



**CAMPBELLTOWN
CITY COUNCIL**

LOCAL PLANNING PANEL

24 JUNE 2020

MEETING NOTICE

Campbelltown City Council Local Planning Panel

The meeting of the Campbelltown City Council Local Planning Panel will be held in Civic Centre, Campbelltown on **Wednesday, 24 June 2020 at 3.00pm.**

MEETING AGENDA

1. ACKNOWLEDGEMENT OF LAND

I would like to acknowledge the Traditional Custodians, the Dharawal people, whose Lands we are now meeting on. I would like to pay my respects to the Dharawal Elders, past and present and all other Aboriginal people who are here today.

2. APOLOGIES

3. DECLARATIONS OF INTEREST

4. REPORTS

6

4.1 Consolidation of three allotments and subdivision into two allotments - Camden Road and Hurley Street, Campbelltown

6

4.2 Demolition of a dwelling and construction of a four storey residential apartment building - 37 Cumberland Road, Ingleburn

19

General Information

The role of the Local Planning Panel is to determine development applications and provide advice on planning proposals.

When the panel is considering a report relating to a development application, the panel will receive and consider verbal submissions from the applicant and from any person that made a written submission in regard to that development application (during the notification or exhibition period).

As required by the Minister's Local Planning Panels Direction, when considering a planning proposal, the role of the panel is to provide advice to Council. The panel is the first step in the evaluation process before Council and the State Government (through the Gateway process) to decide whether to support a formal public exhibition or consultation period on the proposal. It is possible that the proposal will be modified before or as part of the consideration by Council and/or through the Gateway process. The panel will consider verbal submissions made in relation to the matter from the applicant, if there is one, and from any other person. The panel will not consider written submissions tabled at the meeting, however they will be accepted and passed on to Council officers for consideration in their report to Council.

Any person who makes a verbal submission to the panel must identify themselves and must also accept that their presentation will include their images and sounds and will be webcast and stored on Council's website for future viewing. Any person who makes a verbal submission to the panel must also declare before their submission any political contributions or donations they have made over the last four years exceeding \$1,000 to any political party or candidate who contested the last Ordinary Election of Council.

If you would like to make a verbal submission to the panel, it is necessary to submit the "request to address – community access to meetings" form available on Council's website by midday the day prior to the meeting. The panel chair will invite the registered speakers to the table at the appropriate time in the agenda. Verbal submissions to the panel will be limited to five minutes each. The chairperson has the discretion to extend the period if considered appropriate. Panel members will have the opportunity to ask you questions at the end of your submission.

Recommendations of the Panel

The reports are presented to the Local Planning Panel for its consideration, advice and determination if the report is for a development application.

After the panel has considered submissions made by interested parties, the panel will make recommendations to the Council if the report relates to a planning proposal and determination if the report relates to a development application. The panel's recommendations/determinations become public by 4.30 the Friday following the Local Planning Panel meeting.

Information

Should you require information regarding the panel or any item listed on the agenda, please contact Council's City Development Division on 4645 4575 between 8.30am and 4.30pm.

The following report is referred to the Local Planning Panel Panel for its consideration and recommendation.

Lindy Deitz
General Manager

4. REPORTS

4.1 Consolidation of three allotments and subdivision into two allotments - Camden Road and Hurley Street, Campbelltown

Community Strategic Plan

Objective	Strategy
4 Outcome Four: A Successful City	4.6 - Plan and invest in the revitalisation of Campbelltown-Macarthur CBD, Ingleburn and other town centres

Referral Criteria

The site that is the subject of this development application is owned by Campbelltown City Council. Therefore, the determining authority under Section 4.8 of *the Environmental Planning and Assessment Act, 1979* (EP&A Act) is the Campbelltown Local Planning Panel.

Executive Summary

- Development application 1545/2020/DA-S has been lodged by Campbelltown City Council and proposes the consolidation of three existing allotments in Camden Road and Hurley Street, Campbelltown and re-subdivision into two allotments. One of the existing lots contains the HJ Daley library.
- The development application is fully compliant with the provisions of the Campbelltown Local Environmental Plan 2015 (CLEP 2015) and Campbelltown Sustainable City Development Control Plan 2015.
- The consolidation and subdivision of the land may allow for the provision of a separate ground lease of the land, subject to future commercial agreements being reached and development consent being granted.
- The application is recommended for approval, subject to the attached conditions.

Officer's Recommendation

That development application 1545/2020/DA-S for consolidation and re-subdivision into two allotments at Lot 1002 in DP 873452, Lot 1 in DP 1003625 and Lot 1 in DP 883417, Camden Road and Hurley Street, Campbelltown be approved subject to the conditions of consent detailed in attachment 1 to this report.

Property Description	Lot 1002 DP 873452, Lot 1 DP 1003625 and Lot 1 DP 883417 Camden Road and Hurley Street, Campbelltown
Application No	1545/2020/DA-S
Applicant	Campbelltown City Council
Owner	Campbelltown City Council

Provisions	Environmental Planning and Assessment Act, 1979 Biodiversity Conservation Act 2016 State Environmental Planning Policy No. 55 – Remediation of Land
Provisions (cont.)	Campbelltown Local Environmental Plan 2015 Campbelltown Sustainable City Development Control Plan 2015
Date Received	26 May 2020

Purpose

To assist the Local Planning Panel in its determination of the subject application in accordance with the provisions of the Environmental Planning and Assessment Act, 1979.

Report

This application proposes the consolidation of three Torrens titled allotments and subsequent re-subdivision to create two Torrens titled allotments. The subdivision of land may permit long-term leasing of the land, subject to future commercial agreements and development consents being granted. The Council has recently publicly sought 'expressions of interest' for potential future uses of the land.

The subject site is comprised of three Torrens titled allotments and presently contains the Council's H J Daley Library and a childcare facility, as well as associated car parking. Lawns and some scattered vegetation along the former Camden Road verge and existing main southern railway corridor feature in the undeveloped southern and western portions. Remnant parts of the former Camden Road asphalt surface are also present on the land. A large water main is also located under the former Camden Road and is protected via an easement on the land. There are some significant trees on the land, mainly near the railway line.

The site's total area is approximately 30,490sqm, or just over three hectares.

The subject allotments have the following approximate areas:

- Lot 1002 in DP 873452 - 22,140 sqm
- Lot 1 in DP 1003625 - 3,600 sqm
- Lot 1 in DP 883417 - 4,750 sqm

The existing allotments have public road frontage to Kellicar Road, Camden Road and Hurley Street. An aerial image is provided overleaf. Lot 1 in DP 1003625 was formerly a public road. The public road was closed and the land converted to a Torrens title lot 28 July, 1999.

The site is within the Campbelltown-Macarthur commercial district and has been identified as a site that is part of the 'culture and leisure precinct' in the Campbelltown Precinct Plan in the Department of Planning, Industry and Environment's 'Glenfield to Macarthur Urban Renewal Corridor Strategy'. More recently, Council has reaffirmed that land use preference position in its 'Reimagining Campbelltown City Centre Master Plan'.

The application proposes to consolidate the existing three allotments and then re-subdivide to create two Torrens titled allotments, with the following areas:

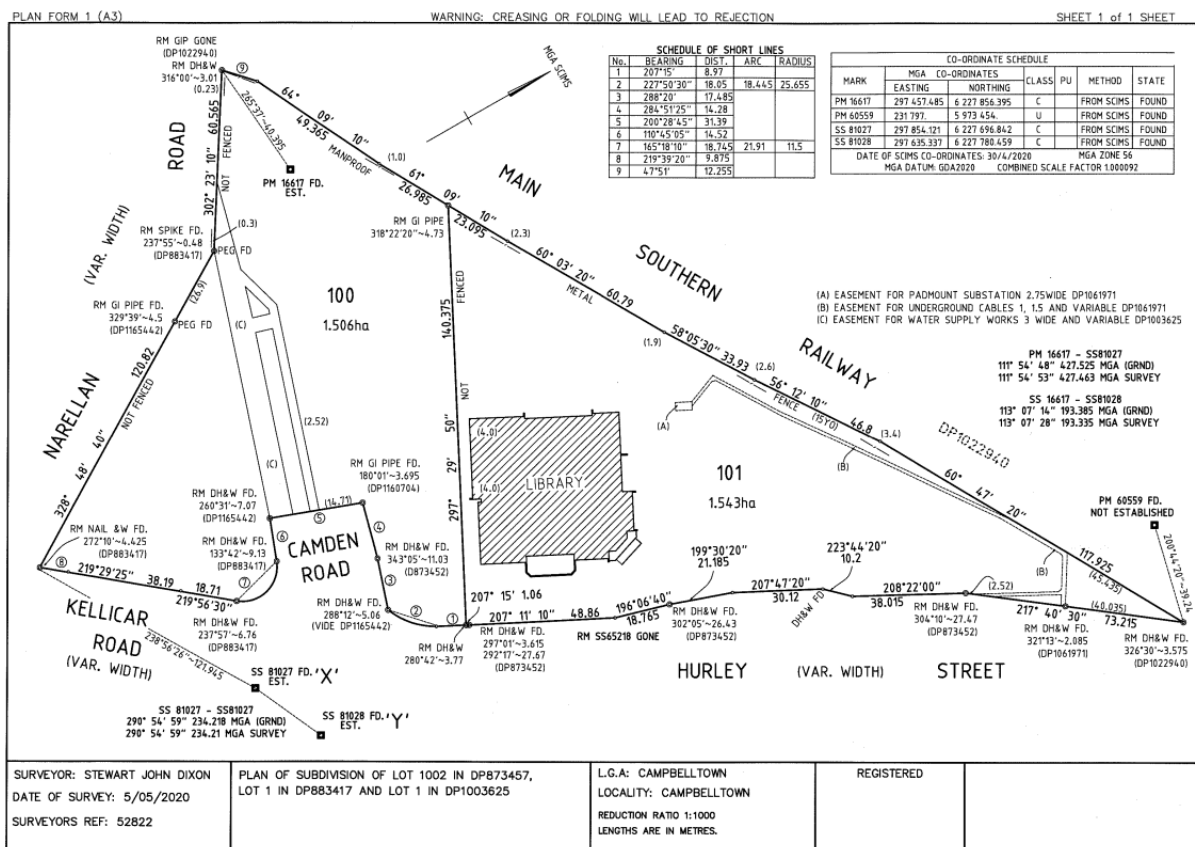
Proposed Lot 100 – 15,060 sqm

Proposed Lot 101 – 15,430 sqm

Proposed Lot 101 would contain the existing library building, child care centre and car parking, while proposed Lot 100 would be vacant. Existing easements for water supply, electricity transmission and an electrical substation would be carried over to the new allotments.



An image of the proposed subdivision is below. A larger version can be found in attachment 2 of this report.



The boundary of the two allotments has been located 4 metres away from the existing southern wall of the library building, so as to preserve the building's deemed-to-satisfy fire separation requirements pursuant to the National Construction Code.

1. Campbelltown 2017-2027 Community Strategic Plan

This document establishes a set of strategic directions to guide decision making and development outcomes. These directions are broad in nature and form a prelude to a new statutory town plan for the City.

The 2017-2027 Community Strategic Plan is a vision statement of broad town planning intent for the longer term future of the City of Campbelltown that contributes to the community objectives of:

- A vibrant, liveable city
- A respected and protected natural environment
- A thriving, attractive city
- A successful city

The development application has been assessed with regard to the desired outcomes and objectives identified within Campbelltown 2017-2027. It is considered that the proposed development is generally consistent with the long term vision for Campbelltown.

2. Planning Provisions

The development has been assessed in accordance with the heads of consideration under Section 4.15 of the EP&A Act, and having regard to those matters the following issues have been identified for further consideration.

2.1 Biodiversity Conservation Act 2016

Sections 7.7 and subsequently Sections 7.2 and 7.3 of the Biodiversity Conservation Act 2016 (the BC Act) require the consent authority to consider the potential impacts of development for which consent is being sought under Part 4 of the EP&A Act in areas with biodiversity significance.

In this case, the consent authority is required to determine if the proposed development is likely to significantly affect threatened species or ecological communities or their habitats. In relation to subdivisions, an extract from a bulletin prepared by the Department of Planning, Industry and Environment in November 2019 provides:

When determining whether a proposed subdivision exceeds the biodiversity offsets scheme threshold, a subdivision development application considers the clearing of native vegetation that, in the opinion of the consent authority, is required or likely to be required for the purposes for which the land is to be subdivided.

This means that council considers the clearing of native vegetation required for the subdivision development application as well as the clearing of native vegetation required or likely to be required for the ultimate purpose of the subdivision. This includes, but is not limited to, building envelopes, bushfire asset protection zones, access roads, driveways, services, effluent disposal areas, ancillary buildings, and new boundary fence lines.

In this case, the purpose of the land's subdivision is not entirely clear, having regard to its non-descript nature, the land's zoning and the range of permissible uses therein and also the fact that no physical works are proposed.

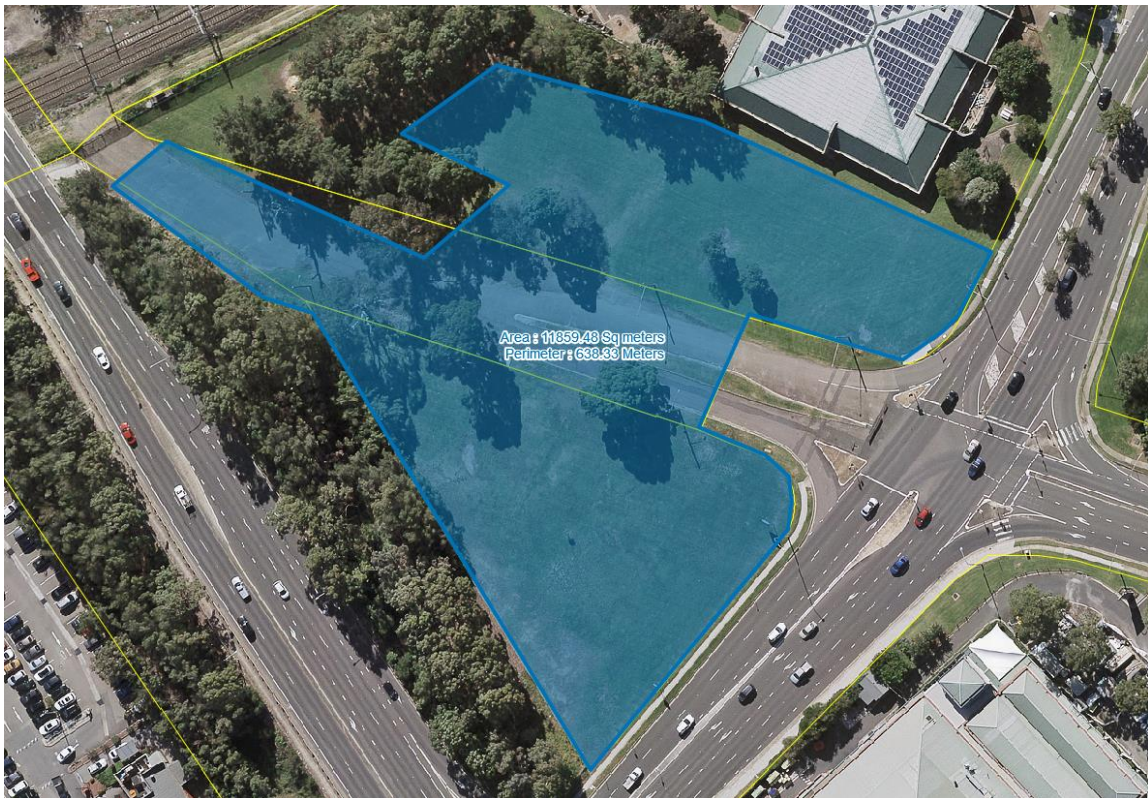
Proposed Lot 101 that contains the existing library, child care centre and car parking is not considered to have any effect on biodiversity, noting the development already existing.

Proposed Lot 100 would contain two stands of trees, which contain native vegetation but are not included as being significant on the BC Act's 'biodiversity values map'. The proposed Lot contains large areas that do not contain vegetation and would enable construction of buildings and ancillary civil works without necessarily interfering with existing trees.

The development does not require the provision of a 'Biodiversity Development Assessment Report' as it does not meet thresholds set in Sections 7.2 and 7.3 of the BC Act.

The subdivision is therefore not considered likely to significantly affect threatened species or ecological communities or their habitats.

For reference (and not subject to or intended to be part of any determination), a building envelope showing protection of almost all vegetation on the site has been prepared. The envelope overlay shows that there is over 1.18 hectares of space available for development without significant disruption of connected trees. A larger resolution copy is available in attachment 3.



Future development application(s) at the site would be required to consider the impact on the vegetation as part of that assessment. Accordingly, and upon consideration of the subject application's nil work and demonstration of potential building envelope, the application is not considered to be inconsistent with the requirements and intent of the BC Act as it relates to subdivisions.

2.2 State Environmental Planning Policy No. 55 – Remediation of Land

State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55) applies to the land. SEPP 55 requires the consent authority to consider whether the land is contaminated as part of its assessment of an application to carry any development.

In this case:

- Council's records do not detail that the land is contaminated or previously contained development that is potentially contaminating
- The application does not propose physical work
- Future development of the land will require further consent, at which time depending on the scope of works, appropriate investigation and response can be incorporated into a consent that provides for physical works on the land

Accordingly, SEPP 55 and its relevant requirements are satisfied.

2.3 Campbelltown Local Environmental Plan 2015 (CLEP2015)

Subdivision

Clause 2.6 of the CLEP 2015 provides that the subject land may be subdivided, but only with development consent. Development consent for subdivision is sought under this application and therefore the application satisfies the provisions of this clause.

Zone objectives

The entire site is zoned B4 Mixed Use under the provisions of Campbelltown Local Environmental Plan 2015. The objectives of the B4 zone are as follows:

- To provide a mixture of compatible land uses.
- To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.
- To encourage the timely renewal and revitalisation of centres that are undergoing growth or change.
- To create vibrant, active and safe communities and economically sustainable employment centres.
- To provide a focal point for commercial investment, employment opportunities and centre-based living.
- To encourage the development of mixed-use buildings that accommodate a range of uses, including residential uses, and that have high residential amenity and active street frontages.
- To facilitate diverse and vibrant centres and neighbourhoods.
- To achieve an accessible, attractive and safe public domain.

The proposed development, being a two lot subdivision of land without works is consistent with these objectives. The lot sizes and shapes are suitable to facilitate future development that accords with the objectives.

Minimum lot size

Clause 4.1 of the CLEP requires that allotments created by a new subdivision are greater than the minimum area specified in the accompanying 'Lot Size Map'. In this case, there is no minimum area specified on the map for the subject land, therefore the application satisfies Clause 4.1.

Essential services

In accordance with clause 7.10 of the CLEP 2015, development consent must not be granted unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required:

- (a) the supply of water
- (b) the supply of electricity
- (c) the disposal and management of sewage
- (d) stormwater drainage or on-site conservation
- (e) suitable road and vehicular access
- (f) telecommunication services

(g) the supply of natural gas

The site has adequate road and vehicular access as well as adequate stormwater drainage. Utility services are already provided to the library and child care centre. In terms of the availability of utilities as required by this clause, a recommended condition of consent requires the applicant to demonstrate that utilities are available to the proposed allotments prior to the issue of a subdivision certificate.

2.4 Campbelltown (Sustainable City) Development Control Plan 2015

Part 2 - Requirements Applying to All Types of Development

The general provisions of Part 2 of the Plan apply to all types of development. Compliance with the provisions of Part 2 of the Plan that it states relate to Torrens title subdivision is discussed as follows:

Site analysis – this is a subdivision of land without works. There will be no change to the site should consent be granted.

Views and vistas– this is a subdivision of land without works. There will be no change to views and vistas should consent be granted.

Landscaping – this is a subdivision of land without works. There will be no change to the existing landscaping should consent be granted.

Stormwater Management - Both of the proposed allotments are able to drain their stormwater independently, and therefore no easements for stormwater drainage are required or proposed.

3. Public Participation

The application was not required to be publicly notified under Council's Community Participation Plan.

Conclusion

Having regard to the matters for consideration under Section 4.15 of the EP&A Act, the application is considered to be generally consistent with the relevant planning legislation. The proposed subdivision is considered to be appropriate having regard to the land's zoning, the allotment sizes and the nil impact on the built and natural environment that would result from its consent. The subdivision reduces the number of allotments by 1 and provides an improved size and layout that will facilitate future development. There are suitable cleared areas of the site where development can be undertaken without the need for clearing.

Attachments

1. Recommended conditions of consent (contained within this report)
2. Proposed plan of subdivision (contained within this report)
3. Indicative possible building envelope plan (contained within this report)

Reporting Officer

Executive Manager Urban Centres

ATTACHMENT 1

1545/2020/DA-S

Recommended Conditions of Consent

GENERAL CONDITIONS

The following conditions have been applied to ensure that the use of the land and/or building is carried out in such a manner that is consistent with the aims and objectives of the planning instrument affecting the land.

For the purpose of these conditions, the term 'applicant' means any person who has the authority to act on or benefit of the development consent.

1. Approved Development

The development shall be carried out in accordance with the approved plan, except as modified by any conditions within.

Approved plan: Plan of subdivision of Lot 1002 in DP 873457, Lot 1 in DP 883417 and Lot 1 in DP 1003625, prepared by S J Dixon, Ref. 52822, dated 5 May 2020 (and amended on 25 May 2020).

PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE

The following conditions of consent must be complied with prior to the issue of a subdivision certificate by either Campbelltown City Council or an accredited principal certifying authority. All necessary information to comply with the following conditions of consent must be submitted with the application for a subdivision certificate.

2. Section 73 Certificate – Subdivision Only

Prior to the principal certifying authority issuing a subdivision certificate, a Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation. Early application for the certificate is suggested as this can also impact on other services and building, driveway or landscape design.

Application must be made through an authorised Water Servicing Coordinator.

For help either visit www.sydneywater.com.au > Building and developing > Developing your Land > Water Servicing Coordinator or telephone 13 20 92.

The Section 73 Certificate must be submitted to Council prior to the release of the subdivision certificate.

3. Public Utilities

Prior to the issue of a subdivision certificate, the applicant shall provide written evidence that access to electricity and telecommunications services will be available at the site.

Any adjustments to public utilities, required as a result of the development, shall be completed to the satisfaction of the relevant authority and at the applicant's expense.

ADVISORY NOTES

The following information is provided for your assistance to ensure compliance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, other relevant Council Policy/s and other relevant requirements. This information does not form part of the conditions of development consent pursuant to Section 4.17 of the Act.

Advice 1. Subdivision Certificate Application and Plan Copies

As part of a subdivision certificate application, the following documents shall be submitted electronically for Council's assessment:

- A cover letter that details how each condition relevant to issue of a subdivision certificate has been addressed,
- A copy of each required service authority certificate,
- A draft plan administration sheet (including subdivision certificate),
- A draft deposited plan drawing, and
- A Section 88B instrument (where required).

Upon Council's direction, the applicant must supply seven final hard copy documents for affixing of signatures and stamps.

Note: the administration sheet is required to include a schedule of lots and addresses in accordance with Section 60(c) of the SSI Regulation 2012.

Advice 2. Linen Plan Checking Fee

A linen plan checking fee is payable on submission of the original plan of subdivision to Council. The exact amount will be calculated at the rate applicable at the time of release of the linen plans for each lot of the subdivision.

Advice 3. Dial Before You Dig

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial Before You Dig at www.1100.com.au or telephone on 1100 before excavating or erecting structures.

END OF CONDITIONS

SHEET 1 of 1 SHEET

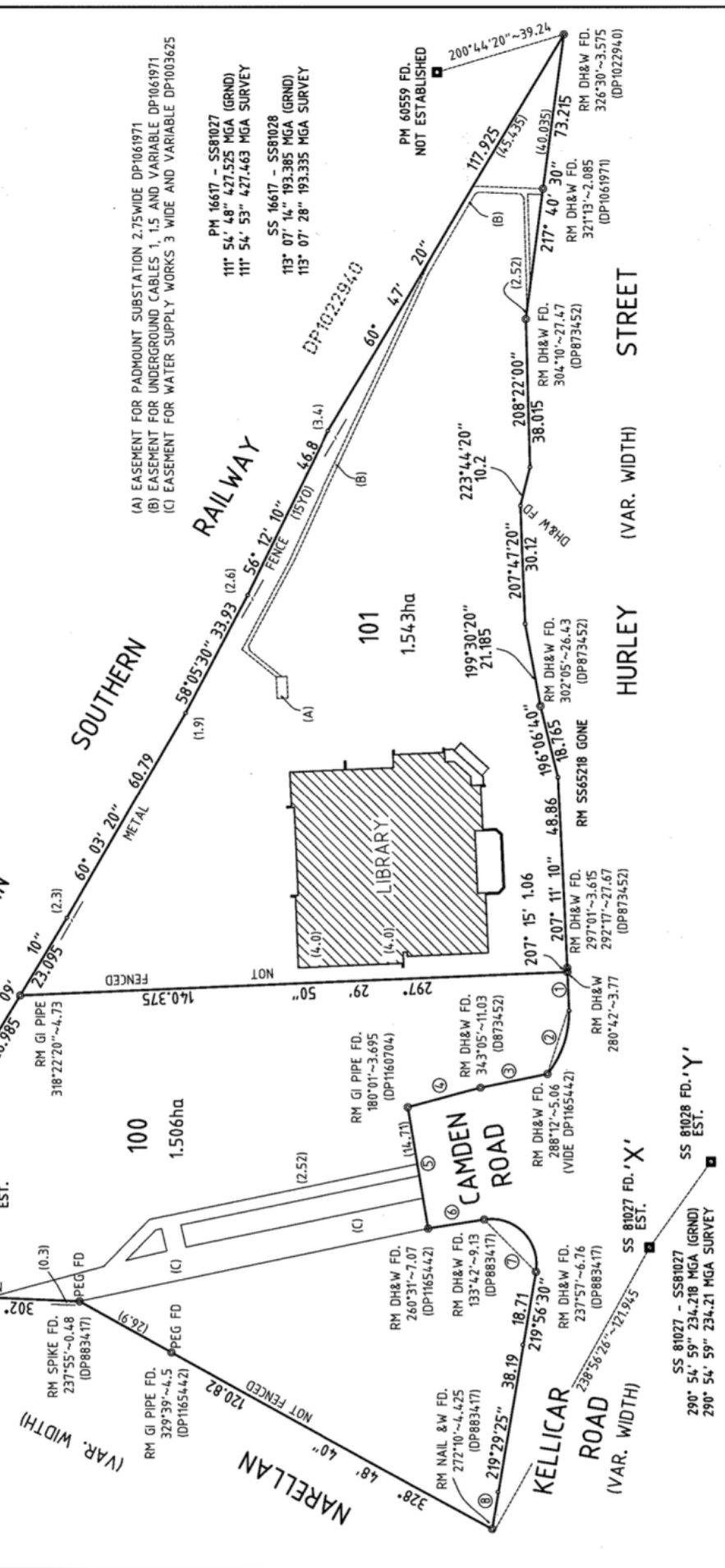
WARNING: CREASING OR FOLDING WILL LEAD TO REJECTION

PLAN FORM 1 (A3)

MARK	MGA CO-ORDINATES		CLASS	PU	METHOD	STATE
	EASTING	NORTHING				
PM 16617	297 457.485	6 227 856.395	C		FROM SCIMS	FOUND
PM 60559	231 797.	5 973 454.	U		FROM SCIMS	FOUND
SS 81027	297 854.171	6 227 696.842	C		FROM SCIMS	FOUND
SS 81028	297 635.337	6 227 780.459	C		FROM SCIMS	FOUND

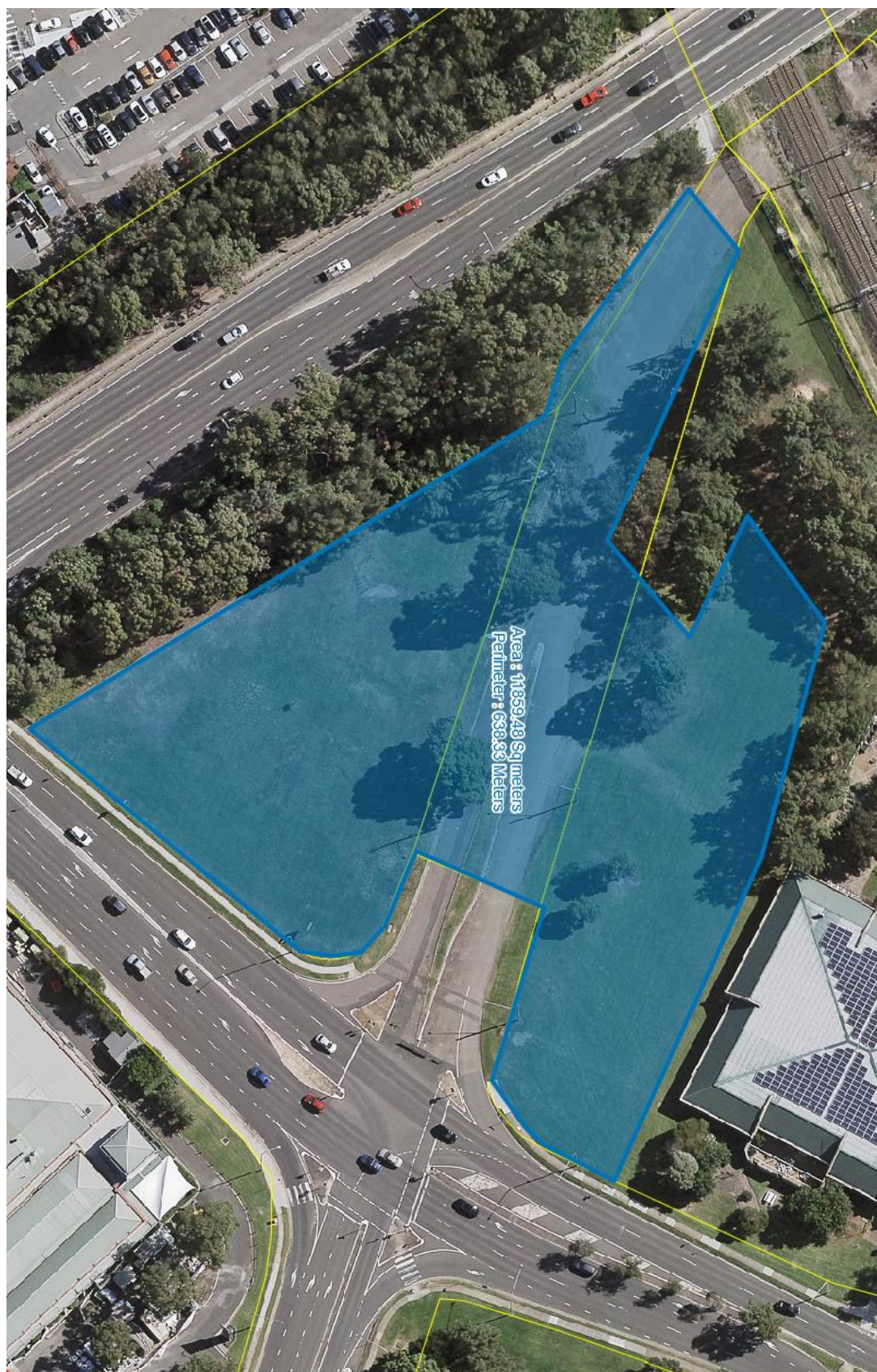
DATE OF SCIMS CO-ORDINATES: 30/4/2020 MGA ZONE 56
MGA DATUM: GDA2020 COMBINED SCALE FACTOR 1.000092

No.	BEARING	DIST.	ARC	RADIUS
1	207°15'	8.97	18.05	25.655
2	227°50'30"	18.05	18.445	25.655
3	288°20'	17.485	14.28	
4	284°51'25"	14.28	31.39	
5	200°28'45"	31.39	14.52	
6	110°45'05"	14.52	18.745	21.91
7	165°18'10"	18.745	9.875	12.255
8	219°39'20"	9.875		
9	47°51'	12.255		



SURVEYOR: STEWART JOHN DIXON DATE OF SURVEY: 5/05/2020 SURVEYORS REF: 52822	PLAN OF SUBDIVISION OF LOT 1002 IN DP873457, LOT 1 IN DP883417 AND LOT 1 IN DP1003625	L.G.A: CAMPBELLTOWN LOCALITY: CAMPBELLTOWN REDUCTION RATIO 1:1000 LENGTHS ARE IN METRES.	REGISTERED
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Indicative possible building envelope plan



4.2 Demolition of a dwelling and construction of a four storey residential apartment building - 37 Cumberland Road, Ingleburn

Community Strategic Plan

Objective	Strategy
1 Outcome One: A Vibrant, Liveable City	1.8 - Enable a range of housing choices to support different lifestyles

Referral Criteria

The proposal is for both a development to which State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development (SEPP 65) applies and for a development that exceeds the height of building standard in clause 4.3 of the Campbelltown Local Environmental Plan 2015 (CLEP 2015) by more than 10 percent. Therefore under Section 4.8 of the *Environmental Planning and Assessment Act, 1979* (EP&A Act) the determining authority is the Campbelltown Local Planning Panel.

Executive Summary

- This development application proposes the demolition of an existing dwelling and construction of a four storey residential apartment building containing 24 units, basement car parking and associated site works at 37 Cumberland Road, Ingleburn.
- The subject site is zoned R4 High Density Residential under the provisions of the Campbelltown Local Environmental Plan 2015 (CLEP 2015).
- Under Clause 4.3 of the CLEP 2015 a maximum building height of 15m is permitted. The development proposes a maximum height of 17.895m which equates to a contravention of the standard by 19.3 percent.
- The application was publicly exhibited and notified to adjoining properties from 22 August 2017 to 25 September 2017. Six submissions were received objecting to the proposal and one petition was also submitted with 22 signatures in opposition to the proposal.
- The Local Planning Panel deferred the application at its meeting on 18 December 2019 for six months to give the applicant an opportunity to address the outstanding issues. Subsequently, amended plans have been submitted and are the subject of this report.
- An assessment under Section 4.15 of the EP&A Act has been undertaken and it is recommended to the panel that the application be refused for reasons outlined in both this report and the previous report to the panel.
- The proposal is not considered to be in the public interest.

Officer's Recommendation

That development application 2238/2017/DA-RA for the demolition of an existing dwelling and construction of a four storey residential apartment building containing 24 units, basement car parking and associated site works at 37 Cumberland Road, Ingleburn be refused subject to the reasons outlined in attachment 1.

Purpose

To assist Council in its determination of the subject application in accordance with the provisions of the *Environmental Planning and Assessment Act 1979*.

Property Description	Lot A in DP 413142, 37 Cumberland Road, Ingleburn
Application No	2238/2017/DA-RA
Applicant	Arkhaus
Owner	Mrs Zing Fam & Mr Arya Sulaiman Tedjasukmana
Provisions	State Environmental Planning Policy No.55 – Remediation of Land State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development State Environmental Planning Policy (Infrastructure) 2007 Greater Metropolitan Regional Environmental Plan No.2 – Georges River Catchment Campbelltown Local Environmental Plan 2015
Other Provisions	Campbelltown 2027 Glenfield to Macarthur Urban Renewal Corridor Strategy Campbelltown (Sustainable City) Development Control Plan 2015
Date Received	17 July 2017

Report

Site and Surrounding Locality

The site is identified as Lot A in DP 413142, known as No.37 Cumberland Road, Ingleburn. The site is rectangular in shape with a site area of 1604sqm and a street frontage of 19.2m to Cumberland Road. The site has a fall from the front boundary to the rear by approximately 2m. The rear south-west part of the site is traversed by a concrete lined drainage channel.

The site is occupied by a single storey detached dwelling with vehicular access provided from Cumberland Road to a detached garage located on the south east side of the site.

The subject site is adjoined by a residential flat building to the north of the site that is four storeys in height and contains 55 units approved by Council on 26 February 2013 (770/2012/DA-RA). As part of the approval of the development application for 770/2012/DA-RA justification was submitted to support creation of an isolated allotment at 37 Cumberland

Road. The justification included plans that demonstrated to Council that a residential apartment building could still be developed on this isolated parcel which is the subject of this development application and report.

There is a multi-dwelling development to the south of the site. The property to the south of the site also has a concrete lined drainage channel separating the subject property and the development on the adjoining site. The wider locale is generally comprised of detached dwellings and multi dwelling developments.

The property does not contain an item of Environmental Heritage, and is not located within a heritage conservation area.



Figure 1: Subject site and locality map

The Proposal

The amended plans submitted to Council provide the following changes:

- Deletion of one basement level with 33 car parking spaces provided in one basement level. Two options were provided for the basement car park and Council staff were asked to pick a preferred option. Option 1 was for a two-way, two lane ramp to access the basement and Option 2 was for a two-way, one lane ramp to access the basement. Option 1 was preferred by Council's engineers and is the subject of this report.
- Reconfigured basement level to now include two bin areas and a bulk storage room.
- Provision of a hardstand area within front setback for access by the waste truck to collect waste.
- Relocation of the common room from the ground floor to the roof level.

History

A report recommending refusal of the proposed development was submitted to the Campbelltown Local Planning Panel (LPP) on 18 December 2019. During the meeting, the applicant requested that the LPP defer its decision and provide the applicant with an opportunity to address the issues detailed in the report and prepare a redesign. The LPP deferred this matter and noted that several issues could be considered in any redesign. This issues and how they have been addressed are detailed below:

1. To reduce the bulk and scale of the existing proposal the basement car parking could be limited to one level only. The number of units should be limited to that number that can be serviced by the available car parking spaces within that one basement level.

The proposed amendments have deleted one level of basement car parking with all required car parking spaces provided within one basement level. Notwithstanding, the number of units has not been reduced nor has the overall height of the building been reduced therefore, the bulk and scale of the development has not been reduced.

2. To remove the necessity of the second level basement, waste collection could be relocated from the basement to the ground floor towards the front of the development, accessible from the side, to allow a waste truck to reverse into the property and efficiently remove waste.

Waste collection has now been proposed from within the front setback area of the building. A hardstand space has been provided for the waste vehicle to reverse into to collect waste from the front of the building. It is assumed that all waste would be brought from the waste storage areas located in the basement and on the ground floor to the room located behind the waste hardstand area for the waste vehicle to collect. Whilst this reduces the need for any waste vehicles to enter the basement, the waste vehicle needs 3.5m clearance for safe operation as per AS2890.2 Table 2.1m which is not provided. The amended plans submitted showed the waste vehicle touching the ceiling above it. As such, this issue has not been addressed.

3. To better integrate internal and external communal spaces, the communal roof could be relocated closer to the communal open space on the roof.

The amended plans have detailed the communal room being located to the roof adjoining the communal open space on the roof area as opposed to the ground floor as previously approved. The communal room now provides the required 24sqm as required by Council's (Sustainable City) Development Control Plan 2015.

4. To address the need for deep soil zones and adequate landscaping, the front and side setbacks as shown on the current plans should remain.

The side and rear setback requirements have not changed. Notwithstanding, the deep soil area is still non-compliant as originally proposed.

5. To deliver a one level basement car park consideration could be given to allowing a variation to Council's development control guideline for car space width of 2.5m under the Campbelltown Sustainable City Development Control Plan 2015 to 2.4m which is compliant with the Australian Standards.

The proposed one level basement still does not comply with Council's development controls nor the Australian Standards in terms of car parking dimensions and the aisle width proposed. The proposed number of units has not been reduced therefore the required number of car parking spaces have had to be provided within one level. Even with the proposed reduced widths, the car parking layout is not considered to be functional nor appropriate. Other issues with the proposed one level basement include:

- Parking spaces No. 20 and 21 are not appropriate as vehicles are not able to enter and exit these spots adequately.
- The Traffic and Parking Design Statement states that parking spaces Nos.30, 31, 32 and 33 will be designated as visitor spaces which will have low demand, however the basement plan does not detail this. Notwithstanding, these spaces are considered to not provide sufficient access and manoeuvrability. Spaces No.32 and 33 are located very close to each other which provides poor access. In addition, vehicles parked in spaces 31, 32 and 33 will have to reverse past the basement ramp to be able to leave which has a potential conflict with cars entering the basement as well as there not being sufficient sight lines to see if a car is coming down the ramp.
- The aisle width proposed does not comply with AS2890.1. There is conflict with vehicle movements and not adequate provisions for a safe manoeuvring area for vehicles.
- The swept path plans detail vehicles overlapping with other vehicles that are parked within the spaces.

In addition to the issues detailed above, there were several refusal reasons in relation to non-compliance with State Environmental Planning Policy No.65 as well as Council's Local Environmental Plan 2015 and the Sustainable City Development Control Plan 2015 that need to be considered with any redesign and the submission of amended plans. The previous report and reasons for refusal are detailed in Attachment 2.

Conclusion

Development application 2238/2017/DA-RA proposes the demolition of an existing dwelling and construction of a four storey residential apartment building containing 24 units, basement car parking and associated site works at No.37 Cumberland Road, Ingleburn.

The application was originally notified to nearby and adjoining properties and publicly exhibited. Six submissions were received and a petition of 22 signatures objecting to the proposed development. The issues raised in the submission have been addresses in detail in the report to the LPP meeting of 18 December, 2019 and are still relevant to the amended plans.

The amended plans submitted for the proposed development include the deletion of one level of basement car parking and the provision of a hardstand area within the front setback area for the collection of waste to address issues raised originally. The proposed basement level still does not comply with the Australian Standards and still presents issues in terms of functionality given that there was no reduction in the number of units. The modified plans do not result in my change to the overall height of the development and do not provide sufficient clearance for waste collection. Given the above, it is recommended that the Local Planning Panel refuse the proposed development.

Attachments

1. Recommended Reasons for Refusal (contained within this report)
2. Previous Report to Campbelltown Local Planning Panel Meeting 19 December 2019 (contained within this report)
3. Minutes of Campbelltown Local Planning Panel 19 December 2019 (contained within this report)
4. Site Plan (contained within this report)
5. Elevations (contained within this report)
6. Vertical Path Assessment (contained within this report)
7. Sweep Path Plans (contained within this report)
8. Floor Plans (due to confidentiality) (distributed under separate cover)

Reporting Officer

Executive Manager Urban Centres

Recommended Reasons for Refusal

Development application 2238/2017/DA-RA for the demolition of the existing dwelling and construction of a four storey residential apartment building containing 24 units, basement car parking and associated site works at Lot A DP 413142, No.37 Cumberland Road, Ingleburn, be refused for the following reasons identified in the assessment of the application under Section 4.15 of the Environmental Planning and Assessment Act, 1979

1. The proposed development is inconsistent with the following design quality principles in State Environmental Planning Policy No.65:

Schedule 1 Design Quality Principles

- a. Density – the proposed density results in significant car parking requirements, which cannot be designed to the satisfaction of Council's Engineer and the SCDCP and AS2890.
 - b. Amenity- the proposed basement design is considered to deliver poor amenity to the residents.
2. The proposed development does not meet the design criteria and objectives for the following sections of the Apartment Design Guide:
 - 3E Deep Soil, sufficient deep soil planting has not been provided for the proposed development.
 - 3J Bicycle and Car Parking, as the proposal does not meet the objective with regard to a well organised and logical car parking layout.
 - 4E Private open space and balconies, several balconies do not meet the minimum size outlined in the design criteria.
 - 4G Storage, the plans do not demonstrate storage is provided in accordance with section 4G of the ADG.
 3. The proposed development is inconsistent with Campbelltown Local Environmental Plan 2015 with respect to the following:
 - The proposal is inconsistent with the aims (g) and (o) with regard to development design and suitability of the land in Clause 1.2 of the plan.
 - Clause 7.1 Earthworks as the proposal includes excessive excavation which is adjacent to Council infrastructure, the impact of the excavation on the concrete lined channel has not been adequately addressed.
 - Clause 7.13 as the proposal is not considered to satisfy (4) (d) (viii) with regard to vehicular access, circulation and requirements nor subclause (4)(d)(xi) in regards to deep soil areas and the quality and integration of landscape
 4. The proposed development is inconsistent with Campbelltown (Sustainable City) Development Control Plan 2015 with respect to the following:
 - a. Section 2.7 Erosion and Sediment Control as the proponent has not submitted a sufficient erosion and sediment control plan.
 - b. Section 2.8 Cut and Fill as the proponent has not submitted a cut and fill management plan in support of the proposed development.
 - c. Section 2.10 Stormwater as an updated stormwater management plan has not been provided to reflect updated plans.
 - d. Section 2.12 Retaining Walls as a Structural Engineers report has not been provided with regard to measures to protect Council's Assets and adjoining properties.

- e. Section 2.13 Security as a crime prevention plan has not been provided to Council.
 - f. Section 3.5.1 Fencing (b) and 5.4.2 (b) (vii) as the proposed side fences (basement walls) on the boundary exceed 2.1m in height and result in plank walls on the boundary.
 - g. Section 5.4.4 (a) as the applicant has not demonstrated the proposal is designed to achieve compliance with the control with regard to acoustic privacy.
 - h. Section 5.5.1 (a) as the proposal does not achieve the required street frontage.
 - i. Section 5.5.2 Setbacks (a) (ii) the basement podium does not comply with the 6m setback to the side and rear boundaries.
 - j. Section 5.5.3 General Requirements for Residential Flat Buildings as follows:
 - i. the proposal does not comply with deep soil planting.
 - ii. storage sizes and allocation is not detailed on the basement plans.
 - k. Section 5.5.4 car parking and access as follows:
 - i. as the basement design including parking spaces and aisle widths do not comply with AS2890
 - ii. as the proposed car parking spaces do not achieve the minimum of 2.5m width.
 - iii. The driveway is located within 6m of the intersection on the opposite side of the road.
 - iv. as the Traffic Impact report does not consider all items in Appendix 12, including, but not limited to, cumulative impacts, risk analysis and assessment and sight lines.
 - v. as the swept path plans demonstrate vehicles overlapping with vehicles parked in other spaces.
 - l. Section 5.5.7 (a) as the ground level courtyards are not provided with a privacy screen.
 - m. Part 11 Vegetation and Wildlife Management as the proposal does not provide sufficient planting to offset the proposed tree removal.
5. The proposed development is inconsistent with the following objectives of the Campbelltown (Sustainable City) Development Control Plan 2015:
- Facilitate innovative development of high quality design and construction in the City of Campbelltown;
 - Ensure that new development takes place on land that is capable of supporting the proposed development;
 - Encourage the creation of safe, secure and liveable environments;
6. The proposed waste hardstand area is not sufficient given there is not enough clearance for the waste vehicle without touching the ceiling of the building.
7. The proposed basement access and parking is considered to result in an unacceptable impact on the built environment.
8. Insufficient information has been provided to demonstrate the proposal will not have an unacceptable geotechnical impact on the adjoining stormwater drainage channel.
9. Approval of the development would set an undesirable precedent for similar inappropriate development, and is therefore not in the public interest.

END OF CONDITIONS



4. REPORTS

4.1 Demolition of a dwelling and construction of a four storey residential apartment building - 37 Cumberland Rd, Ingleburn

Community Strategic Plan

Objective	Strategy
1 Outcome One: A Vibrant, Liveable City	1.8 - Enable a range of housing choices to support different lifestyles

Referral Criteria

The proposal is for both a development to which State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development (SEPP65) applies and for a development that exceeds the height of building standard in clause 4.3 of the Campbelltown Local Environmental Plan 2015 (CLEP 2015) by more than 10 percent. Therefore under Section 4.8 of the *Environmental Planning and Assessment Act, 1979* (EP&A Act) the determining authority is the Campbelltown Local Planning Panel.

Executive Summary

- This development application proposes the demolition of an existing dwelling and construction of a four storey residential apartment building containing 24 units, basement car parking and associated site works at 37 Cumberland Road, Ingleburn.
- The subject site is zoned R4 High Density Residential under the provisions of the Campbelltown Local Environmental Plan 2015 (CLEP 2015).
- Under Clause 4.3 of the CLEP 2015 a maximum building height of 15m is permitted. The development proposes a maximum height of 17.895m which equates to a contravention of the standard by 19.3 percent.
- The application was publicly exhibited and notified to adjoining properties from 22 August 2017 to 25 September 2017. Six submissions were received objecting to the proposal and one petition was also submitted with 22 signatures in opposition to the proposal.
- An assessment under Section 4.15 of the EP&A Act has been undertaken and it is recommended to the panel that the application be refused for reasons outlined in this report.
- The proposal is not considered to be in the public interest.

Local Planning Panel Meeting

18/12/2019

Officer's Recommendation

That development application 2238/2017/DA-RA for demolition of an existing dwelling and construction of a four storey residential apartment building containing 24 units, basement car parking and associated site works at 37 Cumberland Road, Ingleburn be refused subject to the reasons outlined in attachment 1.

Purpose

To assist the Panel in its determination of the subject application in accordance with the provisions of the EP&A Act.

Property Description Lot A in DP 413142, 37 Cumberland Road, Ingleburn

Application No 2238/2017/DA-RA

Applicant Arkhaus

Owner Mrs Zing Fam & Mr Arya Sulaiman Tedjasukmana

Statutory Provisions State Environmental Planning Policy 55- Remediation of Land

State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development

State Environmental Planning Policy (Infrastructure 2007)

Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment

Campbelltown Local Environmental Plan 2015

Other Provisions

Campbelltown 2027

Glenfield to Macarthur Urban Renewal Corridor Strategy

Campbelltown (Sustainable City) Development Control Plan 2015

Date Received

17 July 2017

Site and Surrounding Locality

The site is identified as Lot A in DP 413142, known as 37 Cumberland Road, Ingleburn. The site is rectangular in shape with a north east (side) boundary measuring 83.5m, south east (front) boundary measuring 19.2m, south west (side) boundary measuring 83.5m and north west (rear) boundary measuring 19.2m. The site has an area of 1604m² and the site falls from the front towards the rear by approximately 2m. It is noted the rear south-west part of the site is traversed by a concrete lined drainage channel.

The site is occupied by a single storey detached dwelling with vehicular access provided from Cumberland Road to a detached garage located on the south east side of the site.

The subject site is adjoined by a residential flat building to the north of the site that is four storeys in height and contains 55 units approved by Council on 26 February 2013 (770/2012/DA-RA). An inspection of the site revealed that the approved privacy screens to be provided on the balconies of the southern side of the building were not present. As part of

Item 4.1

Page 7

the approval of development application 770/2012/DA-RA justification was submitted to support creation of an isolated allotment at 37 Cumberland Road. The isolated allotment issues are assessed in detail in the planning assessment section of this report.

There is a multi dwelling development to the south of the site. The property to the south of the site also has a concrete lined drainage channel separating the subject property and the development on the adjoining site. The wider locale is generally comprised of detached dwellings and multi dwelling developments.

The property is not listed as an item of Environmental Heritage, and is not located within a heritage conservation area.



Figure 1: Subject site and locality map.

Proposal

The proposed development is for the construction of a four storey residential flat building with a two level basement car park. The details of the development are provided below:

Basement 2

- twenty six car parking spaces
- sixteen storage areas
- lift and stair access

Basement 1

- fourteen car parking spaces including three accessible parking spaces
- two motorbike parking spaces
- five bike parking spaces
- lift and stair access
- two bin storage rooms
- loading bay for waste bin pick up
- bulky good storage area

Ground Floor

- six units including three one bedrooms units and three two bedroom units;
- communal room
- Two lobby areas with separate lifts
- landscaping
- private terraces to units 1, 2, 3 and 4
- balconies to units 5 and 6
- communal open space area

First Floor

- six units including four two bedroom units and two one bedroom units each unit is provided with balconies
- garbage rooms
- lift and stair access

Second Floor

- six units including four two bedroom units and two one bedroom units each unit is provided with balconies
- garbage rooms
- lift and stair access

Third Floor

- six units including four two bedroom units and two one bedroom units each unit is provided with balconies
- garbage rooms
- lift and stair access

Roof

- lift access to the roof with awnings to provide weather protection to lift and stair access
- communal open space area with planter landscaping

Report**1. Vision and Strategies****1.1 Campbelltown 2027 Community Strategic Plan**

Campbelltown 2027 is the Community Strategic Plan (CSP) for the city of Campbelltown. Campbelltown 2027 addresses four key strategic outcomes that Council and other stakeholders will work to achieve:

- Outcome 1: A vibrant, liveable city
- Outcome 2: A respected and protected natural environment
- Outcome 3: A thriving, attractive city
- Outcome 4: A successful city

Outcome 1 is the most relevant to the proposed development.

The strategy relevant to this application is as follows:

1.8- Enable a range of housing choices to support different lifestyles

The proposed development would provide a range of housing choices for the local community. However, the lot cannot support a functional basement design to support the proposed number of dwellings.

1.2 Campbelltown to Macarthur Urban Renewal Corridor Strategy

The Glenfield to Macarthur Urban Renewal Corridor Strategy relates to the subject site. The Ingleburn Precinct Plan was finalised in November 2017. A copy of the precinct plan is at attachment 5.

The subject site is identified within the Strategy as being high density residential. The proposal is in line with plans within the Strategy to provide a variety of housing types within walking distance of the station to cater for all member of the community and enable residential, commercial and mixed use buildings between four and eight storeys close to the station and surrounding the town centre to maximise pedestrian activity and increase trade for local businesses. The proposed development is considered to be consistent with the vision for the Ingleburn Precinct plan.

A draft planning proposal has been prepared for this land and is currently waiting on Gateway determination. It has not been placed on public exhibition and is therefore not a matter for consideration under section 4.15 of the EP&A Act.

2. Planning Provisions

The development has been assessed in accordance with the matter of consideration under Section 4.15 of the EP&A Act, having regard to those matters, the following issues have been identified for further consideration.

2.1 State Environmental Planning Policy 55 - Remediation of Land

SEPP No. 55 aims to provide a state-wide planning approach to the remediation of contaminated land. In particular the policy aims to promote the remediation of contaminated land in order to reduce the risk of harm to human health or any other aspect of the environment.

It is estimated that the site and surrounding land has been continually used for residential purposes since the 1930. A review of Council's records found no known history of contamination applicable to the site. No further investigation under SEPP55 is considered necessary.

2.2 State Environmental Planning Policy 65 - Design Quality of Residential Apartment Development

SEPP 65 was introduced by the state government in 2002 to improve the design of residential apartments in NSW. The aims of the policy are listed below:

- (1) This Policy aims to improve the design quality of residential apartment development in New South Wales.

- (2) This Policy recognises that the design quality of residential apartment development is of significance for environmental planning for the State due to the economic, environmental, cultural and social benefits of high quality design.
- (3) Improving the design quality of residential apartment development aims:
- (a) To ensure that it contributes to the sustainable development of New South Wales:
 - (i) by providing sustainable housing in social and environmental terms, and
 - (ii) by being a long-term asset to its neighbourhood, and
 - (iii) by achieving the urban planning policies for its regional and local contexts
 - (b) To achieve better built form and aesthetics of buildings and of the streetscapes and the public spaces they define.
 - (c) To better satisfy the increasing demand, the changing social and demographic profile of the community, and the needs of the widest range of people from childhood to old age, including those with disabilities.
 - (d) To maximise amenity, safety and security for the benefit of its occupants and the wider community.
 - (e) To minimise the consumption of energy from non-renewable resources, to conserve the environment and to reduce greenhouse gas emissions.
 - (f) To contribute to the provision of a variety of dwelling types to meet population growth.
 - (g) To support housing affordability, and
 - (h) To facilitate the timely and efficient assessment of applications for development to which this Policy applies.
- (4) This Policy aims to provide:
- (a) Consistency of policy and mechanisms across the State, and
 - (b) A framework for local and regional planning to achieve identified outcomes for specific places

This policy is required to be applied to development for the purpose of the following:

residential flat building, shop top housing or mixed use development with a residential accommodation component if:

- (a) The development consists of any of the following:
- (i) The erection of a new building
 - (ii) The substantial redevelopment or the substantial refurbishment of an existing building
 - (iii) The conversion of an existing building

- (b) The building concerned is at least three or more storeys (not including levels below ground level (existing) or levels that are less than 1.2 metres above ground level (existing) that provide for car parking), and
- (c) The building concerned contains at least four or more dwellings.

The proposed development meets the abovementioned requirement and is therefore required to be assessed in accordance with this policy.

Part 4 of the SEPP states that a development application that relates to residential flat development must be accompanied by a design verification from a qualified designer, being a statement in which the qualified designer verifies:

- (a) That he or she designed, or directed the design, of the residential flat development, and
- (b) That the design quality principles set out in Part 2 of the State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development are achieved for the residential flat development.

This certification has been provided by Nick Lycenko Architect Registration No 3010.

The application was assessed against the 10 design quality principles under SEPP 65 and a planning response to each comment is set out in Table 1 below:

Table 1: Assessment against the 10 Design Quality Principles under SEPP 65

Principle	Architects comment	Planning Comment
1. Context and Neighbourhood Character	<p>The subject site is located in Ingleburn and is east of the town centre and train station. The area is well served with public transport such as trains and buses. The proposal is surrounded with a number of recreational uses such as sporting leisure centres and public parks.</p> <p>The local context is undergoing transition and change with surrounding areas zoned to allow for multi-unit dwellings, residential flat buildings and mixed-use developments. The proposal along with future developments will form part of the changing character and particular the streetscape to Cumberland Road.</p> <p>The current zoning and controls which generate and allow heights and envelopes that will result in commercial decisions to erect buildings similar in scale to that which is proposed and the recently constructed development immediately to the north and are indicative elements of the desired future streetscape.</p>	The proposed development is considered to be no inconsistent with the desired future character of the locality.
2. Built form and Scale	The area is undergoing transition and the bulk and scale is an appropriate response to the future character of the area. The proposed residential flat building has been designed to respond to the	The bulk and scale of the development with regard to the streetscape is considered to be

Principle	Architects comment	Planning Comment
	<p>slope of the site taking into account the basement entry, location and siting of the development.</p> <p>In addition, the proposal has appropriate setbacks which are compliant with the objectives and numerical requirements of the ADG, that will allow for separation with surrounding existing and future developments with similar scale and will ensure that a consistent streetscape can be achieved, therefore contributing to the future character of the context.</p> <p>The revised Development Application is now proposed as a four storey residential flat building (previously five storeys) which will further contribute to the streetscape scale and to the future desired character of the street and surroundings.</p> <p>The built form is reduced in scale and bulk, due to Council's requirement for two easements for stormwater drainage on the subject site. The revised layout incorporates the easements accordingly which will ensure that the surrounding area will be served well with drainage and a design that responds to the site constraints.</p> <p>Overall the proposed development is designed to a suitable scale and built form. Articulation and use of material creates a visually stimulating façade along with clear and logical planning approach which enhances the utilitarian value of its layouts.</p>	<p>acceptable. However, it is considered that the adjoining properties would be impacted by the rear podium level.</p>
3. Density	<p>The density proposed is an appropriate response to the site and its future transitional context. The area is undergoing change and the density will increase, the design achieves a high level of amenity for the residents and each of the apartments. The apartments fronting Cumberland Road along with the appropriate setbacks and separation achieve solar access, natural ventilation and receive an abundance of natural light.</p> <p>The revised Development Application is reducing the density with a reduction of apartments from initially 30 to 24 apartments.</p> <p>The overall layout of the apartments and density proposed generates a living environment of high standards and quality of living.</p>	<p>The proposed basement design cannot achieve compliance with AS2890 and Council's SCDCP controls. It is therefore considered that the subject site is not sufficient to support the proposed density.</p>

Principle	Architects comment	Planning Comment
4. Sustainability	<p>The building separation, setbacks from the side and rear boundaries and setbacks from the stormwater easements of the subject site provides a number of benefits in relation to sustainability.</p> <p>The high level of amenity for the residents is achieved through solar access, natural ventilation and access to daylight.</p> <p>Appropriate shading, planter boxes and orientation further increases the levels of amenity while reducing reliance on heating and cooling throughout the year. In addition all BASIX criteria have been met and achieved through good design principles and material use.</p>	The proposal includes adequate solar access and cross flow ventilation.
5. Landscape	Landscape areas are critical for buffering the built portions of this project and help to create privacy and support a good quality of living within this particular lifestyle development. Appropriate planting has been concentrated in the communal (ground floor podium and rooftop) and frontage zones. Landscape treatment to the communal areas (ground floor podium and rooftop) further enhances the amenity and social interaction for the residents. We believe the landscaping forms an integral part of the design for the well-being of the occupants and local context.	The proposed landscaping does not offset the proposed tree removal from the site and includes limited deep soil planting opportunities on the site due to the size of the proposed basement to support the proposed number of units.
6. Amenity	<p>The overall amenity of the proposed development is of high standards for future occupants. The apartments receive solar access and natural ventilation to reduce the need for heating and cooling. Through the use of appropriate materials, strategic locations of habitable rooms and acoustic measures ensures that privacy for the future occupants is maintained, and that the overall development has a high level of amenity.</p> <p>The revised Development Application proposes the communal open space to the north western corner of the subject site on the ground floor podium level and to the rooftop of the development.</p> <p>This ensures that there is an ample amount of communal open space. Solar access and a high level of amenity are achieved to communal open spaces for the residents and their visitors.</p> <p>The efficient layouts, proposed outdoor spaces being the balcony and communal areas, with flexibility and ease of access for all age groups and mobility allows for a development that provides high level of amenity.</p>	The internal amenity of the proposed units is considered to satisfy the design principle with regard to amenity. However, the proposed basement design is considered to deliver poor amenity to the residents and visitors to the site, as the proposal does not achieve compliance with AS2890.

Local Planning Panel Meeting

18/12/2019

Principle	Architects comment	Planning Comment
7. Safety	The frontage to Cumberland Road allows for suitable levels of security and visual surveillance. In addition passive surveillance of public, communal areas and street is achieved with the layout of the proposed building with the habitable rooms, balconies and bedrooms. The use of swipe access to the apartments via the lift provides security and avoids unwanted persons accessing the lobbies of various residential levels. All access points, including those to the unit blocks will be well lit and are easily visible from the street and footpath.	The proposed development will provide for passive surveillance and will provide for the safety of residents.
8. Housing Diversity and social interaction	<p>The promotion of social dimension is through good apartment mix, which this development achieves very well. The design allows a good mix between family and single occupancy lifestyles.</p> <p>Adaptable and liveable apartments are located on the ground and first floors for convenience of use for the residents and their visitors. The communal open space and lawn area provides ease of access and flexibility for the occupants and their guests.</p> <p>Public transport, nearby shops, recreational facilities and the immediate local area with diverse uses, makes this an ideal location for residential apartments as this area is undergoing transition.</p>	The proposal provides for a range of one and two bedroom units, which also includes adaptable units. This will provide a housing mix as the surrounding housing stock is generally three to four bedroom in the Ingleburn locality.

Principle	Architects comment	Planning Comment
9.Aesthetics	<p>The revised Development Application incorporates a combination of materials with face brick (running and stack bond finishes), cement render, timber and stone cladding.</p> <p>The additional materials along with the revised facades creates a residential flat building that incorporates horizontal and vertical articulation, creating planes and voids reducing its apparent scale.</p> <p>The façade facing the street is well articulated with the apartment balconies, privacy screens and combination of face brick, cement render, timber and stone cladding, provide visual interest and the desired future character of the area.</p> <p>The revised development is well articulated in both floor plans and elevations and is complimented with appropriate landscaping measures, to ensure an overall development that is desirable to the future local context.</p> <p>Material treatment of the proposed buildings through the use of face brick, cement render, timber and stone cladding, and use of contrasting colours and materials creates a development that will provide visual interest from the public and private realms. The materials offer varying degrees of texture and contrast, which produces an elegant yet simple façade.</p>	<p>The external design and proposed building materials of the development are aesthetically pleasing with regard to the streetscape and the locality.</p>

Clause 30(2)(c) of SEPP 65 states that in determining a development application for consent to carry out a residential flat development, a consent authority is to take into consideration the Apartment Design Guide (ADG). It should be noted that the ADG is a set of guidelines and need not be strictly complied with in every circumstance.

An assessment of the application against the ADG prepared by Council is presented below. The proposal departs from some of the recommended standards, these departures are not considered to be justified and a discussion of the departures is provided below this table.

Table 2: Apartment Design Guide

CONTROL	PROPOSAL	COMPLIANCE
Part 1: Identifying the context		
1A: Apartment Building Types Infill development	Favourable infill development that responds to the desired future character of the immediate vicinity.	Yes
1B: Local Character and Context Urban Neighbourhoods/ Suburban Neighbourhoods	The proposed development is consistent with the desired future character of the area as an urban neighbourhood.	Yes

Local Planning Panel Meeting

18/12/2019

<p>1C Precincts and individual sites</p> <p>Individual Sites</p>	<p>The proposed development is located on an existing site which achieves the minimum site area outlined within the CLEP 2015, however it is noted the site does not meet the minimum frontage required by the SCDCP of 30m.</p>	<p>Yes</p>
<p>Part 2: Developing the controls</p>		
<p>2C: Building Height</p>	<p>The proposed development has a maximum height of 17.895m. The maximum height of building development standard applicable to the subject site is 15m. However, the variation to the height control is acceptable for the proposed development.</p>	<p>Yes</p>
<p>2D: Floor Space Ratio</p> <p>Test the desired built form outcome against the proposed floor space ratio to ensure consistency with building height, building footprint, the three dimensional building envelope and open space requirements.</p>	<p>No FSR applies under the CLEP 2015.</p>	<p>Yes</p>
<p>2E: Building depth</p> <p>Use a range of appropriate maximum apartment depths of 12-18m from glass line to glass line</p>	<p>The maximum depth of apartments generally do not exceed 10m.</p>	<p>Yes</p>
<p>2F: Building separation Up to four storeys</p> <p>12 between habitable rooms/ balconies 9m between habitable and non-habitable rooms 6m between non-habitable rooms</p>	<p>As the area is undergoing transition from a low density to a high density area, the minimum building separation distances do not comply with the existing adjoining development. However, in accordance with the ADG, when applying the building separation controls at half rate to the proposed development, the proposal achieves compliance with the controls and the expected redevelopment on the adjoining site.</p> <p>A 6m setback is provided to the northern boundary and a 3m setback to the southern side setbacks plus the drainage channel which is 6m wide.</p>	<p>Yes</p>
<p>2G Street setbacks</p> <p>Street setbacks to be consistent with existing/desired future setbacks.</p> <p>In conjunction with height controls, consider secondary upper level setbacks to:</p> <ul style="list-style-type: none"> • reinforce the desired scale of buildings at the street frontage • minimise overshadowing of 	<p>The proposed setback to the street is consistent with the SCDCP and is considered to be acceptable, given the small frontage of the development to Cumberland Road.</p> <p>The dwellings to the front of the building are provided with a balcony and living room windows with view to the street to provide casual surveillance.</p>	<p>Yes</p>

Item 4.1

Page 17

the street and other buildings To improve passive surveillance, promote setbacks which ensure a person on a balcony or at a window can easily see the street		
2H: Side and rear setbacks On infill sites follow the existing open space patterns, limit side setbacks and locate habitable rooms to face the street and rear boundary to optimise amenity and privacy for all On narrow infill sites select a building type that orientates habitable rooms to the street and rear, minimising required side setbacks	The proposed development is generally designed with private open space areas and habitable rooms facing the northern side boundary. However, given the separation provided and screening, privacy is maintained. The habitable rooms and private open space areas are oriented to the northern side boundary. The proposal complies with the side and rear setback controls within the SCDCP 2015.	Yes
Part 3: Siting the development		
3A Site Analysis	The proposed development responds to the constraints of the site with regard to the narrow street frontage and flooding affectation to the rear of the site.	Yes
3B: Orientation	The design of the development maximises solar access to living areas of the proposed units to satisfy the ADG. Overshadowing to the property to the south is minimised due to the substantial building separation. Overshadowing to the multi dwelling to the south of the site is limited to the garages. The dwellings would retain the existing level of solar access on the winter solstice.	Yes
3C: Public domain interface	The front setback is provided with fencing and landscaping to delineate the transition between the road and private property. In this instance the fencing and landscaping is provided with a greater setback to accommodate an overland flow path across the property to the south of the site, which is required to be clear of structures. The proposed landscaping and improvements to the front setback would greatly improve the amenity of the public domain given the existing sites contribution to the public domain.	Yes
3D: Communal and public open space Controls:	The communal open space is provided in the rear setback and the rooftop communal open space area.	Yes

Local Planning Panel Meeting

18/12/2019

<p>25% communal open space (401m²)</p> <p>50% direct sunlight to useable communal open space for min 2 hours between 9am – 3pm on 21 June</p>	<p>The proposal has a communal open space area of 24% (388m²), with an additional common room provided on the ground floor, which results in 25% communal open space being provided on the site.</p> <p>It is noted the communal open space does not include deep soil planting.</p> <p>The communal open space is provided at both podium and roof level.</p> <p>The communal open space areas receive ample solar access to satisfy the ADG.</p>	
<p>3E: Deep Soil Control: Min deep soil provisions:</p> <p>Site 1500m² +, minimum dimensions 6m 7% deep soil</p> <p>Site: 1604m² 7% = 113m²</p>	<p>While the proposed development includes 12.4% of deep soil planting most of this area is narrow. The area of deep soil planting that achieves 6m in width is only approximately 3% of the site, which does not comply.</p>	No
<p>3F: Visual privacy</p> <p>Control: Min separation distance from buildings to side and rear boundaries:</p> <p>Up to 12m (four storeys): Habitable 6m, non-habitable 3m</p>	<p>The proposed setbacks of 6m to the northern boundary and 3m to the southern boundary (plus the 6m wide drainage canal) is considered to be sufficient to comply with the setback of the ADG. The proposed development complies with building separation and setbacks to the residential flat building at 31-35 Cumberland Street.</p>	Yes
<p>3G Pedestrian access and entries</p>	<p>The building entry is defined by a projected awning, which also provides for weather protection for occupiers and visitors. The entry is clad with stone columns, which is clearly defined from the ground floor façade.</p>	Yes

3F Vehicle access	The basement access and visible portion of the basement is incorporated into the design of the building, which does not detract from the streetscape character or add visual bulk to the building.	Yes
3J: Bicycle and car parking For development in the following locations: On sites that are within 800m of a railway station or light rail stop in the Sydney Metropolitan Area. 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 site is located within 800m (walking) distance to Ingleburn train station. The proposal is designed to comply with the traffic generating guidelines. 0.6 per 1 bedroom 5.4 spaces 0.9 per 2 bedroom 13.5 spaces 1 visitor per 5 units 4.8 spaces Total 24 spaces The proposal provides for 40 parking spaces which significantly exceeds the controls. See discussion below. Twelve secure underground bike parking spaces are proposed.	Yes, exceeds requirements
Part 4: Designing the building		
4A: Solar and Daylight Access Living rooms and private open spaces for at least 70% of apartments should receive two hours direct solar access on winter solstice (Sydney metro area)	The proposed development provides for 79% of all apartments to receive a minimum of two hours direct solar access on the winter solstice.	Yes
Max 15% of apartments receive no direct sunlight between 9am and 3pm in mid winter	12.5% of apartments will receive less than 2 hours solar access on the winter solstice. 8.3% of apartments will receive no solar access on the winter solstice.	Yes
4B: Natural ventilation At least 60% of apartments are naturally cross ventilated, in first nine storeys Overall depth of crossover or cross through unit does not exceed 18m, measured glass line to glass line	66% of the proposed units are naturally cross ventilated.	Yes
4C: Ceiling heights Habitable room 2.7m	All units and the common room have an internal height of 2700mm.	Yes
4D: Apartment size and layout 4D-1: Minimum internal areas: one bed 50m ²	Unit 3 is 46m ² and does not meet the minimum 50sqm required for a one bedroom unit.	No

Local Planning Panel Meeting

18/12/2019

two bed 70m ² More than 1 bathroom increase area by 5m ²	All other units are designed to meet the minimum internal area.	
Every habitable room must have 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	Each habitable room is provided with a window, which is no less than 10% of the floor area of the room.	Yes
4D-2: Environmental performance Habitable room depth limited to 2.5m x max ceiling height In Open plan layout (i.e. combined living, dining, kitchen) max habitable room depth is 8m from a window	The depth of each room does not exceed 6.75m. Unit designs that include open plan layouts do not exceed 8m in depth.	Yes Yes
4D-3: Layout designed to accommodate variety of household activities and noise Master bedroom min area 10m ² , other bedrooms 9m ² Bedroom min dimensions 3m Living rooms: 3.6m (studio/ one bed) 4m (two bed+)	All master bedrooms have a minimum area of 10m ² and all other bedrooms have a minimum area of 9m ² . All bedrooms are a minimum of 3m wide. All one bedroom apartments have a minimum width of 3.6m. All other apartments have a minimum width of 4m to living rooms.	Yes Yes Yes Yes
4E: private open space and balconies Primary balconies minimum area: one bed – 8m ² , 2m two bed – 10m ² , 2m Ground floor units: 15m ² , depth 3m	4 balconies do not meet the minimum requirement of 10sqm, which is not acceptable. The remainder of the balconies comply. See discussion below. The proposed ground floor private open space areas would be provided with a minimum open space of 20m ² and 3m width.	No Yes
4F: Common circulation spaces Max units off core per level is eight	The proposal provides for 3 units per lift, per level.	Yes
4G: Storage one bed 6m ³ two bed 8m ³ 50% of required storage to be located within the unit	23 basement storage areas are provided, with additional storage also provided within units. However the plans do not demonstrate the storage areas comply with the requirements of the ADG.	No

Item 4.1

Page 21

Local Planning Panel Meeting

18/12/2019

	Three units are provided with all storage within the unit. The storage provided for these units complies with the ADG.	
4H: Acoustic Privacy	Relevant conditions of consent could be applied to ensure noise transfer between units is minimised.	Yes
4J: Noise and Pollution	The subject site is not located near major roads or a rail corridor. The location of the proposed development is considered to minimise noise and pollution impacts on future residents of the development	Yes
4K: Apartment Mix	A suitable range of apartment sizes are provided within the development, which are evenly distributed throughout the building. The local area is predominantly houses comprising three and four bedrooms therefore smaller units contribute to local housing diversity.	Yes
4L: Ground Floor Apartments	The proposed ground floor apartments have active street frontages with private terraces in the front setback with appropriate landscaping.	Yes
4M: Facades	The proposed façade includes a mix of materials of low maintenance finishes, including timber, brick, cladding, render and metal. The finishes define the base, middle and top of the building. The façade design is considered to satisfy the objectives of section 4M of the ADG.	Yes
4N: Roof Design	The roof design has a recessed upper level, which provides lift access to the rooftop communal open space area. The design of the roof is considered to be appropriate.	Yes
4O: Landscape Design	The ADG recommends one large tree or two medium trees. The proposal includes a number of trees within the easement area and the landscape plans includes four large trees and a range of small trees, shrubs and landscaping, which satisfies the requirements of the ADG.	Yes
4P: Planting on Structures	The proposed development includes the provision of hedging to the communal roof top area.	Yes
4Q: Universal Design	In the event of an approval the proposed development could be appropriately conditioned to ensure 20% of the units within the building meet the measures outlined for liveable housing.	Yes
4U: Energy Efficiency	The proposed development incorporates measures to improve the sustainability of the building with natural ventilation, water efficient fixtures, shading devices and clothes drying areas.	Yes
4V: Water Management and Conservation	The proposal includes water efficient fittings to each unit.	Yes
4W: Waste Management	The proposed waste management measures are adequately sized and located, a bulky waste storage area is provided in the basement and appropriately designed for access by residents	Yes

Item 4.1

Page 22

Local Planning Panel Meeting

18/12/2019

4X: Building Maintenance	The proposed building design provides protection from weathering, the proposed material selection is considered to reduce ongoing maintenance costs with the façade being predominantly face brick work.	Yes
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Private Open Space

Four of the proposed balconies do not achieve the minimum size required by the ADG, this is not considered to be acceptable for the proposed development. It is acknowledged a minor design amendment could achieve compliance. However, as the proposal does not comply, the proposed design is not supported.

Unit size

Unit 3 does not comply with the minimum size for a one bedroom unit under the ADG. It is not considered to be acceptable to support undersized apartments. The proposed apartment would be better suited to a studio design, which have not been provided for within the development.

Deep Soil Planting

The proposed development provides for deep soil planting in areas which are not utilised as communal open space, a large portion of this area would be contained within a space that is generally inaccessible and forms part of an easement and a flood way. Further, a large part of the deep soil areas identified in the plans submitted do not achieve the minimum 6m width required by the ADG. Therefore, the compliant area of deep soil planting is less than 3 percent of the subject site, which is not acceptable and therefore the proposed development is not supported.

Car Parking

The proposed development includes an excessive number of car parking spaces which significantly exceeds the RMS requirements outlined for the subject site. The excessive provision of car parking spaces does not achieve objective 3J-4 of the ADG as the design of the car park does not minimise the impact of excavation through efficient car park design and is therefore not supported.

It is also noted the basement one level is above natural ground level at the rear of the site. However, this is primarily due to design requirements for the flood planning level for the habitable areas of the building.

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

A BASIX Certificate for the proposed development (No. 834121M_02) was submitted with the development application. The BASIX Certificate lists measures to satisfy BASIX requirements which have been incorporated into the proposal. It is considered that the development is acceptable under State Environmental Planning Policy (Building Sustainability Index – BASIX) 2004.

2.4 Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment

The proposal is within the Georges River Catchment and thus this policy applies. The general aims and objectives of this plan are as follows:

- a) To maintain and improve the water quality and river flows of the Georges River and its tributaries and ensure that development is managed in a manner that is in keeping with the national, State, regional and local significance of the Catchment.
- b) To protect and enhance the environmental quality of the Catchment for the benefit of all users through the management and use of the resources in the Catchment in an ecologically sustainable manner.
- c) To ensure consistency with local environmental plans and also in the delivery of the principles of ecologically sustainable development in the assessment of development within the Catchment where there is potential to impact adversely on groundwater and on the water quality and river flows within the Georges River or its tributaries.
- d) To establish a consistent and coordinated approach to environmental planning and assessment for land along the Georges River and its tributaries and to promote integrated catchment management policies and programs in the planning and management of the Catchment.
- e) (Repealed)
- f) To provide a mechanism that assists in achieving the water quality objectives and river flow objectives agreed under the Water Reform Package.

The proposal does not conflict with any of the relevant provisions of the Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment, and is therefore considered acceptable in this regard.

2.5 State Environmental Planning Policy (Infrastructure) 2007

The aim of the SEPP is to facilitate the effective delivery of infrastructure across the State by improving regulatory certainty and providing flexibility in the location of infrastructure.

Clause 101 Development with frontage to classified road

Cumberland Road is identified as an unclassified regional road. Therefore, the provisions of Clause 101 do not apply.

Clause 102 Impact of road noise or vibration on non-road development

Cumberland Road does not carry daily volumes of traffic in excess of 40,000 vehicles, therefore Clause 102 of the SEPP does not apply to the proposed development.

Clause 104 Traffic-generating development

The proposed development is not identified in Schedule 3 as traffic generating development.

2.6 Campbelltown Local Environmental Plan 2015

The subject site is zoned R4 High Density Residential in accordance with the Campbelltown Local Environmental Plan 2015. The proposed development is defined as a residential flat building as follows:

Residential flat building means a building containing three or more dwellings, but does not include an attached dwelling or multi dwelling housing.

Note.

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

The proposed development is considered to be consistent with the objectives of the R4 High Density Residential Zone:

- *to provide for the housing needs of the community within a high density residential environment*
- *to provide a variety of housing types within a high density residential environment*
- *to enable other land uses that provide facilities or services to meet the day to day needs of residents*
- *to encourage high density residential development in close proximity to centres and public transport hubs*
- *to maximise redevelopment and infill opportunities for high density housing within walking distance of centres*
- *to enable development for purposes other than residential only if that development is compatible with the character and scale of the living area*
- *to minimise overshadowing and ensure a desired level of solar access to all properties*

Provision	Comment	Compliance
Part 2 Permitted or Prohibited Development		
2.7 Demolition requires development consent	The proposed development includes the demolition of the existing dwelling and associated ancillary structures.	Yes
Part 4 Principal Development Standards		
4.1C Minimum qualifying site area and lot size for certain residential and child care centre development in residential zones	Residential Flat Building development within the R4 zone requires a minimum lot size of 1200m ² , the subject site has a minimum lot size of 1604m ² , which satisfies the development standard.	Yes
4.3 Height of Buildings <ul style="list-style-type: none"> • 15m max 	The proposed development has a height of 17.895m.	No – see discussion below
4.3A Height restriction for certain residential accommodation	The proposed dwellings are single level.	Yes

Local Planning Panel Meeting

18/12/2019

4.6 Exceptions to development standards	The application is accompanied by a written request pursuant to clause 4.6 of Campbelltown LEP 2015 due to the non-compliance with the development standard for a maximum height of 15m in clause 4.3. A detailed discussion of the non-compliance with the development standard is presented below this table.	See discussion below.
Part 5 Miscellaneous Provisions		
5.6 Architectural roof features	The proposed roof is generally contained within the 15m height limit. The structures that exceed the height include the lift and stair access to the communal open space area on the rooftop. Discussion of the height exceedance is provided below.	N/A
Part 7 Additional local provisions		
7.1 Earthworks	The proposed development includes significant excavation for the purpose of a double storey basement. The maximum depth of excavation is approximately 5.9m, the applicant has submitted a geotechnical report in support of the proposed development. The proposal includes excessive excavation which is adjacent to Council infrastructure, the impact of the excavation on the concrete lined channel has not been adequately addressed.	No
7.2 Flood Planning	The site is identified as being flood affected. The development has been designed in response to flooding concerns raised during the Pre DA and DA process. The proposal requires the registration of drainage easement for overland flow on the adjoining property. The development has been designed to be constructed to the flood planning level. The proposed development would not result in detrimental increases to flood affectation on adjoining properties.	Yes
7.3 Riparian land and watercourses -40m of Georges River, Hawkesbury-Nepean, Woronora river or wetland - all land within 30m of waterway	The site adjoins a concrete lined drainage channel.	N/A
7.4 Salinity	No indications of salinity were identified on site.	Yes
7.10 Essential Services	Essential services are supplied to the subject site.	Yes
7.13 Design Excellence	The subject site is located in the R4 zone, Clause 7.13 of the CLEP applies to the subject site.	No

	<p>The proposed development has been architecturally designed. The proposed development is considered to contribute to the streetscape character of the locality and the desired future character. However, the proposal is not considered to satisfy this clause with regard to vehicular and service access, circulation and excess car parking and in regards to the amount of usable deep soil areas which restricts the quality and integration of landscape design.</p>	
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The following is a detailed discussion of the issues identified in the compliance table above in relation to the non-compliance with the Height of Building development standard and consideration of a Clause 4.6 request.

Exceptions to Development Standards

Clause 4.3 Height of buildings

The proposed development has a maximum height of 17.895m, as measured to the highest point of the top of the lift from natural ground level. The proposal exceeds the height of buildings development standard of 15m prescribed under clause 4.3 of Campbelltown LEP 2015 by 2.895m or 19.3 percent.

A written request pursuant to clause 4.6 of Campbelltown LEP 2015 has been made, seeking consent for the development despite the contravention of the height of buildings development standard. The justification presented in the written request is summarised as follows:

- *In terms of visual impact, the stairwells are 20m and 50.5m from the street respectively. The viewing angles from Cumberland Road will be such as to obscure the view of the shafts from most appreciable viewing points. From the north, the roof over the shafts will be approximately 15m from the neighbouring units and will be visible only from the uppermost floor.*
- *When compared to the visual impact of the neighbouring development at 31-35 Cumberland Road when viewed from the street, the proposed building will have a much lesser apparent bulk and scale even though in both cases the floor space ratios are compliant. This is due to the fact that the adjoining development is built over three allotments and is a building of much larger bulk and scale. The height of the lift/stairwells are acceptable in the context of the bulk and scale of the neighbouring building.*
- *There are no appreciable views or vistas over the subject site available to or from adjoining properties.*
- *The use of the roof for communal open space purposes will not result in loss of privacy to adjoining properties or the public domain. The usable parts of the space are separated from the extremities of the building by raised planters and garden beds. All activity will be appropriately contained within the trafficable area.*
- *The shadow impact of the stair/lift wells is marginal when looked at in aggregate.*

In seeking a variation to the development standard an assessment against Clause 4.6 is detailed below:

4.6 Exceptions to development standards

- (1) The objectives of this clause are as follows:
 - (a) To provide an appropriate degree of flexibility in applying certain development standards to particular development,

Flexibility in the application of Clause 4.3 is considered to be appropriate for the particular development. Overall, the proposal is appropriate for the subject site and location, given the location within the residential area and limited amenity impacts resulting from the height of the lift structures.

- (b) To achieve better outcomes for and from development by allowing flexibility in particular circumstances.

The non-compliance is relatively minor and relative to a small portion of the overall development on the site. The section above the height limit does not affect the amenity of the surrounding properties.

- (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.

Clause 4.3 is not excluded.

- (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.

A written request was received and is located at attachment 2. The written request is largely based on the Wehbe test and that the development achieves the objectives of the development standard. The request notes that in plan view only 10.6 percent of the building exceeds the height limit. The stair wells above the height plain are 20m and 50.5m from the street and not visible from most appreciable viewing points. The narrow design means this proposal will have less visual impact than the adjoining development.

- (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 Secretary has been obtained

The applicant's written request is considered to be satisfactory for the proposed development having regard to subclause (3).

The objections for the maximum height of buildings standard in clause 4.3 are:

- a) to nominate a range of building heights that will provide a transition in built form and land use intensity across all zones,
- b) to ensure that the heights of buildings reflect the intended scale of development appropriate to the locality and the proximity to business centres and transport facilities,
- c) to provide for built form that is compatible with the hierarchy and role of centres,
- d) to assist in the minimisation of opportunities for undesirable visual impact, disruption to views, loss of privacy and loss of solar access to existing and future development and to the public domain.

As the variation to the height only relates to a small part of the building it is not considered to countervail the hierarchy of heights or built form intensity across the zones or localities. This site is within proximity to the Ingleburn business centre and Ingleburn railway station. The location of the height exceedance on the site means that it does not disrupt views or result in loss of privacy or loss of solar access to existing or future development. The height exceedance due to its location has no direct impact on the public domain.

Non-compliance with the development standard is considered to be acceptable given the nature of the variation and consistency with the existing bulk and scale of the development in the neighbourhood. The proposal is considered to be acceptable and adequate justification has been provided for contravention of the development standard.

2.7 Campbelltown (Sustainable City) Development Control Plan 2015

The purpose of Campbelltown (Sustainable City) Development Control Plan 2015 (SCDCP 2015) is to provide more detailed provisions to supplement the Campbelltown Local Environmental Plan 2015 (CLEP 2015).

Clause 4.15 (1) (a) (iii) of the Environmental Planning and Assessment Act, 1979 requires Council to consider the relevant provisions of the applicable development control plan being SCDCP 2015.

The following table details the assessment of the proposal in accordance with the relevant requirements of the SCDCP 2015.

Part 2 - Requirements Applying to All Types of Development

The general provisions of Part 2 of the Plan apply to all types of development. Compliance with the relevant provisions of Part 2 of the Plan is discussed as follows:

Campbelltown (Sustainable City) Development Control Plan 2015			
Control	Requirement	Proposed	Compliance
2.2 Site Analysis	a) The development application for all development involving the construction of a building and the Torrens title subdivision of land.	The site analysis plan submitted to Council is considered to be compliant with the requirements for a Site Analysis plan in accordance with Section 2.2 of the SCDCP 2015.	Yes
2.4.2 Solar Hot Water	a) All new buildings are encouraged to provide a solar hot water system. b) Where the site is connected to the gas main, the solar hot water system is encouraged to be gas boosted.	The proposed development does not make provision for solar hot water.	No
2.4.3 Natural Ventilation	The design of new buildings shall be encouraged to maximise opportunities for cross flow ventilation, where practical, thus minimising the need for air conditioning.	The proposed development maximises cross flow ventilation to each dwelling.	Yes
2.4.4 Light Pollution	Outdoor lighting shall be designed to minimise pollution from the unnecessary dispersion of light into the night sky and neighbouring properties.	The development could be appropriately conditioned to ensure outdoor lighting does not adversely affect adjoining residential properties or traffic.	Yes
2.4.5 BASIX	Basix	The applicant has submitted a BASIX Certificate in support of the proposed development.	Yes
2.5 Landscaping	a) Landscape design shall enhance the visual character of the development and complement the design/use of spaces within and adjacent to the site.	The landscape design will enhance the visual character of the development and complement spaces within the site.	Yes
	b) Landscape design shall retain and enhance the existing native flora and fauna characteristics of a site wherever possible.	The landscape design will remove existing native flora and provide replacement native plant species on the site.	Yes
	c) Landscape design shall add value to the quality and character of the streetscape.	The proposed landscape design is considered to contribute to the character of the streetscape	Yes
2.7 Erosion and Sediment Control	a) An Erosion and Sediment Control Plan (ESCP) shall be prepared and submitted with a development application proposing construction and/or activities involving the disturbance of the land surface. For requirements relating to the	The applicant has not submitted an Erosion & Sediment control plan with the application.	No

Local Planning Panel Meeting

18/12/2019

	preparation of an ESCP, refer to Appendix 5 of Volume 1 and Council's Engineering Design Guide for Development		
	b) Site activities shall be planned and managed to minimise soil disturbance.	Site activities shall be planned to minimise soil disturbance.	Yes
	c) Catch drains or diversion banks shall be designed and constructed to divert water around any area of soil disturbance.	Appropriate measures will be included to divert water around soil disturbance.	Yes
	d) All stockpiles shall be located within the sediment control zone and shall not be located within an overland flow path.	The applicant has not submitted an Erosion & Sediment control plan with the application.	No
2.8.1 Cut and Fill	a) A Cut and Fill Management Plan (CFMP) shall be submitted with a development application where the development incorporates cut and/or fill operations.	A cut and fill management plan was not provided with the application.	No
	c) Any excavation within the zone of influence of any other structure requires a dilapidation report (prepared by a suitably qualified person) demonstrating that adequate ameliorative measures are to be implemented to protect the integrity of any structure.	A dilapidation report could be required as a condition of consent.	Yes
	e) All fill shall be Virgin Excavated Natural Material (VENM).	A condition of consent could be applied to ensure any fill imported onto the site is VENM.	Yes
	g) All basement excavation shall be setback a minimum of 900mm from the property boundaries.	Basement excavation is within 900mm of the boundary.	No
	h) Provisions of basement shall not result in non-compliance with deep soil planting controls within this plan.	The proposal results in non-compliance with deep soil planting controls	No
2.8.2 Surface Water and Floor Levels	a) Development shall not occur on land that is affected by the 100-year ARI event unless the development is consistent with the NSW Floodplain Development Manual.	The site is identified as being flood affected, the proposal was redesigned to accommodate easements and levels required by Council's Engineers.	Yes
	b) All development on land affected by stormwater flow from main stream, local creek or over land flow shall satisfy the relevant	The site is identified as being flood affected, the proposal was redesigned to accommodate easements and	Yes

Local Planning Panel Meeting

18/12/2019

	fill and floor level requirements as specified in Table 2.8.1.	levels required by Council's Engineers.	
	c) All development shall have a ground surface level, at or above a minimum, equal to the 100-year 'average recurrence interval' (ARI) food level.	The site is identified as being flood affected, the proposal was redesigned to accommodate easements and levels required by Council's Engineers.	Yes
	e) Buildings involving basements, hospitals, seniors living dwellings and educational establishment with more than 50 students shall comply with the provisions of Council's Engineering Design Guide for Development	The applicant has not demonstrated the proposal complies with the Engineering Design Guide. See discussion following the DCP tables.	No
	f) Any solid fence constructed across an overland flow path shall be a minimum 100mm above the finished surface level of the overland flow path.	The design of boundary fences can comply with the control.	Yes
	g) Where underground car parking is proposed, measures shall be taken in design and construction to ensure escape routes, pump out drainage systems (which include backup systems) and location of service utilities (including power, phone, lifts) are appropriately located in relation to the 100 year ARI event, in accordance with Section 4.13.8 of Council's Engineering Design Guide for Development	A concept stormwater drainage plan has been provided, although it has not been revised in consideration of the latest architectural plans and therefore not enough information provided to determine compliance.	No
2.9 Demolition	a) A development application involving demolition shall be considered having regard to the following information: i) a detailed work plan prepared by a suitably qualified person, in accordance with AS2601-2001- The Demolition of Structures (as amended); ii) details of the licensed demolition contractor engaged to carry out the work (including name, address and building licence number); iii) a hazardous materials report that lists details of methods to prevent air, noise and water pollution and the escape of hazardous substances into the public domain; iv) details of any asbestos or other hazardous substances to be removed from the site and/or damaged during demolition; and v) a dilapidation report where any	The demolition of the structures is supported. Appropriate conditions of consent could be imposed to ensure the demolition is carried out in accordance with the controls.	Yes

Local Planning Panel Meeting

18/12/2019

	demolition work is to be undertaken within the zone of influence of any other structure.		
	b) Where appropriate, demolished materials shall be recycled for reuse on site.	Details for the disposal of waste from the demolition of the dwelling will be detailed in the Waste Management Plan.	Yes
2.10.2 Stormwater	a) All stormwater systems shall be sized to accommodate the 100-year ARI event (refer to Section 4 of Council's Engineering Design Guide for Development)	A concept stormwater drainage plan has been provided, although it has not been revised in consideration of the latest architectural plans and therefore not enough information provided to determine compliance.	No
	b) The design and certification of any stormwater system shall be undertaken by a suitably qualified person.	The design of the stormwater plans were undertaken by an engineer.	Yes
	d) Development shall not impact on adjoining sites by way of overland flow of stormwater unless an easement is provided. All overland flow shall be directed to designated overland flow paths such as roads.	The proposed development does not affect the adjoining properties with regard overland flow.	Yes
	h) Stormwater collected on a development site shall be disposed of (under gravity) directly to the street or to another Council drainage system/device.	The proposal includes the disposal of stormwater run-off via gravity to the drainage channel.	Yes
	i) All proposed drainage structures incorporated within new development shall be designed to maintain public safety at all times.	Appropriate conditions of consent could address public safety.	Yes
	j) Development shall not result in water run-off causing flooding or erosion on adjacent properties.	A concept stormwater drainage plan has been provided, although it has not been revised in consideration of the latest architectural plans and therefore not enough information provided to determine compliance.	No
	k) Stormwater run-off shall be appropriately channeled into a stormwater drain in accordance with Council's Engineering Design Guide for Development	A concept stormwater drainage plan has been provided, although it has not been revised in consideration of the latest architectural plans and therefore not enough information provided to determine compliance.	No
2.10.3 Stormwater Drainage	a) A stormwater Drainage Concept Plan shall be prepared by a suitably qualified person, and submitted with all development applications, involving construction (except for internal alterations/fitouts), demonstrating	A concept stormwater drainage plan has been provided, although it has not been revised in consideration of the latest architectural plans and therefore not enough information provided to	No

Local Planning Panel Meeting

18/12/2019

	to Council how the stormwater will be collected and discharged from the site.	determine compliance.	
	b) The stormwater concept plan shall include the following information as a minimum: i) locations, layouts and sizes of stormwater pipes and pits; ii) minimum grades and capacity of stormwater pipes; and iii) existing and proposed easements, site contours and overland flow path/s.	The applicant has provided information in the stormwater concept plan consistent with (b).	Yes
2.12 Retaining Walls	a) Any retaining wall that is not complying or exempt development as specified in the E&CDC shall be designed by a suitably qualified person.	The proposed development does not include retaining walls on the site property boundaries. Basement walls are proposed on the boundary which would be required to be designed by a structural engineer.	Yes
	b) In the case of retaining walls constructed to support proposed fill on an allotment, the following design criteria shall apply: i) No filling shall be permitted within two metres of any property boundary unless sufficient details are submitted to Council illustrating how privacy, overshadowing, stormwater management and access issues have been addressed to Council's satisfaction.	The proposal does not seek to fill the site within 2m of the boundary. The proposed wall on the boundary will also serve as a masonry boundary fence.	Yes
	c) In the case of retaining walls constructed to support proposed cut on an allotment, the following design criteria shall apply: i) The retaining wall shall be setback a minimum of 450mm from the rear and side boundary of the lot containing the cut.	See discussion below.	No
	d) Any retaining wall shall not adversely alter surface flows to adjoining private land.	The design of the proposed retaining walls do not appear to adversely alter surface flows.	Yes
	e) Any retaining wall and associated structures shall be designed to be located wholly within the property boundary, except where written or legal agreements have been reached between relevant parties to Council's satisfaction.	Basement walls will be located within the property boundary.	Yes
	f) Any excavation within the zone of influence for any other structure or building requires a Structural	The proposal could be appropriately conditioned to require a dilapidation report to	Yes

Local Planning Panel Meeting

18/12/2019

	Engineering Report (prepared by a suitably qualified professional) demonstrating that adequate and appropriate measures are to be implemented to protect the integrity of any structure.	be prepared for surrounding affected properties to ensure adjoining structures are protected.	
2.13 Security	a) Development shall be designed to: i) maximise, where possible, casual surveillance opportunities to the street and surrounding public places; ii) minimise dead ends and other possible entrapment areas; iii) clearly identify and illuminate access points to buildings and designated public places; and iv) clearly differentiate between private and public space.	The proposal provides for casual surveillance to the street and clearly defines private and public space.	Yes
	b) External lighting shall be designed to: i) encourage the use of safe areas; ii) define safe corridors for movement of people; and iii) allow facial recognition of approaching pedestrians at 15 metres.	An external lighting plan has not been provided, however this matter could be addressed by way of condition.	Yes
	c) Development shall incorporate appropriate landscaping, fencing and security devices to assist in crime prevention.	The proposal includes landscaping, fencing and security measures to assist in crime prevention.	Yes
	e) Development applications for multi dwelling housing, attached dwellings residential fat buildings, mixed-used development, boarding houses, shop top housing, commercial development, industrial development and large scale subdivision comprising more than 10 dwellings/units allotments or incorporating works to be dedicated to Council shall be accompanied by a crime prevention plan to be prepared by a suitably qualified person addressing how the development embraces the principles of Crime Prevention Through Environmental Design.	A crime prevention plan has not been submitted for the proposed development.	No

Local Planning Panel Meeting

18/12/2019

2.14 Risk Management 2.14.1 Contaminated Land	a) The requirements of Managing Land Contamination Planning Guidelines, SEPP 55 – Remediation of Land (EPA, DUAP, 1998) shall be satisfied on sites known to have, or may give Council reason to suspect, a potential for previous contamination.	The site was historically used for residential purposes.	Yes
	b) An initial investigation regarding the possible or actual contamination of a site shall be carried out by a suitably qualified person.	Given the previous residential use this is not considered necessary.	Yes
	c) Where a site is identified by Council, Office of Environment and Heritage and/or by the initial investigation as being, or having the potential to be contaminated, a Contamination Management Plan shall be submitted with the development application.	No potentially contaminating uses identified.	Yes
2.14.2 Salinity	a) Any development : i) within 50 metres of the top of the bank of a watercourse; ii) located in an area that has bare soil patches or salt scalds; iii) occupied by soils that appear 'puffy' when dry, or greasy when wet; iv) located in an area that is occupied by salt tolerant plant species; v) located in an area that has white staining on nearby house foundations or walls; or vi) located on soils that are derived from Wianamatta Shale; shall be designed in accordance with Section 5.8 Council's Engineering Design Guide for Development .	The site does not exhibit evidence of salinity.	Yes
2.15.1 Waste Management Plan	a) A detailed Waste Management Plan (WMP) shall accompany development applications for certain types of development/land uses, as detailed in Table 2.15.1 and for any other development that in the opinion of Council a WMP is required.	The applicant has submitted a waste management plan.	Yes
2.15.2 Waste Management during demolition & construction	a) All waste and recyclable streams shall be stored separately on site.	Details have not been provided.	No
	b) All storage areas/containers for each waste and recycling stream shall be kept on the site at all	Details have not been provided.	No

Item 4.1

Page 36

Local Planning Panel Meeting

18/12/2019

	times and shall be indicated on the site plans/drawings as part of the WMP.		
	c) Where material cannot be reused or recycled, it shall be disposed of at an appropriately licensed waste management facility. Details of disposal arrangements shall be specified in the WMP.	The waste management plan makes provisions for disposal of building materials.	Yes
	d) Convenient and safe vehicular access to waste and recycling material storage areas shall be provided.	Safe access to the waste storage areas would be provided.	Yes
2.15.3 On-going Waste Management	a) Provision shall be made for all waste and recycling storage containers to be located behind the primary and secondary building line and out of public view.	Waste storage is within the basement.	Yes
	b) Any room(s) for storing garbage and recycling shall be located in a position that is convenient for occupants and waste collection staff. Collection rooms shall complement the development and not be visibly obtrusive when viewed from any public place.	Waste storage is within the basement.	Yes
	f) Where it is intended that collection vehicles are to drive into a private property to collect waste and recycling, the development shall be designed to provide for: i) the safe and efficient service of the development with minimal need to reverse; ii) vehicles to enter and exit in a forward direction; iii) adequate clearance to accommodate the waste collection vehicle dimensions detailed in Table 2.15.2. iv) where collection vehicles are required to enter the property, the pavement shall be constructed in such a manner that will not be damaged by a collection vehicle carrying the maximum legal weight.	The site has been designed for onsite private waste collection.	Yes
2.16 Provision of Services	The pavement shall be constructed in such a manner that will not be damaged by a collection vehicle carrying the	The proposal could be conditioned to comply with this control.	Yes

Item 4.1

Page 37

Local Planning Panel Meeting

18/12/2019

	maximum legal weight.		
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Part 3 – Low & Medium Density Residential Development and Ancillary Residential Structures

The development application was further assessed under the relevant controls outlined in Part 3 of the SCDP 2015 with regard to requirements for ancillary structures in residential zones.

Compliance with the relevant provisions of Part 3 of the Plan is discussed as follows:

		Campbelltown (Sustainable City) Development Control Plan 2015	
Control	Requirement	Proposed	Compliance
3.5.1 Fencing	Bonded sheet metal fencing shall not be constructed at any location other than alongside and rear boundaries shared with other private property, where such fencing is not highly visible from the street, public reserve or other public place, unless the site is within a bushfire prone area.	The proposed front fence is a combination of timber and masonry materials.	Yes
	b) Residential fencing along the rear and side boundaries shall be: i) located behind the primary street building line; ii) a maximum 2.1 metres in height (excluding retaining walls); and iii) a maximum 1.8 metres in height, if adjoining a secondary street.	Part of the boundary fence will project beyond the front building line on the southern boundary. See discussion below the DCP tables.	No
	c) Front residential fencing shall be a maximum of 1.2 metres in height and complement the design of the development.	The proposed front fence is 1.2m in height.	Yes
	d) Fencing shall not obstruct power, water, sewer, gas or telephone services, drainage systems, (including overland flow paths) or any easements or rights of way.	Fencing shall be design and located to ensure services are not obstructed.	Yes
	f) Details for fencing shall be submitted with the development application.	Fencing details have been submitted with the development application.	Yes

Part 5 – Residential Flat Buildings and Mixed-Use Development

The development application was further assessed under the relevant controls outlined in Part 5 of the SCDP 2015 with regard to requirements for residential flat buildings.

Local Planning Panel Meeting

18/12/2019

Compliance with the relevant provisions of Part 5 of the Plan is discussed as follows:

		Campbelltown (Sustainable City) Development Control Plan 2015	
Control	Requirement	Proposed	Compliance
5.2 Desired Future Character	High density residential neighbourhoods shall be characterised by: <ul style="list-style-type: none"> • building forms that have a high level of architectural merit and make a positive contribution to the local area; • a diversity of high density residential forms • residential forms that provide high quality residential living environment • integration with high intensity public transport forms and fine grained pedestrian/cycleway networks • access to a safe and high quality public domain • articulated front facades with balconies and deep soil planting and landscaping of street frontages 	The proposed development is considered to be generally consistent with the desired future character of the R4 zone.	Yes
5.4.1 Relationship of the Plan to SEPP 65 Design Quality of Residential Flat Development	a) In addition to satisfying the requirements of the Plan, all residential flat buildings, and mixed use development having a height greater than 12 metres or four or more self-contained dwellings (whether or not the building includes uses for other purposes, such as shops) shall satisfy all the standards within State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development (SEPP 65) and Apartment Design Guide (Published by the NSW Department of Planning and Environment, July 2015).	The applicant has submitted a design that is generally consistent with SEPP 65. Further assessment against the principles of SEPP 65 is presented in Section 1.2 of this report.	Partial Compliance
5.4.2 Building Form and Character	a) Building design shall consider foremost the qualities (both natural and built) and the desired future character of the areas including the significance of any heritage item on the land.	The proposal is consistent with the desired future character, the subject site is not a heritage item or located within close proximity of a heritage item.	Yes
	b) Building design shall incorporate the following features to assist in the achievement of high quality architectural outcomes: <ul style="list-style-type: none"> i) incorporation of appropriate facade treatments that help the development properly address the respective street frontages, key vistas and to add visual interest to the skyline; ii) incorporation of articulation in walls, roof lines, variety of roof 	<p>The façade treatment is appropriate.</p> <p>The wall and roof articulation is acceptable.</p>	<p>Yes</p> <p>Yes</p>

Item 4.1

Page 39

Local Planning Panel Meeting

18/12/2019

	<p>pitch, individualised architectural features (balconies, columns porches, colours, materials etc.) into the facade of the building;</p> <p>iii) variation in the vertical planes of exterior walls in depth and/or direction</p> <p>iv) variation in the vertical and horizontal planes of the building so that the building appears to be divided into distinct base, middle and top massing elements</p> <p>v) articulation of building facade (including rear and side elevations visible from a public place) by appropriate use of colour, arrangement of facade elements, and variation in the types of materials used</p> <p>vi) utilisation of landscaping and interesting architectural detailing at the ground level; and</p> <p>vii) avoidance of blank walls at ground and lower levels</p>	<p>The vertical planes of exterior walls is acceptable.</p> <p>The design appears with a distinct base, middle and top to the building.</p> <p>The building façade is considered to be appropriate for the design.</p> <p>Landscaping is utilised to create visual interest.</p> <p>Blank walls are limited to the basement podium at the rear of the site, which is located on the side and rear boundary. See discussion below.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>No</p>
	<p>c) Building design shall demonstrate to Council's satisfaction that the development will:</p> <p>i) facilitate casual surveillance and active interaction with the street;</p> <p>ii) be sufficiently setback from the property boundary to enable the planting of vegetation to soften the visual impact of the building at street level; and</p> <p>iii) maximise cross flow ventilation, therefore minimising the need for air conditioning.</p>	<p>The proposed development provides for casual surveillance to the street, provides sufficient vegetation to the front setback and maximises cross flow ventilation.</p>	<p>Yes</p>
	<p>d) Building colours, materials and finishes shall generally achieve subtle contrast. The use of highly reflective or gloss materials or colours shall be minimised to feature and highlight element only.</p>	<p>The proposed colours and materials are appropriate for the proposed development.</p>	<p>Yes</p>
	<p>e) Building materials shall be high quality, durable and low maintenance.</p>	<p>The proposed colours and materials are appropriate for the proposed development.</p>	<p>Yes</p>
5.4.3 Site Services	<p>a) The location, design and construction of utility services shall satisfy requirements of the relevant servicing authority and Council.</p>	<p>Services are acceptable. Council requires a drainage easement over the property with regard to overland flow paths and the existing drainage canal on the adjoining</p>	<p>Yes</p>

Local Planning Panel Meeting

18/12/2019

		property and the subject site.	
	b) Development shall ensure that adequate provision has been made for all essential services (i.e. water, sewerage, electricity, gas, telephone, internet and stormwater drainage).	Adequate provision has been made for services.	Yes
	c) All roof-mounted air conditioning or heating equipment, vents or ducts, lift wells and the like shall not be visible from any public place and shall be integrated into the design of the development.	The proposal does not include roof mounted plant other than the lift access to the rooftop communal open space.	Yes
	d) All communication dishes, antennae and the like shall be located or integrated into the built form so as to minimise visual prominence.	No details have been provided.	N/A
	e) An external lighting plan shall be prepared by a suitably qualified person and submitted with the development application.	No external lighting plan has been provided.	No
	f) All site services areas including any associated equipment and storage structures shall be incorporated into the design of the building and screened from public view.	Details have not been provided with regard to whether or not a substation is required for the proposed development.	No
	g) An on-going waste management plan shall be prepared by a suitably qualified person and submitted with the development application.	The applicant has submitted details with regard to ongoing waste management for the proposed development.	Yes
5.4.4 Acoustic Privacy	a) Residential flat buildings, and the residential component of a mixed-use development shall provide noise mitigation measures to ensure that the following LAeq levels are not exceeded: i) in any bedroom in the building—35 dBA , ii) anywhere else in the building (other than a garage, kitchen, bathroom or hallway)—40 dBA.	The applicant has not demonstrated compliance with the acoustic requirements.	No
	b) Residential flat buildings, and the residential component of a mixed-use development near railway corridors and major roads shall demonstrate to Council's satisfaction compliance with the requirements under the Guidelines entitled Development Near Rail Corridors and Busy Roads – Interim Guideline, 2008)	The subject site is not located near a railway corridor or busy road.	N/A
5.4.5 Vehicular Access	a) Residential flat buildings and mixed-use developments shall only be permitted where Council is satisfied that existing road networks	The Traffic Impact report does not consider all items in Appendix 12, including, but not limited	No

Local Planning Panel Meeting

18/12/2019

	are capable of providing safe and efficient vehicle access to and from the proposed development.	to, cumulative impacts, risk analysis and assessment and sight lines.	
5.4.6 Stormwater Drainage	a) Residential flat buildings and mixed-use developments shall only be permitted where Council is satisfied that sufficient provisions made for the management of stormwater. All necessary upgrades to existing public and private stormwater infrastructure shall be addressed as part of the proposed development and shall be in accordance with Council's Engineering Design Guide for Development	The subject site can dispose of stormwater to the drainage channel on the adjoining site.	Yes
5.4.7 Thermal Comfort	a) Residential flat buildings and mixed-use developments shall be designed to maximise natural thermal comfort for occupants through the use of appropriate building materials.	The building materials are acceptable.	Yes
5.4.8.1 Number of Bins	a) All buildings shall be provided with household garbage bins at the following rates: i) a 240 litre bin per 2.5 dwellings/ week for household garbage; or b) recycle bins at a ratio of one 240 litre bin per 2.5 dwellings per fortnight.	The proposal provides for onsite waste collection for bulk bins.	Yes
5.4.8.2 Waste Service Rooms, Garbage Chutes and Provision for Recyclables Bins	a) All buildings with a rise of four storeys or more shall make provision for a waste service room on each section of each level which is accessible for all occupants.	Waste service rooms are provided on each level.	Yes
	b) All waste service rooms shall have chutes to enable residents to dispose of garbage.	Chutes are provided.	Yes
	c) Chutes shall not be located adjacent to bedrooms or living rooms unless bedrooms unless they are outside the sound transmission barrier surrounding each unit.	Waste chutes are not located against units.	Yes
	d) Chutes shall feed into appropriately sized bins located in the bin storage room.	Chutes feed into 1100 litre bins and 240L bins are provided on each level for recyclables.	Yes
	e) The outlet area, in which the chute outlets and mechanical collection devices are located, shall be secured to prevent access by unauthorised persons.	The waste bin service room in the basement will have restricted access	Yes
	f) While mechanical devices are permitted in order to assist with waste collection (egg. carousel), no compaction is permitted for either	No compaction is provided.	Yes

Item 4.1

Page 42

Local Planning Panel Meeting

18/12/2019

	garbage or recyclables.		
	g) Each waste service room shall make provision for a sufficient number of 240-litre mobile recyclable bins for residents on each floor to dispose of recyclables.	1100L bins are provided.	Yes
5.4.8.3 Bin Storage Room	a) The development shall make provision for an appropriately sized bin storage room(s) that provides convenient access for occupants and waste collection personnel. The storage room shall: i) be located behind the primary and secondary building alignment; ii) have a non-slip floor constructed of concrete or other approved material at least 75mm thick and provided with a ramp to the doorway (where necessary); iii) be graded and drained to a Sydney Water approved drainage fitting; iv) have coving at all wall and floor intersections; v) be finished with a smooth faced, non-absorbent material(s) in a light colour and capable of being easily cleaned; vi) be provided with an adequate supply of hot and cold water mixed through a centralised mixing valve with hose cock; and vii) have a self-closing door openable from within the room.	Waste bin rooms are acceptable.	Yes
	b) Bin storage rooms shall be ventilated by: i) a mechanical exhaust ventilation system; or ii) permanent, unobstructed natural ventilation openings having direct access to external air, and a total area of not less than one-twentieth (1/20th) of the floor area of the room.	Waste bin rooms are acceptable.	Yes
	c) Exterior doors of communal bin storage rooms shall be: i) consistent with the overall design of the building; ii) located away from the frontage of the building; and iii) (if collection service is to be carried out by Council), fitted with a Council compatible keyed locking system that provides access to the room or activates the electronic opening and closing of the door.	Bin storage is located in the basement.	N/A
	d) All bin storage rooms and service	This item can be	Yes

Local Planning Panel Meeting

18/12/2019

	rooms shall be constructed in such a manner to prevent the entry of vermin.	addressed by way of condition.	
	e) All bin storage rooms must be located in an area where bins can be easily moved to the waste collection point.	Private waste collection is proposed.	N/A
	f) Where waste collection personnel are required to enter the premises to service bins, the collection point shall be no further than five metres from the collection vehicle.	Collection points are 5m and 15m from the waste loading bay.	Yes
	g) Where residents have access to bin storage rooms, signage on the correct use of the waste management system shall be displayed in all bin storage rooms.	This item can be addressed by way of condition.	Yes
	h) Developments must make provision for the storage of bulk waste (kerbside clean-up) materials, including: i) a minimum area of 10sqm; ii) the area must be accessible to all residents; and iii) the area must not be more than 10 metres from the waste collection point.	A separate bulky good waste disposal area is provided. However, it is further noted the location within the basement does not facilitate access to the ground floor for Council clean up collection.	Partial Compliance
5.4.8.4 Waste Collection	a) Any development containing 20 or more dwellings and/or the number of bins proposed cannot be accommodated within 50% of the development's frontage on collection day (the calculation shall allow for 300mm separation distance on either side of each bin) shall be designed to accommodate a forward-in forward-out drive-on collection for on-site servicing.	The proposal provides for onsite waste collection in the basement with a private contractor as the site frontage exceeds 50% for Council collection of 240L bins.	Yes
5.4.8.5 Strata Subdivision	a) No more than 50% of the required car parking within a strata title subdivision shall be allocated to individual commercial units within the mixed-use development.	No strata subdivision is proposed.	N/A
	b) All car parking spaces that are allocated to individual units shall be proportioned in number to the size of the units.	Parking has not been allocated to units on the plans.	N/A
	c) No car parking spaces shall be created as a separate allotment.	No strata subdivision is proposed.	N/A
	d) Car parking provided for the residential dwellings shall be secured, separated from commercial car parking (where relevant) and have a separate access.	The proposal is not a mixed use development	N/A
	e) The design of car parking spaces	Car parking is located	Yes

Local Planning Panel Meeting

18/12/2019

	shall take into consideration the principles of Crime Prevention Through Environmental Design (CPTED) to minimise opportunities for crime and enhance security.	within a secure basement.	
	f) No internal or outdoor storage space shall be created as a separate allotment.	No Strata subdivision is proposed.	N/A
5.4.9 Access for People with Disabilities	a) Residential flat buildings and mixed use development shall comply with the minimum access requirements contained within the BCA , the Disability (Access to Premises — Buildings) Standards 2010 and Australian Standard 1428 – Design for Access and Mobility (as amended).	The applicant has submitted an access report in support of the proposed development.	Yes
5.4.10 Advertising Material	a) As part of the letter box design for residential flat buildings and mixed use development a special container shall be provided for the placement of advertising and newspaper materials. Such container shall be located behind the building line and designed to be part of the letter box arrangement for the development. b) The newspaper/advertisement container shall be regularly emptied by the manager/caretaker of the building.	This control can be addressed as a condition of consent if the application is supported.	Yes
5.5.1 Site Requirements for Residential Flat Buildings	a) Residential flat buildings shall only be permitted on an allotment having a minimum width of 30 metres measured at the front property boundary.	The subject site has a frontage of 19.2m.	No – however compliance is unreasonable see point b)
	b) Sites shall be amalgamated where required, to achieve the minimum site area and width requirement applicable to the proposed development.	The site is an isolated allotment as a result of development at 31 to 35 Cumberland Road for a residential flat building.	No – however compliance with this control would be unreasonable given the assessment process undertaken for the approved development on the adjoining lot.
	c) Development shall not result in an isolated allotment adjoining the development site.	The site is an isolated allotment as a result of a previous application on the adjoining site. The proposal does not create any other isolated allotments.	N/A

Item 4.1

Page 45

Local Planning Panel Meeting

18/12/2019

	d) For the purpose of Clause 5.5.1c) above, an isolated allotment is an allotment that has a site area of less than 1200 square metres and/or a width at the front property boundary of less than 30 metres that has no immediate potential for amalgamation with any other adjoining allotments to achieve a minimum site area of 1200 square metres and a width at the front property boundary of 30 metres.	The site achieves the minimum lot size in the CLEP but does not achieve the minimum frontage required under the SCDCP. See discussion below tables.	No
5.5.2 Building Setbacks for Residential Flat Buildings	a) Residential flat buildings shall be setback a minimum of: i) 5.5 metres from any street boundary; and ii) 6 metres from any other boundary.	The building is setback 6.364m to the front boundary. The ground floor and above are setback 6.5m to the northern side boundary and 2.9m to the southern side boundary. The basement, which is above natural ground level is 3.5m from the rear boundary and the ground level is 10.7m to the rear boundary. See discussion below.	Yes No No
	a) A minimum of 5% of the total number of dwellings within a residential flat building shall be one bedroom flat(s) or a studio(s).	The proposed development is a mix of one and two bedroom units.	Yes
	b) A minimum of 10% of the total number of dwellings within a residential flat building shall be adaptable dwelling(s).	The proposal is for 24 units with 3 adaptable units provided.	Yes
5.5.3 General Requirements for Residential Flat Buildings	c) The floor space occupied by each dwelling within a residential flat building shall not be less than: ii) 50sqm in case of a one bedroom flat; iii) 70sqm in case of a two bedroom flat; iv) 90sqm in case of a three bedroom flat or more.	All of the unit sizes are consistent with the controls with the exception of unit 3 which does not meet the minimum size for a one bedroom unit, which is addressed elsewhere in this report.	Partial Compliance
	d) For the purpose of clause 5.5.3 c), the floor space includes only one bathroom. Additional bathrooms shall increase the minimum floor space of each dwelling by 5sqm for each additional bathroom.	Additional bathrooms have been included in the minimum unit size calculation.	Yes
	f) A maximum of eight dwellings shall be accessible from a common lobby area or corridor on each level of a residential flat building.	The proposal complies.	Yes
	g) All residential flat buildings shall	The proposal complies.	Yes

Local Planning Panel Meeting

18/12/2019

	contain at least one lift for access from the basement to the upper most storey that provide access to a dwelling space. Further, the lift(s) shall extend to provide access to the roof space if the roof is intended for use by occupants of the building as a roof terrace.		
	h) A maximum of 50 dwellings shall be accessible from a single common lift.	A maximum of 12 units is accessed off each lift.	Yes
	i) Access to lifts shall be direct and well illuminated.	The proposal complies.	Yes
	j) A minimum of 25% of the required open space area, or 15% of the total site area, whichever is the greater, shall be available for deep soil planting.	The proposal does not provide for 15% deep soil planting. See discussion below.	No
	k) Each flat shall be provided with an 'incidentals' storage facility within the unit and/or the basement, which shall be available for personal use of the occupants of each dwelling, and designed and constructed of materials to Council's satisfaction. Such storage facility shall have a storage capacity of not less than the following: ii) 6m ³ for one bedroom flat; iii) 8m ³ for two bedroom flat; and iv) 10m ³ for three bedroom flat or more.	Storage is provided in the basement, however the plans do not identify the size of the storage area or the unit allocation.	No
	j) The incidentals storage facility shall not be created as a separate (strata) allotment to the unit it services.	The proposal does not include strata subdivision.	N/A
5.5.4 Car Parking and Access	a) All car parking and access for vehicles, including disabled access spaces, shall be in accordance with AS2890 parts 1 and 2 (as amended), except as otherwise specified in the Plan.	Car parking design and basement access does not comply with AS2890. See discussion below.	No
	b) The minimum dimensions of any parking space shall be 2.5 x 5.5 metres. The minimum width of any car parking space shall be increased by 300mm for each side that adjoins a vertical edge.	Car parking spaces are 2.4m wide. See discussion below.	No
	c) Driveways shall be located a minimum distance of 6 metres from the splay of any unsignalised intersection (refer to Figure 5.5.4).w	The proposed driveway is located within 6m of the intersection on the opposite side of the road of Cumberland Road and Koala Avenue. See discussion below.	No
	d) For development incorporating 20 or more dwellings, the DA shall be accompanied by a 'Traffic Impact Assessment Report'.	Traffic Impact report does not consider all items in Appendix 12, including, but not limited to, cumulative	No

Local Planning Panel Meeting

18/12/2019

		impacts, risk analysis and assessment and sight lines.	
	f) Development containing three or more storeys shall provide all required car parking at basement level.	Basement car parking is provided.	Yes
	h) Each dwelling shall be provided with a minimum of one car parking space, and: i) an additional car parking space for every four dwellings (or part thereof); and ii) an additional visitor car parking space for every 10 dwellings (or part thereof).	The proposal provides for 40 car parking spaces, car parking is discussed elsewhere in this report.	Yes
	i) No required car parking space shall be in a stacked configuration.	No stacked parking is proposed.	Yes
	j) Each development shall make provision for bicycle storage at a rate of one space per five dwellings within common property.	5 bike parking spaces are proposed.	Yes
5.5.5 Solar Access	a) Buildings shall be orientated and sited to maximise northern sunlight to internal living and open spaces.	The building is designed to maximise solar access to each unit.	Yes
	b) A minimum 20sqm area of the required private open space on adjoining land, (having a minimum width of three metres), shall receive three hours of continuous direct solar access on 21 June, between 9.00am and 3.00pm, measured at ground level.	The adjoining site to the south is a multi-dwelling development with the closest structure being the garages which service the development. The proposal does not reduce the existing level of solar access to the private open spaces for each dwelling.	Partial Compliance
	c) Living rooms and private open spaces of at least 70% of dwellings within a residential flat building shall receive a minimum of two hours direct sunlight between 9:00am and 3:00pm at mid-winter.	Each dwelling would receive sufficient sunlight.	Yes
	d) Council expects that with innovative and thoughtful design, all dwellings should receive some direct sunlight, however, when it can be shown that providing sunlight to every dwelling is unachievable, Council may allow a design solution that result in up to 15% of the dwelling receiving no direct sunlight between 9:00am and 3:00pm at mid-winter.	Each dwelling would receive sufficient sunlight.	Yes
5.5.6 Balconies and Ground Level Courtyards	a) Dwellings shall be provided with a private courtyard and/or balcony.	Each dwelling is provided with a courtyard or balcony.	Yes
	b) Courtyards/balconies shall be: i) not less than 8sqm in area and have a minimum depth of two metres;	Courtyards and balconies have been assessed in accordance with the ADG. This is discussed in Section	No

Item 4.1

Page 48

Local Planning Panel Meeting

18/12/2019

	ii) clearly defined and screened for private use; iii) oriented to achieve comfortable year round use; and iv) accessible from a main living area of the flat.	2.2 of this report.	
5.5.7 Privacy	a) Ground level dwellings incorporating a courtyard shall be provided with a privacy screen.	The ground level courtyards are elevated above natural ground level. A planter box is provided to provide separation and screening with the properties to the north of the site.	Partial Compliance
	b) No window of a habitable room or balcony shall be directly face a window of another habitable room, balcony or private courtyard of another dwelling located within nine metres of the proposed window or balcony.	The separation between habitable room windows exceeds 9m.	Yes
	c) Notwithstanding 5.5.7(b) a window of a habitable room may be permitted only where it: i) is offset by two metres to limit views between windows, or ii) has a sill height 1.7 metres above the floor level; or iii) is splayed to avoid direct views between windows; or iv) has a fixed translucent glazing in any part of the window within 1.7 metres of the floor level; or v) is otherwise appropriately screened.	Windows are substantially setback from property boundaries and dwellings on adjoining properties.	Yes
	d) Notwithstanding 5.5.7(b), a balcony will be considered where the private open space area of any adjacent dwelling is screened from view.	The proposed balconies are acceptable due to the proposed building separation.	Partial compliance
5.5.8 Communal Recreation Facilities	a) Each residential flat building shall be provided with communal recreation facilities for the use of all the occupants of the building comprising: i) a recreation room with a minimum area of a 50sqm per 50 dwellings (or part thereof); and ii) a bbq/outdoor dining area with a minimum area of 50sqm per 50 dwellings (or part thereof).	A common room is provided on the ground floor in addition to two outdoor communal open space areas. The common room is 20.79m ² and does not comply with the control. The outdoor communal open space complies with the control.	No Yes
	b) Communal recreation facilities shall not be located within the primary or secondary street boundary setback.	The common areas are behind the front building line.	Yes
	c) All communal recreational facilities shall be provided on the same land	The common areas are on the same lot of land.	Yes

	as the residential flat building.		
	d) Communal open space provided on the roof of a building shall not be included as part of the required communal open space.	The communal open space provided on the roof is calculated as part of the ADG compliance for communal open space areas. The communal open space area to the rear of the site is 105m ² , which is located at ground floor level and complies with the SCDCP requirement for common open space.	Yes
	e) All required communal and recreational facilities are required to be constructed prior to the issue of an interim occupation certificate for any residential units within a staged development.	This control can be addressed by way of condition.	Yes

Part 11 – Vegetation and Wildlife Management

Council's controls outlined in Section 11.3.6 requires the provision of replacement tree planting where trees are proposed for removal. The proposal includes the removal of nineteen trees on the property, which includes one African olive tree which is exempt from Council approval for removal. The remaining trees identified for removal are one x *Callistemon salignus* (White Bottlebrush), one x *Lagerstroemia indica* (Crepe Myrtle), one x *Citharexylum spinosum* (Fiddlewood), two x *Leptospermum petersonii* (Lemon Scented Tea Tree), *Jacaranda mimosifolia* (Jacaranda), one x *Lophostemon confertus* (Brushbox), and 11 x *Pinus radiata* (Radiata Pine). The trees are generally located within the building footprint, and the arborist has stated that this is a justifiable reason to remove all trees from the site. The proposal only includes five replacement tree plantings, which does not comply with the SCDCP requirements for the removed trees to be offset at a rate of 4 to 1.

Council's Environment Officer recommends increased tree replacement planting and an amended landscape plan. The property does not have sufficient deep soil areas to support the required number of large trees on the site. Given that the adjoining property contains remnant Cumberland Plain Woodland, any replacement trees should be consistent with the Cumberland Woodland Plant community type.

It is considered the proposed development has not satisfactorily addressed Part 11 of Council's Sustainable City Development Control Plan with regard to the proposed tree removal and replacement.

Built form

The proposed development has a basement that protrudes above natural ground level towards the rear of the site, this is due to the flood level required to be achieved for the habitable floors above. However, the podium to the rear of the site results in blank walls on the boundary which increase in height toward the rear of the property in excess of 1.8m. This could be considered an acceptable boundary fence.

Isolated allotment

The subject site is an isolated allotment as a result of development consent 770/2012/DA-RA which resulted in the amalgamation of No 31 to 35 Cumberland Road for the construction of a 55 unit residential flat building. During the assessment of the development application the applicant provided evidence the site could accommodate a small residential flat building of approximately 14 units. On this basis the development on the adjoining property was supported and the subject site was isolated.

Setbacks

The proposed development has a basement level, which is located above natural ground level at the rear of the site. The basement projection has a setback of 0m to the northern side boundary and 3.5m to the rear property boundary. The rear boundary setback for the basement level does not comply with the 6m required by the SCDCP. The control is considered to be applicable due to the basement level being located more than 1m above natural ground level. However it is noted the encroachment of the basement into the setback does not result in an overshadowing impact.

The basement setback is also required to be 900mm to the side boundary, however the proposal does not comply with the control and a variation has been sought due to the narrow frontage of the site, which is discussed below.

The proposal seeks a southern side setback of 2.9m to the boundary. However, the existing drainage channel on the adjoining property facilitates an increased building separation to the dwellings at 41 Cumberland Road. The reduced setback is considered to be acceptable in this instance given the drainage channel achieves a 6m setback to development on the property to the south.

Fencing

The proposal includes fencing that exceeds 1.2m in height forward of the building line. This is in regard to the security fencing to the existing drainage channel. Fencing of this height is essential for public safety. The proposed fencing on the southern boundary forward of the building line is considered acceptable in the circumstances of the case.

Waste

The applicant has sought approval for on-site waste collection from a private company as the site does not have sufficient frontage for waste collection. The applicant has provided details for swept path to demonstrate the proposed truck can drive into and out of the basement in a forward direction, with a turning bay provided in the basement.

The proposed waste room design includes one of the waste rooms being located over 5m from the basement waste collection point, which is considered to be acceptable given that one of the waste rooms complies with the control.

The proposed development includes a bulky good waste storage area. However, the proposal does not detail how the bulky goods waste will be transported to the street for collection from the basement. The only available route is via the lift in the lobby, which can be considered to be appropriate route provided a trolley is available for larger items. This would need to be a condition if the application was supported.

Communal Open Space

The proposal includes communal open space on the building rooftop and a podium level communal open space at the rear of the site, which is elevated above natural ground level.

The rooftop communal open space area is required to provide a communal open space area consistent with the requirements of the ADG. The non-compliance with the SCDCP is considered reasonable given the compliance with the ADG.

Excavation

The subject site is adjacent to a concrete lined stormwater drainage channel that is partially located on the site, towards the rear of the site. The proposal seeks to excavate the proposed basement in close proximity to the existing drainage canal. The proposal also includes excavation on the northern boundary which is within 900mm of the property boundary, which does not comply with the requirements of Part 2.8.1 of the SCDCP. The application is not supported by a geotechnical report that addresses how the works will be undertaken without undermining the structural integrity of the existing drainage channel. If the application is supported, a condition requiring demonstration of how the structural adequacy of the drainage channel will be protected during and after construction should be imposed.

Flood

The site is flood affected due to the drainage canal adjacent to the site and is also subject to significant overland flow. As a result easements will need to be registered over the site with regard to overland flow paths in the front setback, which drains into the canal and along the southern side boundary adjacent to the canal, which is flood affected. The easements are required due to the significant redevelopment on the site and to ensure no development or other site works is undertaken in these areas, and no inappropriate outdoor furniture or other items are located in this area that could wash away and/or lead to property damage as this would affect flooding behaviour on surrounding properties.

Car Parking and Vehicular Access

The proposed development does not comply with the controls within Part 5 with regard to traffic and car parking. The proposal does not satisfy Australian Standard 2890. The proposed basement design is not supported due to the non-compliances with the SCDCP in relation to driveway gradients.

3. Planning Assessment

3.1 Impacts on the natural and built environment

Section 4.55(1)(b) of the EP&A Act requires Council to assess the development's potential impacts on the natural and built environment, as well as potential social and economic impacts.

The key matters for consideration when considering the development's potential impact on the natural and built environment:

- demolition and construction
- traffic and car parking

- built form
- geotechnical
- privacy and amenity

3.1.1 Demolition and Construction

The demolition and construction phases of the development have the potential to generate short term environmental impacts through the generation of dust, noise and vibration. Conditions of consent could manage the demolition works, including the installation of erosion and sediment control measures prior to works commencing on site.

3.1.2 Traffic and Car Parking

The proposed development includes waste collection within the basement from a private waste collection vehicle and proposal for a two level basement for 40 parking spaces. The basement design submitted does not facilitate two way traffic movement and relies upon a traffic light system. Council has reviewed numerous versions of the basement design submitted by the applicant and is not satisfied the proposal complies with Council's controls or Australian Standard 2890. The non-compliances with the SCDCP with regard to parking are discussed throughout the report. Overall, it is considered that the proposed development does not provide for vehicular access and parking consistent with Council's controls and relevant standards. Therefore, the proposal would result in an unacceptable impact on the built environment and an unsatisfactory arrangement for future residents.

3.1.3 Built Form and context

The built form and design of the development is generally acceptable, with regard to the streetscape. However the rear of the property has a large podium level that is located on the property boundary which results in significant bulk at the rear of the property which would detract from the amenity of the adjoining neighbours to the north of the site with large expanses of blank walls on the boundary and elevated communal and private open space above.

3.1.4 Geotechnical

The applicant has submitted a geotechnical report in support of the proposed development. It is noted the proposed excavation is in close proximity to the concrete drainage channel on the adjoining property. The proposal includes excavation on the boundary line for part of the basement area. The excavation would be located within 1.5m of the drainage channel.

The report submitted does not appear to consider the excavation of the basement with regard to the drainage channel and any stabilisation works that maybe required to ensure the channel does not fail.

Council notes this could be managed with appropriate conditions of consent with regard to excavation, preparation of dilapidation reports and further geotechnical reporting, throughout the construction process. However, it is noted the proposed level of excavation within close proximity of key Council infrastructure could result in significant impact on Council assets in the absence of proper construction management.

3.1.5 Privacy and Amenity

The proposed ground floor terraces to units 1, 2 and 3 would be elevated above natural ground level. It is noted a large planter is provided to the northern boundary to facilitate separation. However, no privacy screens have been provided to the elevated private open space areas. It is also noted the privacy screens approved on the consent for the adjoining flat building to the north of the site are not present.

The elevated communal open space area extends to the northern property boundary and no privacy mitigation measures are proposed to the properties to the north, which is not considered to be acceptable as the proposal would be in close proximity to private dwellings.

The proposed communal roof terrace is located to the front of the roof spaces, to mitigate overlooking to the private open space of surrounding properties. The area is also surrounded by a planter to the building edges to reduce overlooking.

4. Social, economic and environmental impacts

Section 4.55(1)(b) of the EP&A Act requires the consent authority to assess the likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality.

Having regard to social and economic impacts generated by the development, the residential flat building development would contribute to the provision of housing within the Ingleburn locality, to meet the housing needs of the local community.

The demolition and construction phases of the development would have minor flow on economic benefits for the locality, through the generation of employment, in the event the application was approved.

5. Site Suitability

Section 4.55(1)(c) of the EP&A Act requires the consent authority to assess the suitability of the site for the proposed development.

The development proposed on the subject site is considered to be unsuitable for the site as the subject site is not considered to be wide enough to accommodate a basement car park that complies with Council's controls and Australian Standards 2890 with regard to car parking. The proposal includes significant departures from the standards to facilitate the proposal with regard to the function of the basement access and ramp function, which is not considered to be suitable for a new residential flat building development of this scale.

In addition, the proposal results in substantial building bulk to the rear of the site which is considered to adversely affect the property to the north. Therefore, it is considered the subject site is not suitable for the proposed development.

6. Public Participation

Part 9 of Campbelltown (Sustainable City) Development Control Plan 2015 outlines Council's public participation policy in regard to Council Strategic Planning Documents (CSPDs) and Development Applications (DAs).

The policy requires applications proposing specified land uses and construction on land adjoining allotments where residential development is permissible to be publicly notified. The subject application proposes construction for the purposes of a residential flat building and as such was required to undergo the notification process.

The application was publicly exhibited and notified to the surrounding property owners by way of a letter and accompanying plans. The property owners were provided a period between 22 August 2017 and 25 September 2017 to provide comments regarding the proposal. Additionally, a sign bearing a set of notification plans was required to be displayed on site for the duration of the assessment.

A petition with 22 signatures and six letters of objection were received. A discussion of the submissions is presented in detail below.

Issue: Privacy

Response: The proposal is not considered to result in overlooking to the dwellings at the rear of the site. Council considered the ground floor setback to the rear boundary acceptable and would not overlook dwellings to the rear.

The proposal would not result in significant overlooking to the property to the south of the site. The building is adjacent to garages and the southern elevation is designed to reduce overlooking to the adjoining properties.

Issue: Sunlight and natural light

Response: Objections have been received with regard to sunlight and overshadowing from properties which are located to the north of the subject site and therefore the proposed development would not limit solar access/ sunlight to the adjoining property.

Issue: TV reception

Response: The proposed development would not impact TV reception to surrounding properties.

Issue: Stress and affect health due to construction noise

Response: Conditions of consent would be imposed for the demolition and construction phases of the development to manage impacts on the adjoining properties. Building construction is not considered to result in adverse health impacts on neighbouring properties.

Issue: Reduce property value

Response: The assumption that the proposal would affect property values is not a consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979.

Issue: Will cause damp and mould

Response: The proposed development would not result in damp and mould in surrounding properties.

Issue: Increased use of heater

Response: The proposed development would not require surrounding properties to increase heater use, the applicant has demonstrated the proposal would not adversely overshadow the surrounding properties.

Issue: Flooding of property

Response: The proposed development has been amended to provide drainage easements along the drainage corridor to ensure the proposed development would not result in flooding of surrounding properties.

Issue: Overshadowing

Response: An objection has been received with regard to overshadowing, the shadow diagrams submitted to Council do not indicate the proposal would result in overshadowing to the objectors property.

Council notes there is an overshadowing impact to 39 Cumberland Road which is addressed in detail in this report.

Issue: Damage to stormwater channel

Response: The proposed excavation within close proximity to the drainage channel would be required to be managed with conditions of consent, in the event of an approval. However, the application is recommended for refusal, therefore the objection has been resolved.

Issue: Increased traffic

Response: The applicant has provided a traffic report in support of the proposed development, traffic issues in relation to the proposal are discussed elsewhere in this report.

Issue: Car parking

Response: An objection has been received stating the proposed development should provide enough car parking for two parking spaces per unit, this significantly exceeds the requirements of the ADG and the SCDCP and is not considered appropriate for the site and is not required.

7. The Public Interest

Section 4.15(1)(e) of the EP&A Act requires Council to consider the public interest when determining an application.

The public interest is an overarching assessment of the benefits or otherwise that a development may have for the immediate area and/or community in general.

Having regard to the above, the proposed development is not considered to be in the public interest as the proposed development does not result in an acceptable traffic and parking outcome for the subject site. Therefore, the proposal is not supported for approval.

8. Conclusion

The development application 223/2017/DA-RA proposes demolition of an existing dwelling and construction of a four storey residential apartment building containing 24 units, basement car parking and associated site works at 37 Cumberland Road, Ingleburn. The proposal has been assessed under Section 4.15 of the EP&A Act.

The application was notified to nearby and adjoining properties and publicly exhibited. Six submissions were received and a petition with 22 signatures objecting to the proposed development. The issues raised in the submission have been addressed in detail in this report.

The proposal is largely compliant with the relevant development standards and controls. However, the proposal has a number of outstanding non compliances with regard to traffic and car parking, deep soil planting, and open space. The application was deferred on numerous occasions to enable the applicant ample opportunity to address the basement car parking non compliances and issues related to traffic manoeuvring and vehicle swept paths within the basement, with particular regard to the basement ramps. The issues relating to the basement car park have not be resolved and as a result the application is not supported.

Attachments

1. Recommended Reasons for Refusal (contained within this report)
2. Site Plan (contained within this report)
3. Elevations (contained within this report)
4. Clause 4.6 Variation (contained within this report)
5. Ingleburn Precinct Plan (contained within this report)
6. Floor Plans (for confidentiality reasons) (distributed under separate cover)

Reporting Officer

Executive Manager Urban Centres

ATTACHMENT 1
2238/2017/DA-RA
Recommended Reasons for Refusal

Development application 2238/2017/DA-RA for demolition of the existing dwelling and construction of a four storey residential apartment building containing 24 units, basement car parking and associated site works at Lot A DP 413142, 37 Cumberland Road, Ingleburn, be refused for the following reasons identified in the assessment of the application under Section 4.15 of the Environmental Planning and Assessment Act, 1979

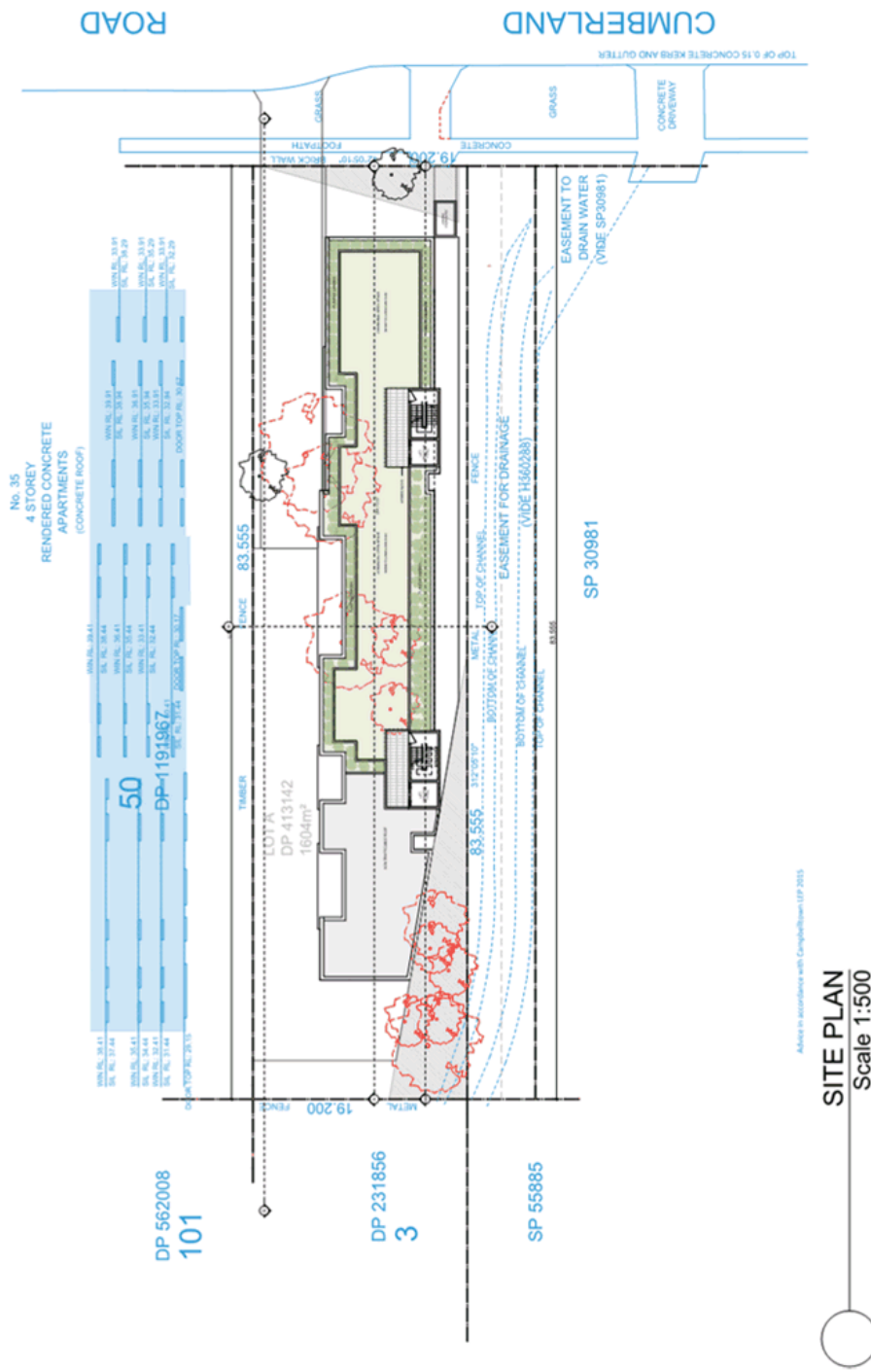
1. The proposed development is inconsistent with the following design quality principles in State Environmental Planning Policy No. 65:
 - a. Density – there is an excess of car parking proposed and the car park has not been designed to comply with the Campbelltown (Sustainable City) Development Control Plan, 2015 or AS2890.
 - a. Amenity- the proposed basement design is considered to deliver poor amenity to the residents.
2. The proposed development does not meet the design criteria and objectives for the following sections of the Apartment Design Guide:
 - 3E Insufficient deep soil planting has been provided.
 - 3J The proposal does not meet the objective of minimising excavation through efficient car park design.
 - 4D Unit 3 does not meet the minimum size requirements.
 - 4E Several balconies do not meet the minimum size outlined in the design criteria.
 - 4G The plans do not demonstrate storage is provided in accordance with section 4G of the ADG.
3. The proposed development is inconsistent with Campbelltown Local Environmental Plan 2015 with respect to the following:
 - The proposal is inconsistent with the aims (g) and (o) with regard to development design and suitability of the land in Clause 1.2 of the plan.
 - Clause 7.1 Earthworks as the proposal includes excavation adjacent to drainage infrastructure. The impact of the excavation on the concrete lined channel has not been adequately addressed.
 - Clause 7.13 Design Excellence as the proposal is not considered to satisfy subclause (4) (d) (viii) with regard to vehicular and service access, circulation and requirements nor subclause(4)(b)(xi)in regards to deep soil areas and the quality and integration of landscape design.
4. The proposed development is inconsistent with Campbelltown (Sustainable City) Development Control Plan with respect to the following:
 - a. Section 2.7 Erosion and Sediment Control as the proponent has not submitted a sufficient erosion and sediment control plan.
 - b. Section 2.8 Cut and Fill as the proponent has not submitted a cut and fill management plan in support of the proposed development.
 - c. Section 2.10 Stormwater as an updated stormwater management plan has not been provided to reflect updated plans.
 - d. Section 2.12 Retaining Walls as a Structural Engineers report has not been provided with regard to measures to protect Council's Assets and adjoining properties.

- e. Section 2.13 Security as a crime prevention plan has not been provided to Council.
- f. Section 3.5.1 Fencing (b) and 5.4.2 (b) (vii) as the proposed side fences (basement walls) on the boundary exceed 2.1m in height and result in blank walls on the boundary.
- g. Section 5.4.4 (a) as the applicant has not demonstrated the proposal is designed to achieve compliance with the control with regard to acoustic privacy.
- h. Section 5.5.2 Setbacks (a) (ii) the basement podium does not comply with the 6m setback to the side and rear boundaries.
- i. Section 5.5.3 General Requirements for Residential Flat Buildings as follows:
 - (c) unit 3 does not meet the minimum unit size.
 - (j) the proposal does not comply minimum with deep soil requirements.
 - (k) storage sizes and allocation is not detailed on the basement plans.
- j. Section 5.5.4 car parking and access as follows:
 - (a) as the basement design including ramps and parking spaces does not comply with AS2890
 - (b) as the proposed car parking spaces do not achieve the minimum of 2.5m width.
 - (c) The driveway is located within 6m of the intersection on the opposite side of the road.
 - (d) as the Traffic Impact report does not consider all items in Appendix 12, including, but not limited to, cumulative impacts, risk analysis and assessment and sight lines.
- k. Section 5.5.7 (a) as the ground level courtyards are not provided with a privacy screen.
- l. Section 5.5.8 Communal Recreation Facilities (a) (i) as the communal room does not achieve the minimum of 24m².

Part 11 Vegetation and Wildlife Management as the proposal does not provide sufficient planting to offset the proposed tree removal.

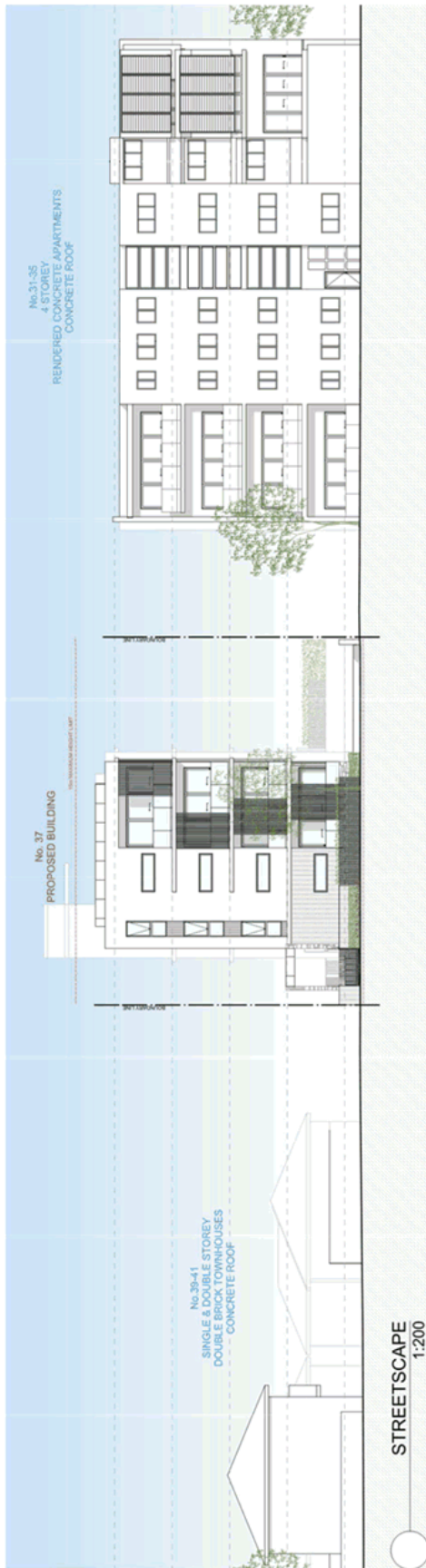
5. The proposed development is inconsistent with the following objectives of the Campbelltown (Sustainable City) Development Control Plan:
 - Facilitate innovative development of high quality design and construction in the City of Campbelltown;
 - Ensure that new development takes place on land that is capable of supporting the proposed development;
 - Encourage the creation of safe, secure and liveable environments;
6. The proposed basement access and parking is unsatisfactory.
7. Insufficient information has been provided to demonstrate the proposal will not have an unacceptable geotechnical impact on the adjoining stormwater drainage channel.
8. Approval of the development would set an undesirable precedent for similar inappropriate development, and is therefore not in the public interest.

END OF DOCUMENT



As built in accordance with Campbelltown LPP 2015

SITE PLAN
Scale 1:500



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The studio is responsible for all aspects of the design, from concept to construction. We are committed to providing a professional service and ensuring that our clients are satisfied with the results. We are also committed to providing a sustainable and ethical service.

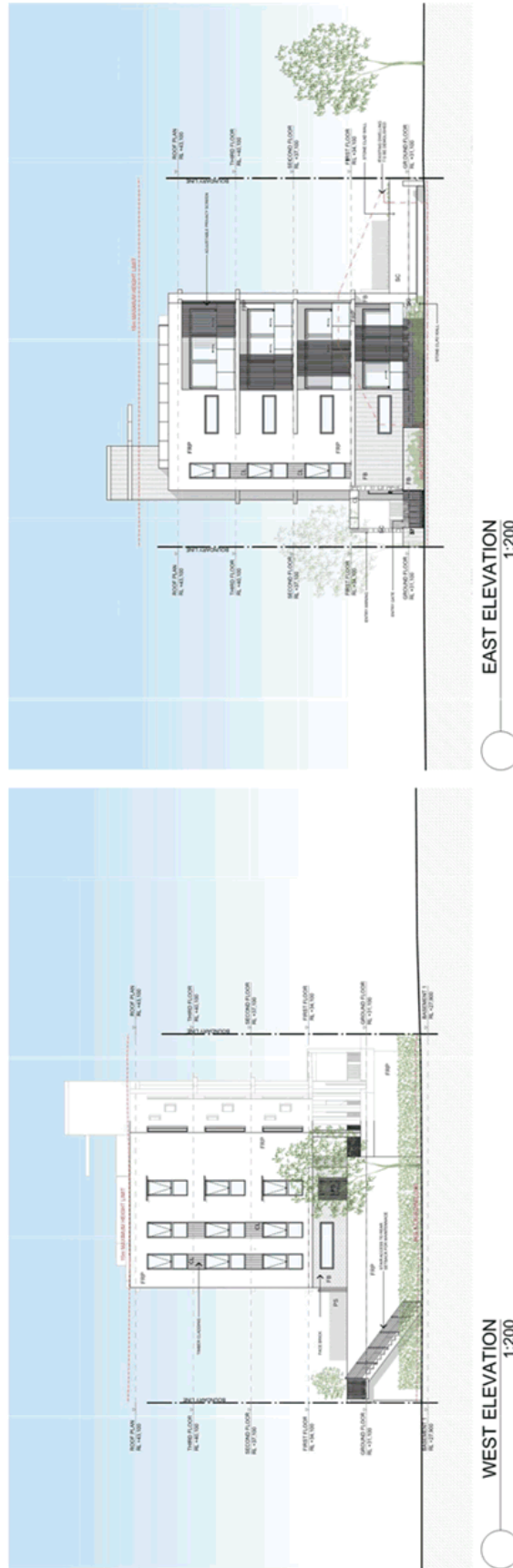
DEVELOPMENT APPLICATION

Date	Issue	Description
22/03/2017	A	DEVELOPMENT APPLICATION
12/02/2018	B	REVISED DEVELOPMENT APPLICATION
19/05/2018	C	DRAFT REVISED DA
06/10/2018	D	REVISED DEVELOPMENT APPLICATION
26/02/2019	F	REVISED BASEMENT PLAN
30/02/2019	H	REVISED BASEMENT PLAN

Client
MR & MRS FAM
 Dinning
 STREETSCAPE

Project description
PROPOSED RFB
 Project address
 29-41 CUMBERLAND ROAD,
 INGLEBURN

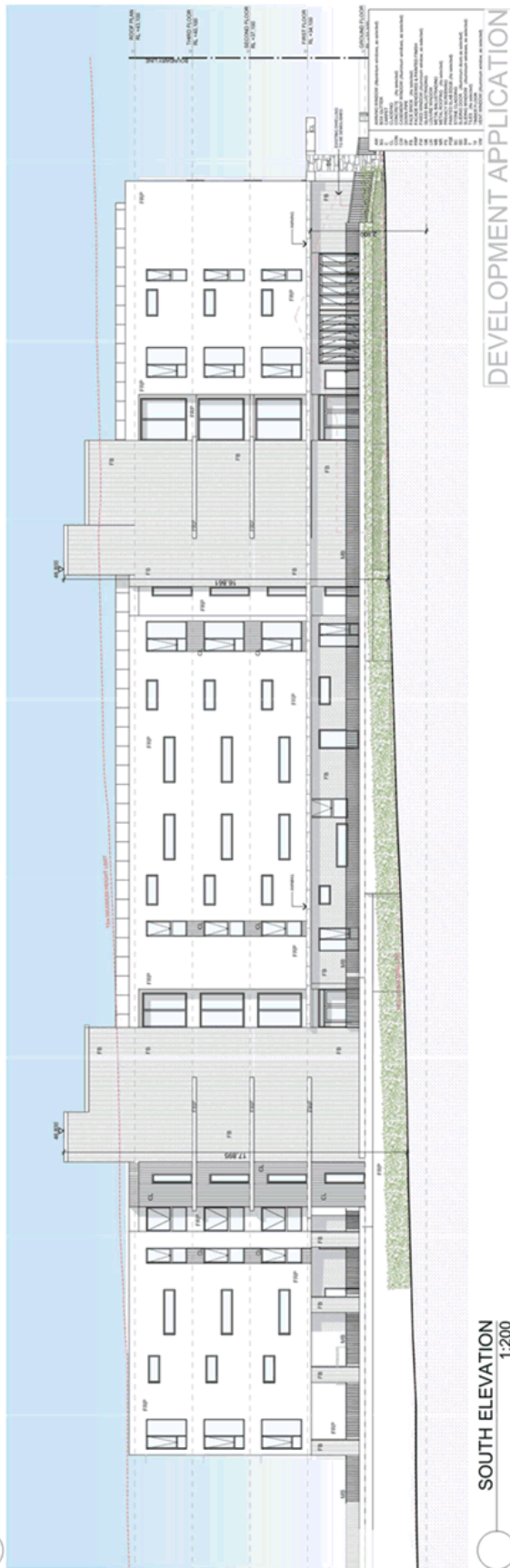
Drawn by
 DA13
 07/7/2019



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DEVELOPMENT APPLICATION

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<p>Client</p> <p>MR & MRS FAMI Drilling ELEVATIONS</p>	<p>Project description</p> <p>PROPOSED RFB Project address 37 CUMBERLAND ROAD, INGLESBURN</p>
<p>Date</p> <p>26/02/2019 04/03/2019 26/07/2019</p>	<p>Issue</p> <p>F G H</p>
<p>Description</p> <p>REVISED BASEMENT PLAN REVISED BASEMENT PLAN REVISED BASEMENT PLAN</p>	<p>Client</p> <p>MR & MRS FAMI Drilling ELEVATIONS</p>
<p>Date</p> <p>22/03/2017 02/04/2018 12/02/2019 16/04/2018 09/10/2018</p>	<p>Issue</p> <p>A B C D E</p>
<p>Description</p> <p>DEVELOPMENT APPLICATION DEVELOPMENT APPLICATION DRAFT REVISED DA REVISED DEVELOPMENT APPLICATION REVISED DEVELOPMENT APPLICATION</p>	<p>Project description</p> <p>PROPOSED RFB Project address 37 CUMBERLAND ROAD, INGLESBURN</p>



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DEVELOPMENT APPLICATION

Issue	Date	Description
A	22/03/2017	DEVELOPMENT APPLICATION
B	12/02/2018	DRAFT REVISED DA
C	12/02/2018	DRAFT REVISED DA
D	09/05/2018	REVISED DEVELOPMENT APPLICATION
E	09/05/2018	REVISED DEVELOPMENT APPLICATION

Issue	Date	Description
F	26/02/2019	REVISED BASEMENT PLAN
G	30/02/2019	REVISED BASEMENT PLAN
H	30/02/2019	REVISED BASEMENT PLAN

Client
 MR & MRS FAM
 Dining
 ELEVATIONS

Project description
 PROPOSED RFB
 Project address
 20
 LAND ROAD,
 INGLEBURN

Sheet No.
 DA-15
 of 15
 DTG
 07/11/2019



CLAUSE 4.6 VARIATION

Property:	37 Cumberland Road Ingleburn
Proposal:	Demolish existing structures and construct residential flat building
DA No.:	2238/2017/DA-RA
Lot No. Plan:	Lot A DP 413142
Site Area:	677.90sqm
Zoning:	R4 – High Density Residential under the Campbelltown Local Environmental Plan 2015 (CLEP)
Development Standard:	Height of Buildings – Clause 4.3(2) CLEP 2015. Standard: 15m. Proposed: 17.89m

1. BACKGROUND

Urbanesque Planning has been engaged by the applicant, Arkhaus Architecture to prepare a written request pursuant to Clause 4.6(3) of the Campbelltown Local Environmental Plan 2015 (the LEP) to provide justification to vary a development standard concerning the height of the proposed building. Development consent must not be granted for development that contravenes a development standard unless Council is satisfied as to the matters under Clause 4.6(4) of the LEP. It is the onus of the applicant to address the matters under Clause 4.6(3) of the LEP which is addressed through this written request.

It is proposed to demolish the existing single dwelling on the site and to construct a four storey residential flat building with a basement carpark. The development will comprise of 24 units and 24 parking spaces. The site comprises a total area of 1,604m² and the site is of a regular shape. The street frontage of the site and the rear boundary are 19.20m in width while the two long side boundaries are 83.555m each in length.

The site is adjacent to a 4 storey residential flat building to the north (31-35 Cumberland Road) and is bounded by an open drainage channel to the south. On the other side of the drainage channel is a two storey town house development (39-41 Cumberland Road). As the adjoining lots are developed according to the R4 zone, the subject site is essentially "isolated" as there is no capacity to amalgamate with adjoining. The site is burdened by two drainage easements as illustrated in the architectural plans. The drainage easements limit the usable ground area available for communal open space.

The development proposal has undergone three iterations since lodgement. Most recently, Council has considered the quantum and quality of the communal open space provided by the design and has recommended that the communal open space be provided on the roof level of the building. The consequence of providing the communal private open space on the roof is that the two new lift/stairwells will exceed the 15m height standard.

The extent of variance requested is 2.89m or 19% measured at the highest point.

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CLAUSE 4.6 VARIATION



Figure 1: Diagram showing the height above 15m of each lift/stairwell.

2. IS THE STANDARD A DEVELOPMENT STANDARD?

Clause 4.3(2) of the Campbelltown Local Environmental Plan 2015 (the LEP) provides:-

- (2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.

A development standard is defined in s 1.4 of the Environmental Planning and Assessment Act 1979 ("EPA Act") to mean:

"provisions of an environmental planning instrument or the regulations in relation to the carrying out of development, being provisions by or under which requirements are specified or standards are fixed in respect of any aspect of that development, including, but without limiting the generality of the foregoing, requirements or standards in respect of:

- (a) the area, shape or frontage of any land, the dimensions of any land, buildings or works, or the distance of any land, building or work from any specified point,
- (b) the proportion or percentage of the area of a site which a building or work may occupy,
- (c) the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of a building or work,
- (d) the cubic content or floor space of a building,
- (e) the intensity or density of the use of any land, building or work,
- (f) the provision of public access, open space, landscaped space, tree planting or other treatment for the conservation, protection or enhancement of the environment,
- (g) the provision of facilities for the standing, movement, parking, servicing, manoeuvring, loading or unloading of vehicles,
- (h) the volume, nature and type of traffic generated by the development,
- (i) road patterns,
- (j) drainage,
- (k) the carrying out of earthworks,
- (l) the effects of development on patterns of wind, sunlight, daylight or shadows,
- (m) the provision of services, facilities and amenities demanded by development,

CLAUSE 4.6 VARIATION

- (n) the emission of pollution and means for its prevention or control or mitigation, and
- (o) such other matters as may be prescribed."

The building height requirement falls under subsection (c), therefore the control is a development standard.

3. CLAUSE 4.6 CAMPBELLTOWN LOCAL ENVIRONMENTAL PLAN 2015

Clause 4.6 of the Campbelltown LEP is a variations clause that is similar in effect to the former State Environmental Planning Policy No. 1, however the variations clause contains considerations which are different to those in SEPP 1.

Clause 4.6 - Exceptions to development standards

- (1) The objectives of this clause 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 Secretary has been obtained.
- (5) In deciding whether to grant concurrence, the Secretary must consider:
 - (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
 - (b) the public benefit of maintaining the development standard, and
 - (c) any other matters required to be taken into consideration by the Secretary before granting concurrence.
- (6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary

CLAUSE 4.6 VARIATION

Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if:

- (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or
 - (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.
- (7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).
- (8) This clause does not allow development consent to be granted for development that would contravene any of the following:
- (a) a development standard for complying development,
 - (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004* applies or for the land on which such a building is situated,
 - (c) clause 5.4,
 - (ca) clause 4.3, to the extent that it applies to the land identified as "Town Core" on the Campbelltown Town Centre Precincts Map,
 - (cb) clause 4.1A, to the extent that it applies to the Torrens title subdivision of a dual occupancy (attached),
 - (cc) clause 6.9.

4. THE ONUS ON THE APPLICANT

Under Clause 4.6(3)(a), it is the onus of the applicant to demonstrate:-

- (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.

According to the relevant case law, common ways in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary are summarised in *Wehbe v Pittwater Council* (2007). The five tests under *Wehbe* are tabulated below. Only one of the tests needs to be satisfied. Consideration of a variation is not limited to these tests – they are simply the most common ways invoked in considering whether compliance is unreasonable or unnecessary.

TESTS UNDER WEHBE	COMMENTS
1. The objectives of the standard are achieved notwithstanding non-compliance with the standard.	<p>The objective of the height of buildings development standard are expressed at Clause 4.3(1):-</p> <p>(1) The objectives of this clause are as follows:</p> <ul style="list-style-type: none"> a) to nominate a range of building heights that will provide a transition in built form and land use intensity across all zones, b) to ensure that the heights of buildings reflect the intended scale of development appropriate to the locality and the proximity to business centres and transport facilities,

CLAUSE 4.6 VARIATION

- c) to provide for built form that is compatible with the hierarchy and role of centres,
- d) to assist in the minimisation of opportunities for undesirable visual impact, disruption to views, loss of privacy and loss of solar access to existing and future development and to the public domain.

Objective (a) is a statement of fact that the building height control will nominate a range of building heights across all zones. No further observation is required in respect of Objective (a).

Objective (b) acts to ensure the heights of buildings reflect the intended scale of development appropriate to the locality. The western side of Cumberland Road is located within the R4 zone and the 15m height control is set to reflect the intended scale of development in the R4 zone. In this regard, it is to be noted that the roof level of the building is at or below the 15m height requirement and only the rooftop balustrading and lift shaft/stairwell exceeds the control. Prior to the current revision of the design, the entire building was compliant with the 15m height control. In plan view, the area of the floorplate that is non-compliant represents 10.6% which includes the roof overhang.

Importantly, the building is compliant with the floor space ratio applicable to the land which, together with the building height, influences the bulk and scale of a building. Despite the inclusion of the lift shaft/stairwell in the current design, it is considered that the building is reflective of the intended scale of buildings in the zone in a broad sense.

In terms of visual impact, the stairwells are 20m and 50.5m from the street respectively. The viewing angles from Cumberland Road will be such as to obscure the view of the shafts from most appreciable viewing points. From the north, the roof over the shafts will be approximately 15m from the neighbouring units and will be visible only from the uppermost floor.

From the south, the closest structures to the common boundary are garages. There is at least 15m separation to the closest townhouses which are located on the southern side of the neighbouring allotment. The townhouses are two storeys in height and unlikely to be impacted by the height of the shafts. Shadow diagrams indicate that the shafts add no appreciable shadow impact on the neighbouring property to the south.

When compared to the visual impact of the neighbouring development at 31-35 Cumberland Road when viewed from the street, the proposed building will have a much lesser apparent bulk and scale even though in both cases the floor space ratios are compliant. This is due to the fact that the adjoining development is built over three allotments and is a building of much larger bulk and scale. The height of the lift/stairwells are acceptable in the context of the bulk and scale of the neighbouring building.

In relation to Objective (c), the proposal is commensurate with the built form expectations for residential flat buildings in the R4 High Density zone. The extent of the height variation in the achievement of a better planning outcome for the site is supportable while still considered to be compatible with the desired broad outcomes for the locality.

In relation to the elements of Objective (d):-

CLAUSE 4.6 VARIATION

- As discussed above, the building is of an acceptable bulk and scale notwithstanding the height of the two lift/stair wells, particularly so when juxtaposed to the adjoining residential flat building at 31-35 Cumberland Road. Refer to Figure 2. The visual impact of the proposed building as a whole is considered to be acceptable and will be enhanced by perimeter planters and rooftop landscaping.
- There are no appreciable views or vistas over the subject site available to or from adjoining properties.
- The use of the roof for communal open space purposes will not result in loss of privacy to adjoining properties or the public domain. The usable parts of the space are separated from the extremities of the building by raised planters and garden beds. All activity will be appropriately contained within the trafficable area.
- As discussed above, the shadow impact of the stair/lift wells is marginal when looked at in aggregate.



Figure 2: No. 31-35 Cumberland Road noting bulk and scale.

The proposed development is demonstrated to achieve the desired residential density through appropriate site planning and built form, notwithstanding non-compliance with the building height. The site is considered suitable to support the proposed development and the objectives of the control are achieved.

Pursuant to Cl.4.6(4)(a)(i), compliance with the development standard is both unreasonable and unnecessary in the circumstances of the case.

Secondly, pursuant to Cl.4.6(4)(a)(ii), the matters preceding are considered to provide sufficient environmental planning grounds to justify contravening the development standard.

It is worth pointing out that in *Four2Five Pty Ltd v Ashfield Council* (2015) Commissioner Pearson made a judgement that a Clause 4.6 variation requires identification of environmental planning grounds that are particular to the circumstances to the proposed development. In other words, simply meeting the objectives of the development standard is insufficient justification of a Clause 4.6 variation.

CLAUSE 4.6 VARIATION

	In a follow up judgement on further appeal, the Chief Judge, upheld the Four2Five decision but expressly noted that the Commissioner's decision on that point (that she was not "satisfied" because something more specific to the site was required) was simply a discretionary (subjective) opinion which was a matter for her alone to decide. It does not mean that Clause 4.6 variations can only ever be allowed where there is some special or particular feature of the site that justifies the non-compliance. Whether there are "sufficient environmental planning grounds to justify contravening the development standard" is something that can be assessed on a case by case basis and is for the consent authority to determine for itself.
2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;	The objective of the development standard is considered to be relevant to the development.
3. The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;	The objective of the standard would not be defeated or thwarted if compliance was required however flexibility results in a better site planning outcome for the future residents of the building.
4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;	The development standard has not been abandoned.
5. The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.	The zoning of the land is appropriate for the development standard.

CLAUSE 4.6 VARIATION

THE ONUS ON THE CONSENT AUTHORITY

Pursuant to Cl.4.6(4)(a), the Council must form the positive opinion of satisfaction that the applicant's written request has adequately addressed both of the matters required to be demonstrated by Clause 4.6(3)(a) and (b) and that 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.

The consent authority does not have to directly form the opinion of satisfaction but only indirectly form the opinion of satisfaction that the applicant's written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3)(a) and (b). The applicant bears the onus to demonstrate that the matters in Clause 4.6(3)(a) and (b) have been adequately addressed in the written request in order to enable the consent authority to form the requisite opinion of satisfaction. Refer to *Initial Action Pty Ltd v Woollahra Municipal Council* (2018).

In assisting the consent authority in its satisfaction as to the public interest test under Cl.4.6(4)(a)(ii), we refer to the objectives for development within the zone in which the development is proposed to be carried out.

The land is within the R4 High Density Residential Zone. The zone objectives are:-

- To provide for the housing needs of the community within a high density residential environment.
- To provide a variety of housing types within a high density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To encourage high density residential development in close proximity to centres and public transport hubs.
- To maximise redevelopment and infill opportunities for high density housing within walking distance of centres.
- To enable development for purposes other than residential only if that development is compatible with the character and scale of the living area.
- To minimise overshadowing and ensure a desired level of solar access to all properties.

The proposal is consistent with the zone objectives because the development provides the opportunity for a mix of residential units within a high density residential environment. The building will be of a bulk, scale and appearance expected in the zone and will minimise overshadowing given the site orientation, the benefit of the drainage channel to the south providing spatial separation to the neighbouring townhouses and the favourable disposition of those townhouses in relation to the site boundaries.

Further, the site is within 350m of a bus service connecting Ingleburn and Minto which will promote the use of public transport as a sustainable means of access and movement. For these reasons, it is considered that the development satisfies the zone objectives.

CLAUSE 4.6 VARIATION

5. CONCLUSION

The proposal seeks a variance to the height of buildings development standard to enable the development of the site with a residential flat building in an orderly and economic manner.

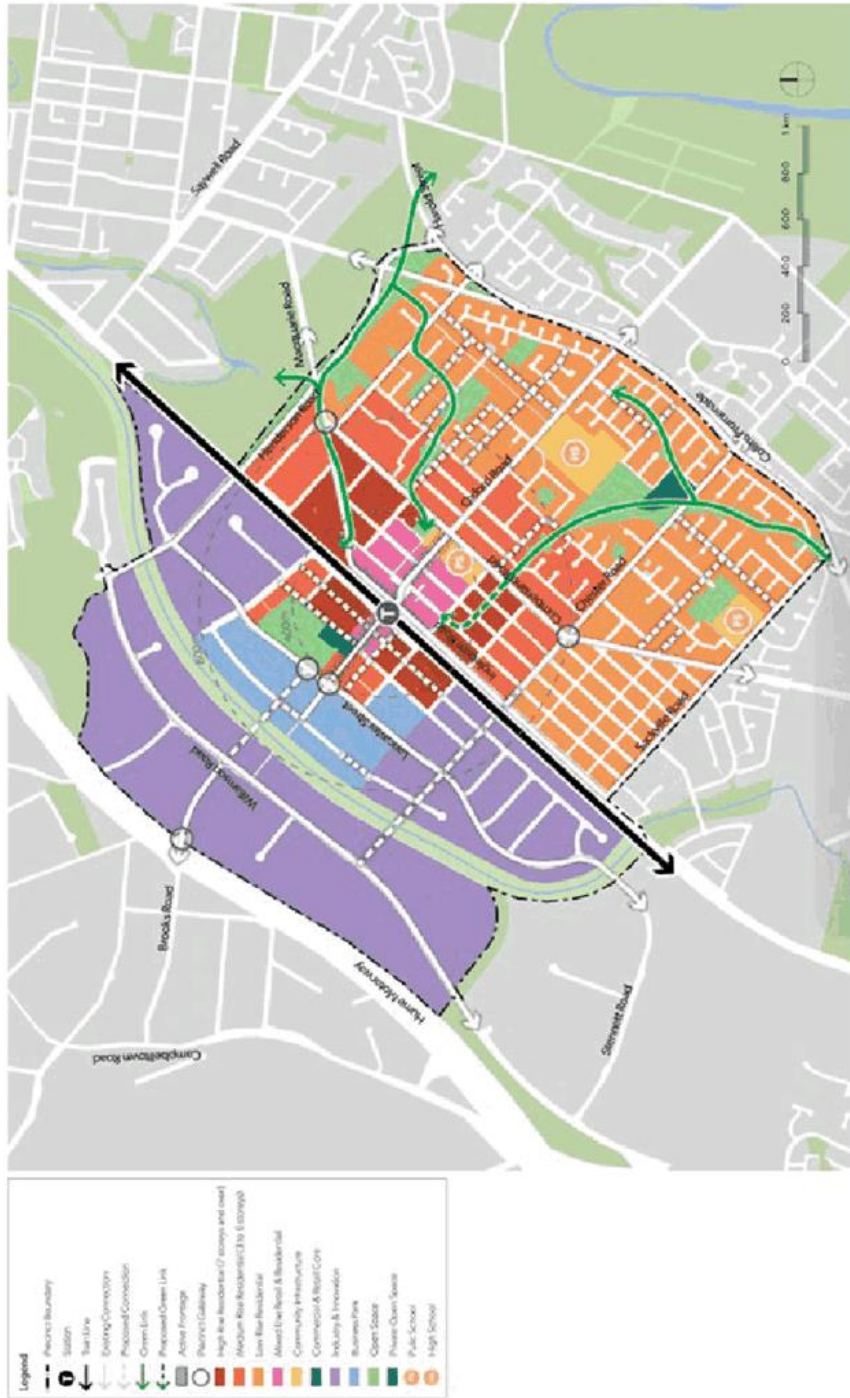
The development standard is strictly numerical in nature and fails to take into consideration any site constraints or qualitative aspects of the development or of the particular circumstances of a site that are environmental planning grounds to allow flexibility. Clause 4.6 of the Campbelltown LEP allows such an analysis to be carried out.

It has been demonstrated in this request that strict compliance with the development standard is unreasonable and unnecessary and that there are sufficient environmental planning grounds to allow Council to indirectly form the opinion that this written request has adequately addressed the matters required to be demonstrated by Cl.4.6(3)(a) and (b).

Therefore, I request that council support the variation on the basis that this Clause 4.6 variation demonstrates that strict compliance with the development standard is unreasonable and unnecessary and that there are sufficient environmental planning grounds to justify a variation to the development standard.

Eugene Sarich
Urbanesque Planning Pty Ltd
Date: 10 November 2018

Ingleburn Precinct Plan



CAMPBELLTOWN CITY COUNCIL

Minutes Summary

**Local Planning Panel Meeting held at Campbelltown City Council
on Wednesday, 18 December 2019.**

ITEM	TITLE	PAGE
1.	ACKNOWLEDGEMENT OF LAND	2
2.	APOLOGIES	2
3.	DECLARATIONS OF INTEREST	2
4.	REPORTS	2
4.1	Demolition of a dwelling and construction of a four storey residential apartment building - 37 Cumberland Rd, Ingleburn	2
4.2	Demolition of existing structures and construction of 34 two-storey dwellings at 5A-7 Old Glenfield Road, Glenfield	4
4.3	Use of Campbelltown Sports Stadium for temporary non-sporting events	7
4.4	Supplementary Report: Use and fitout of unit 7 as a sex services premises - 4 Grange Road, Leumeah	10

Local Planning Panel Meeting

18/12/2019

Minutes of the Local Planning Panel Meeting held on 18 December 2019

Present Chair Ian Reynolds
 Member Jenny Rudolph
 Member Edward Saulig
 Member Scott Lee

1. ACKNOWLEDGEMENT OF LAND

An Acknowledgement of Land was presented by the Chairperson .

2. APOLOGIES

Nil

3. DECLARATIONS OF INTEREST

There were no Declarations of Interest made at this meeting.

4. REPORTS

4.1 Demolition of a dwelling and construction of a four storey residential apartment building - 37 Cumberland Rd, Ingleburn

Executive Summary

- This development application proposes the demolition of an existing dwelling and construction of a four storey residential apartment building containing 24 units, basement car parking and associated site works at 37 Cumberland Road, Ingleburn.
 - The subject site is zoned R4 High Density Residential under the provisions of the Campbelltown Local Environmental Plan 2015 (CLEP 2015).
 - Under Clause 4.3 of the CLEP 2015 a maximum building height of 15m is permitted. The development proposes a maximum height of 17.895m which equates to a contravention of the standard by 19.3 percent.
 - The application was publicly exhibited and notified to adjoining properties from 22 August 2017 to 25 September 2017. Six submissions were received objecting to the proposal and one petition was also submitted with 22 signatures in opposition to the proposal.
 - An assessment under Section 4.15 of the EP&A Act has been undertaken and it is recommended to the panel that the application be refused for reasons outlined in this report.
-

Minutes of the Local Planning Panel Meeting

Page 2

- The proposal is not considered to be in the public interest.

Public Address

The Local Planning Panel meeting was addressed by applicants, as listed below.

Applicant:

- Zing Ing Fam
- Meg Kong

Panel members asked questions that were responded to directly at the meeting.

Panel Considerations and Reasons for Decision

The Panel inspected the site and took note of the constrained nature of the site by virtue of the adjoining residential apartment building development approved in 2013 and thereby creating an isolated site and drainage infrastructure to the site's south western boundary.

The Panel noted that this application has had an extensive assessment history since it was submitted in 2017 and has been modified significantly during the process inclusive of a reduction of one storey and six apartments, as well as resolving waste collection and traffic management issues within the basement levels.

The Panel considered the applicants request to allow further deferral and redesign and agrees to the deferral of the application in order for the applicant to submit amended plans and information. The panel notes that the following matters could be considered in any redesign.

1. To reduce the bulk and scale of the existing proposal the basement car parking could be limited to one level only. The number of units should be limited to the number that can be serviced by the available car parking spaces within that one basement level.
2. To remove the necessity of the second level basement, waste collection could be relocated from the basement to the ground floor towards the front of the development, accessible from the side, to allow a waste truck to reverse into the property and efficiently remove waste.
3. To better integrate internal and external communal spaces, the communal room could be relocated closer to the communal open space on the roof.
4. To address the need for deep soil zones and adequate landscaping, the front and side setbacks as shown on the current plans should remain.
5. To deliver a one level basement car park consideration could be given to allowing a variation to Council's development control guideline for car space width of 2.5m under the Campbelltown Sustainable City Development Control Plan, 2015 to 2.4m which is compliant with the Australian Standard and as proposed by the applicant.

Decision of the Panel

Development Application 2238/2017/DA-RA for demolition of the existing dwelling and construction of a four storey residential apartment building containing 24 units, basement car parking and associated site works at Lot A DP 413142, 37 Cumberland Road, Ingleburn, is deferred for a period of up to 6 months from the date of this decision for amended plans to be

Local Planning Panel Meeting

18/12/2019

submitted.

Voting

The Local Planning Panel voted 4/0

4.2 Demolition of existing structures and construction of 34 two-storey dwellings at 5A-7 Old Glenfield Road, Glenfield

Executive Summary

- This application proposes the demolition of all existing structures on the site and construction of 34 dwellings. The site of the proposed development is impacted by an approved but unregistered boundary adjustment.
- The proposed development has a floor space ratio of 0.57:1, which exceeds the maximum floor space ratio of 0.45:1 that applies to the site.
- The applicant has submitted a clause 4.6 objection in respect of the proposed variation to the floor space ratio standard, and this objection is considered to be well-founded.
- The proposed development is consistent with the provisions of the Campbelltown Sustainable City Development Control Plan 2015.
- The application is recommended for approval, subject to the attached conditions.

Public Address

The Local Planning Panel meeting was addressed by the applicant, as listed below.

Applicant:

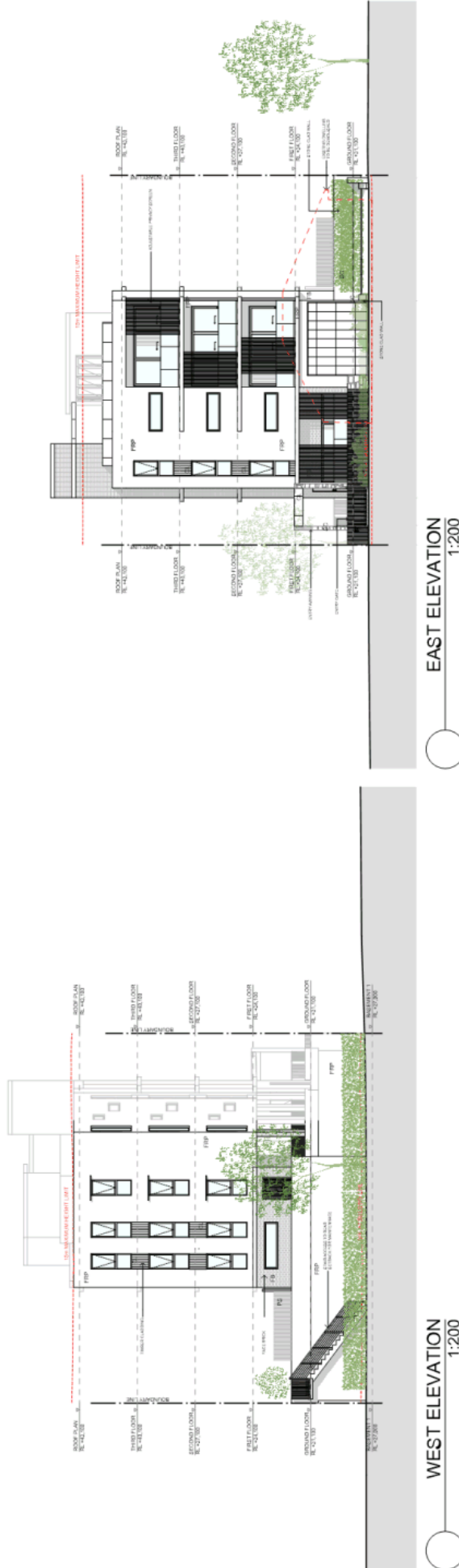
- Gerard Turrisi
- Charlie Zappia
- Diego Rossi

Panel members asked questions that were responded to directly at the meeting.

Panel Considerations and Reasons for Decision

The Panel inspected the site and took note of the site constraints consisting of the two major road frontages, the level of the land relative to the adjoining roads, the character of adjoining development and the apparent absence of public open space within safe walking distance of the site that does not necessitate the crossing of Glenfield Road.

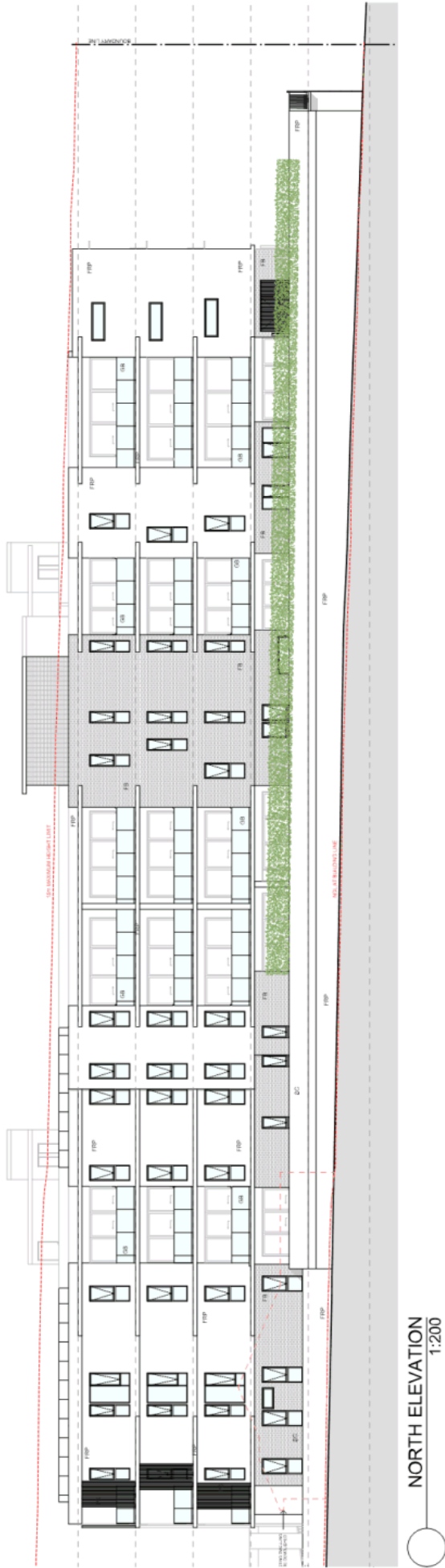
The Panel considered the application and accompanying submission under section 4.6 of Campbelltown Local Environmental Plan, 2015 and agreed that the proposed floor space



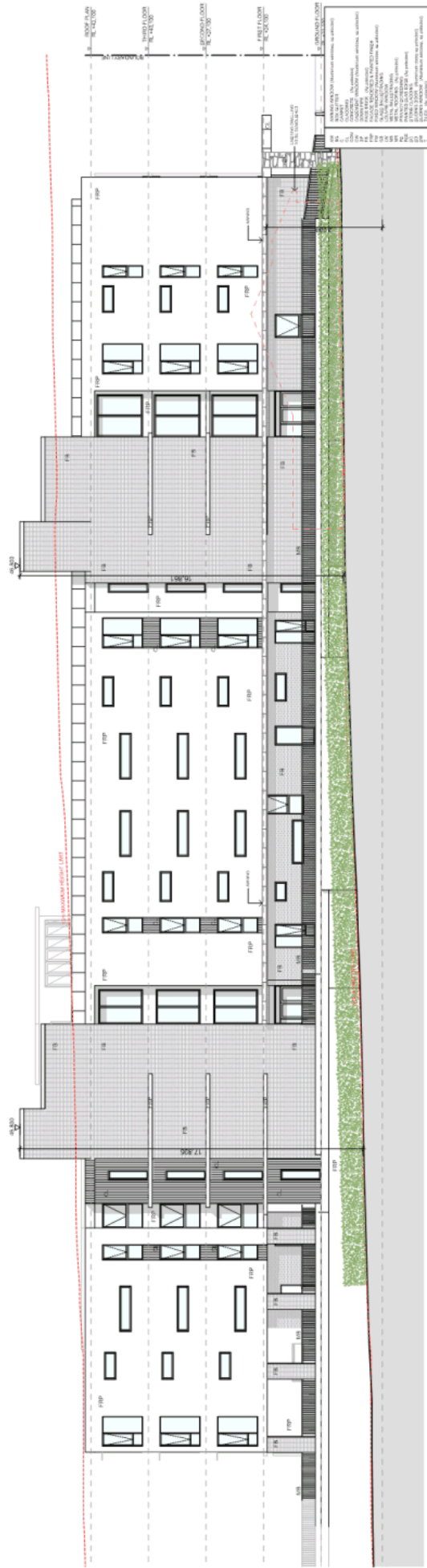
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DEVELOPMENT APPLICATION

<p>ARKHAUS 003 8007 5554 arkhaus@arkhaus.com.au www.arkhaus.com.au Unit 4, 4/177 Darling Avenue, Bexley NSW 2151</p> <p><small>The work is to be controlled in accordance with the National Construction Code, Australian Standards and approved by the local council. Any errors in this document are the responsibility of the client. Arkhaus is not responsible for any errors in this document. The client is responsible for ensuring that the work is carried out in accordance with the approved plans and specifications. Arkhaus is not responsible for any errors in this document. The client is responsible for ensuring that the work is carried out in accordance with the approved plans and specifications.</small></p>	<p>amendments</p> <table border="1"> <tr><th>Date</th><th>Description</th></tr> <tr><td>22/02/2017</td><td>DEVELOPMENT APPLICATION</td></tr> <tr><td>03/03/2017</td><td>DEVELOPMENT APPLICATION</td></tr> <tr><td>12/02/2018</td><td>DRAFT REVISED DA APPLICATION</td></tr> <tr><td>16/04/2018</td><td>REVISED DEVELOPMENT APPLICATION</td></tr> <tr><td>09/10/2018</td><td>REVISED DEVELOPMENT APPLICATION</td></tr> </table>	Date	Description	22/02/2017	DEVELOPMENT APPLICATION	03/03/2017	DEVELOPMENT APPLICATION	12/02/2018	DRAFT REVISED DA APPLICATION	16/04/2018	REVISED DEVELOPMENT APPLICATION	09/10/2018	REVISED DEVELOPMENT APPLICATION	<table border="1"> <tr><th>Date</th><th>Description</th><th>Issue</th></tr> <tr><td>26/02/2019</td><td>REVISED BASEMENT PLAN</td><td>F</td></tr> <tr><td>27/02/2019</td><td>REVISED BASEMENT PLAN</td><td>F</td></tr> <tr><td>30/07/2019</td><td>REVISED DEVELOPMENT PLAN</td><td>H</td></tr> <tr><td>12/02/2020</td><td>REVISED DEVELOPMENT APPLICATION</td><td>I</td></tr> <tr><td>21/04/2020</td><td>MINOR REVISION FOR COUNCIL RFI</td><td>L</td></tr> </table>	Date	Description	Issue	26/02/2019	REVISED BASEMENT PLAN	F	27/02/2019	REVISED BASEMENT PLAN	F	30/07/2019	REVISED DEVELOPMENT PLAN	H	12/02/2020	REVISED DEVELOPMENT APPLICATION	I	21/04/2020	MINOR REVISION FOR COUNCIL RFI	L	<p>Client MR & MRS FAM DRAWING ELEVATIONS</p>	<p>Project description PROPOSED RFB Project address 37 CUMBERLAND ROAD, INGLESBURN</p>	<p>Sheet no. DA 12 of 12 07/16DA</p>
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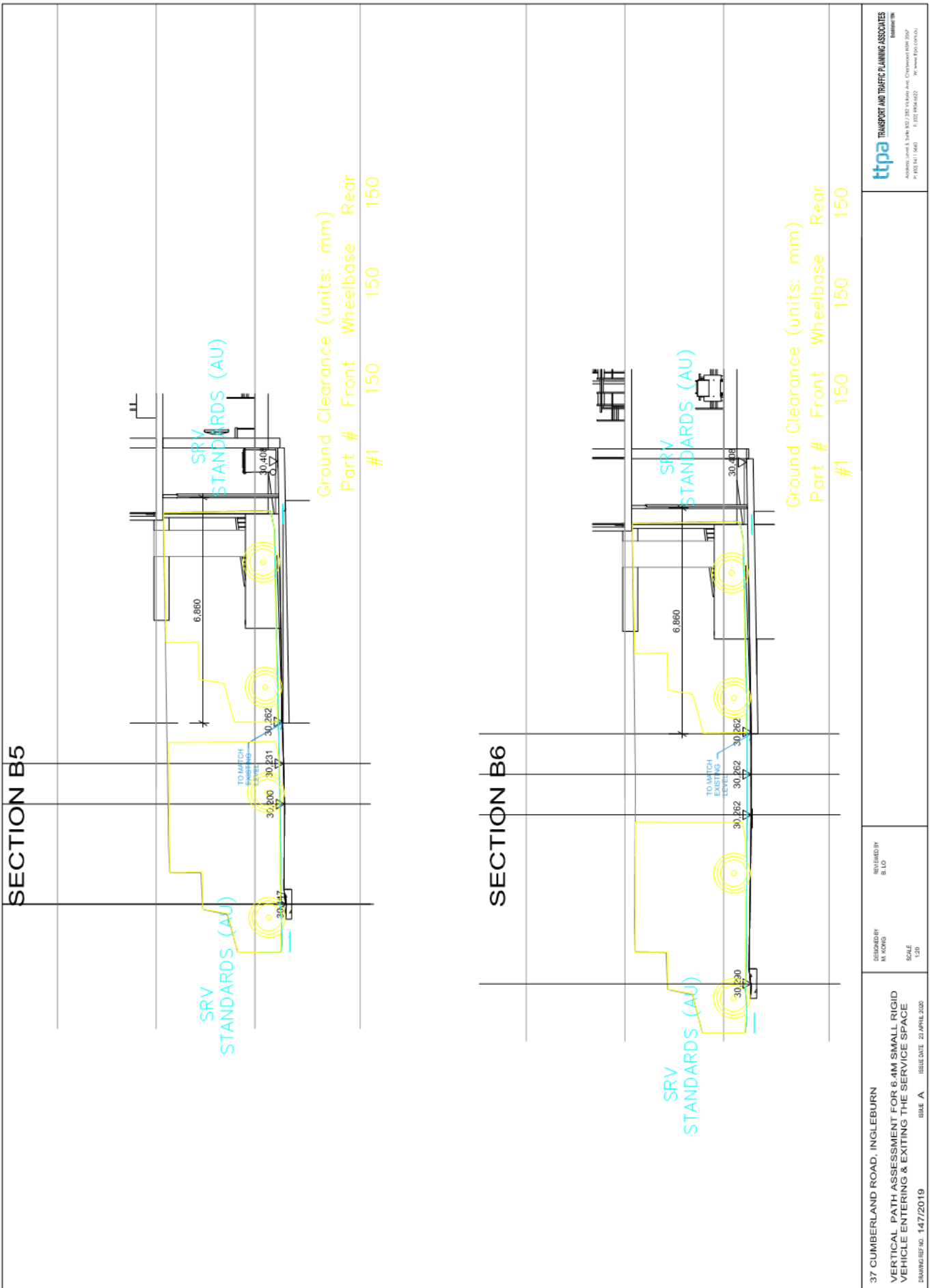
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SOUTH ELEVATION
1:200

DEVELOPMENT APPLICATION

<p>ARKHAUS 002 807 5554 info@arkhaus.com.au www.arkhaus.com.au 100 LYONSWOOD - REGISTERED ARCHITECT (A/2010) 4/5/17 Daring Avenue, Bexley NSW 2151</p> <p><small>The work is restricted to the National Code of Ethics and is not to be used in any other way without the prior written consent of Arkhaus Pty Ltd. This drawing is not to be used for any other purpose without the prior written consent of Arkhaus Pty Ltd.</small></p>		<p>amendments</p> <table border="1"> <tr><th>Date</th><th>Issue</th><th>Description</th></tr> <tr><td>22/02/2017</td><td>A</td><td>DEVELOPMENT APPLICATION</td></tr> <tr><td>12/02/2018</td><td>B</td><td>DRAFT REVISED DA</td></tr> <tr><td>16/04/2018</td><td>C</td><td>REVISED DEVELOPMENT APPLICATION</td></tr> <tr><td>09/10/2018</td><td>E</td><td>REVISED DEVELOPMENT APPLICATION</td></tr> </table>	Date	Issue	Description	22/02/2017	A	DEVELOPMENT APPLICATION	12/02/2018	B	DRAFT REVISED DA	16/04/2018	C	REVISED DEVELOPMENT APPLICATION	09/10/2018	E	REVISED DEVELOPMENT APPLICATION	<table border="1"> <tr><th>Date</th><th>Issue</th><th>Description</th></tr> <tr><td>26/02/2019</td><td>F</td><td>REVISED BASEMENT PLAN</td></tr> <tr><td>19/03/2019</td><td>F</td><td>REVISED BASEMENT PLAN</td></tr> <tr><td>30/07/2019</td><td>H</td><td>REVISED DEVELOPMENT PLAN</td></tr> <tr><td>12/02/2020</td><td>I</td><td>REVISED DEVELOPMENT APPLICATION</td></tr> <tr><td>21/04/2020</td><td>L</td><td>MINOR REVISION FOR COUNCIL RFI</td></tr> </table>	Date	Issue	Description	26/02/2019	F	REVISED BASEMENT PLAN	19/03/2019	F	REVISED BASEMENT PLAN	30/07/2019	H	REVISED DEVELOPMENT PLAN	12/02/2020	I	REVISED DEVELOPMENT APPLICATION	21/04/2020	L	MINOR REVISION FOR COUNCIL RFI	<p>Client: MR & MRS FAM</p> <p>Project description: PROPOSED RFB</p> <p>Project address: 37 CUMBERLAND ROAD, INGLESBURN</p> <p>DA 13 07/16DA</p>
Date	Issue	Description																																			
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tptpa TRANSPORT AND TRAFFIC PLANNING ASSOCIATES
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DESIGNED BY
M. KONG

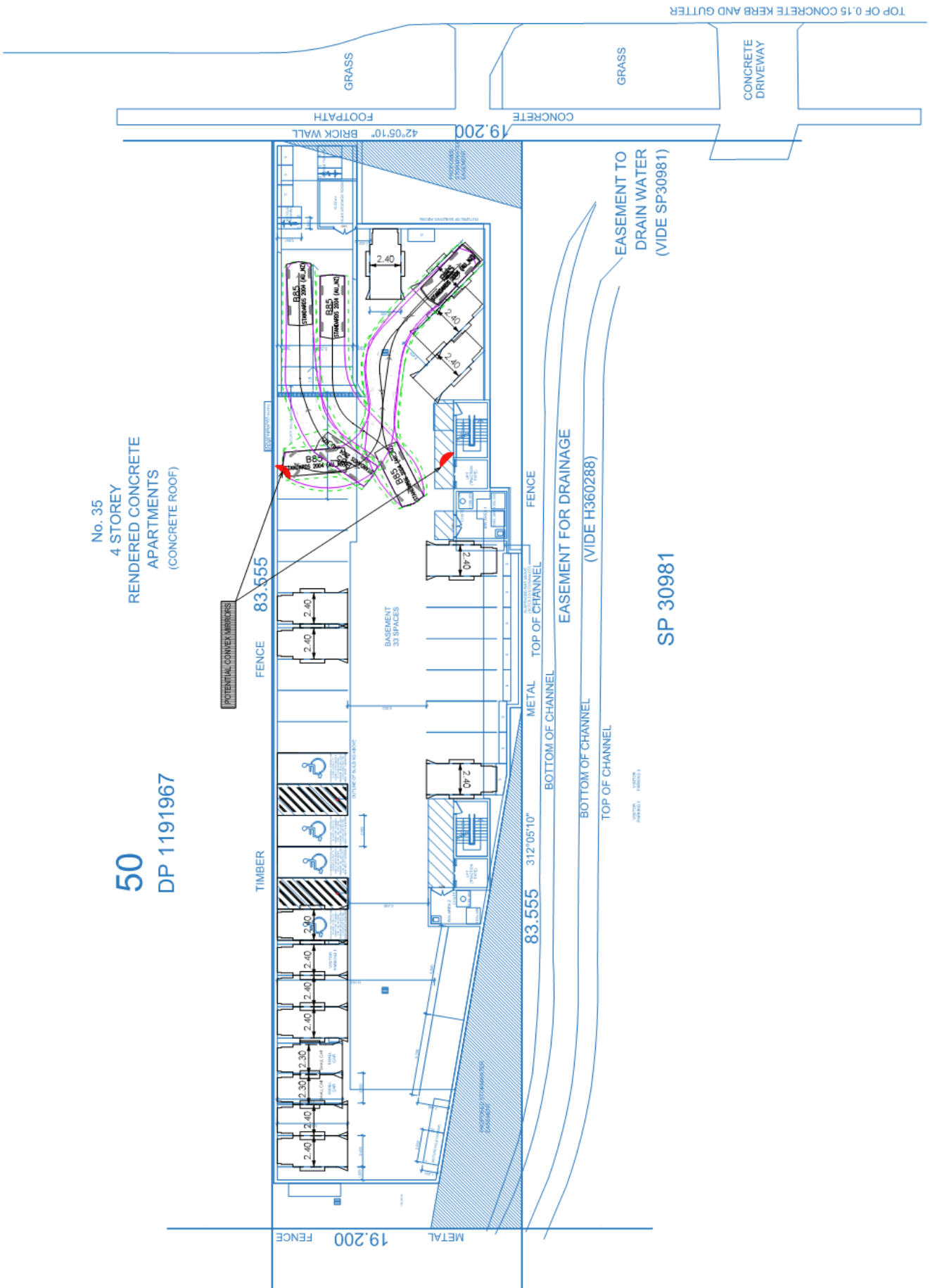
REVIEWED BY
B. LO

SCALE
1:20

37 CUMBERLAND ROAD, INGLEBURN
 VERTICAL PATH ASSESSMENT FOR 6.4M SMALL RIGID
 VEHICLE ENTERING & EXITING THE SERVICE SPACE
 DRAWING REF: 147/2019 ISSUE A ISSUE DATE: 23 APRIL 2020

ROAD

CUMBERLAND



No. 35
 4 STOREY
 RENDERED CONCRETE
 APARTMENTS
 (CONCRETE ROOF)

50
 DP 1191967

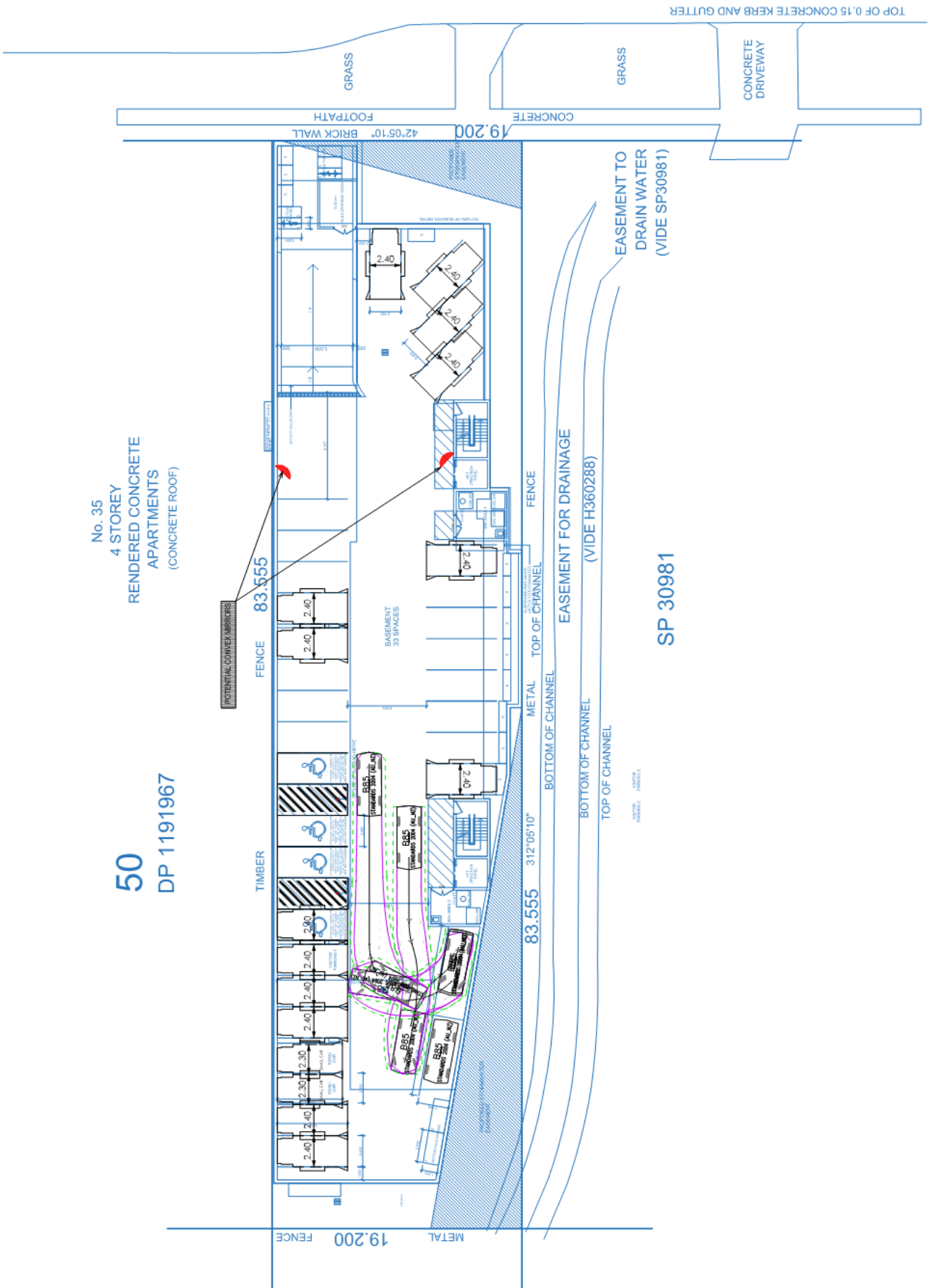
EASEMENT TO
 DRAIN WATER
 (VIDE SP30981)

EASEMENT FOR DRAINAGE
 (VIDE H360288)

SP 30981

ROAD

CUMBERLAND



No. 35
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 DP 1191967

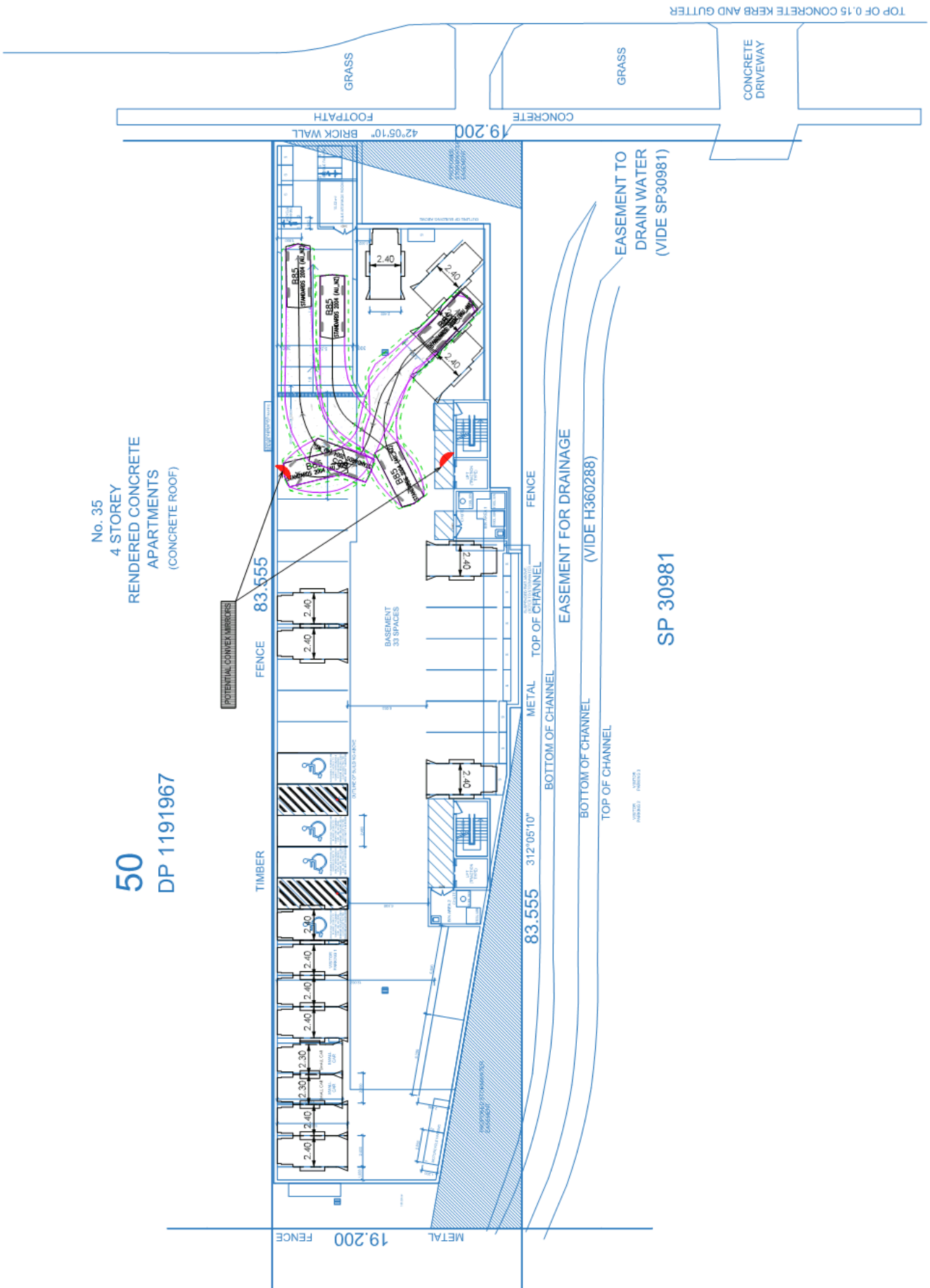
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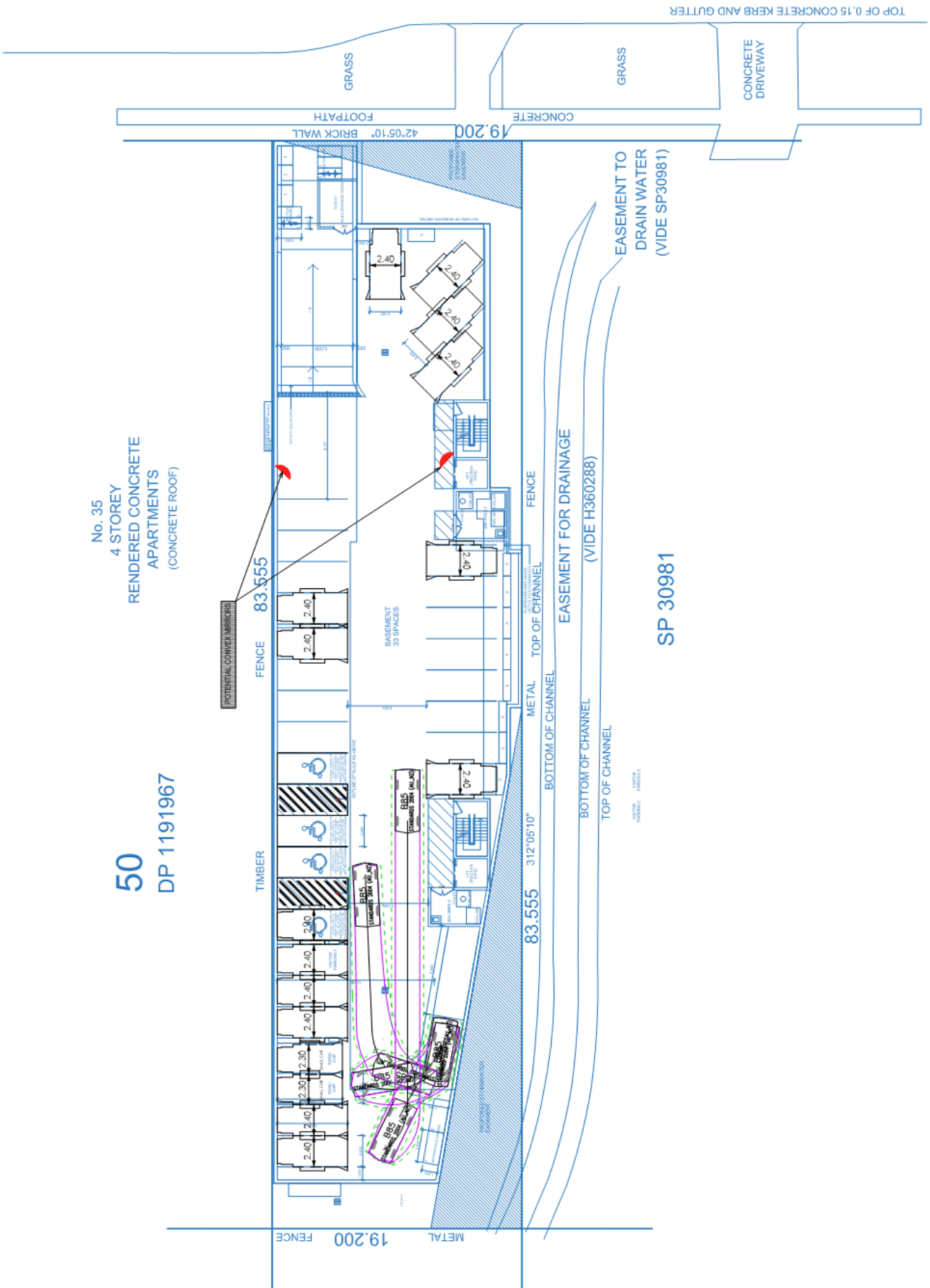
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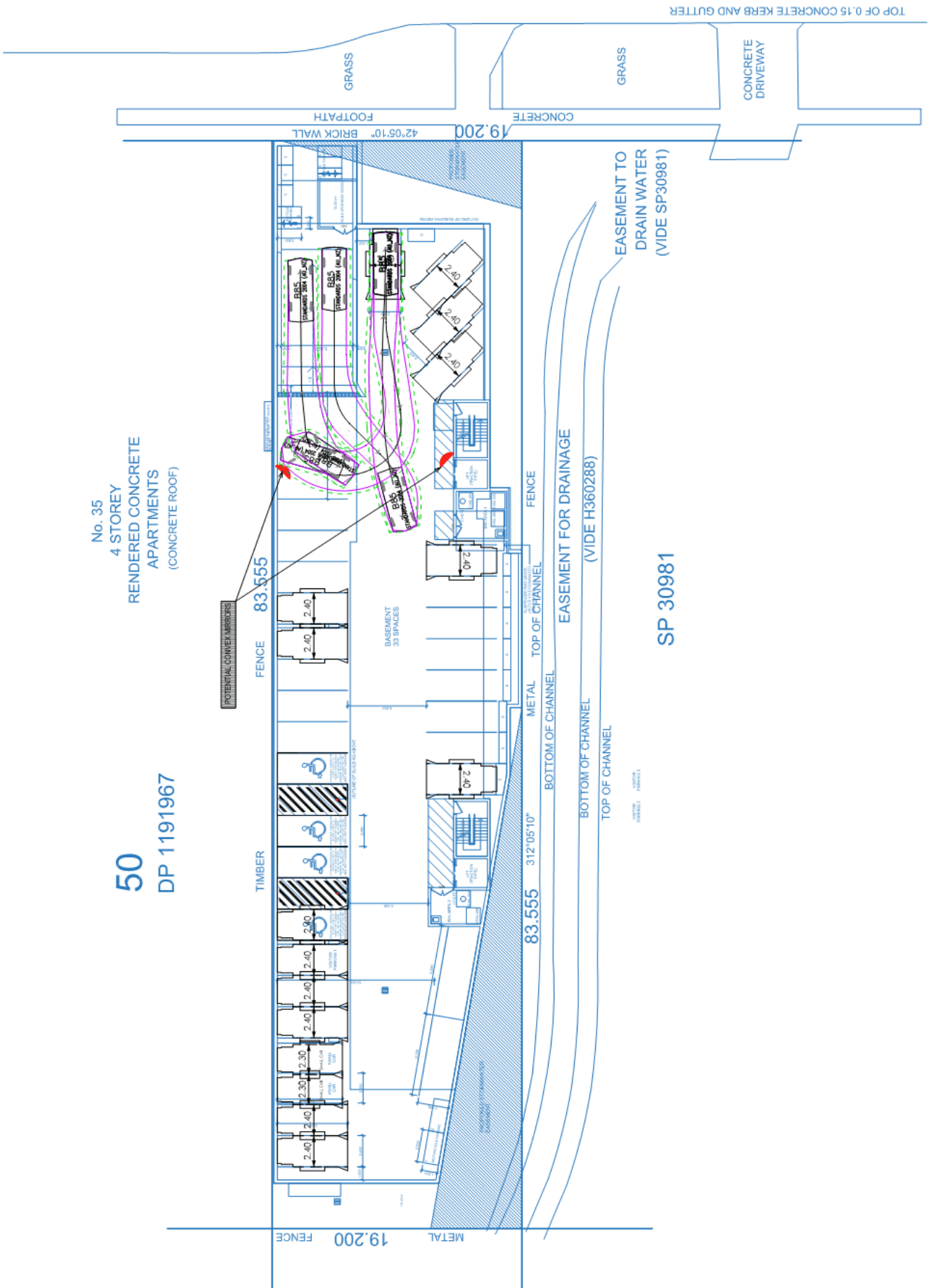
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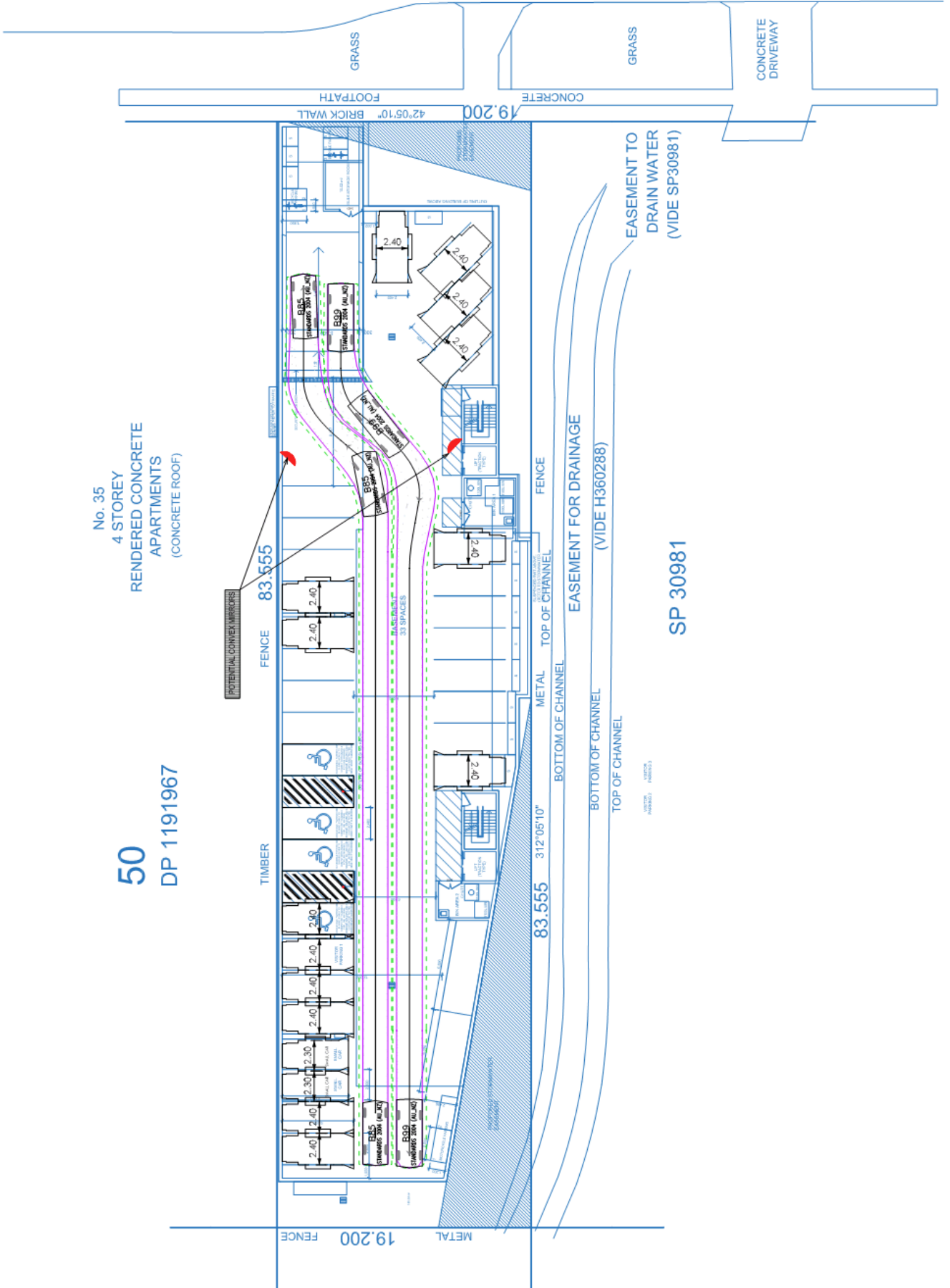
SP 30981

EASEMENT FOR DRAINAGE
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ROAD

CUMBERLAND

TOP OF 0.15 CONCRETE KERB AND GUTTER



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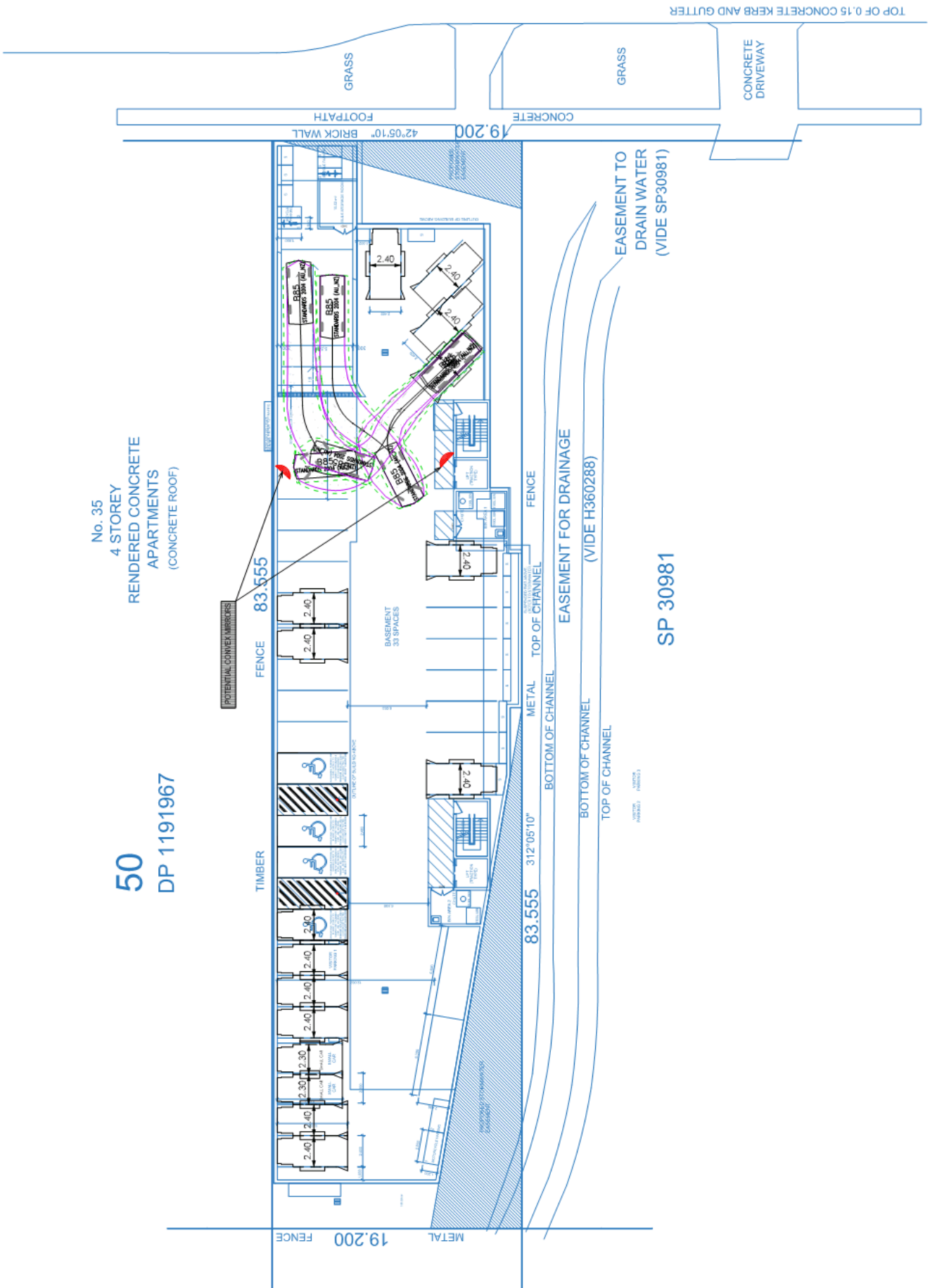
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TOP OF 0.15 CONCRETE KERB AND GUTTER

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