

**DA NO:** DA-2023/51

**ADDRESS:** 42 HAMPDEN ROAD, ARTARMON NSW 2064.

**PROPOSAL:** DEMOLITION OF EXISTING STRUCTURES AND CONSTRUCTION OF NEW RESIDENTIAL FLAT BUILDING WITH BASEMENT CAR PARKING AND DRIVEWAY, LANDSCAPING AND ASSOCIATED WORKS.

**RECOMMENDATION:** REFUSAL

**ATTACHMENTS:**

1. SITE DESCRIPTION AND AERIAL PHOTO
2. DEVELOPMENT CONTROLS, STATISTICS, DEVELOPER CONTRIBUTION & REFERRALS
3. SEPP 65 ASSESSMENT AND APARTMENT DESIGN GUIDE
4. ASSESSMENT UNDER FURTHER SEPPS, *WLEP 2012 & WDCP*
5. SUBMISSIONS TABLE
6. APPLICANT'S CLAUSE 4.6 SUBMISSION – LOT SIZE
7. OFFICER'S CLAUSE 4.6 ASSESSMENT - LOT SIZE
8. SECTION 4.15 (79C) ASSESSMENT
9. REASONS FOR REFUSAL
10. NOTIFICATION MAP

**RESPONSIBLE OFFICER:** RITU SHANKAR - TEAM LEADER

**AUTHOR:** ADIBA KASHFI – DEVELOPMENT ASSESSMENT OFFICER

**REPORT DATE:** 27 FEBRUARY 2024

**MEETING DATE FOR ED** ELECTRONIC DETERMINATION

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## **1. PURPOSE OF REPORT**

The purpose of this report is to seek determination by Willoughby Local Planning Panel (WLPP) of Development Application DA-2023/51 for Demolition of existing structures and construction of new residential flat building with basement car parking and driveway, landscaping and associated works. at 42 Hampden Road, ARTARMON.

The application is required to be referred to the WLPP for determination because (the development proposal contravenes a development standard imposed by an environmental planning instrument by more than 10% *Willoughby LEP 2012* clause 6.10 Minimum lot sizes for certain residential accommodation.

## **2. OFFICER'S RECOMMENDATION**

**THAT the Willoughby Local Planning Panel:**

**2.1 Refuse the Clause 4.6 exception to vary Clause 6.10 of *Willoughby Local Environmental Plan 2012* (Exceptions to minimum lot size requirement) contained in Attachment 6 for the following reasons:**

- 2.1.1 The development contravenes the development standards of *WLEP* under Clause 6.10 in respect to the minimum lot size requirement by 38.94%.**
- 2.1.2 The submitted Clause 4.6 variation does not adequately demonstrate the non-compliance of minimum lot size on appropriate planning grounds for the variation and failed to adequately satisfy the objectives of the development standard and zone and therefore, is not recommended for support.**
- 2.1.3 The proposal failed to adequately meet the minimum lot size for the development therefore not enabling the site to be sufficient size to provide adequate area for drainage, earthworks, landscaping and separation between buildings for privacy, solar, vehicular access and waste management.**
- 2.1.4 The proposal failed to adequately meet the minimum lot size for the development therefore resulting in the isolation of No.40 Hampden Road which is located on the south eastern side of the subject site. The affected property No. 40 will not be able to meet the minimum lot size requirements for redevelopment.**

**2.2 Refuse Development Application DA-2023/51 for demolition of the existing 2 storey strata titled residential flat building and associated structures, construction of a new 4 storey residential flat building comprising 4 apartment units and 7 basement car park spaces and associated driveway and landscaping**

- 2.2.1 In consideration of Clause 4.6(4) of *WLEP*, the Council is not satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated under Clause 4.6(3) of this this document because:**
  - a. It is considered that compliance with the standard has not been demonstrated to be unnecessary or unreasonable. The applicant failed to justify why a compliant design would not be suitable or comply with the objectives of the zone and control, then justifying why the proposed non-compliant design is considered more suitable than a compliant design. And**
  - b. It is considered that there are insufficient environmental planning grounds to justify the proposed variation of 38.94% to the minimum lot size requirement.**
- 2.2.2 The applicant's reasons stated in their written request, in respect to the lack of, or minimal, impacts resulting from, the breaches in the statutory controls for minimum lot size requirement, do not provide sufficient grounds to justify the extent of non-compliance with *WLEP*.**
- 2.2.3 The applicant has failed to consider the representation of the landowner affected by the unsuccessful amalgamation. Council is not satisfied that**

all reasonable measures were taken to prevent site isolation and whether an orderly and economic use and development of the separate sites can be achieved.

- 2.2.4 The development contravenes with minimum 2 hours of solar access to communal open space requirement under Part 3D, building separation requirement under Part 3F, maximum depth of open plan layouts requirements under Part 4D-2, requirement of minimum storage of the units under Part 4G-1 Apartment Design Guide.
- 2.2.5 The proposed development contravenes with Part D.2.7, maximum site coverage requirement of *Willoughby Development Control Plan 2012 (WDCP 2012)*.
- 2.2.6 The proposed development contravenes with Part B.4.3.2, minimum street frontage requirement of *Willoughby Development Control Plan 2023 (WDCP 2023)*.
- 2.2.7 Due to lack of information, approval of the application is not considered to be in the interest of the public and the proposed residential flat building is likely to set an undesirable precedent for developments in the locality.

### 3. BACKGROUND

- On 23 February 2023 the DA was lodged with Council.
- The application was on notification from 11 April 2023 to 24 April 2023. 1 submission received during this notification period recommending for site amalgamation and proposing more units altogether.
- On 17 October 2023, an additional information letter was sent to the applicant raising issues related to minimum lot size requirement as per Clause 6.10 of *WLEP*, Solar access, building separation, maximum depth, storage requirements as per the Apartment Design Guide, stormwater management, vehicular access, structural details etc.
- A meeting was held to discuss the planning issues raised in an additional information request sent on 31 October 2023.
- Applicant did not submit any additional information to address these issues till date, In addition, applicant emailed Council on 29 November 2023 stating that the applicant does not intend to amend the proposal or withdraw the application.

A description of the site and surrounding area, including an aerial photograph is contained in **Attachment 1**.

### 4. DISCUSSION

A description of the site and surrounding area, including an aerial photograph is contained in **Attachment 1**.

The controls and development statistics that apply to the subject land are provided in **Attachment 2**.

An assessment of Apartment Design Guide (ADG) in accordance with the requirements of SEPP-65 and a brief assessment against the SEPP (Affordable Rental Housing) are provided in **Attachment 3**.

A further assessment of the development application in accordance with the relevant controls of the *Willoughby Development Control Plan (WDCP)* is provided in **Attachment 4**.

A submission table is provided in **Attachment 5**.

The applicant's written request for minimum lot size is provided in **Attachment 6**.

Council's assessment for the minimum lot size is provided in **Attachment 7**.

A S4.15 assessment of the proposal is provided in **Attachment 8**.

The reasons for refusal are provided in **Attachment 9**.

A notification map is provided in **Attachment 10**.

The **plans** used for this assessment can be found in a file named **WLPP Plans** under the DA tracking functionality for this application on Council's website:

<https://eplanning.willoughby.nsw.gov.au/Common/Common/terms.aspx>

## **5. CONCLUSION**

The Development Application DA-2023/51 has been assessed in accordance with Section 4.15 (79C) of the *Environmental Planning and Assessment Act 1979*, *SEPP 65* and *Apartment Design Guide*, *WLEP 2012*, *WDCP 2012* and *WDCP 2023*, and other relevant codes and policies. It is considered that the proposal is unacceptable for the reasons provided in Attachment 7 and should be refused.



**ATTACHMENT 1: SITE DESCRIPTION AND SURROUNDS, including an aerial photo**

The site is legally described as SP 16523 and is known as No. 42 Hampden Road, Artarmon. The site is trapezoidal in shape and has an area of 671.7m<sup>2</sup>. The site has dual frontage of 14.085m to Hampden Road on the north-west and 13.13m to Hampden Lane on the south-east. The site has an average width of 12.26m and depth of 54.67m approximately.

The site shows gradual slope of approximately 1.3m from the front boundary to the rear car parking area. Then the ground levels slope up steeply more than 5m to the rear boundary (i.e. from AHD 80.18 at the retaining wall to AHD 85.37 at the rear boundary) which restricts the rear lane vehicle access. This steeply sloping area contains heavy vegetation.

The site currently contains two storey strata titled residential flat building containing 4 apartment units. Two units are provided on each floor.



**Image 1: Street view of the subject site**





**Image 2 car spaces and landscaped area at the rear**

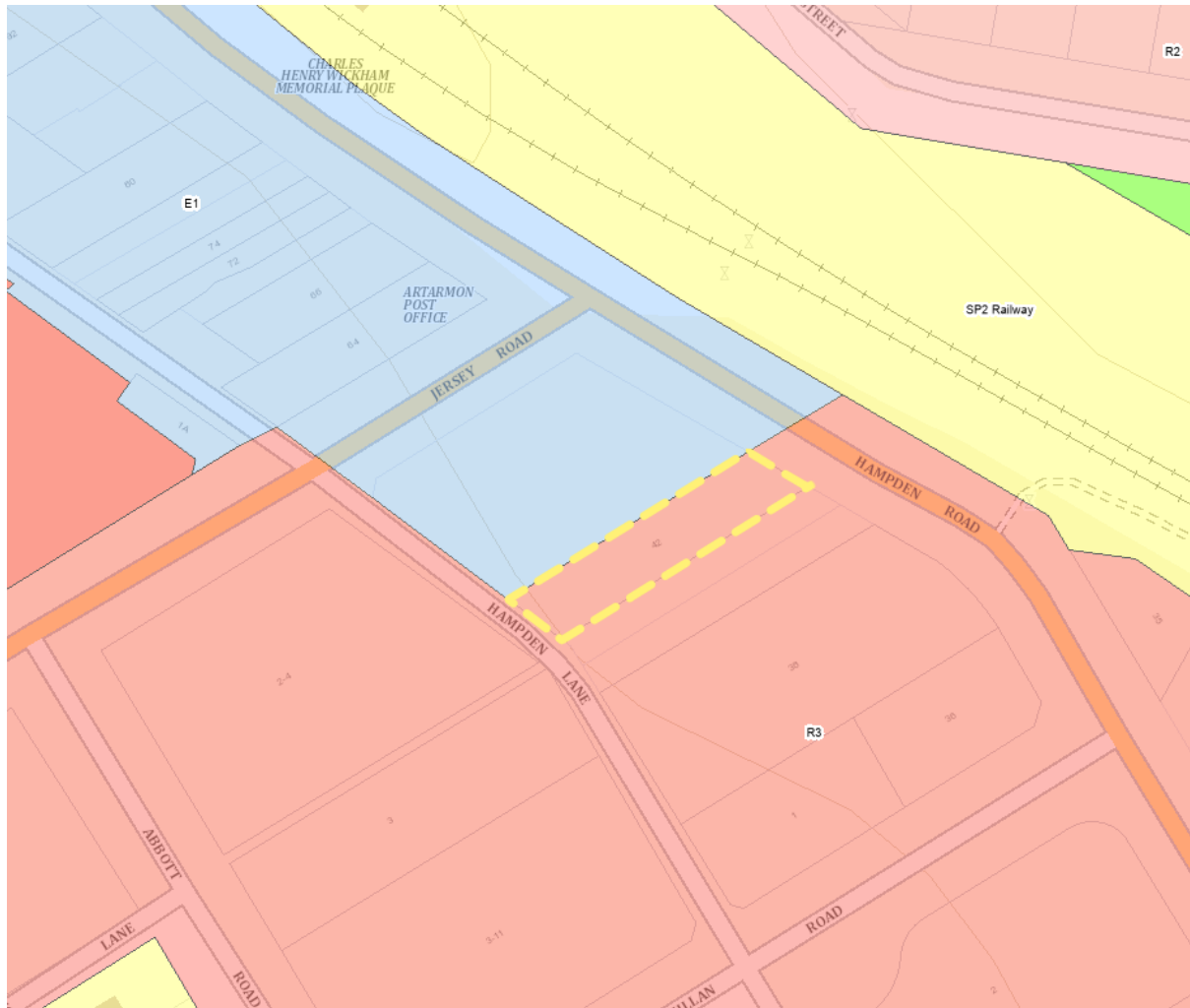
The site is less than 200m from Artarmon Railway Station on the north-west. Surrounding development comprises 4-storey residential flat buildings.



**Image 3 – Aerial view of the property**

## **The Locality**

The property is located on land zoned R3 – Medium Density Residential Zone under the *Willoughby Local Environmental Plan 2012 (WLEP)* as shown on figure below.



**Image 4: Zoning of land in the locality**

## ATTACHMENT 2: CONTROLS & DEVELOPMENT STATISTICS AND REFERRALS

<b>WLEP 2012 Zoning:</b>	R3 – Medium Density Residential
Site Area (including the adjoining parcel)	671.7m <sup>2</sup>
Permissibility	Residential flat buildings are permitted in the zone.
Additional Permitted Use	N/A
Conservation area	NO
Aboriginal Heritage	NO
Heritage Item	NO
Vicinity of Heritage Item	NO
Natural Heritage Register	NO
Bushfire Prone Area	NO
Flood related planning control	NO
Foreshore Building Line	NO
Adjacent to classified road	NO
Road/lane widening	NO
BASIX SEPP	YES
Infrastructure SEPP - Rail	NO
Infrastructure SEPP - Road	NO
Development near Lane Cove Tunnel	NO
Contaminated Land	NO
Adjacent / above Metro	NO
Land Issues - Exponare	NO
Other relevant SEPPS	State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development
Relevant DCPs policies and resolutions	WDCP 2012 and WDCP 2023

### Referrals

<b>Internal</b>	
Building services	Acceptable subject to conditions.
Engineering	<p><b>A. <u>Stormwater Management Plans – Water Quality and On Site Detention</u></b></p> <p>The submitted stormwater management plans do not comply with Part C5 of the WDCP and Technical Standard 1.</p> <p>For the on-site detention system (OSD), the following items need to be addressed:</p> <p>(a) A hydraulic grade line (HGL) analysis is to be provided to confirm compliance. Demonstrate that the detention tank outlet is above the 1% AEP HGL level. The adopted downstream water level must be a minimum of the top of kerb level at the pit at the connection to the Council</p>



	<p>system.</p> <ul style="list-style-type: none"> <li>(b) Details of an overflow spillway from the OSD storage with an overland flow path to the kerb and gutter together with calculations demonstrating that the overflow elements can cope with the 1% AEP storm event in accordance with Council's policy. It must be demonstrated that overflow cannot flow into the underground parking garage from the top of the driveway.</li> <li>(c) Freeboard to floor levels adjacent to the OSD storage and the spillway shall be in accordance with Clause 6.2.vii of Technical Standard 1 and the freeboard noted on the drawings.</li> <li>(d) The sump below the invert of the orifice outlet shall be deleted. Below ground tanks and pits are required to drain completely dry at the cessation of any storm.</li> <li>(e) The invert level and size of all inlet pipes.</li> </ul> <p>A copy of Council's OSD Design Checklist (available in Appendix 5 of Technical Standard 1) shall be submitted with the drawings.</p> <p>No details have been provided for the water quality improvement system required for the site. The system proposed shall be designed in accordance with Clause 11.2 of Technical Standard 1. A summary of the required MUSIC modelling shall be provided. The summary shall include details of the parameters adopted in the model and a catchment plans provided to detail the areas modelled. Please submit amended plans to address the above issues.</p> <p><b>B. <u>Vehicular Access</u></b></p> <p>For the vehicular crossing and vehicular crossing, internal driveway and parking arrangements the following items need to be addressed:</p> <ul style="list-style-type: none"> <li>a) The internal driveway does not comply with the minimum sightline requirements of AS2890.1. as detailed in Figure 3.3. The exit side of the internal driveway must be clear of obstructions within the sight triangles, including any obstructions in neighbouring properties.</li> <li>b) The waiting bay does not fully accommodate a waiting B99 vehicle within the front site boundary.</li> <li>c) Designated visitor parking space width is not compliant with AS2890.1 user class 2 – medium term parking.</li> </ul> <p>Please submit amended plans to address the above issues.</p> <p><b>C. <u>Structural Details and Geotechnical Advice</u></b></p> <p>As the proposed works involves significant excavation and construction of retaining walls in close proximity to the boundary, the following information is required to confirm that the works can be constructed without negatively impacting the adjacent</p>
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	<p>road reserve and properties:</p> <ul style="list-style-type: none"> <li>a) Proposed structural details for all retaining walls located at the boundary</li> <li>b) Plans showing a proposed easement for support along the boundary retaining wall along Hampden Lane.</li> <li>c) Proposed construction methodology demonstrating that there will be no adverse impacts of the neighbouring properties and road reserve.</li> <li>d) Predict ground settlements in areas adjacent to the development site resulting from temporary and permanent site support and retention measures and demonstrate that settlement will have no adverse impact on the surrounding properties and infrastructure.</li> <li>e) Demonstrate that there will be no adverse impact on the surrounding properties and infrastructure as a result of vibration created by the method of construction used for the development. As a minimum, reports must demonstrate compliance with the requirements of AS2187.2 Appendix J.</li> </ul> <p>Alternatively:</p> <ul style="list-style-type: none"> <li>f) Provide amended plans showing no significant excavation works within the zone of influence of the road reserve on Hampden Lane or that of the adjacent properties.</li> </ul>
Environmental health Unit	Acceptable subject to conditions.
Landscape	<p>The arborist's report by Australis Tree Management submitted with the application was noted.</p> <p>The report indicates eight trees are to be removed. Five trees to be removed are exempt species, and there are no objections to their removal.</p> <p>Three protected trees of low value are listed for removal. There are no objections to their removal subject to replacement trees. Under <i>WDCP</i> Part G, trees approved for removal are to be replaced at a rate of 3:1. Therefore it is recommended that the new landscaping works incorporate the planting of nine new trees within the site as replacement. The Landscape Plan shows one replacement tree.</p> <p>The proposed landscaping does not meet the controls of <i>WDCP</i> Part B clause 4.4.5 Open Space for soft landscaped area/deep soil zones and tree planting.</p> <p><i>The site should comprise at least 35% of soft landscaped areas and deep soil zones at ground level (excluding planter boxes).</i> The plans do not show the proposed soft landscaped area. Further assessment can be made if additional information is provided to show compliance.</p> <p><i>The Site should provide deep soil zones primarily in the front setback areas and around the perimeter of the site.</i> The current proposal shows no areas of deep soil zone within the front setback, or the side areas. The deep soil plan calculations include areas occupied by</p>

	<p>paving.</p> <p>To maintain the street character and provide shade cover to hard paved surfaces, semi-mature broad canopy trees should be located within deep soil zones in the front setback to Hampden Road.</p> <p>Planter box wall heights are inconsistent between the Architectural plans and the Landscape Plan. Wall heights and proposed ground levels shall be consistent between plans.</p> <p>The resolution of the proposed landscaped communal space levels in relation to the boundary levels on Hampden Lane are unclear. There are no top of wall heights shown on the Landscape Plan for the rear area retaining walls. The Architectural elevations show limited detail of the landscaping levels in the rear setback, with a retaining wall shown located outside the site boundary, and the top of wall appearing to be lower than the EGL at the boundary to Hampden Lane. Top and bottom of wall levels are to be shown on the Landscape Plans and to be consistent with the Architects plans. Further assessment can be made if additional information is provided.</p> <p>The plans do not indicate any boundary fencing along Hampden Lane. The height of the retaining wall will require balustrading for safety from Hampden Lane. Plans are to show details of boundary fencing. Further assessment can be made if additional information is provided.</p> <p>Also noted is a concern for vehicles on Hampden Lane in close proximity and unprotected from the &gt;2.5m high retaining wall.</p> <p>At this stage, the proposal is not able to be supported with regard to landscape issues.</p>
Traffic	<p>Acceptable subject to conditions. However, the following comments were also provided,</p> <p><b><u>Comments</u></b></p> <p>The proposed development is considered as minimal impact due to same number of units to replace the existing. The development access however located near a bus stop, with potential reduced visibility by the bus movement.</p> <p>Although the existing development is accessed via Hampden Rd, the new development is preferred to avoid accessing via Hampden Rd to minimize traffic impact to the main vehicular corridor if there is a queue at the entry.</p> <p>There is also potential impact to cycling movement that cross over the proposed access.</p> <p>Potential line of sight issue at the access.</p> <p>The proposal is considered to be located along a well-connected and established bike route, the development should consider providing bicycle facility to encourage active transport.</p> <ul style="list-style-type: none"> <li>- Development to further assess suitability of location for driveway access</li> <li>- Development to consider interaction with public transport</li> </ul>

	and active transport, and integration with these transport modes
Waste	<p><b><u>Demolition and Construction Waste Management Plan (WMP)</u></b>  The Applicant has not supplied sufficient information in the Demolition and Construction Waste Management Plan (WMP) including but not limited to:</p> <ul style="list-style-type: none"> <li>- Volumes of waste expected (m<sup>3</sup>), not areas (m<sup>2</sup>) with conversion to tonnages; refer page 4 and page 6.</li> <li>- Discussion and clear evidence of the method of calculating the volume and tonnage; such as: <ul style="list-style-type: none"> <li>o Excavation plan to verify the nominated Excavation Material.</li> <li>o Tree plan to verify the nominated Green Waste.</li> </ul> </li> <li>- The specific location of nominated landfill and recycling facilities to assess compliance with licensing requirements and activities (for example Raw Mulch Order 2016 (NSW EPA) and Raw Mulch Exemption 2016 (NSW EPA); refer page 4 and page 6. For example: <ul style="list-style-type: none"> <li>o Company names and phone numbers only are supplied.</li> <li>o Green waste recycling facility is nominated as “Sita” which no longer exists.</li> <li>o The recycling centre company names are placed in the “Disposal” column and no landfill is nominated for dry waste or putrescible waste.</li> <li>o A “separate container is to be provided for putrescible waste”, but no putrescible collection or disposal arrangements are supplied.</li> </ul> </li> <li>- Asbestos: a clearance certificate to demonstrate the zero volume.</li> <li>- Site activities: a plan showing the location of the onsite waste facilities during demolition and construction including truck access and parking and environmental controls.</li> </ul> <p><b><u>Operational Waste Management</u></b>  The Applicant has not supplied a complying operational waste management plan demonstrating compliance with Council’s waste management requirements, including but not limited to:</p> <ul style="list-style-type: none"> <li>- Access for Council’s residential bin and bulky waste Rigid Vehicle (HRV) collection vehicle.</li> <li>- Specification of the type of bins; waste, recycling and organics to meet Council’s generation requirements.</li> <li>- Suitability of the waste storage areas to accommodate the number and type of bins and separate storage for bulky waste.</li> <li>- Pathways for use of bins and transfer of bins for collection and how waste will be handled.</li> <li>- Design compliance information such as sizes and aesthetics.</li> </ul>
<b>External</b>	
Sydney Trains	TfNSW (Sydney Trains) advises that the proposed development has been assessed in accordance with the requirements of Section 2.99(4) of the Transport and Infrastructure SEPP. If approved, conditions have been provided.
Ausgrid	Ausgrid does not have any objections for the proposed development



### ATTACHMENT 3: SEPP 65 ASSESSMENT AND APARTMENT DESIGN GUIDE

Clause 6A SEPP 65 provides that the following aspects of an assessment shall be taken from the Apartment Design Guide in lieu of the *DCP* such that the provisions of the *DCP* have no effect.

- (a) visual privacy,
- (b) solar and daylight access,
- (c) common circulation and spaces,
- (d) apartment size and layout,
- (e) ceiling heights,
- (f) private open space and balconies,
- (g) natural ventilation,
- (h) storage.

This section of the report provides an assessment of the proposal in accordance with the requirements of *SEPP 65*.

*State Environmental Planning Policy (SEPP) 65* – Design Quality of Residential Apartment Development applies to the development application being a new residential flat building with more than 4 storeys and at least 4 dwellings.

The design of a residential apartment building must be in accordance with Schedule 1 of *SEPP 65* - Design Quality Principles. The following table assesses the development application in accordance with these principles. A Design Verification Statement prepared by Kennedy Associates Architects is submitted with the development application.

Principle	Comment
Context and Neighbourhood Character	<p><i>SEPP 65</i> acknowledges that good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.</p> <p>Although, the proposed design is an improvement of what is currently existing on site, but it fails to connect well to the existing surrounding built form. It fails to meet the minimum lot size of 1100m<sup>2</sup> and minimum frontage width of 27m, resulting in site isolation of No. 40 Hampden Road. The affected property No. 40 will not be able to meet the minimum lot size requirements for redevelopment. As a result, the proposed development is not contributing the built features of an area.</p>
Built Form and Scale	<p><i>SEPP 65</i> acknowledges that good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.</p> <p>The development does not accord with the controls that inform an acceptable built envelope. The proposed does not provide adequate separation between the buildings. The proposed design incorporates most of the common open space at the rear (south). As a result of the proposed common open space does not receive 3 hours of solar access. This is due to the size of lot being very small and the proposed design failing to achieve a scale and bulk appropriate to existing or desired</p>

Principle	Comment
	future character.
Density	<p><i>SEPP 65</i> acknowledges that good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.</p> <p>The proposal includes only 4 x 3 units. All the units provided almost the same layout. A range of apartment types and sized are not provided to cater different household for now and future.</p> <p>As such the proposal fails to provide an appropriate density for a residential development in the immediate context.</p>
Sustainability	<p>The ADG says that good design combines positive environmental, social and economic outcomes.</p> <p>The proposal has not been designed to maximise residential amenity of the subject site as the proposed communal open space does not receive 3 hours of sunlight.</p> <p>In addition, all the units open plan layouts (where the living, dining and kitchen are combined) have a depth of more than 8m. Also, as mentioned under density, the range of apartment types and sized are not provided to cater different household for now and future.</p> <p>As such the proposal fails to provide a design which positive environmental, social and economic outcomes.</p>
Landscape	<p>The ADG says that good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity.</p> <p>The proposed landscaping does not meet the controls of <i>WDCP</i> Part B clause 4.4.5 Open Space for soft landscaped area/deep soil zones and tree planting.</p> <p>The resolution of the proposed landscaped communal space levels in relation to the boundary levels on Hampden Lane are unclear. There are no top of wall heights shown on the Landscape Plan for the rear area retaining walls.</p> <p>Council's Landscape Designer has reviewed the proposal and is satisfied the landscape scheme is acceptable.</p>
Amenity	<p>The ADG says that good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well-being.</p> <p>The proposal development does not have a satisfactory level of amenity and satisfy the ADG design criteria. Communal open space due to its location does not receive enough sunlight. The proposal also fails to provide adequate building separation.</p>

Principle	Comment
	As such, the proposal in its current form fails to positively influence internal and external amenity for residents and neighbours.
Safety	<p>The ADG says that good design optimises safety and security within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose.</p> <p>The proposed units include balconies and outdoor terrace areas, which promote casual surveillance of both primary street and laneway. Whilst, it meets the safety design principals, it will be difficult to justify why a compliant design (complying with the minimum lot size and width requirement) would not be suitable or comply with the safety design principal.</p>
Housing Diversity and Social Interaction	<p>The ADG says that good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.</p> <p>The proposal includes only 4 x 3 units. All the units provided almost the same layout. The proposal does not achieve a mix of apartment sizes. As such, failing to provide housing choices for different demographics, living needs and household budgets.</p>
Aesthetics	<p>The ADG says that good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure.</p> <p>The proposal does not contribute satisfactorily to the desired future character of the locality envisaged by the planning controls within the <i>WLEP</i> and <i>WDCP</i>.</p> <p>The proposed scheme is not considered a suitable design response that site comfortably within its natural and built surrounds.</p>

The Apartment Design Guide applies to the development application and the following table assesses the residential component of the development in accordance with the relevant controls contained in the *SEPP 65 – Apartment Design Guide (ADG)*.

Part 3 - Siting the Development				
3A Site Analysis	<b>Objective 3A-1</b> Site analysis illustrates that design decisions have been based on opportunities and constraints of the site conditions and the relationship to the surrounding context		Complies	Satisfactory in that the proposal satisfactorily illustrates that design decisions have been based on opportunities and constraints of the site conditions and their relationship to the surrounding context.
3B Orientation	<b>Objective 3B-1</b> Building types and layouts respond to the street and site while optimizing solar access within the development		Complies	The proposal satisfies this requirement.
	<b>Objective 3B-2</b> Overshadowing of neighbouring properties is minimised during mid-winter		Complies	Acceptable. Adjoining properties receive an acceptable amount of solar access for the medium density residential environment.
3C Public Domain Interface	<b>Objective 3C-1</b> Transition between private and public domain is achieved without compromising safety and security		Complies	The proposal satisfies CPTED considerations.
	<b>Objective 3C-2</b> Amenity of the public domain is retained and enhanced		Complies	Assessed and found to be Acceptable.
3D	<b>Objective 3D-1</b>	1.Communal open space has	Satisfactory	The communal

Communal and Public Open Space	And adequate area of communal open space is provided to enhance residential amenity and to provide opportunities for landscaping	a minimum area equal to 25% of the site		open space requirements are achieved.		
		2.Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9am and 3pm on 21st June (mid-winter)	Not-Satisfactory	Principal usable part of the communal open space for a minimum of 2 hours between 9am and 3pm on 21 <sup>st</sup> June (mid-winter)		
	Objective 3D-2 Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting		Satisfactory	Acceptable		
	Objective 3D-3 Communal open space is designed to maximise safety		Satisfactory	Acceptable		
	Objective 3D-4 Public open space, where provided, is responsive to the existing pattern and uses of the neighbourhood		Satisfactory	Acceptable		
3E Deep Soil Zone	Objective 3E-1 Deep soil zone provides areas on the site that allow for and support healthy plant and tree growth. They improve residential amenity and promote management of water and air quality	Deep soil zones are to meet the following minimum requirements:		17.42% or 117m <sup>2</sup> of deep soil zone is provided with minimum dimensions of 3m.  Satisfactory	Acceptable	
		Site Area	Min. dimension			Deep soil zone (% of site area)
		Less than 650m <sup>2</sup>	-			7%
		650m <sup>2</sup> – 1500m <sup>2</sup>	3m			7%
		Greater than 1500m <sup>2</sup>	6m			7%
		Greater than 1500m <sup>2</sup> with significant existing tree	6m			7%

		<table><tr><td>cover</td><td></td><td></td></tr></table> <p>On some sites it may be possible to provide larger deep soil zones, depending on the site area and context:</p> <ul style="list-style-type: none"><li>• 10% of the site as deep soil on sites with an area of 650m<sup>2</sup> - 1,500m<sup>2</sup></li><li>• 15% of the site as deep soil on sites greater than 1,500m<sup>2</sup></li></ul> <p>Deep soil zones should be located to retain existing significant trees and to allow for the development of healthy root systems, providing anchorage and stability for mature trees. Achieving the design criteria may not be possible on some sites where the location and building typology have limited or no space for deep soil at ground level (e.g. central business district, constrained sites, high density areas, or in centres);</p>	cover										
cover													
3F Visual Privacy	<p><b>Objective 3F-1</b> Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy.</p>	<table><tr><td colspan="3">Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:</td></tr><tr><td><b>Building Height</b></td><td><b>Habitable rooms and balconies (m)</b></td><td><b>Non-habitable rooms</b></td></tr><tr><td>Up to 12m (4 storeys)</td><td>6</td><td>3</td></tr></table>	Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:			<b>Building Height</b>	<b>Habitable rooms and balconies (m)</b>	<b>Non-habitable rooms</b>	Up to 12m (4 storeys)	6	3	Not satisfactory	<p><b>Eastern side should provide 9m (next to 40 Hampden road) And western side should provide 6m (next to eastern side)</b></p>
Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:													
<b>Building Height</b>	<b>Habitable rooms and balconies (m)</b>	<b>Non-habitable rooms</b>											
Up to 12m (4 storeys)	6	3											

	Up to 25m (5-8 storeys)	9	4.5		
	Over to 25m (9+ storeys)	12	6		
	<b>Objective 3F-2</b> Site and building design elements increase privacy without compromising access to light and air and balance outlook and views from habitable rooms and private open space.			<b>Complies</b>	Satisfactory
<b>3G Pedestrian Access and Entries</b>	<b>Objective 3G-1</b> Building entries and pedestrian access connects to and addresses the public domain			<b>Complies</b>	Satisfactory
	<b>Objective 3G-2</b> Access, entries and pathways are accessible and easy to identify			<b>Complies</b>	Satisfactory
	<b>Objective 3G-3</b> Large sites provide pedestrian links for access to streets and connection to destinations			<b>Complies</b>	Satisfactory
<b>3H Vehicle Access</b>	<b>Objective 3H-1</b> Parking and access on the site generally complies with the requirements of AS/NZS 2890.1 and AS2890.6.			<b>Complies</b>	See commentary at left.
<b>3J Bicycle and Car Parking</b>	<b>Objective 3J-1</b> Car parking is provided based on proximity to public transport in metropolitan Sydney and centres in regional areas			For development in the following locations: <ul style="list-style-type: none"> <li>On sites that are within 800m of a railway station or light rail stop in the Sydney Metropolitan Area; or</li> <li>On land</li> </ul>	<b>Complies</b>

		<p>zoned, and sites within 400m of land zoned, B3 Commercial Core, B4 Mixed Use of equivalent in a nominated regional centre</p> <p>The minimum requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less. The car parking needs for a development must be provided off street.</p>	
<b>3J Bicycle and Car Parking</b>	Comments: SEPP (Housing) 2021 applies. The proposal complies with the requirements of this SEPP.		
	<b>Objective 3J-2</b> Parking and facilities are provided for other modes of transport	<b>Complies</b>	Satisfactory
	<b>Objective 3J-3</b>	<b>Complies</b>	Secure basement



	Car park design and access is safe and secure			car park with lift access to all residential levels
	<b>Objective 3J-4</b>	Visual and environmental impacts of underground car parking are minimised	<b>Complies</b>	Proposal is satisfactory.
	<b>Objective 3J-5</b>	Visual and environmental impacts of on-grade car parking are minimised	<b>Complies</b>	Proposal is satisfactory.
	<b>Objective 3J-6</b>	Visual and environmental impacts of above ground enclosed parking are minimised	<b>N/A</b>	Proposal is satisfactory.
<b>Part 4 – Designing the Building</b>				
<b>4A Solar and Daylight Access</b>	<b>Objective 4A-1</b>	To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space.	<b>Complies</b>	Yes, 100% of apartments receive 5 hours of sunlight
		1. Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours of direct sunlight between 9am and 3pm at mid-winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas.		
		2. In all other areas, living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 3 hours direct sunlight between 9 am and 3 pm at mid-winter.		Yes, 100% of apartments
		3. A maximum of <b>15%</b> of apartments in a building receive no direct sunlight between 9am and 3pm mid-winter.	<b>Complies</b>	All of them receives direct sunlight
	<b>Objective 4A-2</b>	Daylight access is maximised where sunlight is limited	<b>Complies</b>	Proposal is satisfactory.
	<b>Objective 4A-3</b>	Design incorporates shading and glare control, particularly for warmer months	<b>Complies</b>	Proposal is satisfactory.
<b>4B Natural Ventilation</b>	<b>Objective 4B-1</b>	All habitable rooms are naturally ventilated	<b>Complies</b>	All habitable rooms.
	<b>Objective 4B-2</b>	The layout and design of single aspect apartments maximizes natural ventilation	<b>Complies</b>	Proposal is satisfactory.
	<b>Objective 4B-3</b>	1. At least <b>60%</b> of apartments are naturally cross	<b>Complies</b>	All units are cross-

	The number of apartments with natural cross ventilation is maximized to create a comfortable indoor environment for residents	ventilated.		ventilated by virtue of the dual aspect.										
4C Ceiling Heights	<b>Objective 4C-1</b> Ceiling height achieves sufficient natural ventilation and daylight access	2.7m min floor to floor residential	Complies	3.1m floor to ceiling provided										
		2.4m for second floor, where its area does not exceed 50% of the apartment area	N/A											
	If located in mixed use areas	3.3m for ground and first floor to promote future flexibility	N/A											
	<b>Objective 4C-2</b> Ceiling height increases the sense of space in apartments and provides for well-proportioned rooms		Complies	Proposal is satisfactory.										
	<b>Objective 4C-3</b> Ceiling heights contribute to the flexibility of building use over the life of the building		Complies	Proposal is satisfactory.										
4D Apartment Size and Layout	<b>Objective 4D-1</b> The layout of rooms within an apartment is functional, well organised and provides a high standard of amenity	1. Apartments are required to have the following minimum internal areas:		All units comply.										
		<table><tr><th>Apartment Type</th><th>Minimum Internal Area</th></tr><tr><td>Studio</td><td>35m2</td></tr><tr><td>1 bedroom</td><td>50m2</td></tr><tr><td>2 bedroom</td><td>70m2</td></tr><tr><td>3 bedroom</td><td>90m2</td></tr></table>			Apartment Type	Minimum Internal Area	Studio	35m2	1 bedroom	50m2	2 bedroom	70m2	3 bedroom	90m2
		Apartment Type	Minimum Internal Area											
Studio	35m2													
1 bedroom	50m2													
2 bedroom	70m2													
3 bedroom	90m2													
The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m2 each. A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m2each														
		2. Every habitable room must have a window in an external wall with a total												

		minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms									
	<b>Objective 4D-2</b> Environmental performance of the apartment is maximised	1. Habitable room depths are limited to a maximum of 2.5 the ceiling height 2. In the open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window		<b>Not satisfactory</b>	All habitable room depths are less than 2.5x the ceiling height Window to kitchen dimension complies. However, the open plan layout room depth is more than 8m for all the units.						
	<b>Objective 4D-3</b> Apartment layouts are designed to accommodate a variety of household activities and needs	1. Master bedrooms have a minimum area of 10m2 and other bedrooms 9m2 (excluding wardrobe space)		<b>Complies</b>	Satisfactory						
		2. Bedrooms have a minimum dimension of 3m (excluding wardrobe space)		<b>Complies</b>	Satisfactory						
		3. Living rooms or combined living/dining rooms have a minimum width of: <ul style="list-style-type: none"><li>3.6m for studio and 1 bedroom apartments</li><li>4m for 2 &amp; 3 bedroom apartments</li></ul>		<b>Complies</b>	Satisfactory						
		4. The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts		<b>N/A</b>							
<b>4E Private Open Space and Balconies</b>	<b>Objective 4E-1</b> Apartments provide appropriately sized private	1. All apartments are required to have primary balconies as follows: <table><tr><td>Dwelling Type</td><td>Minimum Area</td><td>Minimum Depth</td></tr><tr><td></td><td></td><td></td></tr></table>		Dwelling Type	Minimum Area	Minimum Depth				<b>Complies</b>	All units comply.
Dwelling Type	Minimum Area	Minimum Depth									

	open space and balconies to enhance residential amenity		Studio Apartments	4m2	-			
			1 Bedroom Apartments	8m2	2m			
			2 Bedroom Apartments	10m2	2m			
			3+ Bedroom Apartments	12m2	2.4m			
			Dwelling Type	Minimum Area	Minimum Depth			
			The minimum balcony depth to be counted as contributing to the balcony area is 1m 2. For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m2 and a minimum depth of 3m					
	Objective 4E-2 Primary private open space and balconies are appropriately located to enhance liveability for residents					Complies	Satisfactory	
	Objective 4E-3 Private open space and balcony design is integrated into and contributes to the overall architectural form and detail of the building					Complies	Satisfactory	
	Objective 4E-4 Private open space and balcony design maximises safety					Complies	Satisfactory	
	4F Common Circulation and Spaces	Objective 4F-1 Common circulation spaces achieve good amenity and properly service the number of apartments	The maximum number of apartments off a circulation core on a single level is eight			Complies	Satisfactory	
For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40			N/A					
Objective 4F-2 Common circulation spaces promote safety and provide for social interaction between					Complies	Satisfactory		

4G Storage	<b>Objective 4G-1</b> Adequate, well designed storage is provided in each apartment	In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:	<b>Not satisfactory</b>	All units do not provide 10m <sup>2</sup> of storage															
		<table><tr><th>Dwelling Type</th><th>Storage Size Volume</th><th>Provided</th></tr><tr><td>Studio apartments</td><td>4m2</td><td>-</td></tr><tr><td>1 bedroom apartments</td><td>6m2</td><td>-</td></tr><tr><td>2 bedroom apartments</td><td>8m2</td><td></td></tr><tr><td>3+ bedroom apartments</td><td>10m2</td><td></td></tr></table>			Dwelling Type	Storage Size Volume	Provided	Studio apartments	4m2	-	1 bedroom apartments	6m2	-	2 bedroom apartments	8m2		3+ bedroom apartments	10m2	
		Dwelling Type			Storage Size Volume	Provided													
		Studio apartments			4m2	-													
		1 bedroom apartments			6m2	-													
2 bedroom apartments	8m2																		
3+ bedroom apartments	10m2																		
At least 50% of the required storage is to be located within the apartment																			
	<b>Objective 4G-2</b> Additional storage is conveniently located, accessible and nominated for individual Apartments		<b>Complies</b>	Additional storage where provided is directly accessed on carpark level, is satisfactory.															
4H Acoustic Privacy	<b>Objective 4H-1</b> Noise transfer is minimised through the siting of buildings and building layout		<b>Complies</b>	Satisfactory															
	<b>Objective 4H-2</b> Noise impacts are mitigated within apartments through layout and acoustic treatments		<b>Complies</b>	Satisfactory															
4J Noise and Pollution	<b>Objective 4J-1</b> In noisy or hostile environments the impacts of external noise and pollution are minimised through the careful siting and layout of buildings		<b>Complies</b>	Satisfactory															
	<b>Objective 4J-2</b> Appropriate noise shielding or attenuation techniques for the building design, construction and choice of materials are used to mitigate noise transmission		<b>Complies</b>	Satisfactory															
4K Apartment Mix	<b>Objective 4K-1</b> A range of apartment types and sizes is provided to cater for different household types now and into the future		<b>Not satisfactory</b>	4x3 bedroom units almost same layout															
	<b>Objective 4K-2</b>		<b>Complies</b>	Satisfied															

	The apartment mix is distributed to suitable locations within the building		
<b>4L Ground Floor Apartments</b>	<b>Objective 4L-1</b> Street frontage activity is maximised where ground floor apartments are located	<b>Complies</b>	There is activated frontage as much as is appropriate. Surveillance is available from the communal open space located at the front.
	<b>Objective 4L-2</b> Design of ground floor apartments delivers amenity and safety for residents	<b>Complies</b>	Satisfied
<b>4M Facades</b>	<b>Objective 4M-1</b> Building facades provide visual interest along the street while respecting the character of the local area	<b>Complies</b>	The proposal satisfied urban design considerations.
	<b>Objective 4M-2</b> Building functions are expressed by the façade	<b>Complies</b>	Satisfactory.
<b>4N Roof Design</b>	<b>Objective 4N-1</b> Roof treatments are integrated into the building design and positively respond to the street	<b>Complies</b>	Satisfactory
	<b>Objective 4N-2</b> Opportunities to use roof space for residential accommodation and open space are maximised	<b>N/A No roof top terrace</b>	-
	<b>Objective 4N-3</b> Roof design incorporates sustainability features	<b>Complies</b>	
<b>4O Landscape Design</b>	<b>Objective 4O-1</b> Landscape design is viable and sustainable	<b>Complies</b>	Satisfactory.
	<b>Objective 4O-2</b> Landscape design contributes to the streetscape and amenity	<b>Complies</b>	Satisfactory.
<b>4P Planting on Structures</b>	<b>Objective 4P-1</b> Appropriate soil profiles are provided	<b>Complies</b>	Satisfactory.
	<b>Objective 4P-2</b> Plant growth is optimised with appropriate selection and maintenance	<b>Complies</b>	Satisfactory.
	<b>Objective 4P-3</b> Planting on structures contributes to the quality and amenity of communal and public	<b>Complies</b>	Satisfactory.

	open spaces		
<b>4Q Universal Design</b>	<b>Objective 4Q-1</b> Universal design features are included in apartment design to promote flexible housing for all community members	<b>Complies</b>	Satisfactory
	<b>Objective 4Q-2</b> A variety of apartments with adaptable designs are provided	<b>Complies</b>	Satisfactory.
	<b>Objective 4Q-3</b> Apartment layouts are flexible and accommodate a range of lifestyle needs	<b>Complies</b>	Satisfactory.
<b>4R Adaptive Reuse</b>	<b>Objective 4R-1</b> New additions to existing buildings are contemporary and complementary and enhance an area's identity and sense of place	<b>Complies</b>	Satisfactory.
	<b>Objective 4R-2</b> Adapted buildings provide residential amenity while not precluding future adaptive reuse	<b>Complies</b>	Satisfactory.
<b>4S Mixed Use</b>	<b>Objective 4S-1</b> Mixed use developments are provided in appropriate locations and provide active street frontages that encourage pedestrian movement	<b>N/A</b>	<b>N/A</b>
	<b>Objective 4S-2</b> Residential levels of the building are integrated within the development, and safety and amenity is maximized for residents.	<b>N/A</b>	<b>N/A</b>
<b>4T Awnings and signage</b>	<b>Objective 4T-1</b> Awnings are well located and complement and integrate with the building design	<b>N/A</b>	N/A
	<b>Objective 4T-2</b> Signage responds to the context and desired streetscape character	<b>N/A</b>	N/A
<b>4U Energy Efficiency</b>	<b>Objective 4U-1</b> Development incorporates passive environmental design	<b>Complies</b>	Satisfactory.
	<b>Objective 4U-2</b> Development incorporates passive solar design to optimise heat storage in winter and reduce heat transfer in summer	<b>Complies</b>	BASIX Certificate provided
	<b>Objective 4U-3</b> Adequate natural ventilation minimises the need for mechanical ventilation	<b>Complies</b>	Apartments designed with appropriate depths, ceiling heights and

			planning to promote airflow and natural ventilation.
<b>4V Water Management and Conservation</b>	<b>Objective 4V-1</b> Potable water use is minimised	-	No change
	<b>Objective 4V-2</b> Urban storm-water is treated on site before being discharged to receiving waters	<b>Not satisfactory</b>	Council's engineers have assessed the proposal as not satisfactory.
	<b>Objective 4V-3</b> Flood management systems are integrated into site design	<b>N/A</b>	N/A
<b>4W Waste Management</b>	<b>Objective 4W-1</b> Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents	<b>Complies</b>	Fire water tank located to minimise impacts on the streetscape and surrounding land. The fire pump room is contained suitably under the communal open space.
	<b>Objective 4W-2</b> Domestic waste is minimised by providing safe and convenient source separation and recycling	<b>Complies</b>	Satisfactory. 240L bins for presentation to Hampden road.
<b>4X Building Maintenance</b>	<b>Objective 4X-1</b> Building design detail provides protection from weathering	<b>Complies</b>	Satisfactory.
	<b>Objective 4X-2</b> Systems and access enable ease of maintenance	<b>Complies</b>	Satisfactory.
	<b>Objective 4X-3</b> Material selection reduces on-going maintenance costs	<b>Complies</b>	Satisfactory.



**ATTACHMENT 4: ASSESSMENT UNDER FURTHER SEPPS, WLEP AND WDCP**

Assessment of the proposal against relevant parts of the *WLEP 2012* is provided below.

<b>WLEP 2012 controls</b>	<b>Control</b>	<b>Proposal</b>	<b>Comments on compliance</b>
<i>WLEP 2012</i> zoning		R3 – Medium Density Residential	The proposal is permissible in the zone.
CI 4.3 Height of Buildings	12m	12m	Complies
CI 4.4 Floor Space Ratio * Note that <i>SEPP (Housing) 2021</i> increases the FSR standard to 1.4:1 via bonus for affordable housing	0.9:1*	0.9:1	Complies
CI 6.1 Acid Sulfate Soils	-	Class 5	Yes, the subject site is affected by Class 5 acid sulfate soils. The proposal is satisfactory.
CI 6.2 Earthworks	-	Excavation for car parking level	Satisfied
Clause 6.10	Minimum 1,100m <sup>2</sup> for residential flat buildings	671.7m <sup>2</sup>	Do not comply

**Draft Willoughby Local Environment Plan 2012 (WLEP 2012) - and WLEP Amendment 34**

CI 1.8A *WLEP* saves the subject development application from *WLEP 2012* – Amendment 34 as the subject development application was made (lodged) on 27 March 2023, prior to the commencement of *WLEP 2012* – Amendment 34, on 30 June 2023, and not finally determined.

Nonetheless *WLEP 2012* – Amendment 34 as in draft when the subject application was lodged. A draft EPI requires consideration under s4.15 Environmental Planning & Assessment Act 1979.

The following is an assessment of those provisions:

<b>Draft WLEP 2012 controls</b>	<b>Control</b>	<b>Proposal</b>	<b>Comments on compliance</b>
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<i>WLEP 2012</i> zoning		R3 – Medium Density Residential	The proposal is permissible in the zone.
Cl 4.3 Height of Buildings	12m	12m	Complies
Cl 4.4 Floor Space Ratio * Note that <i>SEPP (Housing) 2021</i> increases the FSR standard to 1.4:1 via bonus for affordable housing	0.9:1	0.9:1	Complies
Cl 6.1 Acid Sulfate Soils	-	Class 5	Yes, the subject site is affected by Class 5 acid sulfate soils. The proposal is satisfactory.
Cl 6.2 Earthworks	-	Excavation for car parking level	Satisfied
Clause 6.10	Minimum 1,100m <sup>2</sup> for residential flat buildings	671.7m <sup>2</sup>	Do not Comply

### **Willoughby Development Control Plan (WDCP)**

A new Development Control Plan came into effect on 31 July 2023 (*Willoughby DCP 2023*). Council's approach is that this *DCP* has effect notwithstanding its commencement after the lodgement of the subject application. For the purposes of thoroughness and clarity in comparison between the old and new Development Control Plans, commentary is provided on both the old and new *DCP*.

For clarity, the earlier version of the *DCP* is referred to as *WDCP 2012*, and the recently commenced Plan as *WDCP 2023*.

### **Willoughby Development Control Plan (WDCP 2012) - Part C**

<b><i>WDCP controls (2012)</i></b>	<b>Proposal</b>	<b>Comments</b>
<u>C.3 Building Sustainability</u>	BASIX Certificate supplied	Complies
<u>C.4 Transport requirement for development</u>	<i>SEPP (Housing) 2021</i> prevails over the <i>DCP</i>	-
C.5 Water Management	Stormwater Management and disposal in accordance with the Technical Standards contained in the <i>WDCP</i>	Yes Complies subject to conditions
C.6 Access, Mobility	Functionality remains	Acceptable on merit –

<b>WDCP controls (2012)</b>	<b>Proposal</b>	<b>Comments</b>
and Adaptability	consistent with original approval.	see comments
C.8 Waste Management	Waste management has been properly considered and plan submitted	Satisfactory
C.9 Preservation of Trees or Vegetation	Arborist report provided	Satisfactory subject to conditions
C.11 Safety by Design	Methods are employed in order to increase surveillance, access and space management	Acceptable on merit – see comments
C.13 Contaminated Land	Contaminated land is remediated to be made suitable for the purpose of the development	Satisfactory subject to conditions

The following *DCP* parameters are tabled as follows:

	Proposed	Standard/ Control	Complies
<b>Willoughby Development Control Plan 2012</b>			
<b>Part D2 – Attached dwellings, Multi dwelling housing and residential flat dwellings</b>			
	Proposed	Control	Compliance
<b>D.2.4 Allotment Size/Frontages</b>	Proposal will not isolate any adjoining sites	<ul style="list-style-type: none"> <li>Development to avoid isolation of adjoining sites</li> <li>Minimum allotment size as per cl 6.10 (1,100m<sup>2</sup>)</li> </ul>	Yes
<b>D.2.5 Density &amp; Height</b>	12m	12m height limit	Yes
<b>D.2.7 Site coverage</b>	30.4% 204.7m <sup>2</sup>	4 storey development has a maximum site coverage of 25% of the site – 188.076m <sup>2</sup>	No
<b>D.2.8 Setbacks</b>			
<b>Front</b>	Front setback consistent with adjoining properties	Consistent with adjoining properties or 7.5m	Yes
<b>Side &amp; Rear</b>	3m-6m side setbacks	Side/Rear based on wall height: 3+ storeys: 3m at ground floor level + 1.2m per storey above ground floor = 6.6m Side setback: <ul style="list-style-type: none"> <li>Ground floor = 1.877m &amp; 2.25m (No)</li> <li>1st floor = 0.9m &amp; 2.25m (No)</li> <li>2nd floor = 0.9m &amp; 2.25m (No)</li> <li>3rd floor = 0.9m &amp; 2.25m (No)</li> </ul> Rear setback greater than 6m	Do not comply But ADG prevails
<b>D.2.9 Open Space</b>			
<b>Recreational Area</b>	891.3m <sup>2</sup> – 57.9%	3 storeys – 52% of site area	Yes
		80% of open space to be outdoor	Yes
<b>Communal Areas</b>	390.8m <sup>2</sup>	30m <sup>2</sup> of COS to be provided per dwelling with only a balcony = 300m <sup>2</sup>  Min area of 50m <sup>2</sup> with a min. dimension of 5m	Yes Note: Part 3D – Communal and public open spaces of the ADG prevails

		Should receive 3 hours of sunlight in midwinter between 9am-3pm	
<b>D.2.10 Landscape Area</b>	28.3% of the site has soft landscaping	35% of site to be soft landscaped area	No, but ADG prevails
	>50% of the recreational open space is landscaped	Recreational open space to be 50% of the soft landscape area	Yes
<b>D.2.12 Views and Vistas</b>	No detrimental impact on views	'View Sharing' is encouraged whilst not restricting the reasonable development potential of a site.	Yes
<b>D.2.13 Solar Access and Overshadowing</b>	2-3 hours solar access to adjoining property provided	The north facing windows of living areas and the principal portion of the recreational open space of adjoining residential buildings should have at least 3 hours of sunlight between 9am and 3pm on June 22.	No

### WDCP 2023

The following *DCP* parameters are tabled as follows:

	Proposed	Standard/ Control	Complies
<b>Willoughby Development Control Plan</b>			
<b>Part B – Residential Development</b>			
	Proposed	Control	Compliance
<b>4.3 Specific Controls for Residential Flat Buildings</b>			
<b>4.3.1 Site area and lot dimensions</b>	671.7m <sup>2</sup>	Cl 6.10 <i>WLEP</i> 1,100m <sup>2</sup>	No
<b>4.3.2 Street frontage</b>	13.13m	27m	No
<b>4.3.3 Adaptable housing, access, and mobility</b>	2 adaptable dwellings	33% of dwellings to be adaptable 33% x 4 = 1.32 (rounded up to 2 dwellings)	Yes
<b>4.3.4 Energy Efficiency</b>		Comply with Part J <i>DCP</i> 2023	

<b>4.3.5 Bicycle and car parking</b>		Comply with Part F <i>DCP</i> 2023	
<b>4.3.6 Water Management</b>		Comply with Part I <i>DCP</i> 2023	
<b>4.3.7 Urban heat</b>	> 15° roof pitch	For roof pitch >15°, 3-year SRI minimum of 34	Flat roof proposed
<b>4.3.8 Waste Management</b>	Waste management plan supplied	Must comply with the technical guide	Yes
<b>4.3.9 Safety by design</b>	Proposal to include safety and security measures to prevent criminal activity	Complies	Yes
<b>4.3.10 Utility structures</b>	To ensure adequate provision for utility structures s	Complies – letter from Ausgrid received, and condition applied requiring s73 Certificate	Yes
<b>4.3.11 Underground ing of services</b>	All services, including overhead electricity wires, are to be located underground for major development.	Complies	Yes
<b>4.4.1 Site coverage</b>	204.7m <sup>2</sup> – 30.4%	Maximum 28% of the site area for 4-storey building	Yes
<b>4.4.2 Building height</b>	12m	12m height limit	Complies
<b>4.4.3 Floor space ratio</b>	0.9:1	0.9:1	Complies
<b>4.4.4 Setbacks</b>	Front setback consistent with adjoining properties	Consistent with adjoining properties or 7.5m	Yes
	6.6m side setbacks		No but ADG prevails
<b>4.4.5 Open space</b>	190.1m <sup>2</sup> (28.3%) and 117m <sup>2</sup> (17.4%) deep soil	Minimum 35% soft landscaped area and deep soil zones	No but complies with ADG

			requirements and ADG prevails
<b>Part F – Transport and Parking Management</b> Proposal constitutes “major development pursuant to Part F (5). Located in the Artarmon Railway Precinct.			
	1 x motorcycle space provided	Motorcycle spaces: 1 space per 20 car parking spaces;	Yes
	1 bicycle parking provided	Bicycle parking 1 Class A or B parking spaces per 10 units 1 Class C (rails/racks) per 10 apartments for visitors- not required as less than 10 units	Yes
<b>Electric vehicle charging</b>	Requires 1 EV Not indicated on plans	b. All communal car parking areas within a new major residential development must make provision for: • A minimum 5A per phase electrical capacity must be provided per space e.g.: If there are 4-9 spaces per level, provide one dedicated 63A threephase EV charging switchboard per level.	No
<b>Accessible parking</b>	3 x accessible spaces PLUS 2 x LHA Gold spaces	Whichever is the greater:  a. Minimum 1 resident and 1 visitor space for developments comprising 10 or more units  b. 1 space/4 accessible or adaptable units + 1 visitor space for developments comprising 50 or more car parking spaces  Therefore 1 x resident and 1 x visitor space required	Yes

<b>Part G – Vegetation Management</b>			
	Arborist report supplied, some tree removal and retention, new [planting proposed	Objectives include. maintain and enhance the urban landscape	Do not comply
<b>Part I – Stormwater Management</b>			
	Stormwater scheme assessed as satisfactory subject to conditions	Objectives include provide a safe and effective framework for the control, reuse and disposal of stormwater	Do not comply
<b>Part J – Building Sustainability</b>			
	BASIX Certificate provided	BASIX Certificate required	Yes

### **Site Isolation**

The proposal will result in the isolation of No.40 Hampden Road which is currently located on the western side of the subject site. The affected property No.40 will not be able to meet the minimum lot size requirements for redevelopment. Karavellas v Sutherland Shire Council [2004] NSWLCE 251 is the relevant Land and Environment Court Principle for site isolation. At [17] it states the general questions to be answered when dealing with amalgamation of sites or when a site is to be isolated through redevelopment are: “Firstly, is amalgamation of the sites feasible? Secondly, can orderly and economic use and development of the separate sites be achieved if amalgamation is not feasible?” The principles to be applied in determining the answer to the first question are set down by Melissa Grech v Auburn Council [2004] NSWLCE 40 and asserts that where a property will be isolated by a proposed development and that property cannot satisfy the minimum lot requirements then negotiations between the owners should commence at an early stage and prior to the lodgement of the development application. If no satisfactory outcome can be received the development application should:

- Include details of the negotiations between the owners of the properties. These details should include offers to the owner of the isolated property. A reasonable offer, for the purposes of determining the development application and addressing the planning implications of an isolated lot, is to be based on at least one recent independent valuation and may include other reasonable expenses likely to be incurred by the owner of the isolated property in the sale of the property.

The proposal failed to adequately meet the minimum lot size for the development therefore resulting in the isolation of No.40 Hampden Road which is located on the south eastern side of the subject site. The affected property No. 40 will be left with a site area of 714.3m<sup>2</sup> and a



frontage of approximately 13m. Property No. 40 will not be able to meet the minimum lot size requirements for redevelopment.

Council is not satisfied that proper and considerable negotiations has taken place between the owner of the properties. The valuation report submitted was undertaken in 12 March 2021, which is almost 3 years old. The revaluation of the property is certainly required to reflect the current market.

Overall, Council is not satisfied that all reasonable measures were taken to prevent site isolation and whether an orderly and economic use and development of the separate sites can be achieved.

## ATTACHMENT 5 - SUBMISSIONS TABLE

On the basis of this definition Council has received **1 unique submission**. The submission is dealt with as follows:

Property	Issues raised	Response
Mr Libin Yang 38 Hampden Road, Artarmon	Apartment mix does not reflect the need of the community. Sites should be amalgamated and developed at the same time which will lift up the street appearance,	Assessing officer agrees that the development is not consistent with the current and/or future desired character of the area. Whilst the development is consistent with the FSR and height, the development pushes Council controls to non-compliance with justification provided. As shown in the assessment report, the breaches in these controls creates a development not within the character of the area and show the design as overdevelopment, particularly with regards to building separation, privacy, solar access to communal open space, landscaping, vehicular access. The application is recommended for refusal.

**ATTACHMENT 6: APPLICANT'S CLAUSE 4.6 SUBMISSION – MINIMUM LOT SIZE**

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*42 Hampden Road, Artarmon*

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**STATEMENT OF ENVIRONMENTAL EFFECTS**

- i) Demolition of the existing 2 storey strata titled residential flat building and associated structures
- ii) Construction of a new 4 storey residential flat building comprising 4 apartment units and 7 basement car park spaces and associated driveway and landscaping

**Address: 42 Hampden Road, Artarmon**

December 2022



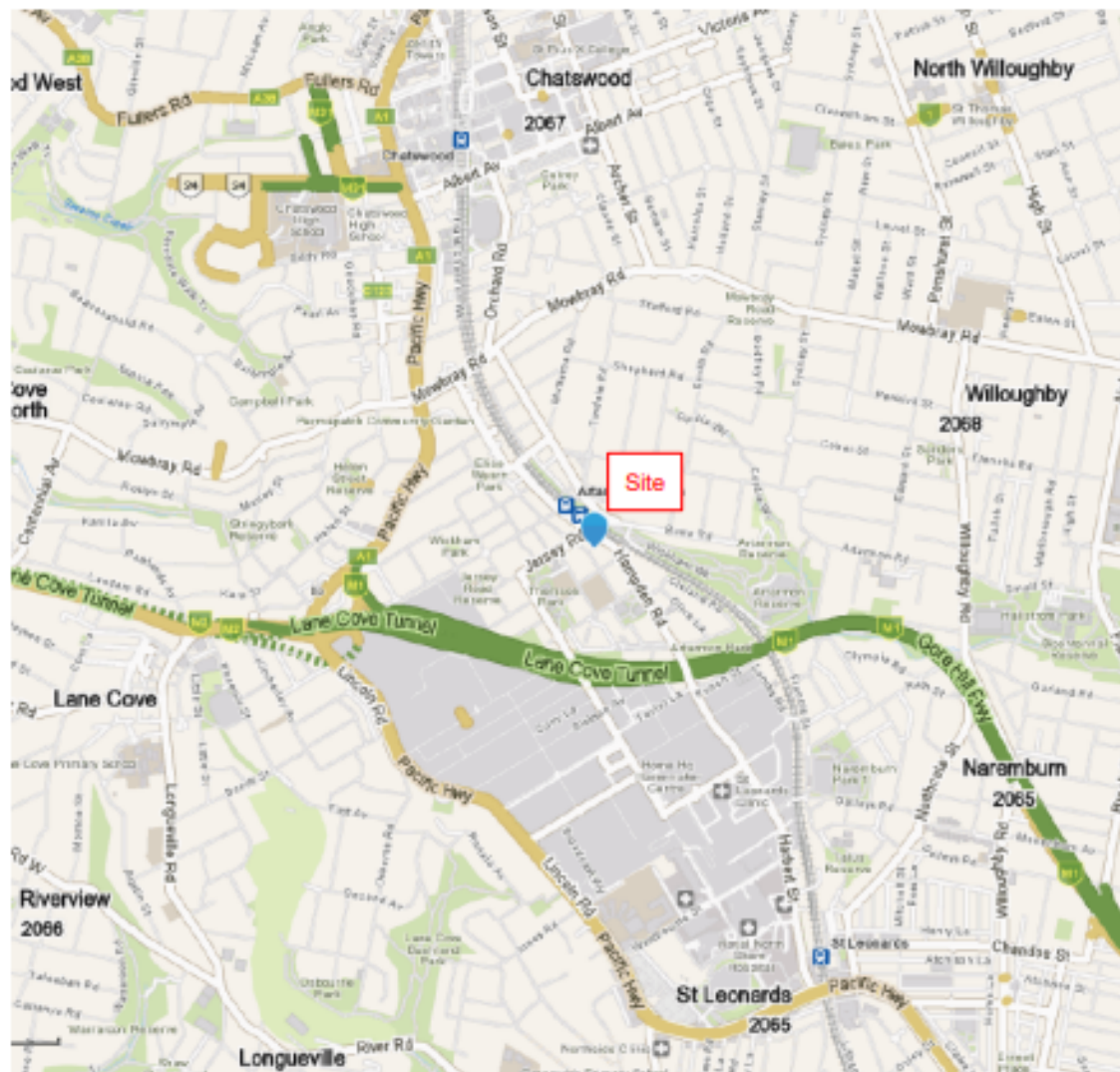
**James Kim**  
Bachelor & Grad Dip U&RP  
PO Box 3046, Putney NSW 2112

42 Hampden Road, Artarmon

## 1. THE SITE

### 1.1 Site location and context

The subject site is located on the western side of North Shore Railway line near Artarmon Station. The site location and context are illustrated in the 'Whereis' Map below.



[Map 1] The locality Map: Courtesy of 'Whereis' Map

The site is located:

- 170m from Artarmon Railway Station
- 2Km south of Chatswood CBD
- 4.2Km north of North Sydney CBD
- 9Km north of Sydney CBD

## 1.2 Site Description

The site is legally described as SP 16523 and is known as No.42 Hampden Road, Artarmon. The site is trapezoidal in shape and has an area of 671.7m<sup>2</sup>. The site has dual frontage of 14.085m to Hampden Road on the north-west and 13.13m to Hampden Lane on the south-east. The site has an average width of 12.26m and depth of 54.67m approximately.



[Figure 1] Aerial photograph of the locality (Source: SIX Map)



The site shows very gentle slope of approximately 1.3m from the front boundary (AHD 78.92) to the rear car parking area (AHD 80.28). Then the ground levels slope up steeply more than 5m to the rear boundary (i.e. from AHD 80.18 at the retaining wall to AHD 85.37 at the rear boundary) which prohibits the rear lane vehicle access. This steeply sloping area contains heavy vegetation.

### 1.3 Existing improvements

The site currently contains a two storey Strata titled residential flat building containing 4 apartment units. Two units are provided on each floor. Open hard stand car parking area is provided behind the building which is accessible along the south-eastern boundary.

The subject property is illustrated in the photographs below:



*[Photo 1] street view of the subject site*

*42 Hampden Road, Artarmon*

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*[Photo 2] Rear view of the subject site*



*[Photo 3] Car spaces and landscaped area behind retaining wall*



*42 Hampden Road, Artarmon*

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*[Photo 4] The subject site viewed from Hampden Lane (Vehicle access not available)*



## 2. THE SURROUNDING AREA

The site is less than 200m from Artarmon Railway Station on the north-west. The subject site is zoned R3 (Medium Density Residential) but is bordered by B2 (Local Centre) on the north-west.

Therefore, the surrounding area on the north-west is characterised by conventional 2 storey commercial buildings except for No.44 Hampden Road (i.e. 4 storey modern design commercial building) and 64 Hampden Street (i.e. single storey post office) on the corner of Hampden and Jersey Road.

On the other hand, the surrounding area on the south-east is characterised by 2 to 4 storey residential flat buildings in various scales and designs.



*[Photo 5] Streetscape view northwest of Jersey Road – conventional 2 storey attached commercial buildings*

### 2.1 No.44 Hampden Road (North-west)

The adjoining property to the north-west is a four-storey commercial building on the corner of Hampden Road and Jersey Road.

*42 Hampden Road, Artarmon*

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*[Photo 6] No.44 Hampden Road viewed from the corner*



*[Photo 7] No.44 Hampden Road viewed from the rear of the subject site*



*42 Hampden Road, Artarmon*

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## **2.2 No.40 Hampden Road (South-east)**



*[Photo 8] No.40 Hampden Road*



*[Photo 9] No.40 Hampden Road viewed from the rear of the subject site*

42 Hampden Road, Artarmon

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## 2.3 Other RFBs in the vicinity



*[Photo 10] Recent RFB development in vicinity*



*[Photo 11] Recent RFB development in vicinity*



### **3. THE PROPOSED DEVELOPMENT**

The development proposes the following:

- Demolition of the existing two storey residential flat building containing 4 units and associated structures.
- Removal of existing vegetation and excavation of the sites
- Construction of a 4 storey residential flat building comprising 4 apartment units (all 3 bedroom units)
- Construction of single level basement car parking for 7 vehicles including 2 disabled spaces
- Construction of a new driveway and cross over
- Associated landscaping and stormwater works

#### **Demolition**

The proposal seeks demolition of all existing structures including the residential flat building, brick fencing, concrete driveways and car park, retaining walls in the rear yard and street crossover.

#### **Removal of trees and vegetation**

The site contains heavy vegetation at the rear behind the retaining walls including weed species and insignificant small trees which are all proposed for removal.

#### **Land forming & excavation works**

The proposed development involves excavation up to 3.8m in depth for the basement construction to accommodate the car parking spaces. The excavation will be set back approximately 200mm from either side boundary and minimum 7m from the rear boundary.

#### **Building works**

The proposed building works consist of erection of a 4 storey residential flat building accommodating 4 apartment units above single level basement car park for 7 vehicles including 2 spaces for people with disability, 1 bicycle parking space, 1 motor bike space, storages, garbage bin area, pump room, communication room, etc.

The unit breakdown is as follows:

- Ground floor – 1 x 3 bedroom unit (Adaptable unit)
- First floor – 1 x 3 bedroom unit (Adaptable unit)
- Second floor – 1 x 3 bedroom unit (Livable unit)
- Third floor – 1 x 3 bedroom unit

All units are provided with private balconies orientation on the north towards the street frontage.

### **Parking & Access**

Vehicular access is provided via a common driveway from Hampden Road running along the south-eastern side boundary. The proposed driveway is 3.6m in width including 300mm wide kerb on either side to comply with AS 2890.1 except for the passing bay in the front to ensure safety of incoming vehicles.

A total of 7 car spaces will be provided. Two of the car spaces are for people with a disability which are located next to the shared zones in accordance with AS2890.6. A lift is proposed to provide a continuous path of travel from the car park to the nominated adaptable units (i.e. Units 1 to 2) for people with a disability and other units.

### **Stormwater management facility**

Stormwater management plans have been prepared by a suitably qualified and experienced engineer which is attached in the DA package for Council consideration. Downpipes will direct runoff from roofs and hard paved surfaces to the underground detention tank located under the driveway. All new stormwater can drain to the street drainage system by gravity.

Also, erosion and sediment control measures will be implemented to prevent water pollution during construction which is detailed in the attached erosion and sediment control plan.

### **Services**

The site is currently provided with all the services including electricity, telecommunication, sewer and water. These services will need to be upgraded to suit the proposed residential flat building.

## **4. STATUTORY PROVISIONS**

### **4.1 Environmental Planning and Assessment Act 1979**

#### **4.1.1 Section 1.3 – Objectives**

The EP&A Act is the principal planning and development legislation in New South Wales and is applicable to the proposed development. In accordance with Part 1 Section 1.3, the relevant objects of the EP&A Act, as amended, are:

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) to promote the orderly and economic use and development of land,*
- (d) to promote the delivery and maintenance of affordable housing,*
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) to promote good design and amenity of the built environment,*
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) to provide increased opportunity for community participation in environmental planning and assessment.*

**Comment:** It is considered that the proposed development is consistent with the objects of the Act in the following ways:

- (a) The proposed development will promote social and economic welfare and a better built environment by appropriate development of the valuable land located very close to a railway

station other properties cannot benefit.

- (b) The proposed development will facilitate ecologically sustainable development. The Commonwealth Government suggested the following definition for ESD in Australia: *'using, conserving and enhancing the community's resources so that ecological processes, on which life depends, are maintained, and the total quality of life, now and in the future, can be increased'*. By allowing the proposed development, it will promote one of the last remaining and isolated allotment to accommodate a new residential flat building that will contribute to the housing need of the local community.
- (c) The proposed development will promote the orderly and economic use and development of land having regard to the existing built environment in the vicinity.
- (d) The proposed development will promote the housing diversity including 2 designated adaptable units in very convenient and accessible location.
- (e) N/A
- (f) N/A
- (g) The proposed development will promote high quality built environment than that of the existing building on the subject site.
- (h) The proposed development will promote proper construction and maintenance of buildings, including the protection of the health and safety of their future occupants and patrons.

#### **4.1.2 Section 4.15 – Matters for consideration**

This section is discussed in detail under '5 Consideration under S4.15 of the EP&A Act' below in this report.

## **4.2 SEPP (Resilience and Hazards) 2021**

Chapter 4 of SEPP (Resilience and Hazards) 2021 require consent authority to consider the potential for a site to be contaminated. Clause 4.6 requires that:

### **4.6 Contamination and remediation to be considered in determining development application**

- (1) A consent authority must not consent to the carrying out of any development on land unless—
  - (a) it has considered whether the land is contaminated, and
  - (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be



carried out, and

(c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.

(2) Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subsection (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.

(3) The applicant for development consent must carry out the investigation required by subsection (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.

(4) The land concerned is—

(a) land that is within an investigation area,

(b) land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,

(c) to the extent to which it is proposed to carry out development on it for residential, educational, recreational or child care purposes, or for the purposes of a hospital—land—

i) in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and

ii) on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge)."

**Comment:** The property has been used as a two storey residential flat building so far. The site is not identified in Council's records as being contaminated or is declared to be an investigation area under Division 2, Part 3 of the Contaminated Land Management Act 1997 in the Section 10.7 (Previously 149) Planning Certificate. Also, the site is not known to have a history of a previous land use that may have caused contamination under Table 1 'Some Activities that may cause Contamination' of Contaminated Land Planning Guidelines.

As such, the site is unlikely to be contaminated and consequently a preliminary contamination

assessment is not warranted. The proposal is satisfactory having regard to the relevant matters for consideration under SEPP (Resilience and Hazards) 2021 and the site is suitable for residential use to continue without the need for remediation works.

#### **4.3 SEPP (BASIX) 2004**

A valid BASIX certificate is provided in compliance with the SEPP. The proposed development will meet the water & energy targets.

#### **4.4 SEPP (Biodiversity and Conservation) 2021**

Chapter 10 of SEPP (Biodiversity and Conservation) 2021 require consent authority to consider the potential impact of development on the Sydney Harbour Catchment.

The site is within the Sydney Harbour catchment area. However, the proposed development is not likely to have undue impact on the catchment in terms of water quality and quantity and protection of watercourses, wetlands, riparian lands, remnant vegetation and ecological connectivity.

The site is not located adjacent to foreshore or a watercourse. Appropriate sediment control measures during the construction phase and adequate stormwater drainage system including OSD should be able to control stormwater run-off on site and to minimise impact on the catchment.

#### **4.5 SEPP (Affordable Rental Housing) 2009 – Repealed on 25 November 2021**

##### **Part 3 Retention of existing affordable rental housing**

###### *49 Buildings to which Part applies*

- (1) *This Part applies to a low-rental residential building on land within the following areas—*
  - (a) *the Greater Sydney region,*
  - (b) *the local government area of Newcastle,*
  - (c) *the local government area of Wollongong.*
- (2) *This Part does not apply to a building—*
  - (a) ***that has been approved for subdivision under the Strata Schemes (Freehold Development) Act 1973, or***
  - (b) *to which State Environmental Planning Policy (Housing for Seniors or People with a*

*Disability) 2004 applies, or*

*(c) owned by, or under the care, control and management of, a social housing provider.*

**Comment:** The subject building is Strata title subdivided (i.e. SP 16523) already under the previous Strata Schemes (Freehold Development) Act 1973. So, the above SEPP does not apply.

## 4.5 SEPP (Housing) 2021

### Part 3 Retention of existing affordable rental housing

#### 46 Buildings to which Part applies

(1) *This Part applies to a low-rental residential building on land within the following areas—*

- (a) the Greater Sydney region,*
- (b) the local government area of Newcastle,*
- (c) the local government area of Wollongong.*

(2) *This Part does not apply to a building—*

- (a) approved for subdivision under the Strata Schemes Development Act 2015, or*
- (b) for which development consent has been granted under Chapter 3, Part 5, or*
- (c) owned by, or under the care, control and management of, a social housing provider.*

**Comment:** Although, the subject Strata title subdivided (i.e. SP 16523) building may predate the Strata Schemes Development Act 2015, it was already subdivided under the previous Strata Schemes (Freehold Development) Act 1973. So, the above SEPP should not apply.

## 4.6 State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development

### 4.6.1 Application and Objectives

As the proposed development involves the construction of a residential flat building greater than three (3) storeys in height and four (4) or more dwellings, the provisions of SEPP No. 65 – Design Quality of Residential Apartment Development (SEPP 65) apply.

The aims and objectives of SEPP 65 are quoted 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,

and

(b) to achieve better built form and aesthetics of buildings and of the streetscapes and the public spaces they define, and

(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, and

(d) to maximise amenity, safety and security for the benefit of its occupants and the wider community, and

(e) to minimise the consumption of energy from non-renewable resources, to conserve the environment and to reduce greenhouse gas emissions, and

(f) to contribute to the provision of a variety of dwelling types to meet population growth, and

(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.

#### 4.6.2 Application of design principles

Clause 28(2) of SEPP 65 stipulates that in determining a development application for consent to carry out residential flat building development, a consent authority is to take into consideration (in addition to any other matters that are required to be taken into consideration):

(a) the advice (if any) obtained (from the design review panel), and

- (b) the design quality of the development when evaluated in accordance with the design quality principles; and
- (c) the Apartment Design Guide.

Clause 30 (2) provides that:

Development consent must not be granted if, in the opinion of the consent authority, the development or the modification does not demonstrate that adequate regard has been given to:

- (a) the design quality principles, and
- (b) the objectives specified in the Apartment Design Guide for the relevant design criteria.

#### 4.6.3 Non-discretionary development standards

Clause 30(1) provides several non-discretionary development standards as below:

##### **30 Standards that cannot be used as grounds to refuse development consent or modification of development consent**

(1) If an application for the modification of a development consent or a development application for the carrying out of development to which this Policy applies satisfies the following design criteria, the consent authority must not refuse the application because of those matters:

- (a) if the car parking for the building will be equal to, or greater than, the recommended minimum amount of car parking specified in Part 3J of the Apartment Design Guide,
- (b) if the internal area for each apartment will be equal to, or greater than, the recommended minimum internal area for the relevant apartment type specified in Part 4D of the Apartment Design Guide,
- (c) if the ceiling heights for the building will be equal to, or greater than, the recommended minimum ceiling heights specified in Part 4C of the Apartment Design Guide.

**Comment:** The development:

- (a) requires 6.8 car spaces and provides 7 car spaces in compliance
- (b) complies with the internal areas of apartments

(c) complies with ceiling heights

#### 4.6.4 Design statement

A Design Statement by Steve Wu, Registered Architect (Registration No.7099), prepared in accordance with Clause 50 (1AB) of Environmental Planning and Assessment Regulation 2000 is submitted with the application. The statement demonstrates that the design of the development achieves the Design Quality Principles set out in Schedule 1 of SEPP 65 and the Objectives of Parts 3 and 4 of the Apartment Design Guide which forms part of the DA package.

#### 4.6.5 The Apartment Design Guide

The Apartment Design Guide is a guideline which, pursuant to Clause 28(2) of SEPP 65, needs to be taken into consideration in assessment of applications for residential apartment developments. While it is not a development control plan made under Division 6 of the Environmental Planning and Assessment Act 1979 it has similar status being a discretionary planning document.

Although this document is a guide, SEPP 65 refers to some parts of the Apartment Design Guide that must be applied when assessing development applications. Objectives, design criteria and design guidance in Parts 3 and 4 of this Apartment Design Guide that are referred to in SEPP 65 will prevail over any inconsistent DCP controls.

This Apartment Design Guide provides greater detail on how residential development proposals can meet these principles through good design and planning practice. Parts 3 and 4 of the Apartment Design Guide provide objectives, design criteria and design guidance for the siting, design and amenity of apartment development. Each topic area is structured to provide the user with:

1. A **description** of the topic and an explanation of its role and importance
2. **Objectives** that describe the desired design outcomes
3. **Design criteria** that provide the measurable requirements for how an objective can be achieved.
4. **Design guidance** that provides advice on how the objectives and design criteria can be achieved through appropriate design responses, or in cases where design criteria cannot be met.

With exception of standards referred to in Clause 30 of SEPP 65, the Design Criteria are

discretionary and may be applied with degree of flexibility, similar to controls contained in development control plans. Ideally the development needs to meet the design criteria of all relevant design elements of the Apartment Design Guide. If it is not possible to meet all particular design criteria, the application should demonstrate how the objective(s) is achieved through alternative design responses.

The key to working with Parts 3 and 4 is that a development needs to demonstrate how it meets the objective(s) and design criteria. The design criteria set a clear measurable benchmark for how the objective(s) can be practically achieved. If it is not possible to satisfy the design criteria, applications must demonstrate what other design responses are used to achieve the objective(s) and the design guidance can be used to assist.

Not all sections within Parts 3 and 4 specify design criteria. In these instances, the design guidance should be referred to when demonstrating how an objective is being achieved.

SEPP 65 sets out certain matters in Parts 3 and 4 that apply in place of development control plans. This removes uncertainty when there are conflicting provisions for these matters in development control plans.

The following section provides assessment of the proposed development against the objectives, design criteria and design guidance of Part 3 – Siting of Development and Part 4 – Designing the Building.

## The Apartment Design Guide

### Part 3 – Siting of development

#### 3A Site analysis

Objectives/Design Criteria/Design Guidance	Design Response	Compliance
<b>Objective 3A-1</b>		
Site analysis illustrates that design decisions have been based on opportunities and constraints of the site conditions and their relationship to the surrounding context.	Site analysis encompasses site location plan, local and site context plan, and survey plan  This SEE provides descriptive, aerial	Yes



42 Hampden Road, Artarmon

	and photographic analysis of the site and its context in Section 2.  Also, the SEPP 65 Design Verification Statement provides an explanation as to how the design of the RFB has responded to the site analysis.	
<b>Design guidance</b>		
Each element in the Site Analysis Checklist should be addressed (see Appendix 1).	Each element in the Site Analysis Checklist has been addressed through the site analysis plan and in the Statement of Environmental Effects (Appendix 1 of the Apartment Design Guide)	Yes

**3B Orientation**

Objectives/Design Criteria/Design Guidance	Design Response	Compliance
<b>Objective 3B-1</b>		
Building types and layouts respond to the streetscape and site while optimising solar access within the development.		Yes
<b>Design guidance</b>		
Buildings along the street frontage define the street, by facing it and incorporating direct access from the street (see figure 3B.1).  Where the street frontage is to the east or west, rear buildings should be orientated to the north.  Where the street frontage is to the north or south, overshadowing to the south should be minimised and buildings behind the street frontage should be orientated to the east and west (see figure 3B.2).	Only one building is proposed on site which can only be orientated as proposed due to the site configuration and dimensions.	Yes
<b>Objective 3B-2</b>		
Overshadowing of neighbouring properties is		Yes



42 Hampden Road, Artarmon

minimised during mid winter.		
<b>Design guidance</b>		
<p>Living areas, private open space and communal open space should receive solar access in accordance with sections 3D – Communal and public open space and 4A – Solar and daylight access.</p> <p>Solar access to living rooms, balconies and private open spaces of neighbours should be considered.</p> <p>Where an adjoining property does not currently receive the required hours of solar access, the proposed building ensures solar access to neighbouring properties is not reduced by more than 20%.</p> <p>If the proposal will significantly reduce the solar access of neighbours, building separation should be increased beyond minimums contained in section 3F Visual privacy.</p> <p>Overshadowing should be minimised to the south or down hill by increased upper level setbacks.</p> <p>It is optimal to orientate buildings at 90 degrees to the boundary with neighbouring properties to minimise overshadowing and privacy impacts, particularly where minimum setbacks are used and where buildings are higher than the adjoining development.</p> <p>A minimum of 4 hours of solar access should be retained to solar collectors on neighbouring buildings.</p>	<p>Hourly shadow diagrams &amp; sun eye diagrams are provided for consideration. In summary: (i) The living rooms and POSs of all units will achieve greater than 3 hours of direct solar access at winter solstice; (ii) The development is set back well behind the building line of the adjoining RBF at No.40 Hampden so that all 4 existing living room windows can receive at least 3 hours of direct solar access at winter solstice. – Refer to further discussion below</p> <p>No solar collector on the south side neighbour is at present.</p>	<p>Yes</p> <p>N/A</p>
<b>Solar access &amp; shadow impact</b>		

Having regard to the submitted shadow diagrams and sun eye diagrams, the following analysis has been made in support of the development:

- All the proposed 4 units are orientated north and can achieve at least 2 hours of solar access to their individual POS and living room in mid-winter.
- The development is set back well behind the building line of the adjoining RFB at No.40 Hampden so that all 4 existing living room windows can receive at least 3 hours of direct solar access at winter solstice which has been tabled in Drawing DA-43.
- The proposed second and third floors are deliberately stepped back further from the front so as to facilitate solar access to the neighbouring RFB.

### 3C Public domain interface

Objectives/Design Criteria/Design Guidance	Design Response	Compliance
<b>Objective 3C-1</b>		
Transition between private and public domain is achieved without compromising safety and security.		
<b>Design guidance</b>		
Terraces, balconies and courtyard apartments should have direct street entry, where appropriate.	Only one unit on each level. No courtyard apartment proposed in this case	N/A
Changes in level between private terraces, front gardens and dwelling entries above the street level provide surveillance and improve visual privacy for ground level dwellings (see figure 3C.1).	Passive surveillance is available from the balcony and living room of each unit. Also, visual privacy to the ground floor unit will be achieved through landscaping screening in the planter along the front	Yes
Upper level balconies and windows should overlook the public domain.	The upper level balconies and windows overlook the public domains	Yes
Front fences and walls along street frontages should use visually permeable materials and treatments. The height of solid fences or walls should be limited	1.8m behind the hydrant booster – Otherwise no front fencing proposed	No – variation sought

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to 1m.		
Length of solid walls should be limited along street frontages.	The front wall width will be 6.26m only with large glazed sliding doors to the balconies	Yes
Opportunities should be provided for casual interaction between residents and the public domain. Design solutions may include seating at building entries, near letter boxes and in private courtyards adjacent to streets.	COS is provided in the front	Yes
In developments with multiple buildings and/or entries, pedestrian entries and spaces associated with individual buildings/entries should be differentiated to improve legibility for residents.	The proposal is for a small scale residential flat building only	N/A
Opportunities for people to be concealed should be minimised.	The design provides windows and glazed doors in all directions for excellent passive surveillance throughout the site & does not provide opportunities for people to be concealed	Yes
<b>Objective 3C-2</b>		
Amenity of the public domain is retained and enhanced.		
<b>Design guidance</b>		
Planting softens the edges of any raised terraces to the street, for example above sub-basement car parking.	Appropriate landscape planting is proposed within the front setback area to soften the basement car parking.	Yes
Mail boxes should be located in lobbies, perpendicular to the street alignment or integrated into front fences where individual street entries are provided.	The mail box is located along one side of the pedestrian entry, perpendicular to the street.	Yes
The visual prominence of underground car park	The underground car park vent will not	Yes

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vents should be minimised and located at a low level where possible.	be visible in the front.	
Substations, pump rooms, garbage storage areas and other service requirements should be located in basement car parks or out of view.	All the service facilities are located in the basement car park area.	Yes
Ramping for accessibility should be minimised by building entry location and setting ground floor levels in relation to footpath levels.	The pedestrian walkway to the central entry lobby is ramping up gently in response to the slope of the land whilst enabling access for people with a disability.	Yes
Durable, graffiti resistant and easily cleanable materials should be used.	Generally, durable, graffiti resistant and easily cleanable materials are used	Yes
Where development adjoins public parks, open space or bushland, the design positively addresses this interface.	N/A	N/A
On sloping sites protrusion of car parking above ground level should be minimised by using split levels to step underground car parking.	The protrusion of the car parking above the natural ground level is minimal	Yes
<b>Objective 3D-1</b>		
An adequate area of communal open space is provided to enhance residential amenity and to provide opportunities for landscaping.		
<b>Design criteria</b>		
Communal open space has a minimum area equal to 25% of the site (see figure 3D.3).	COSs are provided in the front & rear setback areas (25.7%)	Yes
Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid winter).	Shadow diagrams & sun eye diagrams are provided for consideration. In summary: <ul style="list-style-type: none"> <li>Part of the rear COS will receive 2 hours of direct solar access between</li> </ul>	Yes

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	<p>10am and 12pm at winter solstice.</p> <ul style="list-style-type: none"> <li>The front COS will receive unrestricted solar access between 9am and 3pm at winter solstice.</li> </ul>	
<b>Design guidance</b>		
Communal open space should be consolidated into a well designed, easily identified and usable area.	The COS is predominantly located within the rear setback area which is consolidated into a well-designed, easily identified and usable area	Yes
Communal open space should have a minimum dimension of 3m, and larger developments should consider greater dimensions.	Greater than 3 metres in dimensions	Yes
Communal open space should be co-located with deep soil areas.	The COS is co-located with deep soil areas	Yes
Direct, equitable access should be provided to communal open space areas from common circulation areas, entries and lobbies.	An accessible path of travel for people with a disability is provided to the COS from the entry and lobby.	Yes
Where communal open space cannot be provided at ground level, it should be provided on a podium or roof.	N/A	
Where developments are unable to achieve the design criteria, such as on small lots, sites within business zones, or in a dense urban area, they should: provide communal spaces elsewhere such as a landscaped roof top terrace or a common room; provide larger balconies or increased private open space for apartments; demonstrate good proximity to public open space and facilities and/or provide contributions to public open space.	N/A	
<b>Objective 3D-2</b>		
Communal open space is designed to allow for a		



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range of activities, respond to site conditions and be attractive and inviting.		
<b>Design guidance</b>		
Facilities are provided within communal open spaces and common spaces for a range of age groups (see also 4F Common circulation and spaces), incorporating some of the following elements: seating for individuals or groups; barbecue areas; play equipment or play areas; swimming pools, gyms, tennis courts or common rooms.	A sitting bench is provided in the front COS area. Other facilities are not considered necessary as the subject RFB is so small in scale which contains only 4 units.	Yes
The location of facilities responds to microclimate and site conditions with access to sun in winter, shade in summer and shelter from strong winds and down drafts.	The proposed design responses well to the site conditions including the slope and orientation of the land.	Yes
Visual impacts of services should be minimised, including location of ventilation duct outlets from basement car parks, electrical substations and detention tanks.	All services will be in the basement or visually concealed by landscaping and other means from the public domains.	Yes
<b>Objective 3D-3</b>		
Communal open space is designed to maximise safety.		
<b>Design guidance</b>		
Communal open space and the public domain should be readily visible from habitable rooms and private open space areas while maintaining visual privacy.	The COSs in the front and at the rear are readily visible from habitable rooms and POS areas of the upper level units while maintaining a reasonable visual privacy.	Yes
Communal open space should be well lit.	Communal open space will be well lit. Details will be provided upon CC.	Yes
Where communal open space/facilities are provided for children and young people they are safe and contained.		N/A

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<b>Objective 3D-4</b>		
Public open space, where provided, is responsive to the existing pattern and uses of the neighbourhood.	No public open space is provided.	N/A
<b>Design guidance</b>		
<p>The public open space should be well connected with public streets along at least one edge.</p> <p>The public open space should be connected with nearby parks and other landscape elements.</p> <p>Public open space should be linked through view lines, pedestrian desire paths, termination points and the wider street grid.</p> <p>Solar access should be provided year round along with protection from strong winds.</p> <p>Opportunities for a range of recreational activities should be provided for people of all ages.</p> <p>A positive address and active frontages should be provided adjacent to public open space</p> <p>Boundaries should be clearly defined between public open space and private areas</p>		N/A

**3E Deep soil zones**

Objectives/Design Criteria/Design Guidance	Design Response	Compliance
<b>Objective 3E-1</b>		
Deep soil zones provide areas on the site that allow for and support healthy plant and tree growth. They improve residential amenity and promote management of water and air quality.		
<b>Design criteria</b>		
Deep soil zones are to meet the following minimum		

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requirements:				
Site area	Min dimensions	Deep soil zone (% of site area)	17.42% or 117m <sup>2</sup> of deep soil zone is provided with minimum dimensions of 3m.	Yes
less than 650m <sup>2</sup> : 0m	-	7%		
650m <sup>2</sup> - 1,500m <sup>2</sup> : 3m	3m			
greater than 1,500m <sup>2</sup> : 6m	6m			
greater than 1,500m <sup>2</sup> with significant existing tree cover : 6m	6m			
Design guidance				
<p>On some sites it may be possible to provide larger deep soil zones, depending on the site area and context:</p> <ul style="list-style-type: none"><li>10% of the site as deep soil on sites with an area of 650m<sup>2</sup> - 1,500m<sup>2</sup></li><li>15% of the site as deep soil on sites greater than 1,500m<sup>2</sup></li></ul> <p>Deep soil zones should be located to retain existing significant trees and to allow for the development of healthy root systems, providing anchorage and stability for mature trees.</p> <p>Achieving the design criteria may not be possible on some sites where the location and building typology have limited or no space for deep soil at ground level (e.g. central business district, constrained sites, high density areas, or in centres);</p>			Greater than 10%	Yes
			<p>The subject site is overgrown with vegetation in the rear but does not contain significant indigenous trees.</p> <p>New trees will be proposed to enhance the residential amenity of the development.</p>	Yes

### 3F Visual privacy



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Objectives/Design Criteria/Design Guidance			Design Response	Compliance
Objective 3F-1				
Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy.				
Design criteria				
1. Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:			It is not practically possible to provide complying separation distances from the proposed building to the side setbacks due to the site's narrow and small dimensions (i.e. 12.29m in width). Strict numerical compliance would sterilise any reasonable development opportunity of the site.	No – Refer discussion below
Building height	Habitable rooms & balconies	Non-habitable rooms	<ul style="list-style-type: none"><li>Rear lane boundary: greater than 6m (Yes)</li></ul>	Yes
Up to 12m (4 storeys)	6m	3m	<ul style="list-style-type: none"><li>Northwest side boundary: 0.9m, 1.877m &amp; 3m (No)</li></ul>	No – Refer discussion below
Up to 25m (5-8 storeys)	9m	4.5m	<ul style="list-style-type: none"><li>Southeast side boundary: 2.25m, 3m &amp; 4m (No)</li></ul>	
Over 25m (9+ storeys)	12m	6m		
Side setback & visual privacy				
The following justifications are provided in support of the development regarding visual privacy, despite the non-compliance with the side setbacks:				
<ul style="list-style-type: none"><li>The development proposes high sill windows (i.e. 1.5m above the FFL) to the living rooms and privacy louvres on the bedroom windows on the south-east elevation to minimise visual privacy impact on No.40 Hampden Road.</li><li>The development proposes privacy louvres on all habitable room windows on the north-west elevation to prevent direct overlooking between the subject site and the neighbouring commercial building at No.44 Hampden Road.</li></ul>				

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<ul style="list-style-type: none"> <li>All the balconies and large living room windows are orientated either to the front or rear so as to minimise privacy impact and maximise solar access.</li> <li>Strict compliance requiring for the proposed RFB to be set back minimum 6m from the side boundaries would sterilise the reasonable redevelopment opportunity of the site which is considered unreasonable and unnecessary in this case.</li> </ul>		
<b>Design guidance</b>		
Generally one step in the built form as the height increases due to building separations is desirable. Additional steps should be careful not to cause a 'ziggurat' appearance.	Level 2 and 3 are stepped back further from the front boundary to reduce the visual bulk in the streetscape.	Yes
New development should be located and oriented to maximise visual privacy between buildings on site and for neighbouring buildings.	The proposed building is orientated appropriately to the street and provides lesser setbacks to the commercial neighbour on the north-west and greater setbacks to the neighbouring RFB to the south-east to maintain a reasonable level of visual privacy between the residential buildings.	Yes
Apartment buildings should have an increased separation distance of 3m (in addition to the requirements set out in design criteria 1) when adjacent to a different zone that permits lower density residential development to provide for a transition in scale and increased landscaping (figure 3F.5).	The subject site is surrounded by B2 (Local Centre) on the north-west which permits higher density & R3 (Medium Density Residential) on the south-east	N/A
Direct lines of sight should be avoided for windows and balconies across corners.	The large glazed doors to the balconies are orientated either to the front and rear facing the public streets to avoid direct line of sight.	Yes
No separation is required between blank walls.		N/A
<b>Objective 3F-2</b>		
Site and building design elements increase privacy without compromising access to light and air and		

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balance outlook and views from habitable rooms and private open space.		
<b>Design guidance</b>		
Communal open space, common areas and access paths should be separated from private open space and windows to apartments, particularly habitable room windows.	The communal open space is separated from private open space and windows to habitable rooms	Yes
Bedrooms, living spaces and other habitable rooms should be separated from gallery access and other open circulation space by the apartment's service areas.	No gallery access is provided & one unit on each level only.	Yes
Balconies and private terraces should be located in front of living rooms to increase internal privacy.	All the balconies are located in front of living rooms.	Yes
Windows should be offset from the windows of adjacent buildings.	No.44 Hampden Road is a 4 storey commercial building. Regarding No.40 Hampden Road, all new bedroom windows are offset and the living room windows on the south-east will be provided with privacy louvres and screens to protect the privacy.	Yes
Recessed balconies and/or vertical fins should be used between adjacent balconies.	All balconies are proposed either in the front or at rear which do not adjoin each other at all with the neighbouring building.	Yes

**3G Pedestrian access and entries**

Objectives/Design Criteria/Design Guidance	Design Response	Compliance
<b>Objective 3G-1</b>		
Building entries and pedestrian access connects to and addresses the public domain.		Yes
<b>Design guidance</b>		

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Multiple entries (including communal building entries and individual ground floor entries) should be provided to activate the street edge.	This clause relates more to a larger project. The proposed building contains only one ground floor apartment unit fronting Hampden Road. A separate individual entry to Unit 1 is not considered appropriate in this case.	N/A
Entry locations relate to the street and subdivision pattern and the existing pedestrian network.	The proposed entry path to the apartment units is considered most appropriate having regard to the site opportunities and constraints.	Yes
Building entries should be clearly identifiable and communal entries should be clearly distinguishable from private entries.	The proposed entry arrangement is considered most appropriate for the site.	Yes
Where street frontage is limited and multiple buildings are located on the site, a primary street address should be provided with clear sight lines and pathways to secondary building entries.		N/A
<b>Objective 3G-2</b>		
Access, entries and pathways are accessible and easy to identify.		Yes
<b>Design guidance</b>		
Building access areas including lift lobbies, stairwells and hallways should be clearly visible from the public domain and communal spaces.	The proposed building access arrangement is considered most appropriate for the site given the site orientation, opportunities and constraints.	Yes
The design of ground floors and underground car parks minimise level changes along pathways and entries.	The pathway and entry have the minimal level changes all along.	Yes
Steps and ramps should be integrated into the overall building and landscape design.	The walkway ramp is integrated into the overall building and landscape design.	Yes

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For large developments 'way finding' maps should be provided to assist visitors and residents (see figure 4T.3).	Only one building in small scale is proposed.	N/A
For large developments electronic access and audio/video intercom should be provided to manage access.	The development is a very small scale residential flat building only.	N/A
<b>Objective 3G-3</b>		
Large sites provide pedestrian links for access to streets and connection to destinations.	The development is a very small scale residential flat building only.	N/A
<b>Design criteria</b>		
Pedestrian links through sites facilitate direct connections to open space, main streets, centres and public transport.		N/A
Pedestrian links should be direct, have clear sight lines, be overlooked by habitable rooms or private open spaces of dwellings, be well lit and contain active uses, where appropriate.		

**3H Vehicle access**

Objectives/Design Criteria/Design Guidance	Design Response	Compliance
<b>Objective 3H-1</b>		
Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes.		
<b>Design guidance</b>		
Car park access should be integrated with the building's overall facade.	The car park access is integrated with the building's overall facade design.	Yes
Car park entries should be located behind the building line.	The car park entry is located behind the building line.	Yes



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Vehicle entries should be located at the lowest point of the site minimising ramp lengths, excavation and impacts on the building form and layout.	The proposed driveway location is the most appropriate having regard to the existing circumstances and ground level of the site	Yes
Car park entry and access should be located on secondary streets or lanes where available.	The rear lane access is not practical due to the steep slope of land	No – variation sought
Vehicle standing areas that increase driveway width and encroach into setbacks should be avoided.	The width of the driveway is 3m only plus 300mm kerb along either side which is the minimum standard.	Yes
Access point locations should avoid headlight glare to habitable rooms.	The vehicle access is sufficiently offset to avoid unreasonable headlight glare to habitable rooms of the ground floor unit.	Yes
Adequate separation distances should be provided between vehicle entries and street intersections.	Greater than 38m to the street intersection	Yes
The width and number of vehicle access points should be limited to the minimum.	Only one vehicle access point provided.	Yes
Visual impact of long driveways should be minimised through changing alignments and screen planting.	A long driveway is not proposed.	Yes
The need for large vehicles to enter or turn around within the site should be avoided.	The basement carpark does not allow for sufficient space for large vehicles.	Yes
Garbage collection, loading and servicing areas are screened.	A bin storage room and other servicing areas are mainly in the basement and are not visible from the public domain.	Yes
Clear sight lines should be provided at pedestrian and vehicle crossings.	Yes	Yes
Traffic calming devices such as changes in paving	Traffic calming devices are not required	N/A



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material or textures should be used where appropriate.		
Pedestrian and vehicle access should be separated and distinguishable.	Pedestrian and vehicle access are separated and clearly distinguishable.	Yes

### 3J Bicycle and car parking

Objectives/Design Criteria/Design Guidance	Design Response	Compliance
<b>Objective 3J-1</b>		
Car parking is provided based on proximity to public transport in metropolitan Sydney and centres in regional areas.		
<b>Design criteria</b>		
<p>For development in the following locations: on sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan Area; or on land zoned, and sites within 400 metres of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre.</p> <p>The minimum car parking requirement for residents and visitors is set out in the 'Guide to Traffic Generating Developments', or the car parking requirement prescribed by the relevant council, whichever is less.</p> <p>The car parking needs for a development must be provided off street.</p>	<p>Section 5.14 of the RTA Guide requires:</p> <p><u>Medium density residential (less than 20 units)</u></p> <p>(1 space per unit) + (1 space for every 5 x 2 bedroom unit) + (1 space for every 2 x 3 bedroom or more unit) + (1 space for 5 units: visitor parking) = 4 + 0 + 2 + 0.8 = 6.8 spaces required &amp; 7 spaces provided</p> <p>Council DCP requires:</p> <p>(Studio / 1 bedroom : 1 space) + (2 bedroom : 1.2 spaces) + (3+ bedroom : 1.5 spaces) + (Visitor spaces : 1 per 4 dwellings) = 0 + 0 + 6 + 1 = 7 spaces required &amp; 7 spaces provided</p>	Yes
<b>Design guidance</b>		
Where a car share scheme operates locally, provide car share parking spaces within the development. Car share spaces, when provided, should be on site.	No car share parking spaces are required or proposed.	N/A

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Where less car parking is provided in a development, council should not provide on street resident parking permits.		
<b>Objective 3J-2</b>		
Parking and facilities are provided for other modes of transport.		
<b>Design guidance</b>		
Conveniently located and sufficient numbers of parking spaces should be provided for motorbikes and scooters.	1 motorbike space is provided	Yes
Secure undercover bicycle parking should be provided that is easily accessible from both the public domain and common areas.	1 bicycle space is provided.	Yes
Conveniently located charging stations are provided for electric vehicles, where desirable.		
<b>Objective 3J-3</b>		
Car park design and access is safe and secure.		
<b>Design guidance</b>		
Supporting facilities within car parks, including garbage, plant and switch rooms, storage areas and car wash bays can be accessed without crossing car parking spaces.	Refer to the basement car park drawings	Appropriate
Direct, clearly visible and well lit access should be provided into common circulation areas.	Appropriate lighting will be provided upon CC stage if necessary	Yes
A clearly defined and visible lobby or waiting area should be provided to lifts and stairs.	The proposed lobby is appropriate for the scale of the site which is only a small RFB.	Yes
For larger car parks, safe pedestrian access should be clearly defined and circulation areas have good lighting, colour, line marking and/or bollards.	The development is a small scale RFB.	N/A
<b>Objective 3J-4</b>		

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Visual and environmental impacts of underground car parking are minimised.		Yes
<b>Design guidance</b>		
Excavation should be minimised through efficient car park layouts and ramp design.	The proposed car parking layouts are appropriate for the site.	Yes
Car parking layout should be well organised, using a logical, efficient structural grid and double loaded aisles.	Car parking layout is well organised, using a logical and efficient structural grid. A double loaded aisle is not physically possible due to the narrow site width.	Acceptable
Protrusion of car parks should not exceed 1m above ground level. Design solutions may include stepping car park levels or using split levels on sloping sites.	Protrusion of the car park does not exceed 1m above ground level.	Yes
Natural ventilation should be provided to basement and sub basement car parking areas.	Natural ventilation can be provided	Yes
Ventilation grills or screening devices for car parking openings should be integrated into the facade and landscape design.	No ventilation grills on the facade	N/A
<b>Objective 3J-5</b>		
Visual and environmental impacts of on-grade car parking are minimised.		
<b>Design guidance</b>		
On-grade car parking should be avoided.	On-grade car parking not provided.	Yes
<b>Objective 3J-6</b>		
Visual and environmental impacts of above ground enclosed car parking are minimised.	Above ground enclosed car parking not provided.	N/A
<b>Design guidance</b>		
Exposed parking should not be located along primary street frontages.		N/A
Screening, landscaping and other design elements including public art should be used to integrate the		

above ground car parking with the facade.		
Positive street address and active frontages should be provided at ground level.		

## Part 4 – Designing the building

### 4A Solar and daylight access

Objectives/Design Criteria/Design Guidance	Design Response	Compliance
<b>Objective 4A-1</b>		
To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space.	Acceptable given the site's orientation.	Yes
<b>Design criteria</b>		
Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas. In all other areas, living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 3 hours direct sunlight between 9 am and 3 pm at mid winter.  A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid winter.	100% of apartments – Refer to the shadow diagrams and solar access diagrams. One apartment unit on each level enjoying all 4 aspects.	Yes
<b>Design guidance</b>		
The design maximises north aspect and the number of single aspect south facing apartments is minimised.	One apartment unit on each level enjoying all 4 aspects.	Yes
Single aspect, single storey apartments should have a northerly or easterly aspect.	No single aspect unit is proposed.	Yes

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Living areas are best located to the north and service areas to the south and west of apartments.	All units have the living room on the north to maximise solar access.	Yes
To optimise the direct sunlight to habitable rooms and balconies a number of the following design features are used: dual aspect apartments; shallow apartment layouts; two storey and mezzanine level apartment bay windows.	All units have four aspects and shallow apartment layouts.	Yes
To maximise the benefit to residents of direct sunlight within living rooms and private open spaces, a minimum of 1m <sup>2</sup> of direct sunlight, measured at 1m above floor level, is achieved for at least 15 minutes.	Much greater than 1m <sup>2</sup> of direct sunlight, measured at 1m above floor level, is achievable through the large glazed balcony doors for at least 15 minutes for all apartments.	Yes
Achieving the design criteria may not be possible on some sites including; where greater residential amenity can be achieved along a busy road or rail line by orientating the living rooms away from the noise source; on south facing sloping sites; where significant views are oriented away from the desired aspect for direct sunlight. Design drawings need to demonstrate how site constraints and orientation preclude meeting the design criteria and how the development meets the objective.		N/A
<b>Objective 4A-2</b>		
Daylight access is maximised where sunlight is limited.	Daylight access is maximised through positioning the living room and balcony for each dwelling in the north aspect.	Yes
<b>Design guidance</b>		
Courtyards, skylights and high level windows (with sills of 1,500mm or greater) are used only as a secondary light source in habitable rooms.	High level windows are provided as second room light source in the living rooms. Also, the corridors will have high level windows to allow for natural light & solar access.	Yes
<b>Objective 4A-3</b>		



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Design incorporates shading and glare control, particularly for warmer months.		Yes
<b>Design guidance</b>		
<p>A number of the following design features are used:</p> <ul style="list-style-type: none"> <li>• balconies or sun shading that extend far enough to shade summer sun, but allow winter sun to penetrate living areas</li> <li>• shading devices such as eaves, awnings, balconies,</li> <li>• pergolas, external louvres and planting</li> <li>• horizontal shading to north facing windows</li> <li>• vertical shading to east and particularly west facing windows</li> <li>• operable shading to allow adjustment and choice</li> <li>• high performance glass that minimises external glare off</li> <li>• windows, with consideration given to reduced tint glass or glass with a reflectance level below 20% (reflective films are avoided)</li> </ul>	<p>All apartments with balconies have roofs (soffits) to shade summer sun and to allow winter sun into the main living areas.</p> <p>Louvres are also used along the east and west sides of the living room to control shading, glare and privacy.</p>	Yes

**4B Natural ventilation**

Objectives/Design Criteria/Design Guidance	Design Response	Compliance
<b>Objective 4B-1</b>		
All habitable rooms are naturally ventilated.		Yes
<b>Design guidance</b>		
<p>The building's orientation maximises capture and use of prevailing breezes for natural ventilation in habitable rooms.</p> <p>Depths of habitable rooms support natural ventilation.</p> <p>The area of unobstructed window openings should be equal to at least 5% of the floor area served.</p>	<p>The natural ventilation has been maximised through:</p> <ul style="list-style-type: none"> <li>• Four aspect design.</li> <li>• Open plan layout with shallow apartment layout</li> <li>• The building width much less than 18m, all the habitable living rooms and bedrooms have direct access to fresh air through glazed doors and</li> </ul>	Yes



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Light wells are not the primary air source for habitable rooms.	windows.	
Doors and openable windows maximise natural ventilation opportunities by using the following design solutions: adjustable windows; a variety of window types; windows which the occupants can reconfigure to funnel breezes into the apartment.	<ul style="list-style-type: none"> <li>The area of unobstructed window openings will be much greater than 5% of the floor area served.</li> <li>The proposed development will be supported by a BASIX Certificate and ABSA thermal assessment.</li> </ul>	
<b>Objective 4B-2</b>		
The layout and design of single aspect apartments maximises natural ventilation.		Yes
<b>Design guidance</b>		
Apartment depths are limited to maximise ventilation and airflow (see also figure 4D.3).	All units have all four-aspect design to maximise ventilation & airflow.	Yes
Natural ventilation to single aspect apartments is achieved with the following design solutions: primary windows augmented with plenums and light wells; stack effect ventilation / solar chimneys or similar to naturally ventilate internal building areas; courtyards or building indentations with a width to depth ratio of 2:1 or 3:1.		
<b>Objective 4B-3</b>		
The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents.		Yes
<b>Design criteria</b>		
At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.	All units will be provided with cross ventilation.	Yes
Overall depth of a cross-over or cross-through	The depth of all the units is much less	Yes

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apartment does not exceed 18m, measured glass line to glass line.	than 18m from glass line to glass line	
<b>Design guidance</b>		
<p>The building should include dual aspect apartments, cross through apartments and corner apartments and limit apartment depths.</p> <p>In cross-through apartments external window and door opening sizes/areas on one side of an apartment (inlet side) are approximately equal to the external window and door opening sizes/areas on the other side of the apartment (outlet side) (see figure 4B.3).</p> <p>Apartments are designed to minimise the number of corners, doors and rooms that might obstruct airflow.</p> <p>Apartment depths, combined with appropriate ceiling heights, maximise cross ventilation and airflow.</p>	All units have all four-aspect design with shallow width to maximise cross ventilation.	Yes

**4C Ceiling heights**

Objectives/Design Criteria/Design Guidance		Design Response	Compliance
<b>Objective 4C-1</b>			
Ceiling height achieves sufficient natural ventilation and daylight access.		A sufficient ceiling height is achieved.	Yes
<b>Design criteria</b>			
Measured from finished floor level to finished ceiling level, minimum ceiling heights are:			Yes
Minimum ceiling heights for apartment & mixed use buildings:		2.7m for habitable rooms and 2.4m for non-habitable rooms achieved.	Yes
Habitable rooms	2.7m		
Non-habitable	2.4m		
2 storey apartments	2.4m for second floor, where its area does not		

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	exceed 50% of the apartment area		
Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope		
If located in mixed use areas	3.3m for ground and first floor to promote future flexibility of use		
<b>Objective 4C-2</b>			
Ceiling height increases the sense of space in apartments and provides for well proportioned rooms.			Yes
<b>Design guidance</b>			
A number of the following design solutions can be used: the hierarchy of rooms in an apartment is defined using changes in ceiling heights and alternatives such as raked or curved ceilings, or double height spaces; well proportioned rooms are provided; ceiling heights are maximised in habitable rooms by ensuring that bulkheads do not intrude.		The apartment design will incorporate changes in ceiling heights to conceal service bulkheads in non-habitable rooms such as bathrooms, laundries, corridors and above the kitchen areas. Ceiling heights will be maximised in habitable rooms with no intruding bulkheads.	Yes
<b>Objective 4C-3</b>			
Ceiling heights contribute to the flexibility of building use over the life of the building.			N/A
<b>Design guidance</b>			
Ceiling heights of lower level apartments in centres should be greater than the minimum required by the design criteria allowing flexibility and conversion to non-residential uses (see figure 4C.1).			N/A

#### 4D Apartment size and layout

Objectives/Design Criteria/Design Guidance	Design Response	Compliance
<b>Objective 4D-1</b>		
The layout of rooms within an apartment is		Yes

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functional, well organised and provides a high standard of amenity.			
<b>Design criteria</b>			
Apartments are required to have the following minimum internal areas:		Generous sized apartments are proposed to improve the amenity.	Yes
Apartment type	Minimum internal area	All 3 bedroom units: greater than 95m <sup>2</sup> including the second bathroom	Yes
studio	35m <sup>2</sup>		
1 bedroom	50m <sup>2</sup>		
2 bedroom	70m <sup>2</sup>		
3 bedroom	90m <sup>2</sup>		
The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m <sup>2</sup> each. A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m <sup>2</sup> each.		All 3 bedroom units: greater than 95m <sup>2</sup> including the second bathroom	Yes
Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.		All habitable rooms are provided with a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room	Yes
<b>Design guidance</b>			
Kitchens should not be located as part of the main circulation space in larger apartments (such as hallway or entry space).		The kitchens are not located as part of the main circulation space.	Yes
A window should be visible from any point in a habitable room.		Windows are generally visible from any point in a habitable room.	Yes
Where minimum areas or room dimensions are not met apartments need to demonstrate that they are well designed and demonstrate the usability and functionality of the space.		The minimum area and room dimensions comply.	Yes
<b>Objective 4D-2</b>			
Environmental performance of the apartment is maximised.			Yes

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Design criteria		
Habitable room depths are limited to a maximum of 2.5 x the ceiling height.	All bedrooms and living rooms are within 6.75m of the external glazed walls which is within 2.5x the ceiling height of 2.7m.	Yes
In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.	The proposed living rooms, dining rooms and kitchens are all open-plan and are located within 8m of a window.	Yes
Design guidance		
Greater than minimum ceiling heights can allow for proportional increases in room depth up to the permitted maximum depths.	The open plan living and dining room and all bedrooms are within the maximum 8m from the external glazed walls.	Yes
All living areas and bedrooms should be located on the external face of the building.	All living areas and bedrooms are located on the external face of the building.	Yes
Where possible: bathrooms and laundries should have an external openable window; main living spaces should be oriented toward the primary outlook and aspect and away from noise sources.	Openable windows are provided for some bathrooms wherever practical.	Yes
Objective 4D-3		
Apartment layouts are designed to accommodate a variety of household activities and needs.		Yes
Design criteria		
Master bedrooms have a minimum area of 10m <sup>2</sup> and other bedrooms 9m <sup>2</sup> (excluding wardrobe space).	All master bedrooms have floor area greater than 10m <sup>2</sup> and other bedrooms over 9m <sup>2</sup> (excluding wardrobe space).	Yes
Bedrooms have a minimum dimension of 3m (excluding wardrobe space).	All bedrooms have a minimum dimension of 3m (excluding robe space).	Yes
Living rooms or combined living/dining rooms have a minimum width of: 3.6m for studio and 1 bedroom apartments; 4m for 2 and 3 bedroom apartments.	All living rooms have a minimum width of 4m.	Yes

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The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts.	All apartments have width over 4m	Yes
<b>Design guidance</b>		
Access to bedrooms, bathrooms and laundries is separated from living areas minimising direct openings between living and service areas.	Access to bedrooms, bathrooms and laundries is separated from living areas where practical.	Yes
All bedrooms allow a minimum length of 1.5m for robes.	All bedrooms have a robe with length greater than 1.5m.	Yes
The main bedroom of an apartment or a studio apartment should be provided with a wardrobe of a minimum 1.8m long, 0.6m deep and 2.1m high.	All main bedrooms of the apartment are provided with a wardrobe of greater than 1.8m long, 0.6m deep and 2.1m high.	Yes
Apartment layouts allow flexibility over time, design solutions may include: dimensions that facilitate a variety of furniture arrangements and removal; spaces for a range of activities and privacy levels between different spaces within the apartment.	The proposed apartment promotes open plan living and adaptive re-use which allows flexibility over time.	Yes

**4E Private open space and balconies**

Objectives/Design Criteria/Design Guidance			Design Response	Compliance
<b>Objective 4E-1</b>				
Apartments provide appropriately sized private open space and balconies to enhance residential amenity.				Yes
<b>Design criteria</b>				
All apartments are required to have primary balconies as follows:			Generous sized balconies are provided.	Yes
Dwelling type	Minimum area	Minimum depth	All units: over 12m <sup>2</sup> All front balconies with minimum depth of 2.4m	Yes
Studio	4m <sup>2</sup>	-		
1 bedroom	8m <sup>2</sup>	2m		



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2 bedroom	10m <sup>2</sup>	2m		
3+ bedroom	12m <sup>2</sup>	2.4m		
The minimum balcony depth to be counted as contributing to the balcony area is 1m.			All front balconies over 2.4m	Yes
For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m <sup>2</sup> and a minimum depth of 3m.			Ground floor unit POS = greater than 15m <sup>2</sup> & 3m in depth	Yes
<b>Design guidance</b>				
Increased communal open space should be provided where the number or size of balconies are reduced.			All balconies comply in sizes	Yes
Storage areas on balconies is additional to the minimum balcony size.			No storage is provided in the balcony area	N/A
Balcony use may be limited in some proposals by: consistently high wind speeds at 10 storeys and above; close proximity to road, rail or other noise sources; exposure to significant levels of aircraft noise; heritage and adaptive reuse of existing buildings.				N/A
<b>Objective 4E-2</b>				
Primary private open space and balconies are appropriately located to enhance liveability for residents.				Yes
<b>Design guidance</b>				
Primary open space and balconies should be located adjacent to the living room, dining room or kitchen to extend the living space.			All front balconies are located adjacent to the living rooms.	Yes
Private open spaces and balconies predominantly face north, east or west.			The proposed POSs and balconies are appropriately positioned having regard to the site's dimensions, orientation and privacy.	Yes

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Primary open space and balconies should be orientated with the longer side facing outwards or be open to the sky to optimise daylight access into adjacent rooms.	The balconies are generally orientated with the longer side facing outwards.	Yes
<b>Objective 4E-3</b>		
Private open space and balcony design is integrated into and contributes to the overall architectural form and detail of the building.		Yes
<b>Design guidance</b>		
Solid, partially solid or transparent fences and balustrades are selected to respond to the location. They are designed to allow views and passive surveillance of the street while maintaining visual privacy and allowing for a range of uses on the balcony. Solid and partially solid balustrades are preferred.	A mixture of solid and glazed balustrades is proposed on the balconies.	Yes
Full width full height glass balustrades alone are generally not desirable.	Glazed balustrades are proposed on the front balconies.	No - variation sought
Projecting balconies should be integrated into the building design and the design of soffits considered.	The balconies are integrated into the building design.	Yes
Operable screens, shutters, hoods and pergolas are used to control sunlight and wind.	Louvre screens are provided on the east and west sides and deep soffits are provided over the balconies to control sunlight and wind.	Yes
Balustrades are set back from the building or balcony edge where overlooking or safety is an issue.	The locations of the proposed balconies either in the front or the rear are most appropriate having regard to the constraint of the infill development with such a narrow site width.	Yes
Downpipes and balcony drainage are integrated with the overall facade and building design.	Downpipes and balcony drainage will be integrated with the overall facade and	Noted

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Air-conditioning units should be located on roofs, in basements, or fully integrated into the building design.	building design upon CC.	
Where clothes drying, storage or air conditioning units are located on balconies, they should be screened and integrated in the building design.	Air-conditioning units will be located on roofs, in basements, or fully integrated into the building design upon CC.	Noted
	If clothes drying, storage or air conditioning units are located on balconies, they should be screened and integrated in the building design upon CC.	Noted
Ceilings of apartments below terraces should be insulated to avoid heat loss.	Ceilings of apartments below terraces will be insulated to avoid heat loss. Details can be provided upon CC.	Noted
Water and gas outlets should be provided for primary balconies and private open space.	Water and gas outlets will be provided for primary balconies. Details can be provided upon CC.	Noted
<b>Objective 4E-4</b>		
Private open space and balcony design maximises safety.		
<b>Design guidance</b>		
Changes in ground levels or landscaping are minimised.	Minimal level changes through the front to the common entry foyer. However, the retaining walls at the rear are inevitable due to the steep slope of the land fronting the rear lane.	Yes
Design and detailing of balconies avoids opportunities for climbing and falls.	Design of balconies will not allow for opportunities for climbing and falls	Yes

**4F Common circulation and spaces**

Objectives/Design Criteria/Design Guidance	Design Response	Compliance
<b>Objective 4F-1</b>		

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Common circulation spaces achieve good amenity and properly service the number of apartments.		Yes
<b>Design criteria</b>		
The maximum number of apartments off a circulation core on a single level is eight.	One unit on each level	Yes
For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.	A total of 4 units are proposed with one lift.	Yes
<b>Design guidance</b>		
Greater than minimum requirements for corridor widths and/ or ceiling heights allow comfortable movement and access particularly in entry lobbies, outside lifts and at apartment entry doors.	The common corridor/circulation space is minimised through the design which is appropriate for the site.	Yes
Daylight and natural ventilation should be provided to all common circulation spaces that are above ground.	Daylight and natural ventilation are provided through the windows of the common circulation space.	Yes
Windows should be provided in common circulation spaces and should be adjacent to the stair or lift core or at the ends of corridors.	The common circulation spaces will have open space to the air.	Yes
Longer corridors greater than 12m in length from the lift core should be articulated. Design solutions may include: a series of foyer areas with windows and spaces for seating; wider areas at apartment entry doors and varied ceiling heights.	The common corridor/circulation space is minimised through the design which is appropriate for the site.	Yes
Design common circulation spaces to maximise opportunities for dual aspect apartments, including multiple core apartment buildings and cross over apartments.	All units have four aspects.	Yes
Achieving the design criteria for the number of apartments off a circulation core may not be possible. Where a development is unable to achieve	The proposed common circulation spaces are provided with ample daylight and natural cross ventilation.	Yes

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the design criteria, a high level of amenity for common lobbies, corridors and apartments should be demonstrated, including: sunlight and natural cross ventilation in apartments; access to ample daylight and natural ventilation in common circulation spaces; common areas for seating and gathering; generous corridors with greater than minimum ceiling heights; other innovative design solutions that provide high levels of amenity.		
Where design criteria 1 is not achieved, no more than 12 apartments should be provided off a circulation core on a single level.	N/A	N/A
Primary living room or bedroom windows should not open directly onto common circulation spaces, whether open or enclosed.	The primary living room or bedroom windows do not open directly onto common circulation spaces.	Yes
<b>Objective 4F-2</b>		
Common circulation spaces promote safety and provide for social interaction between residents.		Yes
<b>Design guidance</b>		
Direct and legible access should be provided between vertical circulation points and apartment entries by minimising corridor or gallery length to give short, straight, clear sight lines.	The common corridor/circulation space is minimised through the design which is appropriate for such a small scale development.	Yes
Tight corners and spaces are avoided.	Tight corners and spaces are not proposed.	Yes
Circulation spaces should be well lit at night.	Circulation spaces will be well lit at night. Details can be provided upon CC.	Noted
Legible signage should be provided for apartment numbers, common areas and general wayfinding.	Legible signage will be provided for apartment numbers, common areas and general wayfinding if necessary.	Noted

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Incidental spaces, for example space for seating in a corridor, at a stair landing, or near a window are provided.	The development is very small in scale and therefore an incidental space with seating is not considered necessary.	N/A
In larger developments, community rooms for activities such as owners corporation meetings or resident use should be provided.	Small scale only.	N/A
Where external galleries are provided, they are more open than closed above the balustrade along their length.	External galleries are not provided.	N/A

#### 4G Storage

Objectives/Design Criteria/Design Guidance		Design Response	Compliance
<b>Objective 4G-1</b>			
Adequate, well designed storage is provided in each apartment.			Yes
<b>Design criteria</b>			
In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:			Yes
Dwelling type	Storage size volume	Storage spaces are provided in the basement carpark and within the individual units.	Yes
Studio	4m <sup>3</sup>		
1 bedroom	6m <sup>3</sup>		
2 bedroom	8m <sup>3</sup>		
3 bedroom	10m <sup>3</sup>		
At least 50% of the required storage is to be located within the apartment.		At least 50% of the required storage will be within the apartment.	Yes
<b>Design guidance</b>			
Storage is accessible from either circulation or living areas.		Storage is accessible from either circulation or living areas	Yes
Storage provided on balconies (in addition to the minimum balcony size) is integrated into the balcony design, weather proof and screened from view from		Storage on balconies is not proposed.	Yes



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the street.		
Leftover space such as under stairs is used for storage.	N/A	
<b>Objective 4G-2</b>		
Additional storage is conveniently located, accessible and nominated for individual apartments.		Yes
<b>Design guidance</b>		
Storage not located in apartments is secure and clearly allocated to specific apartments.	One security cage storage per unit will be provided in the basement carpark.	Yes
Storage is provided for larger and less frequently accessed items.	The car park storage will be provided for larger and less frequently accessed items.	Yes
Storage space in internal or basement car parks is provided at the rear or side of car spaces or in cages.	Storage cages are provided separately in the basement.	Yes
If communal storage rooms are provided they should be accessible from common circulation areas of the building.	Communal storage rooms are not proposed.	N/A
Storage not located in an apartment is integrated into the overall building design and is not visible from the public domain.	Storage in the basement is not visible from the public domain.	Yes

**4H Acoustic privacy**

Objectives/Design Criteria/Design Guidance	Design Response	Compliance
<b>Objective 4H-1</b>		
Noise transfer is minimised through the siting of buildings and building layout.		Yes
<b>Design guidance</b>		
Adequate building separation is provided within the development and from neighbouring	Adequate building separations are not achievable due to the site's dimensions.	No (Refer to

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buildings/adjacent uses (see also section 2F Building separation and section 3F Visual privacy).	The subject site is surrounded by a 4 storey commercial building on the north-west and a RFB on the south-west. A variation is sought in this regard.	discussion in 3F above)
Window and door openings are generally orientated away from noise sources.	An acoustic report has been provided confirming the proposal acceptable regarding acoustic privacy & rail noise.	Noted
Noisy areas within buildings including building entries and corridors should be located next to or above each other and quieter areas next to or above quieter areas.	Noisy areas or quieter areas are grouped next to each other in general.	Yes
Storage, circulation areas and non-habitable rooms should be located to buffer noise from external sources.	All bedrooms are away from external noise sources (i.e. Hampden Street commercial & railway) behind the circulation space.	Yes
The number of party walls (walls shared with other apartments) are limited and are appropriately insulated.	The number of party wall (walls shared with other apartments) is limited to one and will be appropriately insulated to minimise noise transfer.	Yes
Noise sources such as garage doors, driveways, service areas, plant rooms, building services, mechanical equipment, active communal open spaces and circulation areas should be located at least 3m away from bedrooms.	The lift is adjacent to the C/E space to minimise noise transmission and the stairwell is OK to adjoin Bedroom 3	Yes
<b>Objective 4H-2</b>		
Noise impacts are mitigated within apartments through layout and acoustic treatments.		Yes
<b>Design guidance</b>		
Internal apartment layout separates noisy spaces from quiet spaces, using a number of the following design solutions: rooms with similar noise	The design incorporates rooms with similar noise requirements being generally grouped together; doors	Yes

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requirements are grouped together; doors separate different use zones; wardrobes in bedrooms are co-located to act as sound buffers.	separating different use zones; some wardrobes and bathrooms acting as sound buffers.	Yes
Where physical separation cannot be achieved noise conflicts are resolved using the following design solutions: double or acoustic glazing; acoustic seals; use of materials with low noise penetration properties; continuous walls to ground level courtyards where they do not conflict with streetscape or other amenity requirements.	An acoustic assessment report is provided recommending design solutions to mitigate noise levels.	

**4J Noise and pollution**

Objectives/Design Criteria/Design Guidance	Design Response	Compliance
<b>Objective 4J-1</b>		
In noisy or hostile environments the impacts of external noise and pollution are minimised through the careful siting and layout of buildings.		Yes
<b>Design guidance</b>		
To minimise impacts the following design solutions may be used: physical separation between buildings and the noise or pollution source; residential uses are located perpendicular to the noise source and where possible buffered by other uses; non-residential buildings are sited to be parallel with the noise source to provide a continuous building that shields residential uses and communal open spaces; non-residential uses are located at lower levels vertically; separating the residential component from the noise or pollution source. Setbacks to the underside of residential floor levels should increase relative to traffic volumes and other noise sources; buildings should respond to both solar access and noise. Where solar access is away from the noise source, non-habitable rooms can provide a buffer;	The design incorporates the active living room areas in the front and the quiet bedroom areas at the rear to minimise potential impact from the noise source such as Hampden Road and the railway. An acoustic assessment report is also provided recommending other design solutions to mitigate noise levels. Please refer to the report.	Yes

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<p>where solar access is in the same direction as the noise source, dual aspect apartments with shallow building depths are preferable (see figure 4J.4); landscape design reduces the perception of noise and acts as a filter for air pollution generated by traffic and industry;</p> <p>Achieving the design criteria in this Apartment Design Guide may not be possible in some situations due to noise and pollution. Where developments are unable to achieve the design criteria, alternatives may be considered in the following areas: solar and daylight access; private open space and balconies; natural cross ventilation.</p>		
<b>Objective 4J-2</b>		
<p>Appropriate noise shielding or attenuation techniques for the building design, construction and choice of materials are used to mitigate noise transmission.</p>		Yes
<b>Design guidance</b>		
<p>Design solutions to mitigate noise include: limiting the number and size of openings facing noise sources; providing seals to prevent noise transfer through gaps; using double or acoustic glazing, acoustic louvres or enclosed balconies (wintergardens); using materials with mass and/or sound insulation or absorption properties e.g. solid balcony balustrades, external screens and soffits.</p>	<p>An acoustic assessment report is provided recommending design solutions to mitigate noise levels.</p>	Yes

**4K Apartment mix**

Objectives/Design Criteria/Design Guidance	Design Response	Compliance
<b>Objective 4K-1</b>		
<p>A range of apartment types and sizes is provided to cater for different household types now and into the future.</p>		

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<b>Design guidance</b>		
<p>A variety of apartment types is provided.</p> <p>The apartment mix is appropriate, taking into consideration: the distance to public transport, employment and education centres; the current market demands and projected future demographic trends; the demand for social and affordable housing; different cultural and socioeconomic groups.</p> <p>Flexible apartment configurations are provided to support diverse household types and stages of life including single person households, families, multi-generational families and group households.</p>	<p>4 x 3 bedroom apartments only – The site is physically constrained due to the narrow site width, orientation and surrounding built environment. If 1 or 2 bedroom units were introduced by dividing between the front and rear, all rear units would not achieve sufficient solar access. Also, the basement car parking could not accommodate any more parking spaces to service the additional units unless the deep soil area were significantly reduced. The proposed development is very small scale RFB and a range of apartment sizes are not considered practical.</p>	<p>No – Variation sought</p>
<b>Objective 4K-2</b>		
<p>The apartment mix is distributed to suitable locations within the building.</p>		<p>No</p>
<b>Design guidance</b>		
<p>Different apartment types are located to achieve successful facade composition and to optimise solar access (see figure 4K.3)</p> <p>Larger apartment types are located on the ground or roof level where there is potential for more open space and on corners where more building frontage is available.</p>	<p>Successful facade composition and optimum solar access is achieved through difference in depth of balconies and recess in front walls</p> <p>The proposed development is very small scale RFB only</p>	<p>Yes</p> <p>N/A</p>

**4L Ground floor apartment**

Objectives/Design Criteria/Design Guidance	Design Response	Compliance
<b>Objective 4L-1</b>		
<p>Street frontage activity is maximised where ground floor apartments are located.</p>		



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Design guidance		
<p>Direct street access should be provided to ground floor apartments.</p> <p>Activity is achieved through front gardens, terraces and the facade of the building. Design solutions may include: both street, foyer and other common internal circulation; entrances to ground floor apartments; private open space is next to the street; doors and windows face the street.</p> <p>Retail or home office spaces should be located along street frontages.</p> <p>Ground floor apartment layouts support small office home office (SOHO) use to provide future opportunities for conversion into commercial or retail areas. In these cases provide higher floor to ceiling heights and ground floor amenities for easy conversion.</p>	<p>This section is more relevant within the town centre. Direct street access to the ground floor apartment is not considered necessary due to the site's narrow width and small scale.</p>	N/A
<b>Objective 4L-2</b>		
Design of ground floor apartments delivers amenity and safety for residents.		
<b>Design guidance</b>		
<p>Privacy and safety should be provided without obstructing casual surveillance. Design solutions may include: elevation of private gardens and terraces above the street level by 1-1.5m (see figure 4L.4); landscaping and private courtyards; window sill heights that minimise sight lines into apartments; integrating balustrades, safety bars or screens with the exterior design.</p> <p>Solar access should be maximised through: high ceilings and tall windows; trees and shrubs that allow solar access in winter and shade in summer.</p>	<p>The proposed design incorporates landscaped planters for Unit 1 to allow for privacy &amp; casual surveillance.</p> <p>Solar access is maximised through: high ceilings and tall sliding doors; deep roof/soffits over balconies that allow</p>	<p>Yes</p> <p>Yes</p>



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	solar access in winter and shade in summer	
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**4M Facades**

Objectives/Design Criteria/Design Guidance	Design Response	Compliance
<b>Objective 4M-1</b>		
Building facades provide visual interest along the street while respecting the character of the local area.		
<b>Design guidance</b>		
Design solutions for front building facades may include: a composition of varied building elements; a defined base, middle and top of buildings; revealing and concealing certain elements; changes in texture, material, detail and colour to modify the prominence of elements.	The street facades include: a composition of varied building elements; revealing and concealing certain elements; changes in texture, material, detail and colour to modify the prominence of elements.	Yes
Building services should be integrated within the overall façade.	Building services will be integrated within the overall façade.	Yes
Building facades should be well resolved with an appropriate scale and proportion to the streetscape and human scale. Design solutions may include: well composed horizontal and vertical elements; variation in floor heights to enhance the human scale; elements that are proportional and arranged in patterns; public artwork or treatments to exterior blank walls; grouping of floors or elements such as balconies and windows on taller buildings.	The proposed building includes: well composed horizontal and vertical elements; elements that are proportional and arranged in patterns; and treatments to exterior blank walls.	Yes
Building facades relate to key datum lines of adjacent buildings through upper level setbacks, parapets, cornices, awnings or colonnade heights.	The adjacent RFBs are older style which predates SEPP 65. The proposed RFB will be more consistent with other recently built RFBs in the area, whilst compatible with the older style RFBs as	Yes

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	well.	
<b>Objective 4M-2</b>		
Building functions are expressed by the façade.		Yes
<b>Design guidance</b>		
Building entries should be clearly defined.	The pedestrian and vehicle entries are clearly defined.	Yes
Important corners are given visual prominence through a change in articulation, materials or colour, roof expression or changes in height.	The proposed building is very small in scale and does not necessarily have important corners.	N/A
The apartment layout should be expressed externally through facade features such as party walls and floor slabs.	The apartment layout is expressed externally through facade features such as floor slabs and treatment of balustrades.	Yes

**4N Roof design**

Objectives/Design Criteria/Design Guidance	Design Response	Compliance
<b>Objective 4N-1</b>		
Roof treatments are integrated into the building design and positively respond to the street.		
<b>Design guidance</b>		
Roof design relates to the street. Design solutions may include: special roof features and strong corners; use of skillion or very low pitch hipped roofs; breaking down the massing of the roof by using smaller elements to avoid bulk; using materials or a pitched form complementary to adjacent buildings.	The adjacent RFBs are predominately older style comprising pitched and terracotta tiled roof form which predate SEPP 65. The proposed RFB will be more consistent with other recently built RFBs in the vicinity which positively contribute to the streetscape.	Yes
Roof treatments should be integrated with the building design. Design solutions may include: roof design proportionate to the overall building size, scale and form; roof materials compliment the building; service elements are integrated.	The proposed roof design is proportionate to the overall building size, scale and form; roof materials compliment the building; service elements will be integrated.	Yes

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<b>Objective 4N-2</b>		
Opportunities to use roof space for residential accommodation and open space are maximised.		
<b>Design guidance</b>		
Habitable roof space should be provided with good levels of amenity. Design solutions may include: penthouse apartments; dormer or clerestory windows; openable skylights.	Habitable roof space design is not considered appropriate in this case due to the site dimensions and potential privacy impact.	N/A
Open space is provided on roof tops subject to acceptable visual and acoustic privacy, comfort levels, safety and security considerations.	A roof top open space may not be appropriate as the site is very small in width which may cause visual and acoustic privacy impacts on the neighbours.	N/A
<b>Objective 4N-3</b>		
Roof design incorporates sustainability features.		
<b>Design guidance</b>		
Roof design maximises solar access to apartments during winter and provides shade during summer. Design solutions may include: the roof lifts to the north; eaves and overhangs shade walls and windows from summer sun.	The roof design includes overhangs over the balconies to control summer sun.	Yes
Skylights and ventilation systems should be integrated into the roof design.	Skylights are not proposed.	N/A

#### 40 Landscape design

Objectives/Design Criteria/Design Guidance	Design Response	Compliance
<b>Objective 4O-1</b>		
Landscape design is viable and sustainable.		
<b>Design guidance</b>		
Landscape design should be environmentally sustainable and can enhance environmental performance by incorporating: diverse and	Landscape plan is provided for Council consideration.	Yes

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<p>appropriate planting; bio-filtration gardens; appropriately planted shading trees; areas for residents to plant vegetables and herbs; composting; green roofs or walls.</p> <p>Ongoing maintenance plans should be prepared.</p> <p>Microclimate is enhanced by: appropriately scaled trees near the eastern and western elevations for shade; a balance of evergreen and deciduous trees to provide shading in summer and sunlight access in winter; shade structures such as pergolas for balconies and courtyards.</p> <p>Tree and shrub selection considers size at maturity and the potential for roots to compete (see Table 4).</p>		<p>Ongoing maintenance plan is provided in the landscape plan.</p> <p>Appropriate planting is proposed having regard to the site constraint.</p> <p>Tree and shrub selection considers size at maturity and the potential for roots to compete.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
Site area	Recommended tree planting	Landscape design is provided in the DA package for Council consideration.	Yes
Up to 850m <sup>2</sup>	1 medium tree per 50m <sup>2</sup> of deep soil zone		
Between 850 and 1,500m <sup>2</sup>	1 large tree or 2 medium trees per 90m <sup>2</sup> of deep soil zone		
Greater than 1,500m <sup>2</sup>	1 large tree or 2 medium trees per 80m <sup>2</sup> of deep soil zone		
<b>Objective 40-2</b>			
Landscape design contributes to the streetscape and amenity.			
<b>Design guidance</b>			
Landscape design responds to the existing site conditions including: changes of levels; views; significant landscape features including trees and rock outcrops.		Landscape design is provided in the DA package for Council consideration.	Yes

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Significant landscape features should be protected by: tree protection zones (see figure 4O.5); appropriate signage and fencing during construction.	The site does not contain significant landscape features at present.	N/A
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**4P Planting on structures**

Objectives/Design Criteria/Design Guidance					Design Response	Compliance
Objective 4P-1						
Appropriate soil profiles are provided.						
Design guidance						
Structures are reinforced for additional saturated soil weight.					Landscape design is provided in the DA package for Council consideration.	Yes
Soil volume is appropriate for plant growth, considerations include: modifying depths and widths according to the planting mix and irrigation frequency; free draining and long soil life span; tree anchorage.						
Minimum soil standards for plant sizes should be provided in accordance with Table 5 (Minimum soil standards for plant types and sizes).						
Plant type	Definition	Soil volume (m3)	Soil depth (mm)	Soil area	Landscape design is provided in the DA package for Council consideration.	Yes
Large tree	12-18m high, up to 16m crown spread at maturity	150	1,200	10m x 10m or equivalent		
Medium tree	8-12m high, up to 8m crown spread at	35	1,000	6m x 6m or equivalent		

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	maturity					
Small tree	6-8m high, up to 4m crown spread at maturity	9	800	3.5m x 3.5m or equivalent		
Shrubs			500-600			
Ground cover			300-450			
Turf			200			
<b>Objective 4P-2</b>						
Plant growth is optimised with appropriate selection and maintenance.						
<b>Design guidance</b>						
Plants are suited to site conditions, considerations include: drought and wind tolerance; seasonal changes in solar access; modified substrate depths for a diverse range of plants; plant longevity.  A landscape maintenance plan is prepared.  Irrigation and drainage systems respond to: changing site conditions; soil profile and the planting regime; whether rainwater, stormwater or recycled grey water is used.					Landscape design is provided in the DA package for Council consideration.	Yes
<b>Objective 4P-3</b>						
Planting on structures contributes to the quality and amenity of communal and public open spaces.						
<b>Design guidance</b>						
Building design incorporates opportunities for planting on structures. Design solutions may include: green walls with specialised lighting for indoor green walls; wall design that incorporates planting; green roofs,					Landscape design is provided in the DA package for Council consideration.	Yes



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<p>particularly where roofs are visible from the public domain; planter boxes.</p> <p>Note: structures designed to accommodate green walls should be integrated into the building facade and consider the ability of the facade to change over time.</p>		
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**4Q Universal design**

Objectives/Design Criteria/Design Guidance	Design Response	Compliance
<b>Objective 4Q-1</b>		
Universal design features are included in apartment design to promote flexible housing for all community members.		
<b>Design guidance</b>		
<p>Developments achieve a benchmark of 20% of the total apartments incorporating the Livable Housing Guideline's silver level universal design features including: A safe continuous and step free path of travel from the street entrance and / or parking area to a dwelling entrance that is level; At least one, level (step-free) entrance into the dwelling; Internal doors and corridors that facilitate comfortable and unimpeded movement between spaces; A toilet on the ground (or entry) level that provides easy access; A bathroom that contains a hobless (step-free) shower recess; Reinforced walls around the toilet, shower and bath to support the safe installation of grabrails at a later date; A continuous handrail on one side of any stairway where there is a rise of more than one metre.</p>	<p>All apartments will be designed to achieve the Livable Housing Guideline's silver level universal design features including:</p> <ol style="list-style-type: none"> <li>1. A safe, continuous &amp; step free pathway from the street entrance and/or parking area to a dwelling entrance – min 1m wide</li> <li>2. At least one, level (step-free) entrance into the dwelling – min 820mm wide door</li> <li>3. Car parking (where part of the dwelling access) – N/A</li> <li>4. Internal doors and corridors facilitates comfortable &amp; unimpeded movement between spaces – min door width 820mm &amp; level transition and threshold, internal corridor to be min 1m wide</li> <li>5. The ground (or entry) level has a toilet to support easy access for home occupants and visitors – min</li> </ol>	Yes

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	<p>clear width 900mm &amp; depth 1200m</p> <p>6. The bathroom and shower is designed for easy and independent access for all home occupants – slip resistant, hobless (step free) shower recess in the corner</p> <p>7. The bathroom and toilet walls are built to enable grabrails to be safely and economically installed – reinforced walls</p> <p>8. Internal stairways are designed to reduce the likelihood of injury and also enable future adaptation – a continuous handrail on one side of the stairway</p> <p>9. The kitchen space is designed to support ease of movement between fixed benches and to support easy adaptation – min 1.2m clearance in front of fixed benches &amp; appliances &amp; non-slip floors</p> <p>10. – 16. No requirement for Silver Level</p>	
<b>Objective 4Q-2</b>		
A variety of apartments with adaptable designs are provided.		
<b>Design guidance</b>		
<p>Adaptable housing should be provided in accordance with the relevant council policy.</p> <p>Design solutions for adaptable apartments include: convenient access to communal and public areas; high level of solar access; minimal structural change and residential amenity loss when adapted; larger car parking spaces for accessibility; parking titled separately from apartments or shared car parking arrangements.</p>	2 adaptable units are provided	Yes

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<b>Objective 4Q-3</b>		
Apartment layouts are flexible and accommodate a range of lifestyle needs.		
<b>Design guidance</b>		
Apartment design incorporates flexible design solutions which may include: rooms with multiple functions; dual master bedroom apartments with separate bathrooms; larger apartments with various living space options; open plan 'loft' style apartments with only a fixed kitchen, laundry and bathroom.	The proposed design promotes open plan living and adaptive re-use.	Yes

**4R Adaptive reuse**

**Comment:** N/A, the proposed development is for the construction of a new residential apartment building only.

**4S Mixed use**

**Comment:** N/A, the proposed development is for a residential apartment building only. Mixed use is not permissible within the subject site.

**4T Awnings and signage**

**Comment:** N/A, the site is within a residential area and awning and signage is not required.

**4U Energy efficiency**

Objectives/Design Criteria/Design Guidance	Design Response	Compliance
<b>Objective 4U-1</b>		
Development incorporates passive environmental design.		
<b>Design guidance</b>		
Adequate natural light is provided to habitable rooms (see 4A Solar and daylight access).	Adequate natural light will be provided to all habitable rooms.	Yes
Well located, screened outdoor areas should be	Outdoor clothes drying lines are not	

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provided for clothes drying.	proposed due to privacy & visual impact. Nevertheless, the development will be designed in compliance with the BASIX and thermal assessment requirements.	
<b>Objective 4U-2</b>		
Development incorporates passive solar design to optimise heat storage in winter and reduce heat transfer in summer.		
<b>Design guidance</b>		
A number of the following design solutions are used: the use of smart glass or other technologies on north and west elevations; thermal mass in the floors and walls of north facing rooms is maximised; polished concrete floors, tiles or timber rather than carpet; insulated roofs, walls and floors and seals on window and door openings; overhangs and shading devices such as awnings, blinds and screens.	The development will be provided with insulated roofs, overhangs and shading devices.	Yes
Provision of consolidated heating and cooling infrastructure should be located in a centralised location (e.g. the basement)	The details of consolidated heating and cooling system will be provided upon the CC stage	Yes
<b>Objective 4U-3</b>		
Adequate natural ventilation minimises the need for mechanical ventilation		
<b>Design guidance</b>		
A number of the following design solutions are used: rooms with similar usage are grouped together; natural cross ventilation for apartments is optimised; natural ventilation is provided to all habitable rooms; and as many non-habitable rooms, common areas and circulation spaces as possible.	The development will use the following design solutions: rooms with similar usage are grouped together and natural cross ventilation is optimised throughout the units.	Yes

**4V Water management and conservation**

Objectives/Design Criteria/Design Guidance	Design Response	Compliance
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<b>Objective 4V-1</b>		
Potable water use is minimised.	Stormwater management concept plans are provided in the DA package for Council consideration.	
<b>Design guidance</b>		
Water efficient fittings, appliances and wastewater reuse should be incorporated.	Water efficient fittings, appliances and wastewater reuse will be in accordance with the BASIX certificate.	Yes
Apartments should be individually metered.	Apartments can be individually metered where practical. Details to be provided upon CC.	Yes
Rainwater should be collected, stored and reused on site.	Rainwater will be collected, stored and reused on site as per the BASIX certificate.	Yes
Drought tolerant, low water use plants should be used within landscaped areas.	Low water use plants have been selected in the landscape plan.	Yes
<b>Objective 4V-2</b>		
Urban stormwater is treated on site before being discharged to receiving waters.	Stormwater management concept plans are provided in the DA package for Council consideration.	
<b>Design guidance</b>		
Water sensitive urban design systems are designed by a suitably qualified professional	Stormwater management concept plans are provided in the DA package for Council consideration.	Yes
A number of the following design solutions are used: runoff is collected from roofs and balconies in water tanks and plumbed into toilets, laundry and irrigation; porous and open paving materials is maximised; on site stormwater and infiltration, including bio-retention systems such as rain gardens or street tree pits.		
<b>Objective 4V-3</b>		
Flood management systems are integrated into site		

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design.		
<b>Design guidance</b>		
Detention tanks should be located under paved areas, driveways or in basement car parks.	A below ground OSD is provided in the basement.	Yes
On large sites parks or open spaces are designed to provide temporary on site detention basins		

**4W Waste management**

Objectives/Design Criteria/Design Guidance	Design Response	Compliance
<b>Objective 4W-1</b>		
Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents.	A waste storage room is provided in the basement.	Yes
<b>Design guidance</b>		
Adequately sized storage areas for rubbish bins should be located discreetly away from the front of the development or in the basement car park	A waste storage room is provided in the basement.	Yes
Waste and recycling storage areas should be well ventilated	Waste and recycling storage areas will be well ventilated.	Yes
Circulation design allows bins to be easily manoeuvred between storage and collection points	The bins can be easily manoeuvred to the street for collection services.	Yes
Temporary storage should be provided for large bulk items such as mattresses	Relatively small complex only. Residents should be able to organise bulky item pickup service with Council	Noted
A waste management plan should be prepared	A waste management plan is provided.	Yes
<b>Objective 4W-2</b>		
Domestic waste is minimised by providing safe and convenient source separation and recycling		
<b>Design guidance</b>		



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All dwellings should have a waste and recycling cupboard or temporary storage area of sufficient size to hold two days' worth of waste and recycling	All dwellings will have a sufficient space for temporary storage of waste and recycling within the units	Yes
Communal waste and recycling rooms are in convenient and accessible locations related to each vertical core	The waste storage room is located in convenient and accessible location in the basement	Yes
For mixed use developments, residential waste and recycling storage areas and access should be separate and secure from other uses		N/A
Alternative waste disposal methods such as composting should be provided	Compost bins can be provided in the rear garden where appropriate.	Yes

**4X Building maintenance**

Objectives/Design Criteria/Design Guidance	Design Response	Compliance
<b>Objective 4X-1</b>		
Building design detail provides protection from weathering.		
<b>Design guidance</b>		
A number of the following design solutions are used: roof overhangs to protect walls; hoods over windows and doors to protect openings; detailing horizontal edges with drip lines to avoid staining of surfaces; methods to eliminate or reduce planter box leaching; appropriate design and material selection for hostile locations.	The development incorporates roof overhangs over the balconies and horizontal edges can be provided with drip lines.	Yes
<b>Objective 4X-2</b>		
Systems and access enable ease of maintenance.		
<b>Design guidance</b>		
Window design enables cleaning from the inside of the building.	Window cleaning from inside the building may not be practical for the subject site.	No – variation sought

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Building maintenance systems should be incorporated and integrated into the design of the building form, roof and façade.	Building maintenance systems will be incorporated and integrated into the design of the building form, roof and façade.	Yes
Design solutions do not require external scaffolding for maintenance access.	The proposed building will be designed so as to minimise external scaffolding for maintenance access.	Yes
Manually operated systems such as blinds, sunshades and curtains are used in preference to mechanical systems.	Manually operated systems such as blinds, sunshades and curtains will be used in preference to mechanical systems.	Yes
Centralised maintenance, services and storage should be provided for communal open space areas within the building.	Centralised maintenance, services and storage will be provided for communal open space areas within the building.	Yes
<b>Objective 4X-3</b>		
Material selection reduces ongoing maintenance costs.		
<b>Design guidance</b>		
A number of the following design solutions are used: sensors to control artificial lighting in common circulation and spaces; natural materials that weather well and improve with time such as face brickwork; easily cleaned surfaces that are graffiti resistant; robust and durable materials and finishes are used in locations which receive heavy wear and tear, such as common circulation areas and lift interiors.	The development will incorporate: sensors to control artificial lighting in common circulation and spaces; easily cleaned surfaces that are graffiti resistant; robust and durable materials and finishes are used in locations which receive heavy wear and tear, such as common circulation areas and lift interiors.	Yes

#### 4.6 State Environmental Planning Policy (Transport & Infrastructure) 2021

## **2.97 Development adjacent to rail corridors**

(1) This section applies to development on land that is in or adjacent to a rail corridor, if the development—

- (a) is likely to have an adverse effect on rail safety, or
- (b) involves the placing of a metal finish on a structure and the rail corridor concerned is used by electric trains, or
- (c) involves the use of a crane in air space above any rail corridor, or
- (d) is located within 5 metres of an exposed overhead electricity power line that is used for the purpose of railways or rail infrastructure facilities.

**Note—**

Section 2.48 also contains provisions relating to development that is within 5 metres of an exposed overhead electricity power line.

(2) Before determining a development application for development to which this section applies, the consent authority must—

- (a) within 7 days after the application is made, give written notice of the application to the rail authority for the rail corridor, and
  - (b) take into consideration—
    - (i) any response to the notice that is received within 21 days after the notice is given, and
    - (ii) any guidelines that are issued by the Secretary for the purposes of this section and published in the Gazette.
- (3) Despite subsection (2), the consent authority is not required to comply with subsection (2)(a) and (b)(i) if the development application is for development on land that is in or adjacent to a rail corridor vested in or owned by ARTC or the subject of an ARTC arrangement.
- (4) Land is adjacent to a rail corridor for the purpose of this section even if it is separated from the rail corridor by a road or road related area within the meaning of the Road Transport Act 2013.

**Comment:** The front boundary of the subject site is approximately 19m from the railway corridor land. Council may be required to give written notice of the DA to the rail authority for comment.

## **2.98 Excavation in, above, below or adjacent to rail corridors**

(1) This section applies to development (other than development to which section 2.100 applies) that involves the penetration of ground to a depth of at least 2m below ground level (existing) on land—

- (a) within, below or above a rail corridor, or
- (b) within 25m (measured horizontally) of a rail corridor, or
- (c) within 25m (measured horizontally) of the ground directly below a rail corridor, or
- (d) within 25m (measured horizontally) of the ground directly above an underground rail corridor.
- (2) Before determining a development application for development to which this section applies, the consent authority must—
  - (a) within 7 days after the application is made, give written notice of the application to the rail authority for the rail corridor, and
  - (b) take into consideration—
    - (i) any response to the notice that is received within 21 days after the notice is given, and
    - (ii) any guidelines issued by the Secretary for the purposes of this section and published in the Gazette.
- (3) Subject to subsection (5), the consent authority must not grant consent to development to which this section applies without the concurrence of the rail authority for the rail corridor to which the development application relates.
- (4) In deciding whether to provide concurrence, the rail authority must take into account—
  - (a) the potential effects of the development (whether alone or cumulatively with other development or proposed development) on—
    - (i) the safety or structural integrity of existing or proposed rail infrastructure facilities in the rail corridor, and
    - (ii) the safe and effective operation of existing or proposed rail infrastructure facilities in the rail corridor, and
  - (b) what measures are proposed, or could reasonably be taken, to avoid or minimise those potential effects.
- (5) The consent authority may grant consent to development to which this section applies without the concurrence of the rail authority concerned if—
  - (a) the rail corridor is owned by or vested in ARTC or is the subject of an ARTC arrangement, or
  - (b) in any other case, 21 days have passed since the consent authority gave notice under subsection (2)(a) and the rail authority has not granted or refused to grant concurrence.

**Comment:** The front boundary of the subject site is approximately 19m from the railway corridor land and over 2m deep excavation is not proposed for the first 6m into the site. Nevertheless, Council may be required to give written notice of the DA to the rail authority for comment.

## 4.7 Willoughby Local Environmental Plan 2012



The subject site is zoned R3 (Medium Density Residential) under Willoughby LEP 2012 and a residential flat building is permissible subject to development consent.

#### Part 4 Principal development standards

Planning standards	LEP Requirement	Compliance
Minimum subdivision lot size (CI 4.1)	Not specified	
Height of building (CI 4.3)	12m (max)	Main building & lift overrun – less than 12m (Yes)
FSR (CI 4.4)	0.9:1 or 604.53m <sup>2</sup> (max)	0.9:1 or 604m <sup>2</sup> (Yes)
Heritage conservation (CI 5.10)		Not within HCA or in vicinity of heritage item, but the site is adjacent to an HCA only.
Acid sulfate soil (CI 6.1)		Acid sulfate soil report can be provided upon CC stage together with geotechnical assessment report
Minimum lot sizes for attached dwellings, dual occupancies, multi dwelling housing, residential flat buildings and secondary dwellings (CI 6.10)	1,100m <sup>2</sup> (min)	671.7m <sup>2</sup> (No) – variation sought under Clause 4.6

#### Site isolation

In *Karavellas v Sutherland Shire Council* [2004] NSWLEC 251, the Land and Environment Court set out the Planning Principle when dealing with the issue of site isolation as a result of redevelopment of adjacent sites as below:

*17 The general questions to be answered when dealing with amalgamation of sites or when a site is to be isolated through redevelopment are:*

- Firstly, is amalgamation of the sites feasible?*
- Secondly, can orderly and economic use and development of the separate sites be*

*achieved if amalgamation is not feasible?*

*18 The principles to be applied in determining the answer to the first question are set out by Brown C in Melissa Grech v Auburn Council [2004] NSWLEC 40. The Commissioner said:*

*Firstly, where a property will be isolated by a proposed development and that property cannot satisfy the minimum lot requirements then negotiations between the owners of the properties should commence at an early stage and prior to the lodgement of the development application.*

**Comment:** Evidence is provided in the DA package that the owners of the subject property have been in negotiation with the neighbouring owners at No.40 Hampden Road long before the development application.

*Secondly, and where no satisfactory result is achieved from the negotiations, the development application should include details of the negotiations between the owners of the properties. These details should include offers to the owner of the isolated property. A reasonable offer, for the purposes of determining the development application and addressing the planning implications of an isolated lot, is to be based on at least one recent independent valuation and may include other reasonable expenses likely to be incurred by the owner of the isolated property in the sale of the property.*

**Comment:** Evidence is provided in the DA package for Council consideration including written offers and independent valuation report.

*Thirdly, the level of negotiation and any offers made for the isolated site are matters that can be given weight in the consideration of the development application. The amount of weight will depend on the level of negotiation, whether any offers are deemed reasonable or unreasonable, any relevant planning requirements and the provisions of s 79C of the Environmental Planning and Assessment Act 1979.*

**Comment:** The written offers made were based on the independent valuation report which is reasonable.

*19 In the decision Cornerstone Property Group Pty Ltd v Warringah Council [2004] NSWLEC 189, I extended the principles of Brown C to deal with the second question and stated that:  
The key principle is whether both sites can achieve a development that is consistent with the*



*planning controls. If variations to the planning controls would be required, such as non compliance with a minimum allotment size, will both sites be able to achieve a development of appropriate urban form and with acceptable level of amenity.*

**Comment:** No.40 Hampden Road legally comprises of Lot 3 and 4 in DP 11971 which have not been Strata subdivided to date and currently contains a two storey residential flat building consisting of 4 apartment units. This neighbouring site is slightly wider and larger than the subject site and would be able to achieve a development of similar urban form as the proposed building and with acceptable level of residential amenity, should redevelopment occur on its own in the future.

*To assist in this assessment, an envelope for the isolated site may be prepared which indicates height, setbacks, resultant site coverage (both building and basement). This should be schematic but of sufficient detail to understand the relationship between the subject application and the isolated site and the likely impacts the developments will have on each other, particularly solar access and privacy impacts for residential development and the traffic impacts of separate driveways if the development is on a main road.*

**Comment:** As mentioned above, No.40 Hampden Road currently contains a two storey residential flat building consisting of 4 apartment units. This neighbouring site is slightly wider and larger than the subject site and would be able to achieve a development of similar design layout as the proposed development. As such, schematic concept design is not considered necessary.

## 6.1 Acid sulfate soils

*(1) The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.*

*(2) Development consent is required for the carrying out of works described in the Table to this subclause on land shown on the Acid Sulfate Soils Map as being of the class specified for those works.*

<b>Class of land</b>	<b>Works</b>
1	Any works.

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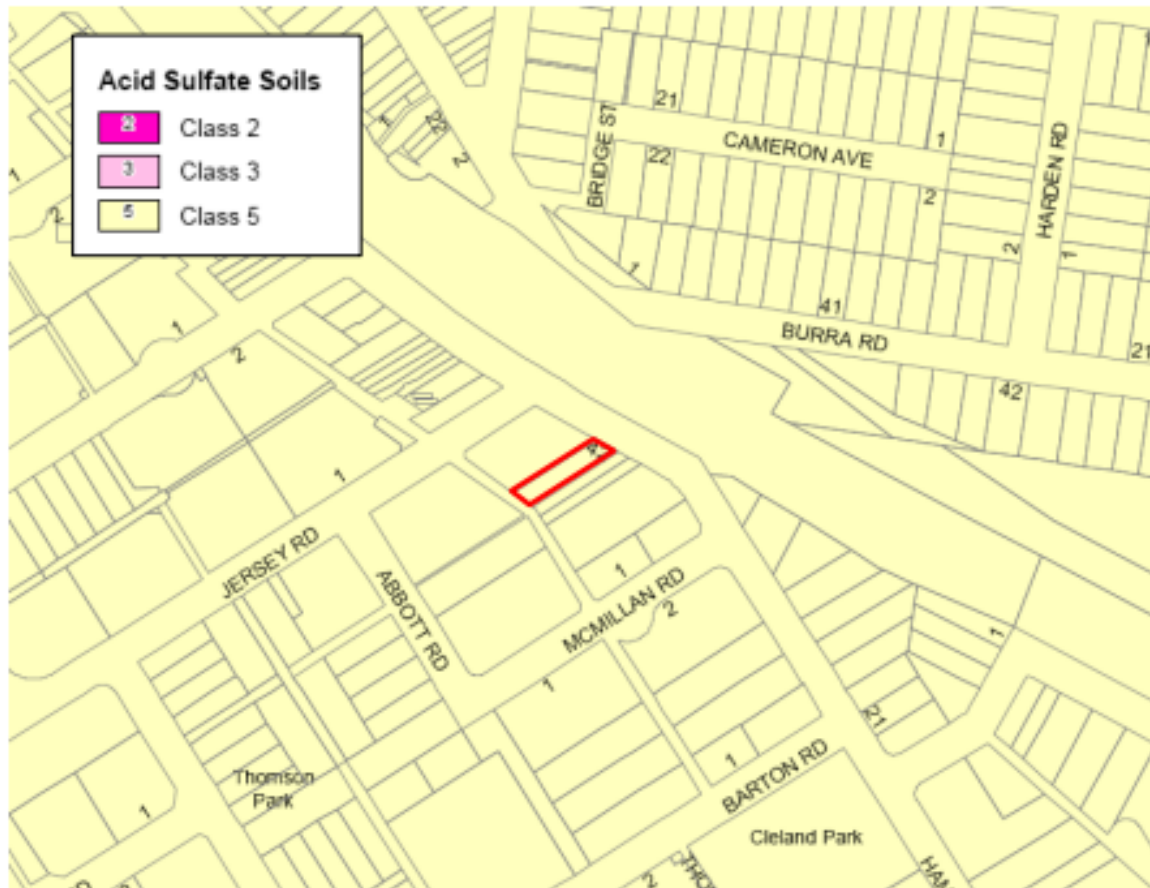
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- 2 Works below the natural ground surface.  
Works by which the watertable is likely to be lowered.
- 3 Works more than 1 metre below the natural ground surface.  
Works by which the watertable is likely to be lowered more than 1 metre below the natural ground surface.
- 4 Works more than 2 metres below the natural ground surface.  
Works by which the watertable is likely to be lowered more than 2 metres below the natural ground surface.
- 5 Works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.

(3) Development consent must not be granted under this clause for the carrying out of works unless an acid sulfate soils management plan has been prepared for the proposed works in accordance with the Acid Sulfate Soils Manual and has been provided to the consent authority.

**Comment:** The site is located within Class 5 Acid Sulfate Soil area. However, the subject site is much higher than 5m AHD (i.e. from AHD 78.92 in the front to AHD 87.37 at the rear boundary) and the proposed development will not involve deep excavation which could have the potential to affect the watertable. Nevertheless, an Acid Sulfate Soil Report can be done together with a Geotechnical Assessment Report upon Construction Certificate stage.

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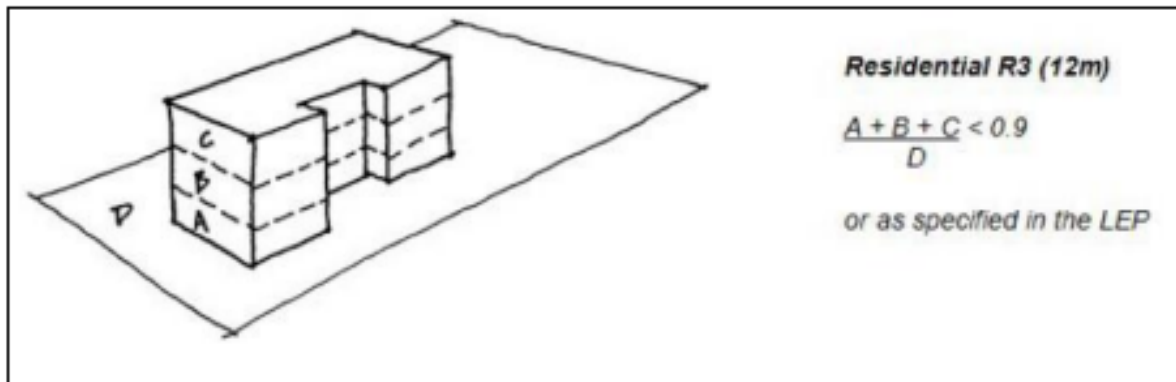


[Figure 1] Acid sulfate soils map – WLEP 2021

## 4.8 Willoughby Development Control Plan 2012

### PART D2 - Attached dwellings, Multi dwelling housing and residential flat dwellings

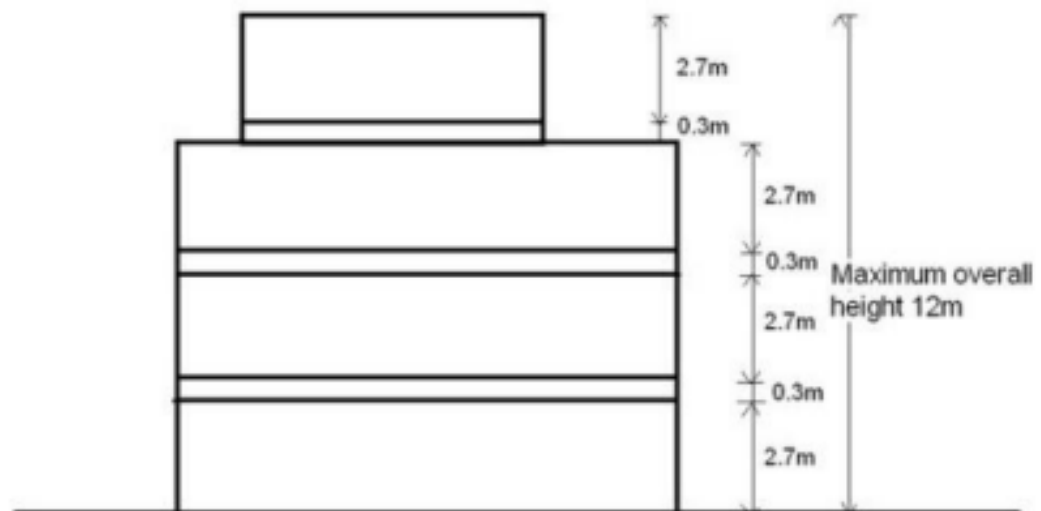
Development control	DCP Requirement	Compliance
2.5 Density & height	FSR = 0.9:1 (max)	0.9:1 (Yes)
	4 <sup>th</sup> floor = 60% of area of floor below	(No) – Refer to discussion below



R3 Zone

12 metre height limit

3 storey + 4th storey setback + no greater than 60% of area of floor below



#### 4<sup>th</sup> storey – 60% of area of floor below

The following justifications are provided in support of the development despite the numerical non-compliance with the maximum 60% for the fourth floor of the residential flat building:

- Numerous old and new RFBs in the vicinity contain straight up 4 storey in height without complying with the 60% top floor reduction. (Refer to photographs below) Under the circumstances, the proposed development will not be out of streetscape context.
- The Apartment Design Guide under SEPP 65 requires an additional building setback & stepped back design from 5<sup>th</sup> storey onwards. As such, up to 4 storey can be designed



straight up in accordance with the ADG.

- The proposed building is set back well behind: (i) the minimum front setback requirement of 7.5m in the DCP; (ii) the predominant building line in the street; and (iii) the existing building on the subject site to minimise bulk and scale impact on the street. In addition, the 4<sup>th</sup> storey is stepped back even further behind to achieve visual relief when viewed from the public domains.



[Photo 12] 2-4 Jersey Road



[Photo 13] 28-30 Jersey Road



*42 Hampden Road, Artarmon*

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*[Photo 14] 26 Hampden Road*



*[Photo 15] 31 Hampden Road*



*[Photo 16] 7 Barton Road*

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2.7 Site coverage	4 Storeys = 28% (max)	160.48 / 671.7 = 23.9% (Yes)
2.8 Setback	<p><b>Front</b> = 7.5m (min) subject to conforming with the existing front setbacks of the street</p> <p><b>Side &amp; rear</b> For walls single storey and &lt; 5m in height: minimum 1.5m For walls 2 storeys and &lt; 8m in height: minimum 3m For walls 3+ storeys in height: 3m for the ground floor level of the building with an increase of 1.2m for each storey of the building above the ground floor level. The total required setback is to apply to all floors from the 3rd floor up. Setback = 3m + 1.2m/storey above the ground floor storey</p>	<p>Greater than 7.5m setback to the front wall of the building which is also consistent with the prevailing building line (Yes)</p> <p>Side setback: Ground floor = 1.877m &amp; 2.25m (No) 1<sup>st</sup> floor = 0.9m &amp; 2.25m (No) 2<sup>nd</sup> floor = 0.9m &amp; 2.25m (No) 3<sup>rd</sup> floor = 0.9m &amp; 2.25m (No) (Variation sought) – strict compliance is not achievable due to the narrow site width – Please refer to 3F-1 of ADG tables above for detailed justification</p> <p>Rear setback = greater than 6.6m</p>
2.9 Open space	<p>Recreational area = 4 storey = 54% (min)</p> <p>POS = 3 bed units = 60m<sup>2</sup> courtyard (min) or 15m<sup>2</sup> balcony (min)</p> <p>COS = 50m<sup>2</sup> &amp; 5m in dimensions (min) &amp; receive 3 hours of sunlight between 9am and 3pm on June 22</p>	ADG controls should prevail – Please refer to 3D-1 of ADG tables above for detail discussion
2.10 Landscaping	35% (min)	ADG controls should prevail – Please refer to 3E of ADG tables above for detail discussion

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2.11 Privacy	Acoustic privacy: 3m (min) – opening of adjacent dwelling 3m (min) – bedroom windows from shared streets, driveways, service & parking area	Greater than 3m (Yes)  Greater than 3m (Yes)
2.12 Views & vistas	Development to maintain significant views where possible or achieve a degree of view sharing between properties	The proposed development will not adversely block any significant views of the neighbours (Yes)
2.13 Solar access & overshadowing	The principal portion of any outdoor communal open space of the development must have at least 3 hours of sunlight between 9am and 3pm on June 22  The north facing windows of living areas and the principal portion of the recreational open space of adjoining residential buildings should have at least 3 hours of sunlight between 9am and 3pm on June 22  Where existing overshadowing by buildings and fences is greater than this, sunlight should not be reduced by more than 20%	Please refer to 4A of ADG tables above for detail discussion
2.14 Service Facilities & Amenities		Refer to discussion under ADG

## **5. CONSIDERATION UNDER S 4.15 OF THE EP&A ACT**

### **5.1 The likely impacts of the development**

The proposal is not likely to adversely affect the built and natural environment. All other relevant considerations are discussed throughout the Statement of Environment Effects.

In summary, the proposed development has been carefully designed to minimise the likely impacts on the natural and built environment in the surrounding area.

### **5.2 The suitability of the site**

The site is considered suitable for the development for the following reasons:

- The site is zoned R3 (Medium Density Residential) to encourage a medium density residential development in an accessible location in line with the zone objectives.
- The site is conveniently located along the major railway line to promote use of public transport.
- The site is not environmentally sensitive.
- The site is not affected by flooding or bushfire.
- The site is provided with suitable public infrastructure including electricity, telecommunication and reticulated water and sewer which can be upgraded where necessary.

### **5.3 Submissions**

Council is to notify the development in accordance with the relevant legislations and consider any submissions received.

### **5.4 The public interest**

Having considered the assessment provided in this report and planning merits discussed in the Clause 4.6 variation statement, Council's support for the proposed development would be in the public interest as it will promote supply of additional dwellings in a medium density residential environment and affordable rental housing for the disadvantaged in the local community.

'The Guide to Section 79C (Currently Section 4.15)' published by the previous Department of



Planning refers '(e) – the public interest' to be 'Federal, State and Local government interests and community interests' as below:

*(e) – The public interest*

<i>Primary Matters</i>	<i>Specific Considerations</i>
Federal, State and Local government interests and community interests	<ul style="list-style-type: none"> <li>Do any policy statements from Federal or State Governments have relevance?</li> <li>Are there any relevant planning studies and strategies?</li> <li>Is there any management plan, planning guideline, or advisory document that is relevant?</li> <li>Are there any credible research findings, which are applicable to the case?</li> <li>Do any covenants, relevant issues raised in public meetings and inquiries?</li> <li>Have there been relevant issues raised in public meetings or inquiries?</li> <li>Was there consultations and submissions made in addition to (d) above?</li> <li>How will the health and safety of the public be affected?</li> </ul>

To apply the specific considerations in the table to the proposed development, the following assessment is made:

- Numerous policy statements and planning studies and strategies (e.g. The Sydney Metropolitan Strategy 2031) have been published by the NSW Department of Planning and Environment in recent years to facilitate housing supply and urban consolidation so as to keep up with the increasing housing demand in NSW, whilst best protecting the environment. The subject site is one of the last remaining and isolated allotment which is very conveniently located near the railway station. As such, approval to the proposed development is considered to be in the interest of the state of NSW facilitating housing supply and urban consolidation without adversely compromising the environment elsewhere in the Greater Sydney context in the long run.
- No covenant or registered easement exists that could possibly undermine the public interest.
- All written submissions objecting to the proposal can be adequately dealt with during Council's DA conciliation process if received.



*42 Hampden Road, Artarmon*

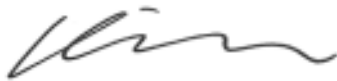
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- The health and safety of the public will not be adversely affected by the proposed variation.

## **6. CONCLUSION**

The proposed development is consistent with the objectives of the R3 Zone (Medium Density Residential) and will not unduly compromise the built and natural environment of the area and the amenity of adjoining properties. Therefore, the proposed development is worthy of Council support.

Yours faithfully,



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## ATTACHMENT 9: OFFICER'S CLAUSE 4.6 ASSESSMENT – MINIMUM LOT SIZE

### Description of non-compliance

Development Standard	Minimum lot size required	Proposed	%Variation
CI 6.10 Minimum lot size	1100m <sup>2</sup>	671.7m <sup>2</sup>	<b>38.94%</b>  428.3m <sup>2</sup> over the standard

### Key points of the applicant's submission:

- i) The development is consistent with the objectives of the zone.
- ii) The development is consistent with the objectives of the development standard.
- iii) Compliance is unreasonable and unnecessary because:
  - a) The streetscape is predominantly characterised by residential flat buildings of 3 to 4 storey in height in relatively small allotments less than 1,100m<sup>2</sup>. The proposed residential flat building would be in keeping with the existing streetscape character.
  - b) The locality contains numerous existing residential flat buildings with the site areas less than 1,100m<sup>2</sup>.
- iv) There are sufficient environmental planning grounds to justify the variation because:
  - a) The development will better provide for the housing needs of the community by contributing a modern and convenient RFB within a conventional medium density residential environment
  - b) The proposed new contemporary building in 4 aspects will better promote a variety of housing types within a medium density residential environment than that of the existing building.
  - c) The development will better provide for the housing needs of the community in the modern lifestyle than that of the existing building which is more appropriate in the very convenient and privileged location.
  - d) The development will facilitate orderly and economic use and development of land, whilst not resulting in detrimental impacts on the built and natural environment in the vicinity.

### Objectives of Clause 4.6

**4.6** (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.*

CI 4.6 Criteria	Response
<b>4.6(2)</b> <i>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</i>	The development standard is not expressly excluded from the operation of this clause.

<i>operation of this clause.</i>	
<b>4.6 (3)</b> <i>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—</i>	
a) <i>Has the applicant's submission demonstrated that compliance with the standard is unreasonable or unnecessary in the circumstances of the case, and</i>	<p>The applicant's written request has not adequately demonstrated that the objectives of the minimum lot size for certain residential accommodation development standard are achieved, notwithstanding the numerical non-compliance.</p> <p>The applicant's written request has not adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by cl 4.6(3)(a). The objectives of the development standard are discussed further in the assessment of Clause 4.6(4)(a)(ii).</p>
b) <i>Has the applicant's submission demonstrated that there are sufficient environmental planning grounds to justify the non-compliance?</i>	<p>The applicant's written request has not adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard.</p> <p>Therefore, council is not satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by Clause 4.6 (3)</p>
<b>4.6(4)</b> <i>Development consent must not be granted for development that contravenes a development standard unless:</i>	
a) i) <i>Has the applicant's written request adequately addressed the matters required to be demonstrated in subclause 3</i>	The applicant's written request has not adequately demonstrated that compliance with the standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify the non-compliance.
ii) <i>Is the proposed development in the public interest because it is consistent with:</i>	
• <i>objectives of the particular development standard</i>	No, see assessment below
• <i>objectives for the development within the zone in which the development is proposed to be carried</i>	No, see assessment below

**Consistency with the objectives of the minimum lot sizes for certain residential accommodation development standard:**

Consistency of the proposed development with the height of building standard's objectives is discussed below:

<b>Minimum lot sizes for certain residential accommodation</b>	<b>Response</b>
(a) to achieve planned residential density in certain zones by— (i) enabling development sites to be of sufficient size to provide adequate area for drainage, landscaping, and	The proposal does not increase residential density. Although, there is an overall improvement in the design, the total number of units remain the same. This is due to the site not having the minimum lot size of 1100m <sup>2</sup> required for a

<p>separation between buildings for privacy and solar and vehicular access, and</p> <p>(ii) reducing the instances of isolated lots being left with reduced development potential, and</p>	<p>residential flat building. As such, not enabling the site to be sufficient size to provide adequate area for drainage, landscaping, and separation between buildings for privacy and solar and vehicular access.</p> <p>In addition, the proposal fails to adequately meet the minimum lot size for the development therefore, resulting in the isolation of No.40 Hampden Road which is located on the western side of the subject site. The affected property No. 40 will not be able to meet the minimum lot size requirements for redevelopment.</p>
<p>(b) to increase the efficiency and safety of the road network by minimising the number of driveway crossings.</p>	<p>The proposal will not minimise the number of driveway crossings. The site will not be amalgamated with No. 40 Hampden Road, as a result, future development of that lot will require additional driveway crossing.</p> <p>As such, the proposal fails to increase the efficiency and safety of the road network.</p>

### **Consistency with the objectives of the R3 Zone:**

Consistency of the proposed development with the Zone's objectives is discussed below:

<b>Zone Objective</b>	<b>Response</b>
To provide for the housing needs of the community within a medium density residential environment	<p>Although, there is an overall improvement in the design, the total number of units remain the same. This is due to the site not having the minimum lot size of 1100m<sup>2</sup> required for a residential flat building.</p> <p>As such the proposal fails to meet any additional housing needs of the community within a medium density residential environment.</p>
To provide a variety of housing types within a medium density residential environment.	No variety of housing or unit mix provided. 4 x 3-bedroom units proposed with almost the same layout.
To enable other land uses that provide facilities or services to meet the day to day needs of residents.	The proposal will enable other land uses that provide facilities or services to meet the day to day needs of residents.
To accommodate development that is compatible with the scale and character of the surrounding residential development.	The proposal in its current form is not compatible with the scale and character of the surrounding residential development.
To allow for increased residential density in accessible locations, while minimising the potential for adverse impacts of such increased density on the efficiency and safety of the road network.	The total number of units remain the same. The proposal does not increase residential density. Whilst, the residential density is not increased, it failed to ensure the efficiency and safety of the road network due to the site being less than 1100m <sup>2</sup> and having a narrow frontage.
To encourage innovative design in providing a comfortable and sustainable living environment that also has regard to solar access, privacy, noise, views, vehicular access, parking and landscaping.	The proposal fails to provide a comfortable and sustainable living environment as it does not enable the site to have adequate solar access, privacy, landscaping and vehicular access.

### **Clause 4.6 4) b) The Concurrence of the Secretary has been obtained**

Based on the above considerations, the proposed development is not able to be granted consent, and the concurrence of the Secretary is not required to refuse the application.

## ATTACHMENT 8 - SECTION 4.15 (79C) ASSESSMENT

The application has been assessed under the provisions of S.4.15 (79C) of the *Environmental Planning and Assessment Act*.

The most relevant matters for consideration are assessed under the following headings:

### Matters for Consideration Under S.4.15 (79C) EP&A Act Considered and Satisfactory ✓ and Not Relevant N/A

(a)(i)	The provisions of any environmental planning instrument (EPI)	
	<ul style="list-style-type: none"> <li>State Environmental Planning Policies (SEPP)</li> </ul>	✓
	<ul style="list-style-type: none"> <li>Regional Environmental Plans (REP)</li> </ul>	✓
	<ul style="list-style-type: none"> <li>Local Environmental Plans (LEP)</li> </ul>	✓
	<p><b>Comment:</b> <b><u>Willoughby LEP 2012</u></b></p> <p><u>Clause 6.10 Minimum lot sizes for certain residential accommodation</u></p> <p>The development contravenes the development standards of <i>WLEP</i> under Clause 6.10 in respect to the minimum lot size requirement of 1100m<sup>2</sup> by 38.94%. The subject site has an area of 671.7m<sup>2</sup>.</p> <p><u>Clause 4.6 Exception to development standards</u></p> <p>The submitted Clause 4.6 variation does not adequately demonstrate the non-compliance of FSR on appropriate planning grounds for the variation and failed to adequately satisfy the objectives of the development standard and zone and therefore, is not recommended for support.</p> <p>The proposal fails to satisfy the aims and objectives of these EPIs.</p>	
(a)(ii)	The provision of any draft environmental planning instrument (EPI)	
	<ul style="list-style-type: none"> <li>Draft State Environmental Planning Policies (SEPP)</li> </ul>	N/A
	<ul style="list-style-type: none"> <li>Draft Regional Environmental Plans (REP)</li> </ul>	N/A
	<ul style="list-style-type: none"> <li>Draft Local Environmental Plans (LEP)</li> </ul>	✓
	<p><b>Comment:</b> There are no draft <i>SEPPs</i> that apply to the subject land. <i>Note WLEP 2012 amendment 34 does not change the zone or minimum lot size provisions for certain residential accommodation applicable to this site.</i></p>	
(a)(iii)	Any development control plans	
	<ul style="list-style-type: none"> <li>Development control plans (DCPs)</li> </ul>	✓
	<b>Comment:</b> The proposal fails to satisfy the aims and objectives of the <i>DCP</i> .	
(a)(iv)	Any matters prescribed by the regulations	
	<ul style="list-style-type: none"> <li>Clause 92 EP&amp;A Regulation-Demolition</li> </ul>	✓
	<ul style="list-style-type: none"> <li>Clause 93 EP&amp;A Regulation-Fire Safety Considerations</li> </ul>	✓
	<ul style="list-style-type: none"> <li>Clause 94 EP&amp;A Regulation-Fire Upgrade of Existing Buildings</li> </ul>	N/A
	<b>Comment:</b> The proposal satisfies the aims and objectives of the regulations.	
(b)	The likely impacts of the development	
	<ul style="list-style-type: none"> <li>Context &amp; setting</li> </ul>	✓
	<ul style="list-style-type: none"> <li>Access, transport &amp; traffic, parking</li> </ul>	✓
	<ul style="list-style-type: none"> <li>Servicing, loading/unloading</li> </ul>	✓
	<ul style="list-style-type: none"> <li>Public domain</li> </ul>	✓
	<ul style="list-style-type: none"> <li>Utilities</li> </ul>	✓



**Matters for Consideration Under S.4.15 (79C) EP&A Act**  
**Considered and Satisfactory ✓ and Not Relevant N/A**

	<ul style="list-style-type: none"> <li>Heritage</li> </ul>	✓
	<ul style="list-style-type: none"> <li>Privacy</li> </ul>	
	<ul style="list-style-type: none"> <li>Views</li> </ul>	✓
	<ul style="list-style-type: none"> <li>Solar Access</li> </ul>	✓
	<ul style="list-style-type: none"> <li>Water and draining</li> </ul>	✓
	<ul style="list-style-type: none"> <li>Soils</li> </ul>	✓
	<ul style="list-style-type: none"> <li>Air &amp; microclimate</li> </ul>	✓
	<ul style="list-style-type: none"> <li>Flora &amp; fauna</li> </ul>	✓
	<ul style="list-style-type: none"> <li>Waste</li> </ul>	✓
	<ul style="list-style-type: none"> <li>Energy</li> </ul>	✓
	<ul style="list-style-type: none"> <li>Noise &amp; vibration</li> </ul>	✓
	<ul style="list-style-type: none"> <li>Natural hazards: Overland flowpath</li> </ul>	✓
	<ul style="list-style-type: none"> <li>Safety, security crime prevention</li> </ul>	✓
	<ul style="list-style-type: none"> <li>Social impact in the locality</li> </ul>	✓
	<ul style="list-style-type: none"> <li>Economic impact in the locality</li> </ul>	✓
	<ul style="list-style-type: none"> <li>Site design and internal design</li> </ul>	✓
	<ul style="list-style-type: none"> <li>Construction</li> </ul>	✓
	<ul style="list-style-type: none"> <li>Cumulative impacts</li> </ul>	✓
	<b>Comment:</b> The proposal is not considered to have acceptable impacts on the surrounding built environment.	
(c)	The suitability of the site for the development	
	<ul style="list-style-type: none"> <li>Does the proposal fit in the locality?</li> </ul>	✓
	<ul style="list-style-type: none"> <li>Are the site attributes conducive to this development?</li> </ul>	✓
	<b>Comment:</b> The proposal is not considered suitable for the site.	
(d)	Any submissions made in accordance with this Act or the regulations	
	<ul style="list-style-type: none"> <li>Public submissions</li> </ul>	✓
	<ul style="list-style-type: none"> <li>Submissions from public authorities</li> </ul>	✓
	<b>Comment:</b> Submissions have been considered in the assessment of the proposal.	
(e)	The public interest	
	<ul style="list-style-type: none"> <li>Federal, State and Local Government interests and Community interests</li> </ul>	✓
	<b>Comment:</b> The proposal is considered to be contrary to the public interest.	

**ATTACHMENT 9: REASONS FOR REFUSALS**

1. The proposed development contravenes with the development standard of minimum lot size under Clause 6.10 by 38.94% of the *Willoughby Local Environmental Plan 2012 (WLEP 2012)*.
2. The proposed development fails to meet the objective of Clause 6.2 of the *Willoughby Local Environmental Plan 2012 (WLEP 2012)* and its requirement to ensure structural stability in the locality.
3. The proposed development is inconsistent with Part B.4.3.2, minimum street frontage requirement of *Willoughby Development Control Plan 2023 (WDCP 2023)* under section 4.15 (1) (a) (iii) of the *Environmental Planning and Assessment Act 1979* and does not contribute to the existing or proposed streetscape character.
4. The proposed development is inconsistent with Part D.2.7, maximum site coverage requirement of *Willoughby Development Control Plan 2012 (WDCP 2012)* under section 4.15 (1) (a) (iii) of the *Environmental Planning and Assessment Act 1979*.
5. The proposed development is inconsistent with water management standards under Part C.5.1.1 of the *Willoughby Development Control Plan 2012 (WDCP 2012)* under section 4.15 (1) (a) (iii) of the *Environmental Planning and Assessment Act 1979*.
6. The proposed development is inconsistent with the control C.4.5 of *Willoughby Development Control Plan 2012* and its requirement for driveway compliance with Australian Standard AS2890.
7. The proposal is inconsistent with *Willoughby Development Control Plan 2023*, including Waste Management Technical Guide and Development Controls by North Sydney Regional Organisation of Councils for multi dwelling housing, residential flat buildings and mixed-use developments (NSROC, 2018).
8. The proposed development is inconsistent with the control of G.6 of the *Willoughby Development Control Plan 2023 (WDCP 2023)* and its requirement for replacement for trees.
9. The proposed development is inconsistent with the minimum 2 hours of solar access to communal open space requirement under Part 3D, building separation requirement under Part 3F, maximum depth of open plan layouts requirements under Part 4D-2, requirement of minimum storage of the units under Part 4G-1 Apartment Design Guide.
10. Insufficient information has been submitted over the duration of the development application and review process to enable Council to carry out a proper and accurate assessment of the application. Additional information was requested for this review on 17 October 2023 and the information received failed to meet Council's requirements and standards.
11. Granting consent to the proposal in its current form would set an undesirable precedent and the proposal's non-compliance with the relevant performance criteria of *WDCP* and the objectives of *Willoughby LEP 2012* indicates that approval of this application would not be in the public interest. (Section 4.15(1) (c) of the *Environmental Planning and Assessment Act 1979*).

ATTACHMENT 10: NOTIFICATION MAP

