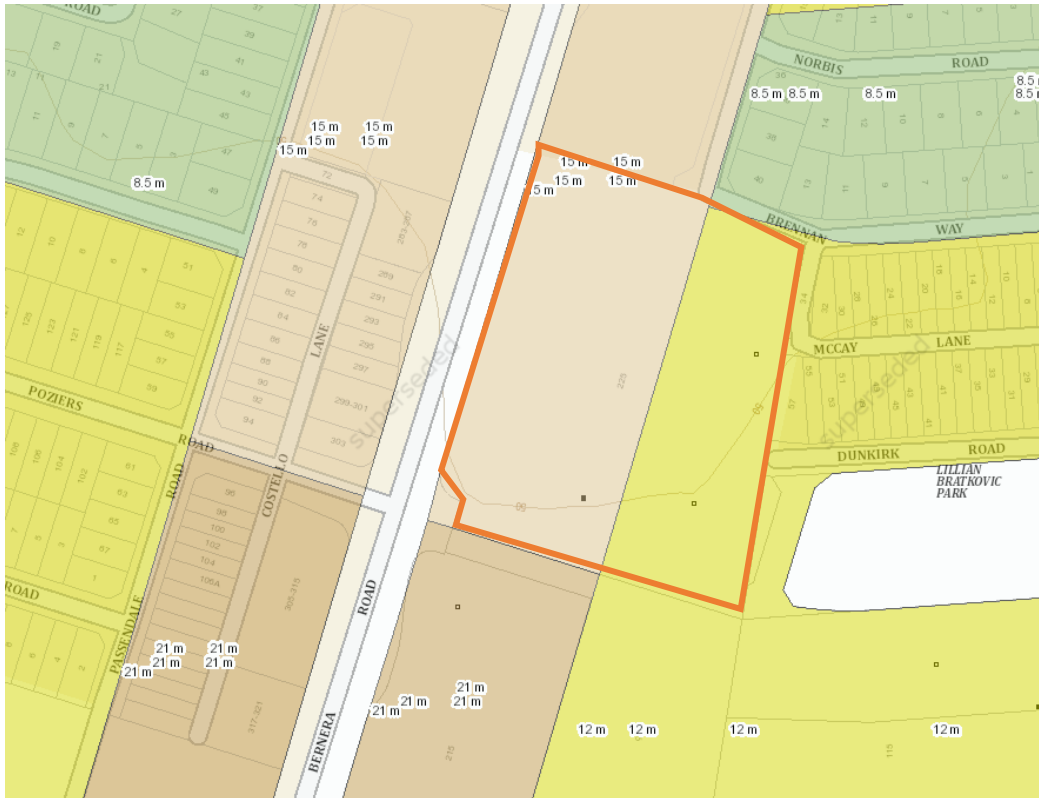


Figure 18: Height of Buildings Map (Source: NSW Planning Portal Digital EPI Viewer)

The variation is partly outlined in the sections shown on the previous pages.

The applicant did not submit a height blanket to articulate the proportion of the development that protrudes into the maximum height plane. Accordingly, it is unclear if all plant areas on the roof have been identified as above or below the height in the applicant's submission.

Preconditions to be satisfied

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

The two preconditions include:

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

These matters are considered below for the proposed development having regard to the applicant's Clause 4.6 request. The clause 4.6 variation is attached to this report.

The submitted written request to vary Clause 4.3 (Height of buildings) has been assessed against the provisions of Clause 4.6; the objectives of the Clause being varied; and the objectives of the R1 and R3 zones, are discussed below:

The objectives and standards of Clause 4.6 of the Liverpool Local Environmental Plan (LEP) 2008 are as follows:

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
 - (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
- (2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating—*
- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.*
- (4) *Development consent must not be granted for development that contravenes a development standard unless—*
- (a) the consent authority is satisfied that—*
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
 - (b) the concurrence of the Planning Secretary has been obtained.*

1) Circumstances of the Development

The application seeks consent for the construction of six residential flat buildings, two shop top housing buildings and a child care centre.

2) Written request addressing why compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and that there are sufficient planning grounds to justify the contravening of the development standard

The below dot points summarise the applicant's Clause 4.6 Variation justification for why compliance is unreasonable or unnecessary.

- *Strict compliance with the numerical development standard is unnecessary and unreasonable in this case as the objectives of the development standard are achieved, notwithstanding noncompliance with the numerical component of the development standard.*
- *The primary cause of the non-compliance with the height limit is a consequence of the topography of the land and the development needing to respond to the topography. Based on the accompanying Survey Plans, the site has a fall of approximately 7.53 metres from RL 55.73 metres at the south-eastern corner to RL 48.2 metres on the northern boundary.*

- *Importantly, the additional height does not generate additional floor space for the development but rather, is a consequence of the need for the development to respond to the desired future character of built forms within the precinct and the design requirements for the built form under the State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development Apartment Design Guide (SEPP 65 ADG)*
- *Point 3 for 'Village Centres' [under the Character Statements] identifies a 4 to 6 storey shop top housing development typology 'at the intersection of the Bus Priority Corridor and Poziers Road' (i.e. the south-western corner of the subject site). Furthermore, point 3 for 'Urban' indicates that 'Taller buildings are encouraged to frame the Bus Priority Corridor and the Maxwells Creek Urban Park. Buildings are predominantly between 3 - 6 storeys and massed towards the public realm.' The development proposes a 4 storey shop top housing development at the south-western corner of the site being the minimum storey height envisaged for the 'Village Centres' and a 5 storey residential flat building along the bus priority corridor which are within the storey heights described in the character statements.*
- *The buildings propose floor to ceiling heights that satisfy the SEPP 65 ADG requirements. However due to the topography of the land detailed earlier, the development slightly breaches the height limit on the northern sides of the buildings which is unavoidable without considerable stepping of the built forms to respond to the topography of the site. The stepping of the buildings would pose significant design challenges and compromised buildings on the site in relation to accessibility, serviceability, layout and function and the relationship with the basement levels.*
- *The buildings have been sited and designed to ensure that they will be consistent with the desired future character of the locality, have been sited having regard to the subdivision and layout formed by the street network, and the modern designed buildings will be consistent with the character of development envisaged for the precinct.*
- *The development maintains an appropriate level of solar access for adjoining buildings and public open spaces.*
- *On a quantitative basis, the proposed development provides a compliant built form apart from the building height which is marginal and subject to this variation request. Qualitatively, the noncomplaint building heights do not cause any additional levels of overshadowing onto adjoining properties and the public domain and do not exacerbate the bulk and scale of the buildings when viewed from the surrounds. The internal amenity afforded to future residents of the development will be of a high standard and will not be compromised by the non-compliance with the building height development standard.*

In response to these comments raised above, the following comments are provided:

- *The applicant relies upon the first test under the *Wehbe v Pittwater Council [2007] NSW LEC 827*, in that the objectives of the development standard are achieved, which is an accepted basis to contravene a development standard.*
- *It is acknowledged that the site does have a slope of over 7m across the site. However, this occurs over a distance of 150m, which allows for a gradual stepping of multiple buildings.*
- *As presented, the variation to the building height development standard does not involve any additional floor space. However, this is achieved through compromising other aspects of the building design. A minimum floor to floor height of 3.1m is required by the ADG which is not achieved for at least one floor in all residential buildings (3m or 2.9m instead). No information has been submitted to demonstrate how a 2.7m floor to ceiling height to habitable rooms can still be achieved in the reduced space under contemporary National Construction Code requirements. Additionally, Buildings A2*

and A4 in particular have been sunken below street/footpath level to achieve the position that no GFA contravenes the building height.

- While the Edmondson Park DCP (Chapter 2.11) does encourage 4-6 storeys along the Bus Priority Corridor and Poziers Road and taller buildings to frame the Bus Priority Corridor, this is not reflected in the height of buildings development standards that have been prescribed under the LEP. The northern side of Poziers Road (the site) is prescribed a 15m height while the southern side is prescribed a 21m height. The taller built form was envisioned to the south as part of a clear transition in scale from the station in the south, northward along the bus corridor toward Camden Valley Way. Massing of a built form likely only results in four storeys on the northern side of Poziers Road under a 15m height prescription and five or six under the 21m which still aligns with the DCP Character Statements without variations to the height of buildings. Furthermore, taller buildings are still accommodated within the precinct along the Bus Priority Corridor without variations to the height as the surrounding streets steadily reduce to an 8.5m prescribed height. No inherent allowance for a height variation is granted by these Character Statements.
- It is not proven that the proposed reduced floor to floor heights allow for the achievement of 2.7m floor to ceiling heights through the provision of detailed sections. It has not been proven that a design with fewer long buildings (which occur over both west and east lots) and further steps in the form would create a compromised outcome. Council's Design Excellence Panel has requested more breaks in the buildings to avoid a 'street canyon' presentation, which creates opportunities to better step the development.
- Council's Design Excellence Panel does not support the proposed design and architecture of the built form, including the materials, and treatment of key elevations (largely blank, highly exposed north elevations, for example). A better outcome has not been achieved by the allowance of this height of variation.
- The position that the development is compliant apart from the building height is incorrect, as demonstrated throughout this assessment report, which includes variations to FSR, deep soil, and cross-ventilation, amongst others. The development has not demonstrated a high level amenity to future residents. The overshadowing cannot be completely assessed as the shadow diagrams simply terminate the proposed shadows at the site boundary and do not show the impact on the adjoining land.

There is no clear environmental planning grounds justification presented. The assertions in the Clause 4.6 that a worse outcome will be created by further stepping the buildings is not substantiated by any evidence.

It is Council's position that compliance is unreasonable or unnecessary based on the application and information submitted.

3) Consistency with objectives of the development standard Clause 4.3 Height of Buildings

The objectives of Clause 4.3 and the assessment are as follows:

- (a) to establish the maximum height limit in which buildings can be designed and floor space can be achieved,*
- (b) to permit building heights that encourage high quality urban form,*
- (c) to ensure buildings and public areas continue to receive satisfactory exposure to the sky and sunlight,*
- (d) to nominate heights that will provide an appropriate transition in built form and land use intensity.*

Comment: The development is not consistent with the objectives of Clause 4.3. The proposed development has exceeded the maximum height limit by compromising other aspects of the design and has also exceeded the maximum floor space that can be achieved through a number of exclusions in the calculation that elevate the proposed GFA beyond what bonus has been granted through the affordable housing provisions.

It is not certain the built form proposed does not have a notable overshadowing impact on adjoining properties or public domain areas beyond what is anticipated by the 12m and 15m height limits due to the shadow diagrams being incomplete. Notwithstanding this, the urban design outcome created by the lengthy buildings is not sufficiently broken up to create gaps for sky exposure and ventilation is a poor outcome and does not satisfy the objectives. Further, the development has not provided a suitable transition from in form to the lower density, two storey forms to the east of the site.

4) Consistency with objectives of the zone – R1 General Residential

The objectives of the R1 General Residential Zone under the LLEP 2008 are as follows:

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To ensure that housing densities are broadly concentrated in locations accessible to public transport, employment, services and facilities.*
- *To facilitate development of social and community infrastructure to meet the needs of future residents.*

Comment: The development does provide additional housing and a range of unit types. However, the level of density proposed exceeds the permitted FSR and is not supported generally or by a Clause 4.6 variation. The development is not consistent with the objectives of the zone.

5) Consistency with objectives of the zone – R3 Medium Density Residential

The objectives of the R3 Medium Density Residential Zone under the LLEP 2008 are as follows:

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To provide for a concentration of housing with access to services and facilities.*
- *To provide for a suitable visual transition between high density residential areas and lower density areas.*
- *To ensure that a high level of residential amenity is achieved and maintained.*

Comment: While not directly related to the variation in building height, a supporting justification for the height is that a high level of amenity is provided. It is Council's view that this has not been demonstrated with a number of amenity matters non-compliant, poorly resolved or insufficient information is presented to discern compliance, including for solar

access, ventilation, below ground level units, pedestrian circulation, communal open space facilities, shading and availability (for the shop top housing buildings).

6) Consistency with Clause 4.6 objectives

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

Comment: It is Council's view that flexibility is not warranted in this instance. A better outcome has not been achieved by allowing for a variation. The development does not satisfy key criteria from amenity matters to design excellence to warrant support.

7) Recommendation

It is further noted that the development is to construct new built forms on lots that do not exist. The lots and road network are subject to a separate DA-1122/2021 which is under a Class 1 appeal and is not determined at the time of writing. The site areas for the east and west lots are inconsistent between the current plans under assessment in the subdivision application and what was submitted with this application, which affects all matters from calculations based on site area (FSR, communal open space, landscaped area) to setbacks to the street and adjoining properties.

Given this, the site levels relied upon for this Clause 4.6 variation are not certain, rendering the degree of height contravention also not certain. Amongst other concerns, the application is premature for relying on outcomes not yet determined.

In view of the above, the Clause 4.6 variation is not supported, and the application should be refused.

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

Several proposed instruments have been the subject of public consultation under the EP&A Act, and are relevant to the proposal, including the following:

- *Draft Remediation of Land SEPP*
- *Draft SEPP (Environment)*

The assessment of the proposal is not altered by the draft provisions within the above proposed instruments.

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

The following Development Control Plan is relevant to this application:

- ***Liverpool Development Control Plan 2008 ('the DCP')***

Part 1 General Controls for All Development and Part 2.11 Edmondson Park are the relevant sections of the DCP that apply to the development application. The key controls of each part are assessed in the tables in attachment D to this report below. The key issues and non compliances are:

- Landscaping
- Bushfire risk
- Water Cycle Management
- Car parking access
- Waste disposal and re-use
- Setbacks
- Building design and streetscape
- Site services

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

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

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

The Environmental Planning and Assessment Regulation 2021 requires the consent authority to consider the provisions of the NCC, which have been taken into account in the assessment of the application.

4.2. Section 4.15(1)(b) - Likely Impacts of Development

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

(a) Natural and Built Environment

The impacts of the development on the natural environment are uncertain. The site currently includes trees that are proposed to be removed under a separate, ongoing application. Removal of the trees is relied upon for the proposed development to occur, however, there is no certainty that consent is granted for the tree removal. Replacement planting is deemed inadequate, particularly in communal spaces. The site is not confirmed to be suitable for the uses in terms of contamination.

The development is considered to result in a poor urban design outcome on the basis of lengthy buildings with poor articulation, insufficient breaks in the massing, poor, prominent secondary street elevations, material selection and a child care centre design divergent from the residential character.

The impact of the traffic generation on the road network has not met with concurrence from TfNSW.

(b) Social Impacts and Economic Impacts

Insufficient information has been submitted to accurately determine the social and economic impacts. The development proposes five food and drink premises as part the two shop top housing buildings which have not been demonstrated to be viable given the proximity of the

site to the Edmondson Park centre 1km to the south. The failure of these tenancies would be a poor social and economic outcome.

The proposed child care centre has inadequate information to properly assess the suitability of the development and that a quality care facility is created for the children.

In view of the above, it is considered that the proposal will result in any adverse impacts in the locality as outlined above.

4.3. Section 4.15(1)(c) - Suitability of the site

The proposal seeks a density and height that is in contravention to the development standards inclusive of the proposed bonus FSR under the in-fill affordable housing controls under the Housing SEPP. The development also breaches setback controls and has not demonstrated a suitable level of amenity to the development.

Matters of drainage, contamination, traffic, privacy, overshadowing, bushfire and the like have not been adequately resolved in the information submitted to date. In its current form, the development is not deemed suitable for the site.

4.4. Section 4.15(1)(d) - Public Submissions

These submissions are considered in Section 5 of this report.

4.5. Section 4.15(1)(e) - Public interest

The proposal is not consistent with the planning controls, zone objectives and otherwise lacks key information to enable a full assessment of all aspects, particularly of the proposed child care centre. The development depends on outcomes of an under appeal subdivision and roads application which will determine levels, resulting in uncertainty in all aspects contingent on site areas and levels. The development also seeks works on an adjoining property without owner's consent.

The proposed development is not in the public interest.

5. REFERRALS AND SUBMISSIONS

5.1. Agency Referrals and Concurrence

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

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

Table 10: Concurrence and Referrals to agencies

| Agency | Concurrence/ | Comments | Resolved |
|--------|--------------|----------|----------|
|--------|--------------|----------|----------|

| | referral trigger | (Issue, resolution, conditions) | |
|------------------------------|--|---|-----|
| RFS | S4.14 – EP&A Act Development on bushfire prone land | A referral was commenced with RFS and was rejected as no Bushfire report was provided with the application. The SEE states that a Bushfire report is accompanied with the development application, however no Bushfire report was submitted with the application through the NSW Planning Portal. | No |
| Electricity supply authority | Section 2.48 – <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> Development near electrical infrastructure | Endeavour Energy referral recommends approval with conditions. | Yes |
| Sydney Water | Section 78 – <i>Sydney Water Act 1994</i> Development that will increase the demand for water and wastewater to be supplied and removed. | No issues raised. | Yes |
| Water NSW | Section 90(2) – <i>Water Management Act 2000</i> | Water NSW has requested additional information regarding the borehole depth and groundwater level and further information regarding tanking the basement. | No |
| Jemena Gas Networks | CI 66C – <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> | Referral returned as it is outside the gas pipeline catchment area | Yes |
| Design Review Panel | CI 28(2)(a) – SEPP 65 Advice of the Design Review Panel ('DRP') | The advice of Council's Design Excellence Panel has been considered in the assessment and is further discussed in the SEPP 65 assessment and the Key Issues section of this report. | No |
| Transport for NSW | Section 2.121 – <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> Development that is deemed to be traffic generating development in Schedule 3. | TfNSW has requested additional information on the SIDRA modelling of Dalmatia Avenue/Croatia Avenue (Bernera Road) and Poziers Road intersections, and the traffic impact assessment to consider cumulative traffic impacts of the development. | No |

5.2. Council Officer Referrals

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

Table 11: Consideration of Council Referrals

| Officer | Comments | Resolved |
|--------------------|---|----------|
| Engineering | Council's Engineering Officer reviewed the submitted stormwater plans and has raised concerns and requests further information in relation to detailing the temporary easements for the temporary OSD, a staging plan for decommissioning the OSD, detail to emergency overflows and DRAINS model errors. | No |
| Traffic | Council's Traffic Engineering Officer reviewed the proposal and raised concerns in relation to the traffic impact assessment and the impact of the development on nearby intersections, parking restrictions along roads near the driveways, and the need for revised swept path diagrams for the driveway and parking area. | No |
| Landscape | Council's Landscape Officer supports the proposed landscaping subject to conditions. However, Council's assessment has found discrepancies with the applicant assessment regarding the size and depth of deep soil. Therefore, the proposed landscaping as assessed is insufficient. | No |
| Health | Council's Environmental Health officer reviewed the submitted documents and has raised concerns and requested further information in relation to the need for a clear Stage 2 Detailed Site Investigation, peer review of the contamination documents, the acoustic report consultant qualifications, and additional detail and fit-out for the child care centre including construction details of the foot preparation areas and location of cleaner's sink and storage facilities. | No |
| Waste | Council's Waste Officer has reviewed the application and supports it subject to conditions of consent, though has mentioned that additional space should be allowed for the future FOGO bin service. | Yes |
| Community Planning | Council's Community Planning Officer has reviewed the application and has requested further information including resolving inconsistencies in the SEE and other documents on the number of children proposed for the child care centre, a Plan of Management and Community Housing Provider details for the affordable housing, a Plan of Management for the child care centre and alternate designs accommodating children at the ground floor and the outdoor play area close to nature. | No |

| | | |
|-------------|---|----|
| Fire Safety | Council's Fire Safety Officer has reviewed the proposed substation and requires the applicant to amend the proposal to be in accordance with Endeavour Energy specifications. | No |
|-------------|---|----|

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

5.3. Community Consultation

The proposal was notified in accordance with the Liverpool Council's Community Participation Plan from 28 June 2022 until 13 July 2022.

The Council received a total of 2 unique submissions, comprising 2 objections. The issues raised in these submissions are considered in **Table**

Table 12: Community Submissions

| Issue | No of submissions | Council Comments |
|---|-------------------|---|
| Building separation / setbacks to the objector's dwelling | 1 | The setback from D1 to the side boundary is 4.5m, which is consistent with the Edmondson Park DCP. However, the application does include other issues of note on setbacks and separation and is recommended for refusal on those grounds. |
| Overshadowing impacts | 1 | The shadow diagrams do not clearly articulate the impact of the development as the shadows simply terminate at the site boundary, which is inaccurate. Insufficient information on this point is an identified concern that contributes to the reasons for refusal. |
| Insufficient information on boundary fencing for privacy and safety | 1 | This is a raised aspect of insufficient information. |
| Whether the basement impacts on adjoining properties | 1 | The basement is setback from adjoining properties. Typical conditions of consent for a development of this type and works would require the preparation of dilapidation reports and a geotechnical investigation. However, the application is recommended for refusal on other grounds. |
| Overdevelopment of the site | 1 | The development exceeds the height and FSR for the site and is incorporated as a reason for the recommendation for refusal. |
| Impact on the eastern subdivision | 1 | The residual lot issue is raised within this assessment report. The use of the land and the consent for this use is a matter that forms part of the recommendation for refusal. |

6. KEY ISSUES

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

1. *Height of Buildings* – The proposed development varies the building height in both the 12m and 15m prescribed height portions of the land. The submitted Clause 4.6 is not considered well founded or demonstrates sufficient environmental planning grounds to justify contravention of the development standard. Furthermore, the building heights will need to be increased to allow for appropriate floor to floor heights as per the Apartment Design Guide (ADG) and to eliminate units sunken below footpath/street level, which will further increase heights for the proposal.
2. *Floor Space Ratio* - The proposal is dependent on the bonus FSR that applies to in-fill affordable housing development within an accessible area. However, the calculation of FSR by the applicant's submission has omitted areas to be included such as the stairs within two storey units, ground level waste areas, enclosed lobby spaces, the highly enclosed outdoor play areas that are roofed and bounded by 2.4m high walls per the acoustic report, large plant areas without justification, and car parking in excess of the requirements of the consent authority. These aspects included result in a non-compliant FSR not supported by a Clause 4.6 Variation.
3. *Urban Design* – The proposed buildings have not achieved Design Excellence as determined by Council's Design Excellence Panel. The built form fails to respond to the site, is overly long and bulky, particularly for the central buildings on both lots and has poor secondary street façades notably to the northern elevations on the western lot that fails to take advantage of both a street frontage and the favourable orientation. Variations to setbacks on upper floors are also proposed and not justified. The child care centre lobby is also deeply recessed and disconnected from the public domain. The ground level parking results in a poor streetscape presentation to Poziers Roa.
4. *Amenity* – The application does not comply with the objectives and controls in the ADG, including but not limited to ground level unit arrangements, visual privacy and security of units to common (and potentially public) spaces, solar access to communal open space, treatment and landscaping to communal open space, unit sizes, private open space sizes, cross-ventilation, and light and ventilation to lengthy corridors.
5. *The Application is Premature* – The application relies upon the demolition of existing structures, vegetation, the subdivision of land and construction of roads under a separate DA that is subject to a Class 1 appeal and is undetermined at the time of preparation of this report (DA-1122/2021). As all aspects of the design are contingent on the levels and lot sizes produced under that application, this entire application is on a foundation of uncertain outcomes of the subdivision application.
6. *Site Isolation/Works on Adjoining Properties*– The application identifies a residual lot in the southeastern corner adjacent to a residual lot of the subdivision to the east of the site. This land is sought to be relied upon for access pathways and landscaping. No owner's consent has been provided to undertake this work. It is also not an economic or orderly use of the residual lot land.

7. *Contamination* – The information submitted on contamination is insufficient for assurance that the land can be made suitable for the proposed residential accommodation. The contamination documents also do not refer to the proposed child care centre sensitive land use specifically to assure that the land is or will be made suitable for that purpose.
8. *Insufficient Information* - The development generally provides inadequate levels of information to undertake a complete assessment of the development, including but not limited to:
 - a. An inconsistent number of children are proposed for the child care centre (e.g. 90, 93 and 100 across the Statement of Environmental Effects and Traffic Report), no specified age ratios of those children, staff numbers, fit-out of the centre to determine play area requirements and compliance, outdoor play area design, whether sufficient administration, bathroom and management facilities are provided, etc.
 - b. Correct calculations or assessment of deep soil area, landscaped area, solar access, and cross-ventilation in accordance with the Housing SEPP and the Apartment Design Guide (ADG).
 - c. Compliance with a number of ADG and DCP matters, including but not limited car parking allocation, storage for units, dimensions to floor plans to assess unit and room sizes, motorcycle and bicycle parking, location of AC units, and services.
 - d. The application seeks five (5) different tenancies varying in size from 46.2m² to 203.9m². The applicant has not provided any justification or economic analysis on how the development will accommodate five separate food and drink premises that remain viable in the long-term with the extensive Ed Square shopping and food precinct 1km to the south.
 - e. The security and public access of the development given the proposal for connecting paths to the public domain with no fencing or gates.
 - f. Whether five (5) food and drink premises can be realistically supported on the site only 1km from the Edmondson Park town centre.
 - g. Uncertainty on how the food and drink premises will be serviced given there is no direct connection from the loading bay to the tenancies.

Other matters of non-compliance or inadequacy include the acoustic report assessing and providing recommendations for a child care centre with no clearly specified children numbers or age ratios or assessing the noise from the operation of retail premises on the residential, unresolved referrals from TfNSW on traffic matters, NSW RFS due to bushfire affectation, Water NSW, and internal referrals on traffic, drainage, and fire safety matters..

7. CONCLUSION

This development application has been considered in accordance with the requirements of the EP&A Act and the Regulations as outlined in this report. Following a thorough assessment of the relevant planning controls, issues raised in submissions and the key issues identified in this report, it is considered that the application cannot be supported.

The application proposes non-compliances with key development standards (height and FSR) and a general lack of information to undertake a complete assessment of the proposal.

It is considered that the key issues as outlined in Section 6 are unresolved and are reasons to refuse the development application as recommended by the draft reasons for refusal in **Attachment A**.

8. RECOMMENDATION

That the Development Application DA-267/2022 for demolition of all existing structures and the construction of six (6) residential flat buildings and two (2) shop top housing developments containing a total of 219 residential apartments, and a 93 place centre-based child care centre above two basement levels including landscaping and site works at 225 Croatia Avenue, Edmondson Park be **REFUSED** pursuant to Section 4.16(1)(b) of the *Environmental Planning and Assessment Act 1979* subject to the reasons for refusal attached to this report at Attachment A.

The following attachments are provided:

- Attachment A: State Environmental Planning Policy 65 – 9 Design Principles Assessment Table
- Attachment B: Apartment Design Guideline (ADG) Assessment Table
- Attachment C: Childcare Centre Planning Guidelines Assessment Table
- Attachment D: Development Control Plans Assessment Tables
- Attachment E: Draft Reasons for refusal - TRIM No. 228560.2023
- Attachment F: Architectural Plans – Trim No. 074921.2022
- Attachment G: Landscape Plan – TRIM No. 074936.2022
- Attachment H: Architectural Design Brief – TRIM No. 074922.2022
- Attachment I: Photomontage – TRIM No. 074939.2022
- Attachment J: Stormwater Plans – TRIM No. 074942.2022
- Attachment K: Clause 4.6 Request – Height of Buildings – TRIM No. 074930.2022
- Attachment L: Design Excellence Panel advice – TRIM No. 056590.2023

ATTACHMENT A: SEPP 65 – 9 Design Quality Principles Assessment

| Design Quality Principle | Comment |
|--|--|
| Principle One – Context and Neighbourhood Character | |
| <p>Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.</p> <p>Responding to context involves identifying the desirable elements of an area's existing or future character. Well-designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.</p> <p>Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.</p> | <p>The proposed development is not considered to adequately respond to its context.</p> <p>The development has not been designed to respond to the site topography in that units in Buildings A2 and A4 are located below street level contrary to Objectives 3C-1 and 4L-1. It has not been adequately demonstrated solar access and cross-ventilation are compliant. Both northern elevations on the western lot fail to utilise this orientation for amenity purposes, presenting as a secondary and unarticulated form with no activation to Brennan Way.</p> <p>The large and bulky forms particularly for the central building on both blocks are not supported by Council's Design Excellence Panel for creating 'street canyons'. Further, the built form relationship to the adjoining buildings along Dunkirk Road and McCay Lane have not adequately been resolved.</p> |
| Design Principle 2 – Built form and scale | |
| <p>Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.</p> <p>Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements.</p> <p>Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.</p> | <p>A minimum of 17 and 25 dwelling densities per hectare apply to the land. While the development complies with these minimums, it exceeds building height, FSR, setbacks, and building separation distances, and fails to achieve deep soil requirements and the like. The built form and scale of the proposal are not appropriate for the site.</p> <p>The development is not of a scale that is supported by Council's Design Excellence Panel.</p> |
| Design Principle 3 – Density | |
| <p>Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.</p> <p>Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by</p> | <p>The development exceeds the extent of the bonus FSR sought under the Housing SEPP due to exclusions in the GFA calculation. Variations to the building height, building separation, and non-compliances in deep soil are proposed. As such, the density sought exceeds that of what the site was envisioned and can accommodate.</p> |

| Design Quality Principle | Comment |
|--|---|
| existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment. | The proposal with its non-compliances outlined in this report and the poor urban, landscape and amenity responses is not supported. |
| Design Principle 4 – Sustainability | |
| <p>Good design combines positive environmental, social and economic outcomes.</p> <p>Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation</p> | <p>Based on an assessment of the plans, it is unclear whether cross-ventilation and solar access minimums have been achieved under the ADG due to insufficient information and inconsistencies in the information presented.</p> <p>The development proposes no rooftop communal open space, however, has not taken the opportunity to adopt solar panels.</p> <p>The Design Excellence Panel has recommended that solar panels, a rainwater tank for each site for reuse and ceiling fans for habitable rooms be adopted to assist in a positive sustainability outcome for a long-term built form. These should be adopted to allow for consistency with this design principle.</p> <p>In the current form, the development complies with the minimum standards per the submitted BASIX Certificates. However, a better outcome can be achieved to ensure the required design excellence.</p> |
| Design Principle 5 – Landscape | |
| <p>Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well-designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.</p> <p>Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks.</p> <p>Good landscape design optimises useability, privacy and opportunities for social</p> | <p>The proposed development does not provide the minimum 15% deep soil required for a development reliant on in-fill affordable housing provisions under the Housing SEPP. Further, due to the site area exceeding 1,500m², 15% would also be required under ADG with a larger dimension requirement (3m vs 6m), exacerbating the non-compliance.</p> <p>The reduction in deep soil results in an insufficient degree of tree canopy cover generally and particularly in the COS areas to assist in managing the Western Sydney environment. The landscape plan for the west block COS identifies three trees across an area of over 1,200m² and minimal ancillary planting to generate an attractive space and microclimate.</p> <p>A similar minimal planting and tree canopy outcome is proposed for the eastern lot.</p> <p>The landscape plan planting and circulation outcome depends on access to a residual lot as part of an adjoining development in the southeastern corner.</p> |

| Design Quality Principle | Comment |
|---|--|
| interaction, equitable access, respect for neighbours' amenity and provides for practical establishment and long term management. | <p>This is not functional or achievable as no owner's consent has been provided.</p> <p>A number of on-structure planting areas are proposed with no detail of soil profiles and depths to confirm their viability.</p> <p>The DEP raised concerns on the lack of canopy cover and overall lack of appropriate vegetation proposed to address heat island affect and cobnsdier the development in approiute froma landscaping prespective.</p> |
| Design Principle 6 – Amenity | |
| <p>Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident wellbeing.</p> <p>Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas and ease of access for all age groups and degrees of mobility.</p> | <p>The development does not achieve a high level of amenity for residents for reasons including but not limited to the below:</p> <ul style="list-style-type: none"> • Buildings A2 and A4 are sunken well below street level, impacting on amenity of these units. • It is unclear whether solar access and cross-ventilation targets have been achieved due to insufficient information and inconsistencies in available information. • Common corridors have limited or no availability of daylight and/or ventilation. • The interface between some units has no visual or physical separation between bedrooms and common circulation pathways and some are seemingly publicly accessible (e.g. D1-GU10; E.UG106 and 107). • Limited storage is available within units based on the presented information. • The ground level two storey apartment designs are narrow and have significant depths and recesses to the outside, compromising amenity. • Insufficient deep soil areas. <p>The DEP expressed concenrns for the lack of ADG compliance for internal and external storage, and comprimised visual and acoustic privacy offered within apartments on the eastern site.</p> |
| Design Principle 7 – Safety | |
| <p>Good design optimises safety and security within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety.</p> <p>A positive relationship between public and private spaces is achieved through clearly</p> | <p>A large number of ground level dwellings across Buildings A2 and A4 are set below street level which creates a poor casual surveillance and safety relationship</p> <p>It is unclear how much of the development will be publicly accessible. Pathways are proposed from Dunkirk Road leading to Hutton Road on the eastern lot which passes through communal areas, in front and behind POS areas, with no gates. The central lobby areas for the shop top housing buildings on Site B are</p> |

| Design Quality Principle | Comment |
|--|--|
| <p>defined secure access points and well-lit and visible areas that are easily maintained and appropriate to the location and purpose.</p> | <p>seemingly open to the public and have limited casual surveillance opportunities.</p> <p>The fencing proposed across the development is unclear or not specified at all.</p> <p>The DEP raised concerns relating to the design and requested CPTED (Crime Prevention Through Environmental Design) review be undertaken and incorporated into the design.</p> |
| Design Principle 8 – Housing Diversity and Social Interaction | |
| <p>Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.</p> <p>Well-designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix.</p> <p>Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents.</p> | <p>The proposed development achieves an appropriate apartment mix and sizes that will provide for a variable housing mix and choice for different demographics.</p> <p>However, there are a large number of ramps within the development site, including the ground level where integration with site levels for the floor plate could be more readily achieved. A reliance on ramps and stairs throughout communal areas severely diminishes the recreation outcomes of these spaces, which particularly affects the COS associated with Site D.</p> <p>Large, lengthy common corridors exceeding 12m from the lift core have no opportunities for social interaction per Objective 4F-1 of the ADG.</p> <p>The DEP requested the Universal Housing plans to include Pre and Post adaptation layouts to allow easier adaption with minimal effort and impact. Furthermore, the DEP raised concerns relating to wheelchair access, which should be established on ground floor and the development should comply with ADG apartment mix.</p> |
| Design Principle 9 – Aesthetics | |
| <p>Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.</p> <p>The visual appearance of a well-designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.</p> | <p>Council's Design Excellence panel is not supportive of the proposed aesthetics and does not consider the development to achieve Design Excellence.</p> <p>The Panel stated:</p> <ul style="list-style-type: none"> The Panel notes the ideas that inform the aesthetics should be driven by the streetscape character, Country, climate response, sustainability, robust and durable materials, landscape and architectural design intent and detailing. The proposal appears generic and disregards the side elevations. The Panel considers the design does not demonstrate Design Excellence. The Panel requires the applicant to undertake analysis on how a western Sydney building should address its context, solar orientation and the |

| Design Quality Principle | Comment |
|--------------------------|--|
| | <p>various context and constraints of the site, including the local environment (i.e., considerations for specific local weather conditions etc.).</p> <ul style="list-style-type: none"> The Panel notes that the overall architectural expression, particularly for the lower 2-storey building base requires significant refinement to create a more civic architectural character of higher urban design and amenity for the lower levels. The 2-storey building base element should demonstrate a better scale and streetscape integration, and long singular buildings should be separated to provide interest, allow light and air to the street and provide a streetscape that has a more domestic scale. Use of robust and durable self-finished materials with an integral finish (face bricks, concrete) is preferred. Rendered and painted finishes should be avoided considering the longevity and the associated long-term costs. <p>As these matters are unaddressed, the development is not supported.</p> |

ATTACHMENT B: Apartment Design Guide Assessment Table

| Provisions | Comment |
|--|---|
| 3A Site analysis | |
| Site analysis illustrates that design decisions have been based on opportunities and constraints of the site conditions and their relationship to the surrounding context | <p>No</p> <p>The design of the proposed development is not based on existing site conditions and constraints and does not take full advantage of the northerly aspect where possible, within the constraints of the precinct planned development site, to maximise solar access to the development.</p> |
| 3B Orientation | |
| <p>Building types and layouts respond to the streetscape and site while optimising solar access within the development.</p> <p>Overshadowing of neighbouring properties is minimised during mid-winter</p> | <p>No</p> <p>The development has not demonstrated adequate regard for the orientation of the lots. Despite a northerly lot orientation, Site A presents largely blank facades to the north, failing to optimise solar access to these units.</p> <p>The eastern lot communal open space areas are largely overshadowed by the proposed</p> |

| Provisions | Comment |
|--|---|
| | <p>buildings and does not achieve 2 hours to 50% of the space.</p> <p>Solar access is not confirmed to comply with the minimum 2 hours to 70% of POS and living rooms due to insufficient information and inconsistent information presented currently.</p> |
| 3C Public Domain Interface | |
| 3C-1 Transition between private and public domain is achieved without compromising safety and security | <p>No</p> <p>The ground level units in Building A2 and A4 are sunken below street level, which has a poor public domain interface, amenity and casual surveillance outcome. This affects at least 16 units.</p> |
| 3C-2 Amenity of the public domain is retained and enhanced | <p>No information is provided on the fencing and gates separating units and the street access.</p> |
| 3D Communal and public open space | |
| <p>Communal open space has a minimum area equal to 25% of the site. Communal open space is to have a minimum width of 3m, be co-located with deep soil areas and have equitable access from common circulation areas.</p> <p>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)</p> <p>Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting.</p> <p>Communal open space is designed to maximise safety.</p> <p>Public open space, where provided, is responsive to the existing pattern and uses of the neighbourhood</p> | <p>No</p> <p><u>West Lot</u></p> <p>Site area: 9,585.1m² COS required: 2,395.28m² COS proposed: 2,516.7m²</p> <p><u>East Lot:</u></p> <p>Site area: 5,201m² (RFBs portion only) COS required: 1,300.25m² COS proposed: 1,406.1m²</p> <p>Large portions of the included areas are circulation pathways with no facilities. The proportion of principal usable area to general circulation areas on the eastern lot of a poor balance. The western lot shop top housing portion consists of the secluded, roofed areas and a central publicly accessible forecourt for the proposed retail component, which can only consist of food and drink premises, will in reality likely only be used by those premises (assuming the site can support five separate tenancies), has no meaningful connection to or from the residential lobbies, and no specific facilities are identified for this space beyond seating.</p> <p>It is arguable that the shop top housing portion areas are not warranted for inclusion. Numerical compliance aside, the actual treatment of the COS spaces across the</p> |

| Provisions | | Comment | | | | | | | | | | | | |
|---|--------------------|---|--------------------|---------------------------------|-----------------------------|---|----|---|----|---------------------------------|----|---|----|---|
| | | development is minimal beyond turf and shrubs, and pathways, two BBQs per lot, and unclear use and equipment proposed on softfall spaces, which is a priority consideration for a development exceeding 40% 3 bedrooms that will attract a large number of families. Minimal trees are also proposed to beautify the COS areas and provide shading in the hot western Sydney summer. Additionally, the eastern lot COS will not receive 2 hours to 50% of the principal usable portion of the COS. | | | | | | | | | | | | |
| 3E Deep soil zones | | | | | | | | | | | | | | |
| Deep soil zones are to meet the following minimum requirements: Q1. <table><tr><td>Site Area</td><td>Minimum Dimensions</td><td>Deep Soil Zone (% of site area)</td></tr><tr><td>Less than 650m²</td><td>-</td><td rowspan="4">7%</td></tr><tr><td>650m² to 1500m²</td><td>3m</td></tr><tr><td>Greater than 1500m²</td><td>6m</td></tr><tr><td>Greater than 1500m² with significant tree cover</td><td>6m</td></tr></table> On some sites it may be possible to provide larger deep soil zones, depending on the site area and context: <ul style="list-style-type: none">10% of the site as deep soil on sites with an area of 650m2 – 1,500m215% of the site as deep soil on sites greater than 1,500m2 | | Site Area | Minimum Dimensions | Deep Soil Zone (% of site area) | Less than 650m ² | - | 7% | 650m ² to 1500m ² | 3m | Greater than 1500m ² | 6m | Greater than 1500m ² with significant tree cover | 6m | No The site area for deep soil has been calculated as a whole site rather than individual lots (an east and west at the minimum). These should be calculated independently as they will exist independently of each other. West Lot: 9,585.1m ² East Lot: 5,201m ² Deep soil required: West Lot: 670.96m ² with a 6m dimension East Lot: 364.07m ² with a 6m dimension Proposed: West Lot: 1,102.3m ² / 11.5% East Lot: ~296m ² / 4.7% The proposal, therefore, varies the deep soil requirement under the ADG on the eastern lot and is not supported. |
| Site Area | Minimum Dimensions | Deep Soil Zone (% of site area) | | | | | | | | | | | | |
| Less than 650m ² | - | 7% | | | | | | | | | | | | |
| 650m ² to 1500m ² | 3m | | | | | | | | | | | | | |
| Greater than 1500m ² | 6m | | | | | | | | | | | | | |
| Greater than 1500m ² with significant tree cover | 6m | | | | | | | | | | | | | |
| 3F Visual Privacy | | | | | | | | | | | | | | |

| Provisions | | | Comment |
|---|-------------------------------|---------------------|--|
| 3F-1 Minimum separation distance requirements from buildings to the side and rear boundaries are as follows: | | | No The majority of the development meets a 12m separation between buildings, however, some variations to this are proposed. A non-comprehensive list of examples includes: <ul style="list-style-type: none">• B1-B2 Levels 2-4 balcony separation between: 11.3m (required 12m)• D1-UG17 to D1-UG05 bedroom window and terrace to bedroom window 7.2m (required 12m)• A4-UG101 to A2-UG106 habitable room window to blank wall 4.5m (required 6m).• D2.UG01-04 study outlook to blank wall 4.5m (required 6m)• The separation between units in Building D2 and the child care centre Level 1 and 2 is partly below 12m. While these are modest variations and could be resolvable by condition for screening, and are acceptable due to being secondary windows to blank walls or minor amendments, the application is not supported on other grounds. |
| Building Height | Habitable Rooms and Balconies | Non Habitable Rooms | |
| Up to 12m (4 storeys) | 6m | 3m | |
| 12m to 25m (5-8 storeys) | 9m | 4.5m | |
| Over 25m (9+ storeys) | 12m | 6m | |
| 3F-2 Communal Open space, common areas and access paths should be separated from private open space and windows to apartments particularly habitable room windows | | | Insufficient Information The fencing/treatment between units and COS or common pathways is not specified or clear in the submission. Some habitable room windows are very close to common pathways that also appear to be accessible to the public, including D1.UG101-104 Internal elevations are not fully provided to allow for an assessment of windows in various areas. |
| 3G Pedestrian Access and Entries | | | |
| Building entries and pedestrian access connects to and addresses the public domain | | | No While Sites A-B have lobbies visible from the street and direct pathways, the entry lobbies |
| Access, entries and pathways are accessible and easy to identify | | | |

| Provisions | Comment |
|---|--|
| <p>Large sites provide pedestrian links for access to streets and connection to destinations</p> | <p>for Sites D-E have no direct connection with the public domain.</p> <p>The landscape plan identifies planting and pathways to the existing roads east of the site, including on a lot identified as a residual lot on this site and on the eastern neighbours residual lot. (No owners consent has also been provided for the works to the neighbouring residual lot.)</p> <p>These paths, as well as others around the development, are unclear in whether they are public pedestrian links, as these appear to enable general public access to the majority of ground level spaces, communal open spaces.</p> <p>For example, a north-south and east-west pathway are identified on the east lot. The east-west pathway is not direct and does not have clear sightlines to guide people from Dunkirk Road to Hutton Road. This path also does not cater to wheelchairs.</p> <p>This matter is not sufficiently resolved.</p> |
| 3H Vehicle Access | |
| <p>Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes and minimisation of excavation and driveway ramps</p> | <p>No</p> <p>Vehicle access to both lots is proposed from Hutton Road from near-opposite positioned driveways.</p> <p>The Design Excellence Panel has not supported the current driveway locations as they are outside of the building form and do not allow for the spaces between buildings to be used for landscaping, deep soil and communal use.</p> <p>There is no separation between a pedestrian entry and vehicle entry on the eastern lot.</p> <p>Waste collection is to occur within the site and is screened from general view.</p> |
| 3J Bicycle and Car Parking | |
| <p>For development in the following locations:</p> <ul style="list-style-type: none"> - on sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan Area; or - on land zoned, and sites within 400 metres of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre | <p>Complies</p> <p>The subject site is within an 800m radius of the Edmondson Park station located south of the site. As such the RMS parking rates would be to be applied to this development. However, the Car parking rates under the</p> |

| Provisions | Comment |
|---|--|
| <p>The minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less. The car parking needs for a development must be provided off street</p> <p>5.4.3 of the RMS guideline requires parking for high density residential flat buildings in non-CBD areas at a rate of:</p> <p>0.6 spaces per 1 bedroom unit. 0.9 spaces per 2 bedroom unit. 1.4 spaces per 3 bedroom unit. 1 space per 5 units (visitor parking)</p> <p>33 x 1 bdm dwellings = 19.8 spaces 96 x 2 bdm dwellings = 86.4 spaces 90 x 3 bdm dwellings = 126 spaces 219/5 visitor spaces = 43.8 spaces</p> <p>Total = 232 residential spaces and 44 visitors</p> | <p>Housing SEPP for affordable housing prevail.</p> <p>The applicant has provided a total of 471 residential car parking spaces based which have been provided on the basis of the DCP rates requiring 413 spaces (including visitors).</p> <p>Residential car parking required under the Guide is 232 residential spaces and 44 visitors. The development will comply with the RMS rates. However, the rates under the Housing SEPP are the relevant assessment criteria.</p> |
| Parking and facilities are provided for other modes of transport | |
| Car park design and access is safe and secure | |
| Visual and environmental impacts of underground car parking are minimised | |
| Visual and environmental impacts of on-grade car parking are minimised | |
| Protrusion of car parks should not exceed 1m above ground level. Design solutions may include stepping car park levels or using split levels on sloping sites | |
| Natural ventilation should be provided on basement and sub-basement car parking areas. Ventilation grills or screening devices for car parking openings should be integrated into the façade. | <p>The two level basements propose mechanical ventilation which is considered appropriate to facilitate ventilation. However, the detail of this mechanical ventilation including the car park exhaust location is not clearly identified in the plans.</p> |
| 4A Solar and Daylight Access | |
| <p>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 in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas</p> | <p>Insufficient Information</p> <p>The scale of the submitted sun-eye diagrams is difficult to assess the level of solar access actually available to units.</p> <p>The applicant has submitted a matrix of solar access compliance; however, no key is provided with the plan to distinguish the colour coding. Further, a partial review of the diagrams indicates units included as achieving 2 hours that receive below 2 hours. The applicant's assertion that compliance is</p> |

| Provisions | Comment | | | | | | | | | | |
|---|---|--|-----------------|------|---------------|------|-------------------------|--|--------------|---|--|
| | achieved therefore cannot be taken as accurate. For example, Units on Level 2 in D1 and D2 are coloured green (assumed compliance with 2 hours) but do not receive 2 hours for their living room glazing, only their private open space. Solar access compliance cannot be certain based on the information available. | | | | | | | | | | |
| A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter | Insufficient Information Per the above comments | | | | | | | | | | |
| 4B Natural Ventilation | | | | | | | | | | | |
| All habitable rooms are naturally ventilated | No All habitable rooms are naturally ventilated. However, no cross-ventilation diagrams have been submitted to confirm whether 60% of units achieve cross-ventilation. A variation is proposed based on the assessment. For example, Buildings A1-A4 are dominated by single aspect units. Building A1&A2: 12/19 each – 63% Building A3&A4: 11/33 each – 33% Combined: 46/104 – 44% | | | | | | | | | | |
| The layout and design of single aspect apartments maximises natural ventilation | | | | | | | | | | | |
| At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments 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 | | | | | | | | | | | |
| Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line | | | | | | | | | | | |
| The area of unobstructed window openings should be equal to at least 5% of the floor area | | | | | | | | | | | |
| 4C Ceiling Heights | | | | | | | | | | | |
| Measured from finished floor level to finished ceiling level, minimum ceiling heights are: <table><tr><td colspan="2">Minimum ceiling height</td></tr><tr><td>Habitable rooms</td><td>2.7m</td></tr><tr><td>Non-habitable</td><td>2.4m</td></tr><tr><td>For 2 storey apartments</td><td>2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area</td></tr><tr><td>Attic spaces</td><td>1.8m at edge of room with a 30 degree minimum ceiling slope</td></tr></table> | Minimum ceiling height | | Habitable rooms | 2.7m | Non-habitable | 2.4m | For 2 storey apartments | 2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area | Attic spaces | 1.8m at edge of room with a 30 degree minimum ceiling slope | Insufficient Information No detailed sections are provided to demonstrate how a 2.7m habitable room floor to ceiling height is to be achieved. The development provides for the majority of floor to floor heights of 3.1m, however, some levels are 3m or 2.9m such as Building A1, D1 and D2 Level 1, and Building A2-A4 Level 3. A 4.2m floor to floor height is proposed for the retail, which would facilitate compliance with a 3.3m minimum floor to ceiling height for commercial. However, not for a 4m floor to ceiling height for cafés and restaurants. |
| Minimum ceiling height | | | | | | | | | | | |
| Habitable rooms | 2.7m | | | | | | | | | | |
| Non-habitable | 2.4m | | | | | | | | | | |
| For 2 storey apartments | 2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area | | | | | | | | | | |
| Attic spaces | 1.8m at edge of room with a 30 degree minimum ceiling slope | | | | | | | | | | |

| Provisions | | | Comment |
|---|---|--|--|
| If located in mixed use areas | 3.3m from ground and first floor to promote future flexibility of use | | |
| Ceiling height increases the sense of space in apartments and provides for well-proportioned rooms | | | |
| Ceiling heights contribute to the flexibility of building use over the life of the building | | | |
| 4D Apartment Size and Layout | | | |
| Apartments are required to have the following minimum internal areas: | | | No 2 bedroom, 2 bathroom units require 75m ² . 3 bedroom, 2 bathroom units require 95m ² . A number of units fail to achieve these minimum sizes including: 2 bedroom, 2 bath units: B1-U101 (74.9m ²) and B2-U107 (74.6m ²) and their equivalents on Levels 2-3 3 bedroom, 2 bath units: B2-U102 (92.5m ²) and its equivalent on Levels 2-3; B2-U303 (92.3m 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 | | | Complies All habitable rooms provide a window to an external wall that is not less than 10% of the floor area of the room. |
| Habitable room depths are limited to a maximum of 2.5 x the ceiling height | | | Complies All habitable room depths comply with this requirement, except this governed by the control below. |
| In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window | | | No The majority of the townhouse style units are 8.3m-8.7m from the closest to the rear of the kitchen. While an 8m distance is proposed to the standing area of the kitchen in all occurrences (the remainder of the depth being cupboards), that this affects a significant portion of the proposed units is considered a poor outcome. |
| Master bedrooms have a minimum area of 10m ² and other bedrooms 9m ² (excluding wardrobe space) | | | Complies The plans submitted lack dimensions to clearly demonstrate compliance. However, this aspect does appear to comply. |

| Provisions | Comment | | | | | | | | | | | | | | | |
|---|---|---------------|---------------|--------|-----------------|---|-----------|-----------------|----|-----------|------------------|----|-----------|------------------|-----|--|
| Bedrooms have a minimum dimension of 3m (excluding wardrobe space) | Insufficient Information Some bedrooms measure <2.95m in one dimension (e.g. second bedroom to E.UG107, E.UG106, E.UG105, among others). However, due to the lack of dimensions on the plans, it cannot be confirmed if compliance is achieved or if this is a scaling issue. Given this and other matters of insufficient information, the development is not supported. | | | | | | | | | | | | | | | |
| 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 apartments- 4m for 2 and 3 bedroom apartments | Insufficient Information Some 2 bedroom units measure below 4m widths for their combined LKD spaces (e.g. E.UG102, E.UG103 at 3.95m). However, as above, the lack of dimensions makes compliance or the extent of variation and the number of them across the development unclear. | | | | | | | | | | | | | | | |
| 4E Private Open Space and Balconies | | | | | | | | | | | | | | | | |
| All apartments are required to have primary balconies as follows: <table><tr><th>Dwelling Type</th><th>Minimum Area</th><th>Minimum Depth</th></tr><tr><td>Studio</td><td>4m²</td><td>-</td></tr><tr><td>1 bedroom</td><td>8m²</td><td>2m</td></tr><tr><td>2 bedroom</td><td>10m²</td><td>2m</td></tr><tr><td>3 bedroom</td><td>12m²</td><td>2.4</td></tr></table> The minimum balcony depth to be counted as contributing to the balcony area is 1m | Dwelling Type | Minimum Area | Minimum Depth | Studio | 4m ² | - | 1 bedroom | 8m ² | 2m | 2 bedroom | 10m ² | 2m | 3 bedroom | 12m ² | 2.4 | No Units B1-U104 and its equivalents on Level 2 and 3 are identified as 9.7m ² but require 10m ² as 2 bedroom units. |
| Dwelling Type | Minimum Area | Minimum Depth | | | | | | | | | | | | | | |
| Studio | 4m ² | - | | | | | | | | | | | | | | |
| 1 bedroom | 8m ² | 2m | | | | | | | | | | | | | | |
| 2 bedroom | 10m ² | 2m | | | | | | | | | | | | | | |
| 3 bedroom | 12m ² | 2.4 | | | | | | | | | | | | | | |
| 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 | No Units E.UG101, D2.UG01-06, D1.UG05-06 are ground level units that vary either the 3m depth (2.3m) or size (13.6m ² or 13.8m ²). | | | | | | | | | | | | | | | |
| 4F Common Circulation and Spaces | | | | | | | | | | | | | | | | |
| The maximum number of apartments off a circulation core on a single level is eight. Where design criteria 1 above is not achieved, no more than 12 apartments should be provided off a circulation core on a single level. | No While most circulation cores have a maximum of 8 units per floor, Buildings A3 and A4 Level 3 core have 14 units accessed from a single lift. | | | | | | | | | | | | | | | |
| Daylight and natural ventilation should be provided to all common circulation spaces that are above ground. | No Daylight is provided to a portion of all corridors; however, the majority of these | | | | | | | | | | | | | | | |

| Provisions | Comment | | | | | | | | | | |
|--|---|---------------------|--------|-----------------|-----------|-----------------|-----------|-----------------|-----------|------------------|---|
| | <p>instances are narrow (<1.5m) openings on corridors that can exceed 30m in length regularly, without considering the corners in corridors to portions without any daylight.</p> <p>As an example, Building A3 has a 53m long corridor with doors at either end. It is not clear if these are solid or glazed, however, these would serve as the sole source of light to this corridor. Building D1 has a window in a far corner of the corridor, well removed from the majority of users.</p> <p>Ventilation is not provided in all corridors.</p> | | | | | | | | | | |
| 4G Storage | | | | | | | | | | | |
| <p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <table border="1" data-bbox="209 857 782 1167"> <thead> <tr> <th>Dwelling Type</th><th>Storage Size Volume</th></tr> </thead> <tbody> <tr> <td>Studio</td><td>4m³</td></tr> <tr> <td>1 bedroom</td><td>6m³</td></tr> <tr> <td>2 bedroom</td><td>8m³</td></tr> <tr> <td>3 bedroom</td><td>10m³</td></tr> </tbody> </table> <p>At least 50% of the required storage is to be located within the apartment.</p> | Dwelling Type | Storage Size Volume | Studio | 4m ³ | 1 bedroom | 6m ³ | 2 bedroom | 8m ³ | 3 bedroom | 10m ³ | <p>Insufficient Information</p> <p>No storage plans have been provided for assessment.</p> <p>Storage areas are identified in the basement but are unallocated, do not add up to all 219 proposed units across both basements, and some in Site D Basement 2 are unlikely to be accessible due to conflicts with car parking spaces.</p> |
| Dwelling Type | Storage Size Volume | | | | | | | | | | |
| Studio | 4m ³ | | | | | | | | | | |
| 1 bedroom | 6m ³ | | | | | | | | | | |
| 2 bedroom | 8m ³ | | | | | | | | | | |
| 3 bedroom | 10m ³ | | | | | | | | | | |
| 4H Acoustic Privacy | | | | | | | | | | | |
| <p>Noise transfer is minimised through the siting of buildings and building layout</p> <p>Noise impacts are mitigated within apartments through layout and acoustic treatments</p> | <p>Complies</p> <p>Though a large number of units have bedrooms and living spaces adjoining each other, apartment layouts have generally been appropriately designed to minimise acoustic impact. Appropriate acoustic treatment would be required to units where bedrooms are sited near lifts which would have been acceptable by conditions.</p> | | | | | | | | | | |
| 4K Apartment Mix | | | | | | | | | | | |
| <p>A range of apartment types and sizes is provided to cater for different household types now and into the future</p> <p>The apartment mix is distributed to suitable locations within the building</p> | <p>Complies</p> <p>An appropriate apartment mix is provided across each stage of the development. An appropriate residential mix of apartments is proposed. In total 15% 1 bedroom proposed, 44% 2 bedroom proposed and 41% 3 bedroom proposed.</p> | | | | | | | | | | |

| Provisions | Comment |
|--|--|
| | The 3 bedroom units are generally located in accordance ADG requirements. |
| 4L Ground Floor Apartments | |
| Street frontage activity is maximised where ground floor apartments are located | No Ground floor apartments in Buildings A2 and A4 are below street level, contrary to the guidance in this section. |
| Design of ground floor apartments delivers amenity and safety for residents | |
| 4M Facades | |
| Building facades provide visual interest along the street while respecting the character of the local area | No Council's Design Excellence Panel does not view the proposed façades as acceptable, having noted the aesthetics should be driven by the streetscape character, Country, climate response, sustainability, robust and durable materials landscape and architectural design intent and detailing. The proposal appears generic and disregards the side elevations. Design excellence is not achieved. |
| Building functions are expressed by the facade | |
| 4N Roof Design | |
| Roof treatments are integrated into the building design and positively respond to the street | No The flat roof design is considered appropriate to reduce the bulk and scale of the development. However, the rooftop fails to be utilised well either for communal open space (offsetting the lack of solar access to east lot COS spaces) or for sustainability features such as solar panels. |
| Opportunities to use roof space for residential accommodation and open space are maximised | |
| Roof design incorporates sustainability features | |
| 4O Landscape Design | |
| Landscape design is viable and sustainable | No Landscape design as a base principle is acceptable, however, there exist ample opportunities to enhance the general presentation of the COS areas and provide canopy trees for shading. The landscape outcome does, however, include pathways and landscaping on a flagged residual lot as part of this development and on a residual lot on the adjoining property in the southeastern corner. It is not clear how this is to be facilitated without owners' consent for the use of the land or whether that is an orderly or economic use of this land. |
| Landscape design contributes to the streetscape and amenity | |

| Provisions | Comment |
|---|--|
| 4P Planting on Structures | |
| Appropriate soil profiles are provided | Insufficient Information Some on-structure planting is proposed (including over the basement). No information on soil depths is provided for assessment. |
| Plant growth is optimised with appropriate selection and maintenance | |
| Planting on structures contributes to the quality and amenity of communal and public open spaces | |
| 4Q Universal Design | |
| Universal design features are included in apartment design to promote flexible housing for all community members | Yes At least 20% of units meant the LHA standards. This includes 1, 2 and 3 bedroom units. |
| A variety of apartments with adaptable designs are provided | |
| Apartment layouts are flexible and accommodate a range of lifestyle needs | |
| 4R Adaptive Reuse | |
| New additions to existing buildings are contemporary and complementary and enhance an area's identity and sense of place | N/A |
| Adapted buildings provide residential amenity while not precluding future adaptive reuse | |
| 4S Mixed Use | |
| Mixed use developments are provided in appropriate locations and provide active street frontages that encourage pedestrian movement | No The retail is not well positioned to activate the street due to level differences and the extensive use of ramps proposed. The shop top housing buildings seek to rely solely on publicly accessible courtyards and a central plaza area for communal open space for the residents with poor to no connectivity and no features beyond seating. |
| Residential levels of the building are integrated within the development, and safety and amenity is maximised for residents | |
| 4T Awnings and Signage | |
| Awnings are well located and complement and integrate with the building design | N/A |
| Signage responds to the context and desired streetscape character | |
| 4U Energy Efficiency | |
| Development incorporates passive environmental design | No |

| Provisions | Comment |
|---|--|
| Development incorporates passive solar design to optimise heat storage in winter and reduce heat transfer in summer | The BASIX certificate provided with the application demonstrates that the design achieves the required for energy and water efficiency and thermal comfort. However, the proposal has not been designed to maximise solar access and natural ventilation. |
| Adequate natural ventilation minimises the need for mechanical ventilation | |
| 4V Water Management and Conservation | |
| Potable water use is minimised | Complies A BASIX Certificate was submitted which confirmed compliance with the water targets. |
| Urban stormwater is treated on site before being discharged to receiving waters | |
| Flood management systems are integrated into site design | |
| 4W Waste Management | |
| Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents | Complies Waste storage rooms have been provided in both stage of the development. Appropriate waste collection facilities have been provided to reduce the impacts on the streetscape. The proposed waste management plan includes provisions for WHS methods to be implemented in the handling of waste on site and in moving the bins for collection at the dedicated collection points on the appropriate days. |
| Domestic waste is minimized by providing safe and convenient source separation and recycling | Complies Separate general waste and recycling chutes are proposed. |
| 4X Building Maintenance | |
| Building design detail provides protection from weathering Systems and access enable ease of maintenance Material selection reduces ongoing maintenance costs | No The Design Excellence Panel does not support the materials proposed with advice to avoid paint and render to aid in the reduction of ongoing maintenance costs |

ATTACHMENT C: Child Care Planning Guide Assessment Table

| Provisions | Comment |
|---|--|
| 3 Matters for Consideration | |
| 3.2 Local Character, Streetscape and the Public Domain Interface <i>Objective: To ensure that the child care facility is compatible with the local character and surrounding streetscape.</i> | <p>No</p> <p>The ground level is fully occupied by car parking, which presents as screening to the extension of Poziers Road in the south. This provides a poor architectural treatment of the street as an independent building and in the context of the broader development site.</p> <p>The development reads less like a residential development and more like a commercial structure, which is antithetical to the objective of integrating with the local (residential) character of the R1 and R3 zones.</p> |
| 3.3 Building Orientation, Envelope, Building Design and Accessibility C15 Entry to the facility should be limited to one secure point which is: <ul style="list-style-type: none"> • located to allow ease of access, particularly for pedestrians • directly accessible from the street where possible • directly visible from the street frontage • easily monitored through natural or camera surveillance • not accessed through an outdoor play area. • in a mixed-use development, clearly defined and separate from entrances to other uses in the building. | <p>No</p> <p>The child care centre entry is recessed into the site and does not interface with the street, does not relate to the ground level (requiring extensive ramping), is set behind a substation and has poor casual or passive surveillance.</p> |
| 3.5 Visual and Acoustic Privacy <i>Objective: To minimise impacts on privacy of adjoining properties.</i> | <p>No</p> <p>The acoustic report submitted states that noise emissions should be further analysed when fit-out, and the total number and age-bracket of kids is finalised. An assumption is made based on 90 children with an age ratio which has no basis on the information provided with the proposal. The acoustic report then makes recommendations for 2.4m high fencing around the perimeter of the outdoor play area that is not reflected on the plans.</p> <p>No certainty is provided in the outcomes of this acoustic assessment or on the proposal for the child care centre.</p> <p>A 2.4m high fence around the perimeter of the outdoor play areas will result in the majority of the play area being GFA (being roofed) which has not been accounted for in the calculation.</p> |
| 3.7 Hours of Operation | Complies |

| Provisions | Comment |
|--|---|
| C28 Hours of operation where the predominant land use is residential should be confined to the core hours of 7.00am to 7.00pm weekdays. | The proposal seeks 7am to 6pm operational hours Monday to Friday. |
| 3.8 Traffic and Parking C30 Off street car parking should be provided at the rates for child care facilities specified in a Development Control Plan that applies to the land. | Insufficient Information As no clear number of children or age ratios to determine staff have been provided, car parking cannot be accurately assessed. The proposal provides for 31 car spaces allocated to the child care. It is unclear if this is sufficient per the DCP. |
| <i>Objective: To provide a safe and connected environment for pedestrians both on and around the site.</i> | No The child care centre car park has no pedestrian pathways separate from the vehicular manoeuvring areas to safely move children to the lobby. |
| <i>C36 Mixed use developments should include:</i> • driveway access, manoeuvring areas and parking areas for the facility that are separate to parking and manoeuvring areas used by trucks | No Staff car parking is split between the ground level parking area and separated into the broader basement for the eastern lot. All child care centre parking would be preferably consolidated to avoid conflict or confusion. For example, when staff seek to access one location which is occupied and must leave the site to re-enter the separate car park. |
| 4 Applying the National Regulations to Development Proposals | |
| <i>All matters</i> | Insufficient Information There is no fit-out plan for the child care centre. As such, all matters cannot be accurately assessed, including but not limited to: <ul style="list-style-type: none"> • The lack of fit-out means that the internal play area sizes cannot be calculated. • No storage or storage calculations are shown. • No laundry, toilet or detailed hygiene facilities are shown. • Unclear if any administrative spaces are adequately sized and fit for purpose. • No nappy change facilities shown. • Fit-out plan required to determine adequate supervision. • No emergency evacuation plan was submitted. • Outdoor play area design not submitted, which is critical to determine the suitability of the highly enclosed outdoor play areas proposed and whether these can be |

| Provisions | Comment |
|------------|---|
| | <p>acceptable as simulated outdoor environments.</p> <ul style="list-style-type: none"> • No landscape plan detail of the outdoor play area to determine if an acceptable natural environment is available for the children. • The contamination assessment matters are unresolved and makes no reference to the child care centre sensitive land use. • No Plan of Management was submitted to assess the various matters of the operation. |

ATTACHMENT D: Consideration of the DCP Controls

| Development Control | Proposal | Comment |
|--|---|---------|
| Part 1 General Controls for All Development | | |
| 2. Tree Preservation | No tree removal is sought under this application despite the demolition plan, as this is under the separately submitted subdivision DA still undetermined. | N/A |
| 3. Landscaping | The proposed landscape plan is supported with conditions by Council's Landscape Officer. However, the provision of landscaping to satisfy matters under the Housing SEPP, ADG and the Child Care Planning Guide has not been adequately addressed. | No |
| 5. Bush Fire Risk | The site is identified as bushfire prone land. No bushfire report was submitted. Concurrence has not been granted by RFS. | No |
| 6. Water Cycle Management | Council's Land Development Engineer does not support the proposal in its current form. | No |
| 8. Erosion and Sediment Control | Erosion and sediment control plans have been submitted. | Yes |
| 20. Car Parking and Access | <p>The provision of car parking is compliant based on the DCP car parking rates outlined below. However, the rates of the affordable housing SEPP and Guide to Traffic Generating Developments prevail and would require fewer car spaces with all excess deemed as GFA for the residential components.</p> <p>The lack of operational details on the child care centre means that an accurate assessment cannot be made on whether car parking is compliant.</p> <p>The incorrect retail car parking rate has been used. As only food and drink premises are permissible with consent in the zone, the restaurant car parking rate is required to be used and not the general 'retail premises' rates that apply to business zones only, which the site does not fall in.</p> <p>The development does not appear to provide motorcycle or bicycle parking for any use besides the child care centre.</p> <p>Loading is proposed from a rear space for the retail premises. But there is no</p> | No |

| Development Control | Proposal | Comment |
|--|--|---------|
| Part 1 General Controls for All Development | | |
| | <p>actual connection between the loading bay and retail. It is unclear how this is functional.</p> <p><u>Child Care Centres</u></p> <ul style="list-style-type: none"> • 1 space per staff • 1 space per 10 children <p><u>Residential Flat Buildings</u></p> <ul style="list-style-type: none"> • 1 space per one bedroom; • 1.5 spaces per two bedroom; • 2 spaces per three or more bedroom; • 1 space per 4 units or part thereof for visitors • A service/loading bay <p><u>Restaurant</u></p> <ul style="list-style-type: none"> • 1 space per 7m2 of LFA of uses under licence OR 1 space per 3 seats, whichever is the greater | |
| 25. Waste Disposal and Re-Use | <p>A Waste Management Plan has been submitted.</p> <p>Waste is to be collected from within the property and in the basement for the eastern lot and in a loading bay at-grade on the western lot.</p> <p>Council's Waste Officer supports the proposal subject to conditions, though recommends that the child care centre has a separate bin room from the residential and that FOGO bins are accounted for in the proposal given this is a program slated for introduction likely in 2024. These should be addressed prior to consent, however, due to redesigns required.</p> | No |
| 27. Social Impact Assessment | <p>A Social Impact Comment is required for:</p> <ul style="list-style-type: none"> - residential flat buildings greater than 20 units - Affordable housing, within the meaning of SEPP (Housing) - Childcare centres (more than 20 places) <p>A Social Impact Assessment was submitted.</p> | Yes |

| Part 2.11 Edmondson Park | | | |
|---------------------------------|---------|----------|---------|
| Section | Control | Proposal | Comment |

| 3. Controls for Residential Development in Urban areas (28 Dwellings/Hectare) and Residential Flat Buildings | | | |
|--|---|--|-----|
| 1.1 Indicative Layout | The road network proposed is subject to the assessment of the separately submitted subdivision and roads DA. | N/A | N/A |
| 3.3 Setbacks | <p><u>R1 General Residential zone</u> Front: 4.5m Secondary street: 2.5m Side and Rear: Refer to ADG</p> <p>Corner sites shall provide a frontage to both streets and should articulate their corner location with an architectural feature.</p> | Structures are proposed on the boundary of the corner splay in Building A1 and E1. Otherwise, generally 4.5m to external walls and partial encroachments for balconies up to 1m. | No |
| 3.5 Building Design and Streetscape | A sidewall must be articulated if the wall has a continuous length of over 14m. | Side wall length to the east of Site D exceed 14m. | No |
| 3.7 Amenity and Environmental Impact | <p><u>Overshadowing</u> Adjoining properties must receive a minimum of three hours of sunlight between 9am and 5pm on 21 June to at least: - One living, rumpus room or the like; and - 50% of the private open space.</p> | Overshadowing impacts are acceptable. Limited impacts to adjoining properties. | Yes |
| 3.8 Site Services | <p><u>Objectives</u> To ensure that the required services are provided.</p> | <p>Letterboxes have not been identified.</p> <p>AC unit locations are not shown.</p> | No |
| 3.9 Residential Choice and Mix for Apartments Buildings | <p>Provide a variety of residential unit mix, sizes, and layouts within each residential development, particularly in larger buildings. It is recognised that the dwelling mixes may not be possible in smaller developments of less than six dwellings.</p> <p>10% of all apartments are to be designed to be capable of adaptation for disabled or elderly residents.</p> | <p>The development provides an acceptable mix of 1, 2 and 3 bedroom units, including 2 and 3 bedroom units with studies.</p> <p>10% of units are identified as adaptable.</p> | Yes |
| 6. Controls on Land in the R3 Zone "The Village Centres" | | | |
| 6.2 Subdivision, Frontage and Allotment Size | Sites must have a minimum street frontage of 20m. | Exceeds 50m. | Yes |
| 6.4 Setbacks | Buildings should be built to the front boundary. | <p>A nil setback is proposed to Bernera and Hutton Roads and a 2m setback is proposed to Poziers Road above ground.</p> <p>ADG separation prevails.</p> | Yes |

| | | | |
|--|---|--|--|
| | Rear setbacks: 5m for the non-residential, 8m for residential components of the building. | | |
|--|---|--|--|

The development is found to be inconsistent with key provisions of the DCP and is not supported.