



# **Attachment 1 to Item 2.1.2.**

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## **S4.15 Report & Recommended Conditions**

Date of meeting: 18 July 2024  
Location: Council Chambers or audio-visual link  
Time: 10am



**1. Executive Summary**

<b>Development Application No.</b>	DA0369/23
<b>Date Received</b>	07/09/2023
<b>Proposal</b>	Demolition of existing residential flat building, construction of new residential flat building comprising three levels, basement car-parking, and associated landscape works
<b>Estimated Cost</b>	\$5,027,000.00
<b>Legal Description</b>	Lot 6 DP 234451 & Lot 7 DP 234451
<b>Property Address</b>	173 March Street RICHMOND NSW 2753
<b>Area</b>	1,176.8m <sup>2</sup>
<b>Zoning</b>	R2 Low Density Residential
<b>Applicant</b>	Mcgregor Westlake Architecture
<b>Owner</b>	Mcgregor Westlake Architecture
<b>Exhibition Dates</b>	10/11/2023 to 24/11/2023
<b>Submissions</b>	Nil
<b>Recommendation</b>	Approval subject to the imposition of conditions.

The application seeks the redevelopment of a residential flat building on the site of 173 March Street, Richmond. The site is zoned R2 Low Density Residential to which the development of a residential flat building is prohibited under the Hawkesbury Local Environmental Plan 2012 (LEP).

It is noted that a GIPA request revealed several consents related to the initial development of a residential flat building on the site (refer to section 3). In this respect, the use of the site as a residential flat building has been demonstrated as lawful and has not ceased for a period of more than twelve (12) months. In this respect, the site benefits from existing use rights under Division 4.11 of the EP&A Act 1979.

Pursuant to section 164 of the EP&A Regulations 2021, an existing use, where demonstrated that it has commenced lawfully, can be enlarged, expanded and intensified subject to development consent.

It is recognised that the permissibility of the site for development of a Residential Flat Building is derived from existing use rights notwithstanding the prohibition of such use under an R2 Low density residential zone.

It is noted that the Hawkesbury City Council does not have a Design Review Panel (DRP) constituted under clause 145 (2) of the SEPP. Nonetheless, the Council has engaged EMBECE in providing detailed design advice pursuant to clause 147 (1)(a), (b) & (c). The comments from EMBECE are attached as Appendix 1.

Council and EMBECE have raised concerns with the usability of the COS given its location forward of the building line and fronting a classified road that being March Street. The applicant has not provided justification for the usability of this space but instead chose to address this by way of introduction of a palisade fence running the perimeter of the COS. Further, the main thoroughfare into the building and letterboxes have been included in the COS calculations. These spaces allude to 19.57m<sup>2</sup> to which, should be excluded from COS calculations. The removal of this space would also exclude space to the West of the pathway from meeting the minimum dimensions of 3m. This entails to the total removal of 48.8m<sup>2</sup> from the COS calculations bringing the overall COS to 245.7m<sup>2</sup> (noting the ADG requirement for COS is 294.2m<sup>2</sup>). A rooftop COS was discussed in both preliminary meetings with the applicant as well as in the DRP meeting to which the applicant has chosen not to incorporate into the design.

This is further discussed below under section 3D of the ADG assessment. Should the panel accept this solution a condition of consent has been recommended requiring the detailing of fencing prior to the issue of a Construction Certificate.

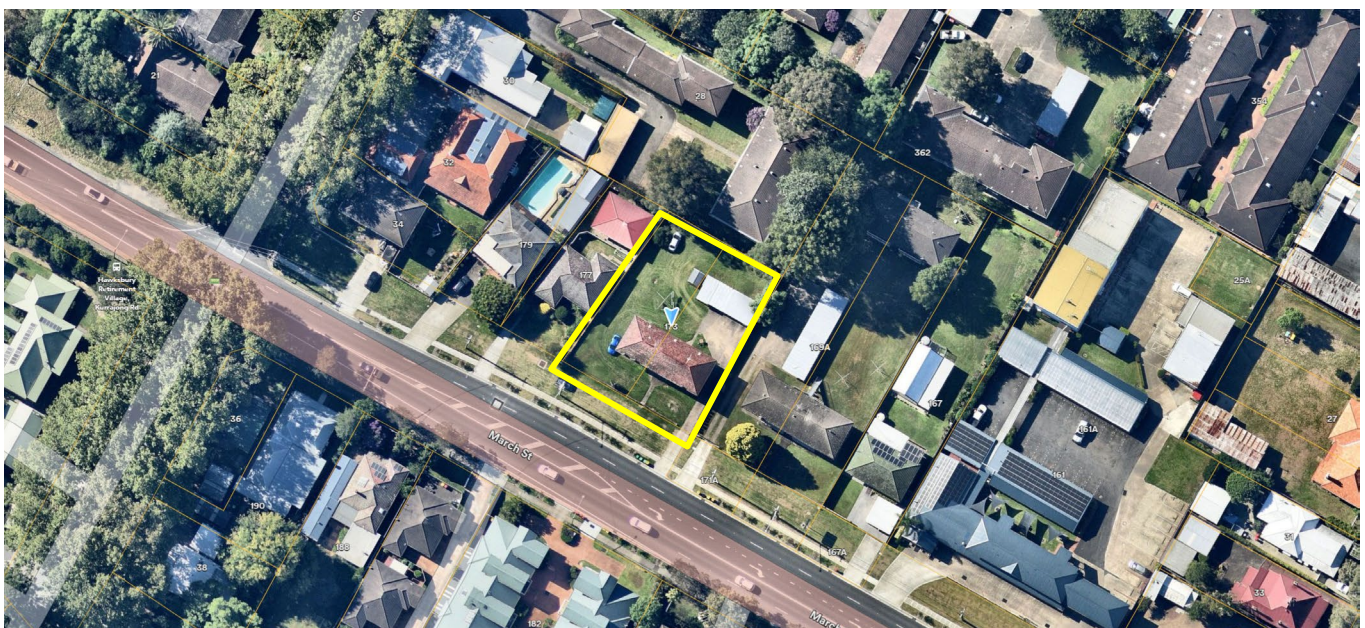
The proposal was referred to Council's acoustic health and engineering teams who have raised no concerns with the proposal subject to the imposition of conditions. The Department of Defence was referred due to the site proximity to the Richmond RAF Base to which no response was received. TFNSW was referred under a concurrence for section 138 (Non-integrated) road works.

Council has reviewed the additional information request and note that the items are now amenable and the application can be supported subject to the imposition of conditions.

## 2. Site Description & Conditions

The subject site encompasses a total site area of 1,176.8m<sup>2</sup> with a Residential flab building consisting of four units currently on the allotment. A review of Council's historical maps reveals that the site has historically been used as an Residential flat building since 1968.

To clarify the location of the application site and specifically that of the subject site, refer to the aerial image and photographs in figures 1-5 below.



**Figure 1.** Site location map.



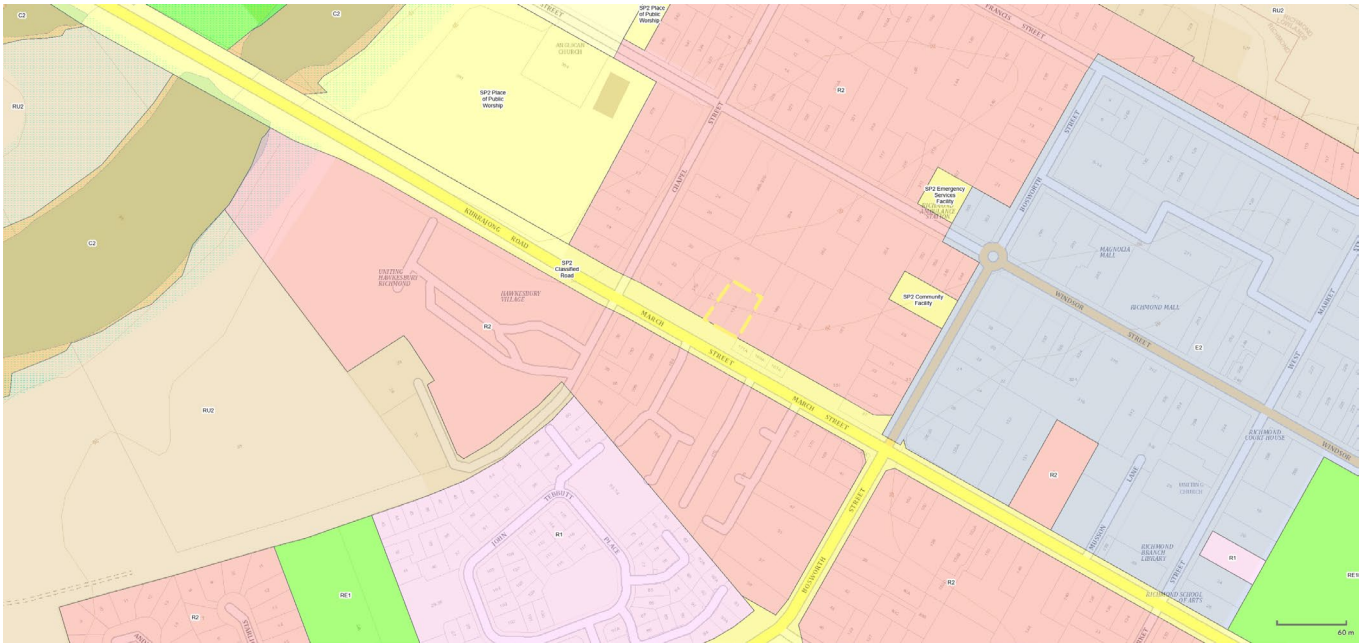


Figure 2. Bushfire & Biodiversity values map. Source: Planning Portal

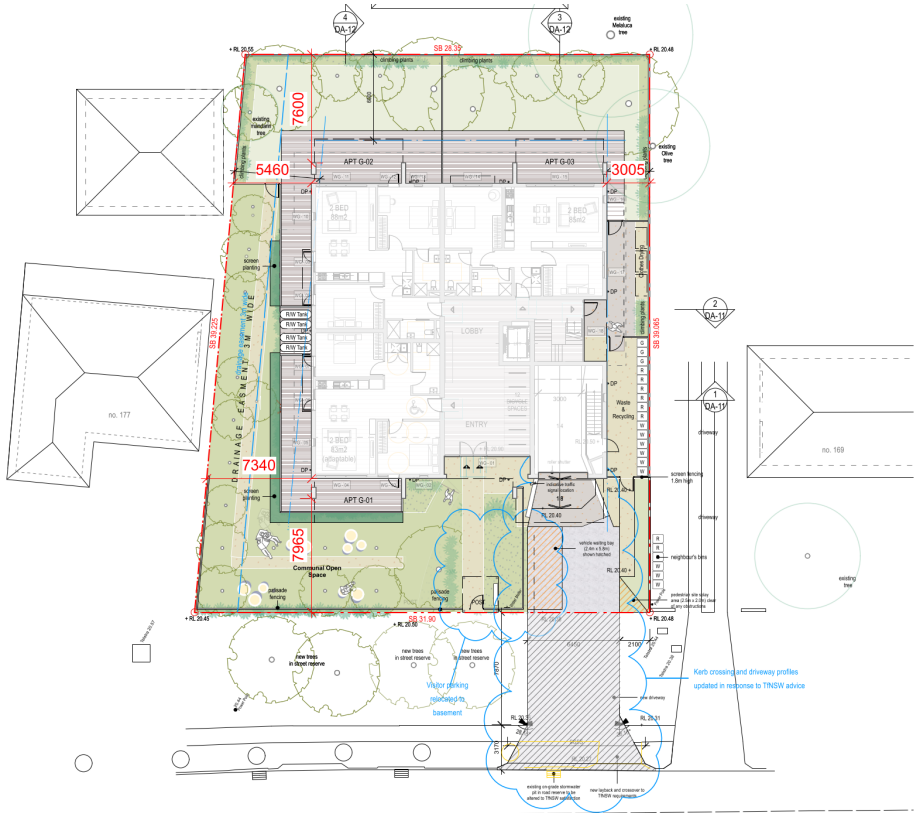


Figure 3. Proposed site plan.

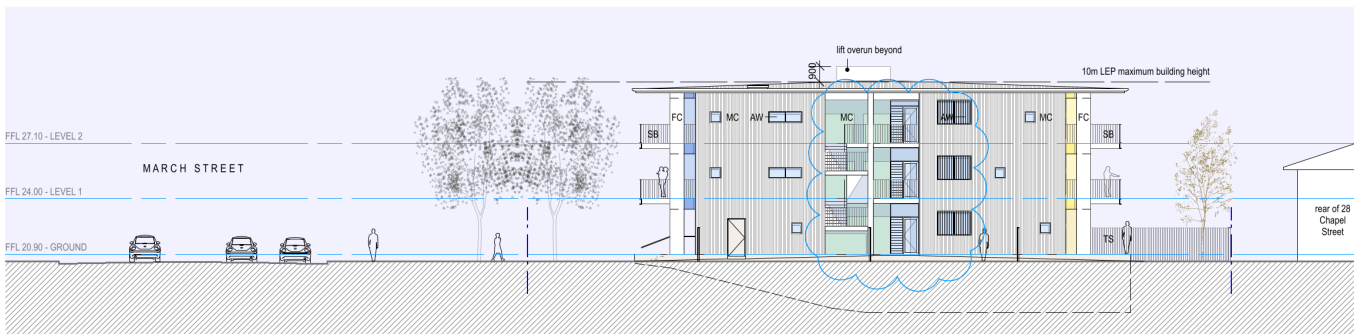


2 South Elevation - March Street  
scale 1:200 at A3



1 North Elevation  
scale 1:200 at A3

**Legend**  
 AW Aluminium framed door/window RS Roller shutter  
 FC Compressed fibre cement cladding with Vitrapanel finish SB Steel balustrade with round balusters  
 MC Metal wall cladding, Colorbond Custom Orb TS Timber screen, hardwood battens



2 East Elevation  
scale 1:200 at A3



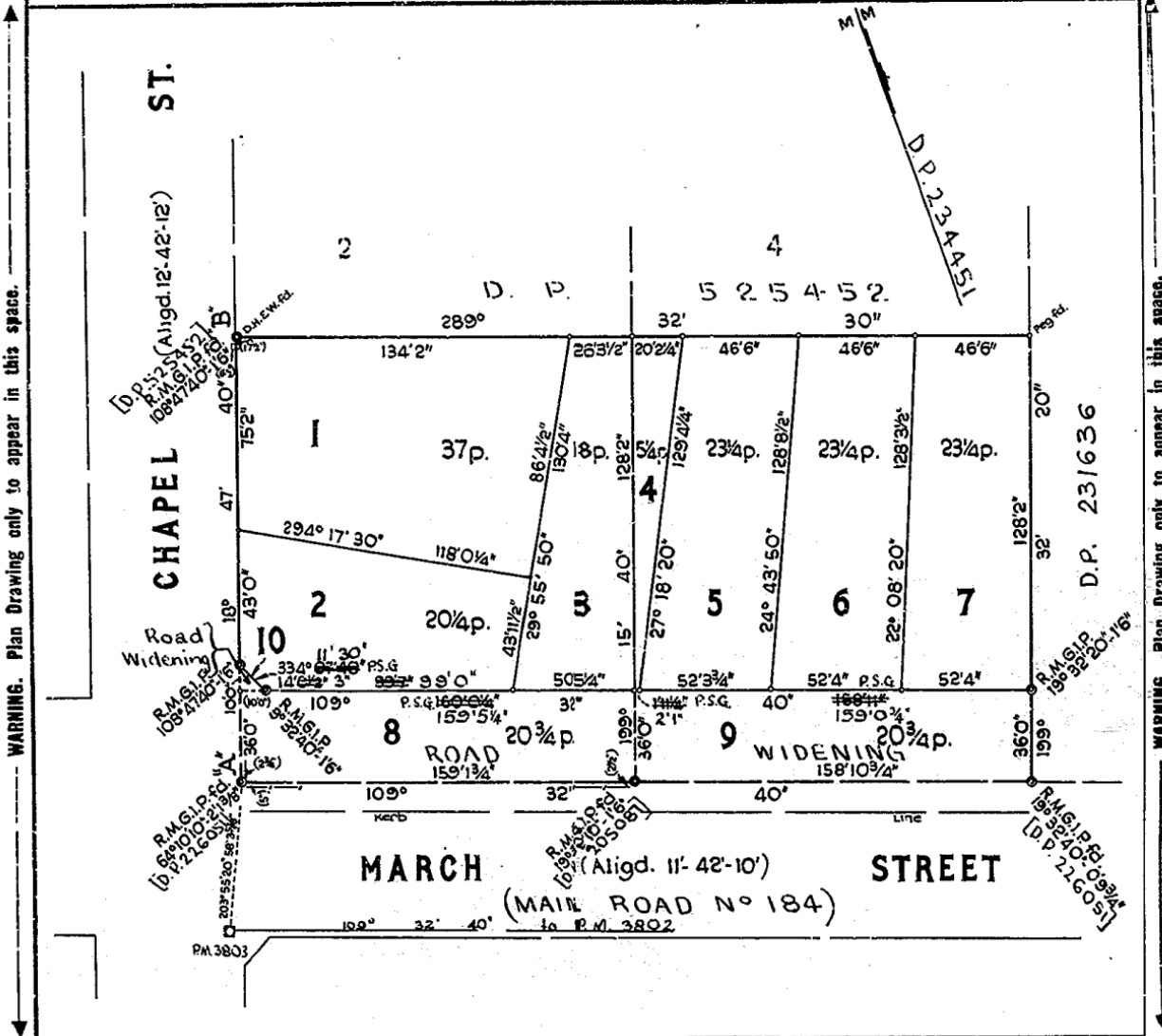
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**Figure 4. Proposed elevations.**



<b>PLAN OF</b>		D. P. 234451 VA N° 216	
SUBDIVISION OF LOTS 3 & 4 D.P. 226051		Registered: 17.5.1968 (F)	
Mun./State/City	WINDSOR	C.A.:	24/1967 of 2/8/1967
Town or Locality	RICHMOND	Title System:	Torrens & Old System
Parish	HAM COMMON	Purpose:	Subdivision
County	CUMBERLAND	Ref. Map:	Town of Richmond
Scale 50 feet to an inch		Last Plan:	D. P. 226051#



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Figure 5. DP 234451

Peter Stewart Graham of 83 Chapman Ave, Besscroft



### 3. Relevant Site History

Date	Comment
30/04/1968	Development of land by the erection thereon of four residential flats approved under 6a/1968
13/08/1968	Four Flats (Brick) approved under BAW0147/68
12/01/1971	Cast Iron Garage approved under BAW0366/70
07/08/2020	PD0046/20 held for the construction of a residential flat building consisting of four additional units.
07/09/2023	Subject application lodged.

### 4. The Proposal

The proposal seeks consent for the demolition of the existing residential flat building and the construction of a 3 storey residential flat building accommodating 11 units and basement parking.

The particulars are:

- Demolition of existing structures.
- Construction of a 3-storey residential flat building, to be used for the purposes of general housing, providing a total of 11 self-contained dwellings; consisting of:
  - 11 x two-bedroom dwellings.
- Basement car parking for 13 vehicles, including 2 accessible spaces;
- Associated landscaping works.

### 5. Relevant Application History

Date	Comment
07/09/2023	Application lodged on the NSW Planning Portal.
07/11/2023	Site visit undertaken.
07/12/2023	TFNSW requested RFI.
11/04/2024	Meeting held with applicant, applicant's planner and owner to discuss the pathway forward for the application noting several issues to the proposed COS, parking layout & Bedroom allocations were raised.
16/05/2024	Preliminary briefing held between Council and EMBECE regarding a Design Review Panel (DRP).
21/05/2024	Applicant issued with Council's DRP report and EMBECE's preliminary review.
27/05/2024	Applicant's response to Council's DRP report and EMBECE's preliminary review provided.
12/06/2024	DRP meeting held. Outcomes of this meeting included the highlighting of COS issues, visitor parking issues and entryway issues.
21/06/2024	Additional information provided.



## 6. Referrals

Stakeholder	Comment
Engineering	<ul style="list-style-type: none"> <li>Supported subject to the imposition of conditions.</li> </ul>
Acoustic	<ul style="list-style-type: none"> <li>Supported subject to the imposition of conditions.</li> </ul>
Waste	<ul style="list-style-type: none"> <li>Comments provided.</li> </ul> <p><i>In terms of the DA below, and going forward for all RFBs DAs, the Resource Recovery Team will require bins to be presented at the kerbside. Unlike other Greater Sydney Councils, we do not use rear-loaders, or runners, or a "collect and return" to the bin bay service. Other Sydney Councils on occasion have allowed a developer to use a private waste contractor ongoing, and have made it a DA condition. In consultation with you, this could be an option for this DA. Let's discuss the best approach for this DA and as a precedent for future DAs, realising we only operate a side-lift arm vehicle, and there are no plans to purchase a rear-loader.</i></p>
<b>External Referrals</b>	
TFNSW	<ul style="list-style-type: none"> <li>Concurrence under S138 (non-integrated) of the Roads Act provided.</li> </ul>
Department of Defence	<ul style="list-style-type: none"> <li>No comments received.</li> </ul>

## 7. Environmental Planning Instruments

### 7.1 Overview

The instruments applicable to this application are:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulations 2021;
- Protection of Environment Operations Act 1997
- State Environmental Planning Policy – (Biodiversity & Conservation) 2021
- State Environmental Planning Policy (Resilience & Hazards) 2021
- State Environmental Planning Policy (Transport & Infrastructure) 2021
- State Environmental Planning Policy (Housing) 2021
- Hawkesbury Local Environmental Plan 2012 (LEP 2012)
- Hawkesbury Development Control Plan 2002 (HDCP 2002)
- Hawkesbury Council Flood Policy 2020

### 7.2 State Environmental Planning Policy (Housing) 2021

#### 7.2.1 Chapter 2: Affordable Housing

The development has not been made pursuant to chapter 2 of the SEPP. Accordingly, no affordable housing units are sought or provided under this application.

#### 7.2.2 Chapter 3: Diverse Housing

During the DRP meeting held on the 12<sup>th</sup> of June 2024, a reference to build to rent housing was made by the applicant. As the application does not meet the provisions of clause 72 (2) & (3), the application is not considered to have been made under the Part 4 Build to Rent Housing under this SEPP.

#### 7.2.3 Chapter 4: Design of residential apartment development

The chapter aims to improve the design of residential apartment development in NSW.

The subject application seeks the development of a three storey residential flat building as defined under clause 144 (3).





It is noted that the Hawkesbury City Council does not have a Design Review Panel (DRP) constituted under clause 145 (2) of the SEPP. Nonetheless, the Council has engaged EMBECE in providing detailed design advice pursuant to clause 147 (1)(a), (b) & (c).

The comments from EMBECE are attached as Appendix 1. Council has summarised the material as follows:

### **General Comments**

The applicant is to be commended for the objectives of the development which include the following:

- Build to rent and the provision of housing supply.
- Low carbon commitments.
- General principles on siting to create an appropriate built form response and increase opportunities for consolidated landscaping.
- Consideration of the initial design feedback, which has been mostly addressed.

There are only 3 key items which still need to be considered and is further outlined below.

### **Architectural Character and Materiality**

- Housing SEPP Principle No 1: Context and Neighborhood Character objectives refer to design which “responds and contributes to its context” and “identifying the desirable elements of an areas existing and future character”.
  - o Following the presentation by the applicant, the cladding is generally accepted as a solution.
- Housing SEPP Principle No 9: Aesthetics objectives refer to “Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure”.
  - o The front elevation and presentation of the middle façade is predominantly a blank wall.
  - o Further consideration could be given to the entry to express the residential address and the internal lobby experience.
  - o Consideration of the wall treatment above the entry to descale the blank wall. (E.g. texture or screens. Note, pending treatment of the entry level expression, this may not be required.)

### **Entry (Visitor Car Spaces)**

- The visitor parking is an undesirable outcome for the legibility of the entry and the amenity of the site
- The visitor parking manoeuvring has the potential to conflict with the basement entry
- Following discussions with Hawkesbury Council after the presentation, there could be dispensation for the carparking rates to allow for 1 car space for each apartment and relocate the visitor parking into the basement (spots 12 and 13).
- Removal of the visitor car spaces to the basement will improve the residential entry to the street, remove the conflict of car manoeuvring and better address the Housing SEPP Principle 1

### **Communal Open Space**

- Housing SEPP Principle 6: Amenity objectives refer to housing amenity which allows for “visual and acoustic privacy.”
  - o The location of the primary communal open space to the front of the development along a classified road is not considered a great outcome. It does not offer visual and acoustic amenity to address the Housing SEPP Principle 6.
- Housing SEPP Principle 8: Housing Diversity and Social Interaction objectives refer to “different types of communal open space for a broad range of people.”
  - o It is acknowledged that the amended landscaping to the west boundary delivers more seating opportunities
- Communal open space calculations do not comply with the DCP, waste areas, services areas entry circulation have been included in the calculation.
- Consider where an additional communal open space can be allocated to provide a supplementary space for gathering away from the main road and to comply with the total area of communal open space.



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**Council's response:**

In response to the DRP report provided to the applicant, the applicant provided an amended package on the 21<sup>st</sup> of June 2024.

The following comments are made with respect to the areas of concern highlighted by EMBECE.

**Architectural Character and Materiality**

- A combination of metal and coloured metal cladding has now been incorporated into all facades of the development.
- Face brick has been incorporated into the entry wall.
- Bedroom windows added to South elevation.

**Note:** the changes above to the building façade is satisfactory, though it does not significantly enhance the overall aesthetic of the building.

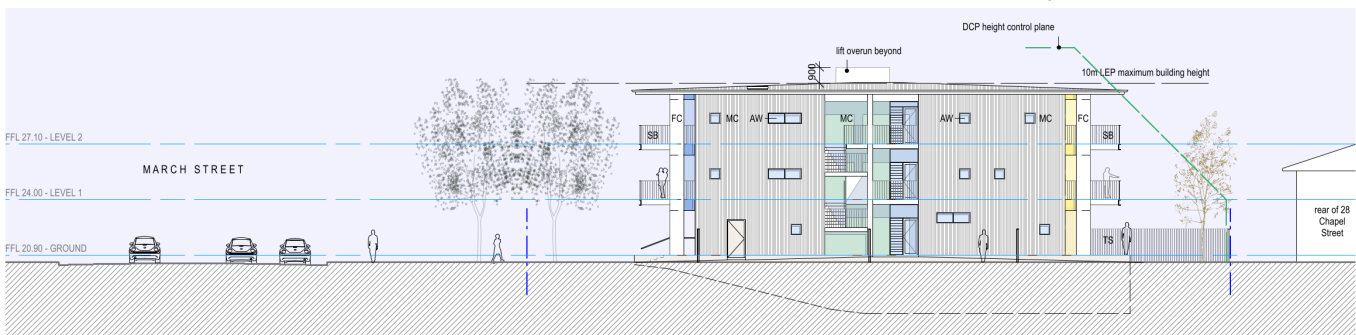


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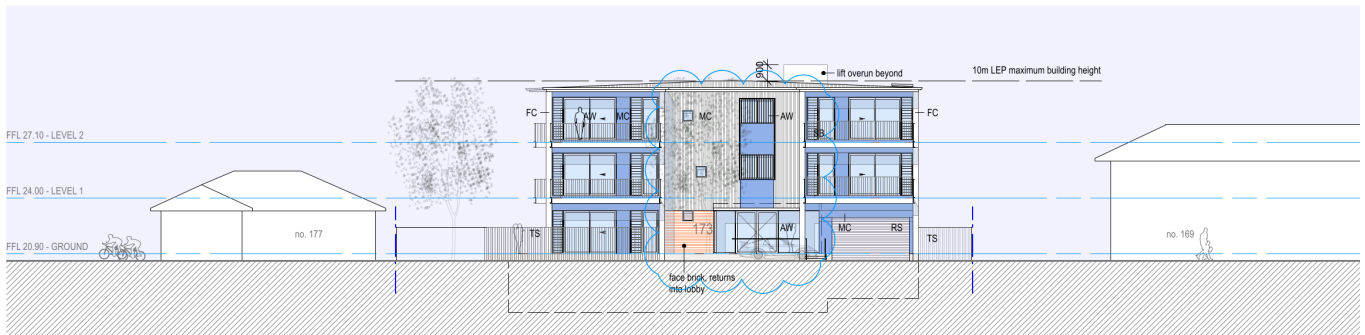
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**Figure 6. Original Elevations submitted as part of DA package.**

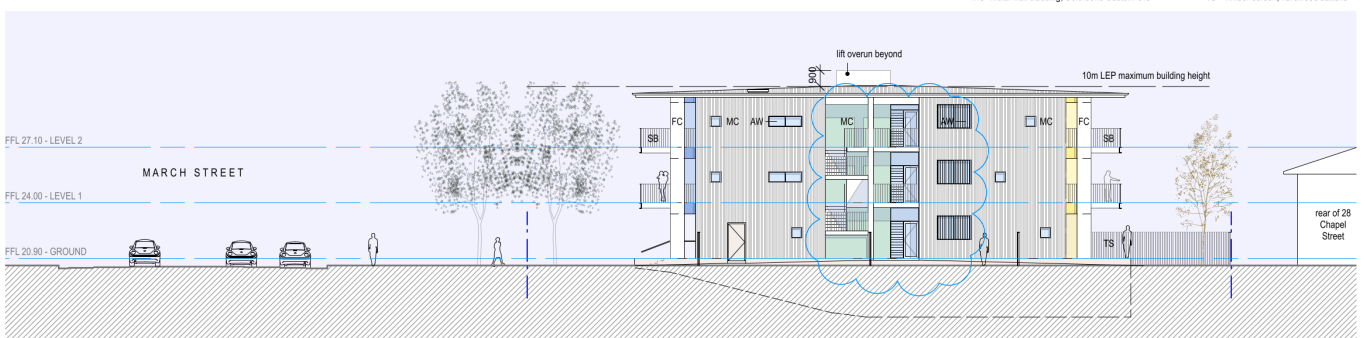


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Figure 7. Amended Elevations submitted as part of post DRP package.

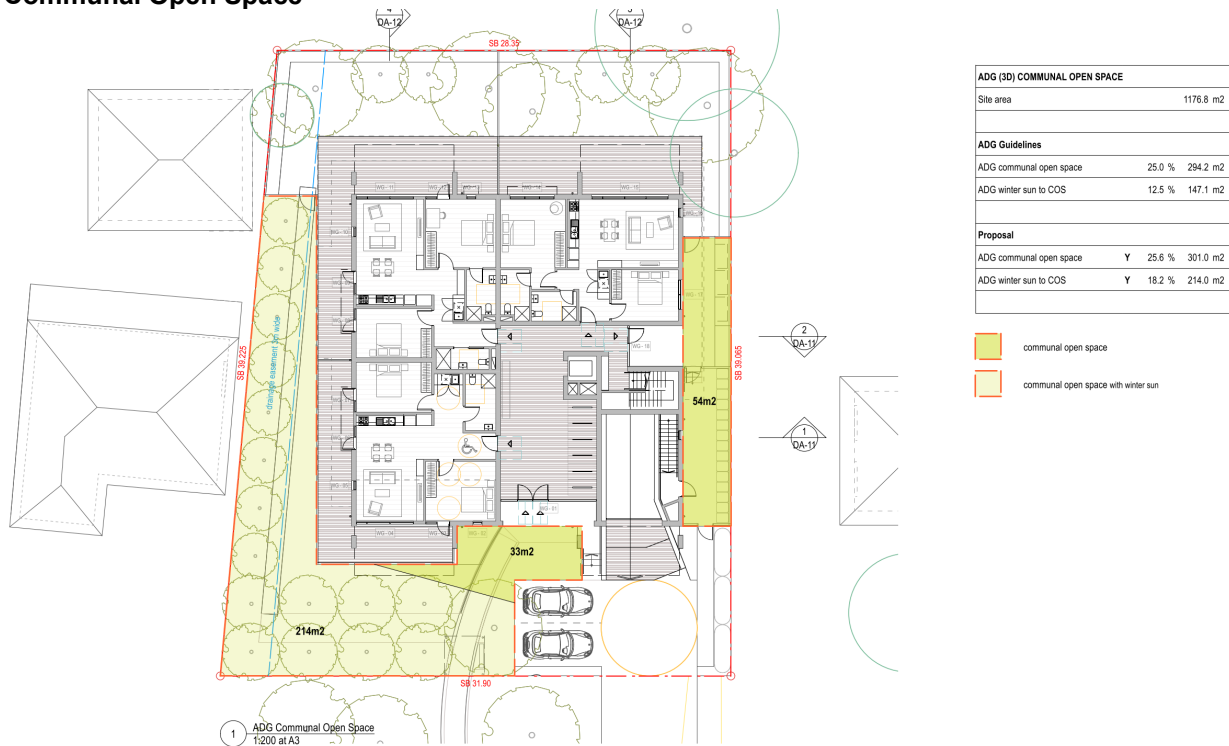
### Entry (Visitor Car Spaces)

- Visitor parking spaces removed from at-grade to basement level.
- It is noted that as a result of this, the parking spaces provided to each dwelling is reduced to one per domicile.

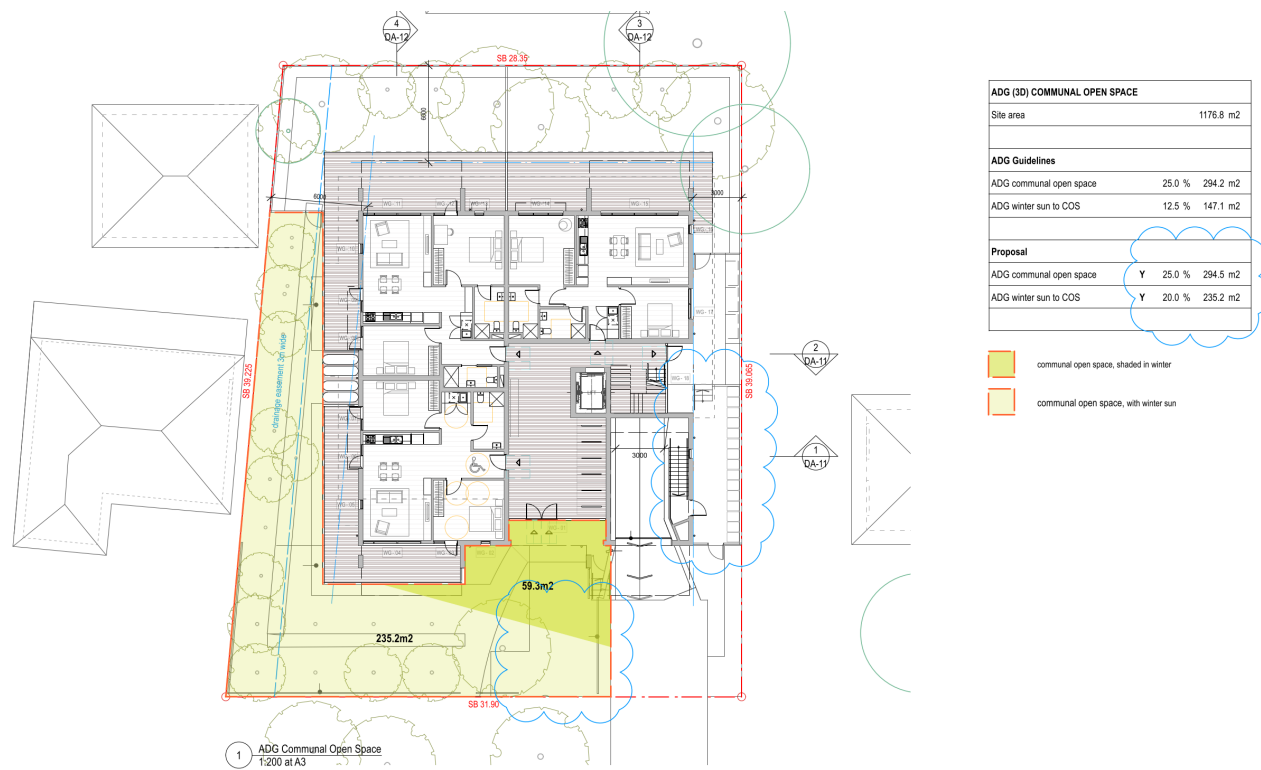


**Note:** Council is supportive of the change. Given the proximity of the site to Richmon Station (700m as the crow flies), the reduction to one parking space per dwelling is reasonable. Further, two visitor spots are maintained to support the 11 dwellings proposed pursuant to Table 1 of the Hawkesbury DCP 2023.

### Communal Open Space



**Figure 8. Original COS spaces submitted as part of DA package.**



**Figure 9. Amended COS spaces submitted as part of post DRP package.**





- Per figures 8 & 9, the removal of the at-grade visitor parking spaces has allowed for the expansion of the COS to the driveway boundary.
- Removal of waste room and clothes drying area from COS calculations.

**Note:** Council and EMBECE have raised concerns with the usability of the COS given its location forward of the building line and fronting a classified road that being March Street. The applicant has not provided justification for the usability of this space but instead chose to address this by way of introduction of a palisade fence running the perimeter of the COS. Further, the main thoroughfare into the building and letterboxes have been included in the COS calculations. These spaces allude to 19.57m<sup>2</sup> to which, should be excluded from COS calculations. The removal of this space would also exclude space to the West of the pathway from meeting the minimum dimensions of 3m. This entails to the total removal of 48.8m<sup>2</sup> from the COS calculations bringing the overall COS to 245.7m<sup>2</sup> (noting the ADG requirement for COS is 294.2m<sup>2</sup>). A rooftop COS was discussed in both preliminary meetings with the applicant as well as in the DRP meeting to which the applicant has chosen not to incorporate into the design.

This is further discussed below under section 3D of the ADG assessment. Should the panel accept this solution a condition of consent has been recommended requiring the detailing of fencing prior to the issue of a Construction Certificate.

### Apartment Design Guide (ADG) Assessment

The SEPP also requires the Consent Authority to take into consideration the requirements of the ADG with regard to the proposed residential apartment building. An assessment under the ADG has been undertaken and discussed below:

Part 2 – Developing the controls														
<p><b>Note:</b> This part explains the application of building envelopes and primary controls including building height, floor space ratio, building depth, separation and setbacks. It provides tools to support the strategic planning process when preparing planning controls. It is used here only to ascertain degrees of compliance with the most applied controls under Parts 3 and 4 later in this table.</p>														
2E Building Depth														
<p>Use a range of appropriate maximum apartment depths of 12-18m from glass line to glass line.</p>	<p>The proposed building ranges in depth generally between 7.5m to 8.6m.</p> <p>The proposed building depth allows for appropriately sized rooms with sufficient solar access and natural ventilation. Further, the building will not appear as overly dominant or out of character with the surrounding environment or the desired future character.</p>	<b>Yes.</b>												
2F Building Separation														
<p>Minimum separation distances for buildings up to 4 storeys should be:</p> <ul style="list-style-type: none"> <li>• 12m between habitable rooms / balconies</li> <li>• 9m between habitable and non-habitable rooms</li> <li>• 6m between non-habitable rooms</li> </ul>	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="background-color: #cccccc;">Separation</th> <th style="background-color: #cccccc;">Control</th> <th style="background-color: #cccccc;">Proposed</th> </tr> </thead> <tbody> <tr> <td>East</td> <td>12m</td> <td>7.2m</td> </tr> <tr> <td>West</td> <td>12m</td> <td>10.79m (to adjacent dwelling)</td> </tr> <tr> <td>Rear (North)</td> <td>12m</td> <td>9.1m (6m to Boundary)</td> </tr> </tbody> </table> <p><b>Note:</b> The developments located on 28 Chapel Street (North of the site) and 169A/171A March (West of the site) Street contain residential flat buildings. These developments have been taken to have potential for redevelopment under the same existing use rights benefiting the subject application.</p> <p>The siting of the development to the East of the site reflect a 6m separation distance noting that the site would not be developed further. In this instance, strict compliance with a 12m eastern setback would inhibit the development of the site noting that the site contains a frontage of 31.9m.</p>	Separation	Control	Proposed	East	12m	7.2m	West	12m	10.79m (to adjacent dwelling)	Rear (North)	12m	9.1m (6m to Boundary)	<b>Supportable.</b>
Separation	Control	Proposed												
East	12m	7.2m												
West	12m	10.79m (to adjacent dwelling)												
Rear (North)	12m	9.1m (6m to Boundary)												



	<p>To the North, the proposed setback of 6m is appropriate given that should the adjoining site be developed, a separation distance of 12m can be met.</p> <p>To the East of the site, a separation distance of 10.79m has been provided to the existing residential flat building. Council considers the setback as appropriate given the opportunity for further development that the adjoining site benefits from. In this respect, the provision of a 3m boundary setback allows the adjoining property (should they develop in future) to provide a 9m setback, noting the adjoining site benefits from a larger lot depth.</p>	
<b>2G Street Setbacks</b>		
<p>Determine street setback controls relative to the desired streetscape and building forms, for example:</p> <ul style="list-style-type: none"> <li>• Define a future streetscape with the front building line</li> <li>• Match existing development</li> <li>• Step back from special buildings</li> <li>• Retain significant trees</li> <li>• In centres the street setback may need to be consistent to reinforce the street edge</li> <li>• Consider articulation zones accommodating balconies, landscaping etc. within the street setback</li> <li>• Use a setback range where the desired character is for variation within overall consistency, or where subdivision is at an angle to the street</li> <li>• Manage corner sites and secondary road frontages</li> </ul>	<p>It is considered that the proposed building will define the street frontage for this portion of March Street.</p> <p>The changes above to the building façade are satisfactory, though it does not significantly enhance the overall aesthetic of the building.</p>	<b>Yes.</b>
<b>2H Side and rear setbacks</b>		
<p>Test side and rear setbacks with height controls for overshadowing of the site, adjoining properties and open spaces:</p> <ul style="list-style-type: none"> <li>• building separation and visual privacy</li> <li>• communal and private open space</li> <li>• deep soil zone requirements</li> </ul>	Refer to section 2F	<b>Supportable.</b>
<p><b>Part 3 - Siting the Development</b>  This part provides guidance on the design and configuration of apartment development at a site scale. Objectives, design criteria and design guidance outline how to relate to the immediate context, consider the interface to neighbours and the public domain, achieve quality open spaces and maximise residential amenity. It is to be used during the design process and in the preparation and assessment of development applications</p>		
<b>3B Orientation</b>		
<p>Building types and layouts respond to the streetscape and site while optimising solar access and minimising overshadowing of neighbouring properties in winter.</p>	<p>The building layout has been orientated to predominantly face March Street and is not out of character with the existing streetscape.</p>	Yes
<b>3C Public domain interface</b>		
<p>Transition between private &amp; public domain is achieved without compromising safety and security and amenity of the public domain is retained and enhanced.</p>	<p>The proposed communal open space forward of the building line does not provide a distinction between private and public domain.</p> <p>Comments from EMBECE have been provided raising concern with the usability of this space. Whilst the applicant has removed the visitor parking from at grade and into the basement and introduced a palisade fence to address these issues, the main contention of</p>	<b>Supportable subject to conditions.</b>



	<p>COS location remains.</p> <p>It is noted that all provision of private open space are compliant under the ADG. It is also noted that Richmond Oval is located 481m<sup>2</sup> from the subject site. In this respect, whilst the usability of the COS on the site is considered to be compromised, there is suitable Public Open Space within the area to support the residents to the site.</p> <p>Should the Panel support the COS orientation, a condition of consent for details of the palisade fence has been recommended.</p>	
<b>3D Communal &amp; public open space</b>		
<p>Provide communal open space with an area equal to 25% of site</p>	<p>Required: 294.2m<sup>2</sup> or 25% Proposed: 245.7m<sup>2</sup> or 20.8%</p> <p>Council has concerns regarding the usability of the proposed communal open space. The proposed communal open space is to cater for a range of age groups and is to provide sufficient area for recreation. As proposed, the landscaped area of the communal open space is predominately occupied by the planting of trees and/or is located within side corridors of the development.</p> <p>Comments from EMBECE have been provided raising concern with the usability of this space. Whilst the applicant has removed the visitor parking from at grade and into the basement and introduced a palisade fence to address these issues, the main contention of COS location remains.</p> <p>Further, the main thoroughfare into the building and letterboxes have been included in the COS calculations. These spaces allude to 19.57m<sup>2</sup> to which, should be excluded from COS calculations. The removal of this space would also exclude space to the West of the pathway from meeting the minimum dimensions of 3m. This entails to the total removal of 48.8m<sup>2</sup> from the COS calculations bringing the overall COS to 245.7m<sup>2</sup> (noting the ADG requirement for COS is 294.2m<sup>2</sup>). A rooftop COS was discussed in both preliminary meetings with the applicant as well as in the DRP meeting to which the applicant has chosen not to incorporate into the design.</p> <p>It is noted that all provision of private open space are compliant under the ADG. It is also noted that Richmond Oval is located 481m<sup>2</sup> from the subject site. In this respect, whilst the usability of the COS on the site is considered to be compromised, there is suitable Public Open Space within the area to support the residents to the site.</p> <p>Should the Panel support the COS orientation, a condition of consent for details of the palisade fence has been recommended.</p>	<p><b>Supportable subject to conditions.</b></p>
<p>Minimum 50% of usable area of communal open space to receive direct sunlight for a minimum of 2 hours between 9 am and 3 pm on 21 June.</p>	<p>Shadow diagrams prepared by McGregor Westlake Architects demonstrate the COS a minimum of 2 hours can be facilitated to the COS.</p>	<p><b>Yes.</b></p>
<b>3E Deep Soil Zone</b>		
<p>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.</p> <p>Deep soil zones are to be provided equal to 7% of the site area and with min</p>	<p>Required: 82.4m<sup>2</sup> or 7% (with 3m dimensions) Proposed: 285.6m<sup>2</sup> or 24%. (with 3m dimensions)</p>	<p><b>Yes</b></p>



dimension of 6m for sites areas greater than 1500m <sup>2</sup> .																														
<b>3F Visual Privacy</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:</p> <table border="1"> <thead> <tr> <th>Building Height</th> <th>Habitable rooms &amp; balconies</th> <th>Non habitable rooms</th> </tr> </thead> <tbody> <tr> <td>Up to 12m (4 storeys)</td> <td>6m</td> <td>3m</td> </tr> </tbody> </table>		Building Height	Habitable rooms & balconies	Non habitable rooms	Up to 12m (4 storeys)	6m	3m	<table border="1"> <thead> <tr> <th></th> <th>Control</th> <th>Proposed</th> </tr> </thead> <tbody> <tr> <td>East (Ground Floor)</td> <td>6m</td> <td>&gt;3m</td> </tr> <tr> <td>East (Level 1-2)</td> <td>6m</td> <td>&gt;3m</td> </tr> <tr> <td>North (Ground Floor)</td> <td>6m</td> <td>&gt;6m</td> </tr> <tr> <td>North (Level 1-2)</td> <td>6m</td> <td>&gt;6m</td> </tr> <tr> <td>West (Ground Level)</td> <td>6m</td> <td>&gt;3m</td> </tr> <tr> <td>West (Level 1-2)</td> <td>6m</td> <td>&gt;6m</td> </tr> </tbody> </table>		Control	Proposed	East (Ground Floor)	6m	>3m	East (Level 1-2)	6m	>3m	North (Ground Floor)	6m	>6m	North (Level 1-2)	6m	>6m	West (Ground Level)	6m	>3m	West (Level 1-2)	6m	>6m	Yes
Building Height	Habitable rooms & balconies	Non habitable rooms																												
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West (Ground Level)	6m	>3m																												
West (Level 1-2)	6m	>6m																												
<b>3G Pedestrian Access &amp; entries</b>																														
Pedestrian access, entries and pathways are accessible and easy to identify.		The development proposes a pedestrian entry to the building from March Street.	Yes																											
<b>3H Vehicle Access</b>																														
Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes.		<p>Vehicle access and egress is proposed to be provided towards March Street.</p> <p>Both Council's development engineers support the entry design subject to the imposition of conditions</p>	Yes																											
<b>3J Bicycle and car parking</b>																														
<p><u>Car parking</u></p> <p>For development on sites that are within 800m of a railway station, the minimum parking for residents and visitors to be as per RMS Guide to Traffic Generating Developments, or Council's car parking requirement, whichever is less.</p>		<p>Eleven (11) car spaces are provided to each dwelling within the proposed basement. It is noted that two (2) of which are accessible spaces.</p> <p>Two (2) visitor spaces are provided within the basement.</p> <p>The proposed variance is sought to address the streetscape issues arisen from locating the visitor parking at-grade. It was recommended that the visitor parking and waste room be consolidated to the basement via expansion however the applicant has not implemented this change citing the changes would make the development "financially unviable".</p> <p>As the financial implications of a development is not a consideration under section 4.15 of the EP&amp;A Act, Council and the DRP has insisted on the removal of the at grade parking spaces.</p> <p>The applicant has responded by way of removing the at grade parking spaces and the relocation of two parking spaces in the basement for visitor parking. No justification was provided from the applicant to supplement the change.</p> <p>Council's Development Control Plan 2023 requires residential flat buildings to accommodate 1 parking space per unit and an addition 0.2 parking spaces per 2-bedroom unit. Further, 1 visitor space is required per 5 units.</p> <p>This would total a parking requirement of 14 residential parking</p>	Yes.																											



	<p>spaces and 3 visitor spaces are required given that 11 two-bedroom units are proposed.</p> <p>Council has reviewed the application on its merits and notes the following:</p> <ul style="list-style-type: none"> <li>- Richmond Station is 700m (as the crow flies) from the subject site.</li> <li>- The relocation of visitor parking to the basement achieves a better streetscape presentation.</li> </ul> <p>On balance, with consideration to the merits of the site, strict compliance would only attribute to an additional 3 residential parking spots to residents. In this respect, in consideration to the availability of public transport services, Council notes that the onsite parking arrangement proposed whilst less than optimal, is within acceptable parameters.</p>	
<p><b>Bicycle Parking</b> Provide adequate motorbike, scooter and bicycle parking space (undercover).</p>	The proposal provides sixteen (12) bicycle spaces in the ground floor lobby.	<b>Yes</b>
<p><b>Part 4 - Designing the Building</b> This part addresses the design of apartment buildings in more detail. It focuses on building form, layout, functionality, landscape design, environmental performance and residential amenity. It is to be used during the design process and in the preparation and assessment of development applications</p>		
<p><b>4A Solar &amp; daylight access</b></p>		
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.	Ten (10) of the eleven (11) proposed units (90.9%) achieve the minimum 2 hours of solar access during winter solstice. Therefore, the proposed solar and daylight access is considered to be supportable.	<b>Yes.</b>
A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid winter	One (1) of the eleven (11) proposed units (9.1%) does not receive sunlight during the winter solistice.  <b>Note:</b> unit 2.1 receives sunlight via a fixed roof skylight.	<b>Yes.</b>
<p><b>4B Natural Ventilation</b></p>		
At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building.	All units are naturally cross ventilated.	<b>Yes</b>
Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line	The proposed units do not exceed a depth of 18m.	<b>Yes.</b>
<p><b>4C Ceiling Heights</b></p>		
Ceiling height achieves sufficient natural ventilation and daylight access. The development is required to provide 2.7m minimum ceiling heights.	All floors achieve sufficient height.	<b>Yes.</b>
<p><b>4D Apartment size and layout</b></p>		
<p>Apartments are required to have the following minimum internal areas with one bathroom:</p> <ul style="list-style-type: none"> <li>• 2 bedrooms = 70m<sup>2</sup></li> </ul>	<p>The proposed apartments have the following minimum internal areas:</p> <ul style="list-style-type: none"> <li>• 11 x 2 bed units: all units comply</li> </ul>	<b>Yes.</b>
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 of the apartments meet or exceed the minimum requirements.	<b>Yes</b>
Kitchens should not be located as part of the main circulation space in larger apartments (such as hallway or entry	The kitchens in the proposed units are not located as part of the main circulation space.	<b>Yes.</b>





space).								
Habitable room depths are limited to a maximum of 2.5 x the ceiling height. In open plan where the living, dining and kitchen are combined, there is to be a maximum depth of 8m from a window.	No habitable rooms have a depth greater than 6.75m.	Yes.						
Master bedrooms have a minimum area of 10m <sup>2</sup> and other bedrooms 9m <sup>2</sup> (excluding wardrobe space)	All bedrooms meet this requirement.	Yes.						
Bedrooms have a minimum dimension of 3m (excluding wardrobe space)	The proposed bedrooms have a minimum dimension of 3m.	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	Living rooms/combined living/dining area have a minimum 4m width for 2-bedroom units.	Yes.						
The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts	All units exceed a minimum width of 4m internally.	Yes.						
<b>4E Private Open Space and balconies</b>								
All apartments are required to have primary balconies as follows: <table border="1" data-bbox="119 952 558 1064"> <thead> <tr> <th>Dwelling type</th> <th>Min area</th> <th>Min depth</th> </tr> </thead> <tbody> <tr> <td>2 bedroom</td> <td>10m<sup>2</sup></td> <td>2m</td> </tr> </tbody> </table>	Dwelling type	Min area	Min depth	2 bedroom	10m <sup>2</sup>	2m	The proposed apartments have the following minimum balcony areas:  • 2 bed units: all units comply  All of the apartments also exceed the minimum requirements for balcony depth.	Yes.
Dwelling type	Min area	Min depth						
2 bedroom	10m <sup>2</sup>	2m						
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 level courtyards exceed the required 15m <sup>2</sup> and minimum dimensions.	Yes.						
<b>4F Common circulation and spaces.</b>								
The maximum number of apartments off a circulation core on a single level is 8.	The development proposes a maximum of four (4) units to be accessed from the circulation space on a single level.	Yes.						
<b>4G Storage</b>								
In addition to storage in kitchens, bathrooms and bedrooms, the following storage is to be provided: <table border="1" data-bbox="119 1500 558 1601"> <thead> <tr> <th>Dwelling type</th> <th>Storage size volume</th> </tr> </thead> <tbody> <tr> <td>2 bedroom apt</td> <td>8m<sup>3</sup></td> </tr> </tbody> </table> At least 50% of the required storage is to be located within the apartment.	Dwelling type	Storage size volume	2 bedroom apt	8m <sup>3</sup>	All units provide 12m <sup>2</sup> of storage. It is noted that 4m <sup>2</sup> is provided inside of the units and 8m <sup>2</sup> is provided within the basement.	Yes.		
Dwelling type	Storage size volume							
2 bedroom apt	8m <sup>3</sup>							
<b>4H Acoustic privacy</b>								
Noise transfer is minimised through the siting of buildings, building layout, and acoustic treatments.  Plant rooms, services and communal open space and the like to be located at least 3m away from the bedrooms.  Appropriate noise shielding or attenuation techniques for the building design,	Appropriate acoustic privacy will be provided for each apartment. Living rooms and balconies have generally been orientated away from services and plant rooms.  Council's Council's Environmental Health (Acoustic) Officer has provided comments in support of the application.	Yes.						



construction and choice of materials are used to mitigate noise transmission.		
<b>4K Apartment mix</b>		
A range of apartment types with different number of bedrooms (1bed, 2 bed, 3 bed etc) should be provided.	<p>The development has incorporated the following apartment mix:</p> <ul style="list-style-type: none"> <li>• 11 x 2 bedroom units (100%)</li> </ul> <p>Council is generally satisfied with the dwelling mix provided given the dwelling mix currently available within the locality and the proximity of transport nodes to the proposed development.</p>	<b>Yes.</b>
<b>4M Facades</b>		
<p>Building facades to provide visual interest, respect the character of the local area and deliver amenity and safety for residents.</p> <p>Building functions are expressed by the façade.</p>	The changes above to the building façade are satisfactory, though it does not significantly enhance the overall aesthetic of the building.	<b>Acceptable.</b>
<b>4N Roof design</b>		
<p>Roof treatments are integrated into the building design and positively respond to the street.</p> <p>Opportunities to use the roof space for residential accommodation and open space are maximised.</p> <p>Roof design incorporates sustainability features.</p>	The development has proposed a relatively flat roof design which is integrated with the overall development. All plant equipment is adequately screened and located toward the centre of the roof.	<b>Yes.</b>
<b>4O Landscape design</b>		
<p>Landscape design contributes to the streetscape and amenity. Landscape design is viable and sustainable.</p> <p>Sites between 850 - 1,500m<sup>2</sup>: 1 large tree or 2 medium trees per 90m<sup>2</sup> of deep soil zone</p>	A total of 438m <sup>2</sup> (37.2% of the site) of deep soil areas (including areas with dimensions of 3m) are proposed.	<b>Yes.</b>
<b>4P Planting on structures</b>		
Appropriate soil profiles are provided.	Soil plantings are generally provided at ground level.	<b>Yes.</b>
<b>4Q Universal design</b>		
Universal design features are included in apartment design to promote flexible housing for all community members. A variety of apartments with adaptable designs are to be provided.	The DRP has not raised contentions for accessible design. This is further supplemented by conditions of consent.	<b>Yes.</b>
<b>4U Energy efficiency</b>		
Development incorporates passive environmental design measures – solar design, natural ventilation etc.	<p>The development complies with solar access and natural ventilation requirements.</p> <p>A BASIX certificate is submitted with the application which indicates that the building will meet the energy and water use targets set by the BASIX SEPP.</p>	<b>Yes.</b>
<b>4V Water management and conservation</b>		
The development considers Water Sensitive Urban Design elements and incorporates best practice water management measures.	A BASIX certificate is submitted with the application which indicates that the building will meet the energy and water use targets set by the BASIX SEPP.	<b>Yes.</b>
<b>4W Waste Management</b>		
Waste storage facilities are designed to	Council is concerned with the efficiency of the waste room. It is	<b>Supported</b>



<p>minimise impacts on the streetscape, building entry and amenity of residents.</p> <p>Domestic waste is minimised by providing safe and convenient source separation and recycling.</p>	<p>noted that there are no waste chutes proposed as part of the development and residents will need to proceed through the lifts/staircases to an external waste bin area.</p> <p>Council's waste services officer has noted that Council's waste collection services can only accommodate for side loading collection.</p> <p>Council raises concern with the amount of individual waste bins that will line March Street during collection periods. At maximum, the development could support twenty-two (22) bins on the site (of which 11 bins would be placed at the kerb during collection periods). With consideration to the residential flat building adjoining the property to the East, which could be redeveloped and intensified, the kerbside would be inundated with bins leading to both a deficient streetscape outcome and also slowing down traffic along March Street.</p> <p>This was not address by the applicant.</p> <p>In this respect, Council is recommending a condition of consent for a private waste contractor to be acquired prior to the issue of a Occupation Certificate for on site waste collection given kerbside collection is not supported from Council's waste collection team.</p>	<p><b>subject to the imposition of conditions.</b></p>
<p><b>4X Building maintenance</b></p>		
<p>The development incorporates design and material selections that reduce the long-term maintenance obligations.</p>	<p>No objections to the materials proposed were cited by the DRP.</p>	<p><b>Yes.</b></p>

**7.3 State Environmental Planning Policy – Biodiversity & Conservation 2021.**

The State Environmental Planning Policy (Biodiversity and Conservation) 2021 applies to the site. The aims of the plan are to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and to preserve the amenity of the non-rural areas of the State through the preservation of trees and other vegetation.

The site is not marked under the purple biodiversity values map.



#### 7.4 State Environmental Planning Policy – Resilience & Hazards 2021

The requirements of the State Environmental Planning Policy (Resilience & Hazards) 2021 apply to the subject site. In accordance with Chapter 4 of the SEPP, Council must consider if the land is contaminated, if it is contaminated, is it suitable for the proposed use and if it is not suitable, can it be remediated to a standard such that it will be made suitable for the proposed use.

The site is not indicated in Council's records as being contaminated. The previously approved use of the site remains as a residential flat building. It is considered that the redevelopment of the site will not give rise to concerns regarding contamination.

In this regard, in accordance with clause 4.6 of the State Environmental Planning Policy (Resilience & Hazards) 2021, the land is considered to be suitable for the proposed development.

#### 7.5. State Environmental Planning Policy – Transport & Infrastructure 2021.

The relevant matters to be considered under Chapter 2 of the SEPP for the proposed development outlined below.

Clause	Comment
<b>Clause 2.48 – Electricity Infrastructure</b>	The proposed development is not considered to be within the vicinity of any electricity infrastructure under clause 2.48 (1).
<b>Clause 2.98 – Development Adjacent to rail corridors</b>	The proposed development does not adjoin in, around or on top of any rail corridors.
<b>Clause 2.119 – Frontage to a classified road</b>	The subject site has frontage to March Street which is a classified road. Council's development engineers have reviewed the application and subject to the imposition of conditions, raises no objections.
<b>Clause 2.120 – Impact of road noise or vibration on non-road development</b>	March Street has an average daily traffic volume of more than 20,000 vehicles per day. As such, clause 2.120 is applicable to the development application. Council's Environmental health (acoustic) officers have reviewed the proposal and raise no objections subject to conditions of consent.

### 8. Hawkesbury Local Environmental Plan 2012

The relevant matters considered under the HLEP 2012 for the proposed development are outlined below:

#### 8.1. Clause 1.2 Aims of plan.

- (aa) to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,*
- (a) to provide the mechanism for the management, orderly and economic development and conservation of land in Hawkesbury.*
- (b) to provide appropriate land in area, location and quality for living, working and recreational activities and agricultural production,*
- (c) to protect attractive landscapes and preserve places of natural beauty, including wetlands and waterways,*
- (d) to protect and enhance the natural environment in Hawkesbury and to encourage ecologically sustainable development,*
- (e) to conserve and enhance buildings, structures and sites of recognised significance that are part of the heritage of Hawkesbury for future generations,*
- (f) to provide opportunities for the provision of secure, appropriate and affordable housing in a variety of types and tenures for all income groups in Hawkesbury,*
- (g) to encourage tourism-related development that will not have significant adverse environmental effects or conflict with other land uses in the locality.*

The proposed development is considered to have been made in consideration of the objectives of the zone.

#### 8.2. Clause 2.3 Zone objectives and Land use table.



The site is zoned R2 – Low Density Residential under the Hawkesbury Local Environmental Plan 2012. The aims and objectives for the R2 zone in clause 2.3 zone objectives are as follows:

- To provide for the housing needs of the community within a low-density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To protect the character of traditional residential development and streetscapes.
- To ensure that new development retains and enhances that character.
- To ensure that development is sympathetic to the natural environment and ecological processes of the area.
- To enable development for purposes other than residential only if it is compatible with the character of the living area and has a domestic scale.
- To ensure that water supply and sewage disposal on each resultant lot of a subdivision is provided to the satisfaction of the Council.
- To ensure that development does not create unreasonable demands for the provision or extension of public amenities or services.

The use of the site is most accurately defined as “Residential Flat Building”. An excerpt of the definition under the Hawkesbury LEP 2012 is provided as below:

**“Residential Flat Building** means a building containing 3 or more dwellings, but does not include an attached dwelling, co-living housing or multi dwelling housing.

It is considered that a Residential Flat Building is considered to be prohibited under an R2 Zone.

It is noted that a GIPA request revealed several consents related to the initial development of a residential flat building on the site (refer to section 3). In this respect, the use of the site as a residential flat building has been demonstrated as lawful and has not ceased for a period of more than twelve (12) months. In this respect, the site benefits from existing use rights under Division 4.11 of the EP&A Act 1979.

Pursuant to section 164 of the EP&A Regulations 2021, an existing use, where demonstrated that it has commenced lawfully, can be enlarged, expanded and intensified subject to development consent.

It is recognised that the permissibility of the site for development of a Residential Flat Building is derived from existing use rights notwithstanding the prohibition of such use under an R2 Low density residential zone.

Clause	Comment
<b>Part 4 – Principal development standards</b>	
<b>Clause 4.1(c) Minimum subdivision lot size</b>	Yes <b>Note:</b> A condition of consent is recommended for the amalgamation of the two lots.
<b>Clause 4.3 Height of buildings</b> Control: 10m Proposed: 10.9m	Acceptable on merit <b>Note:</b> see below clause 4.6 discussion
<b>Clause 4.6 Exceptions to development standards</b>	See below.
<b>Part 5 – Miscellaneous provisions</b>	
<b>5.1A Development on land intended to be acquired for public purposes</b>	The deposited plans do not demonstrate that the site is or will be subject to future land acquisition.
<b>5.10 Heritage conservation</b>	The site is not considered to be a heritage item nor is it considered to be a heritage item.



<b>5.21 Flood planning</b>	The site is not considered to be subject to flood development controls.
<b>Part 6 – Additional local provisions</b>	
<b>6.1 Acid sulphate soils</b>	The site is considered to fall under class 5 acid sulphates. Suitable conditions of consent will be provided.
<b>6.2 Earthworks</b>	Council's development engineers have reviewed the proposed earthworks involved do not raise concern with the
<b>6.6 Development in areas subject to aircraft noise</b>	The site is considered to fall within the vicinity of the RAAF base Richmond. A referral to the Department of Defence was made to which no comments were received.
<b>6.7 Essential services</b>	No concerns are raised with regard to access to services for emergency services.

### Clause 4.3 Building Height

Pursuant to Clause 4.3 Building Height, the proposal seeks to exceed the 10 metre Development Standard by 0.9 metres resulting in an overall height of 10.9 metres which represents a 9% variation.



**Figure 10. Cross section of proposed development.**

As shown within figure 9, the proposed development is made up of three (3) residential floors with a single level of basement parking. The height breach is a result of the lift overrun amounting to 0.9m.

Clause 4.6(3) prescribes

- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
- that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
  - that there are sufficient environmental planning grounds to justify contravening the development standard.*

The applicant has submitted a written request seeking variation to the maximum building height prescribed by Clause 4.3, as required by Clause 4.6 of the HLEP2012. Clause 4.6(2) provides that in certain circumstances, consent ...*may be granted for development even though the development would contravene a development standards imposed by this or any other environmental planning instrument.*

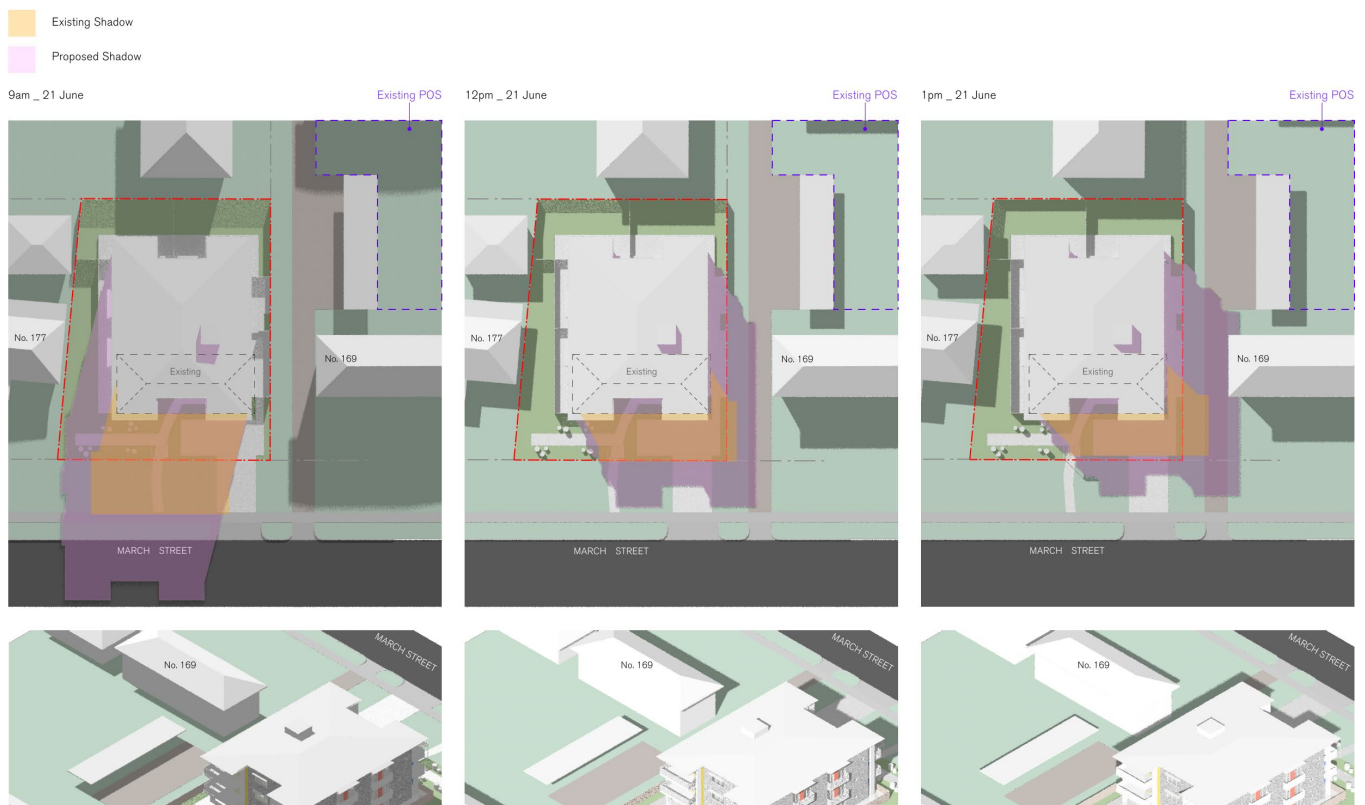
The departure from the maximum building height development standard is supported by a written request from the applicant under Clause 4.6 of the HLEP2012 as follows:

- *The variation to the 11m height restriction is confined to the lift overrun, at the Northern portion of the building and recessed from the floors below.*

The objectives of Clause 4.6 are as follows:

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

In consideration of the variation to Clause 4.3 of the HLEP2012, the following is noted:

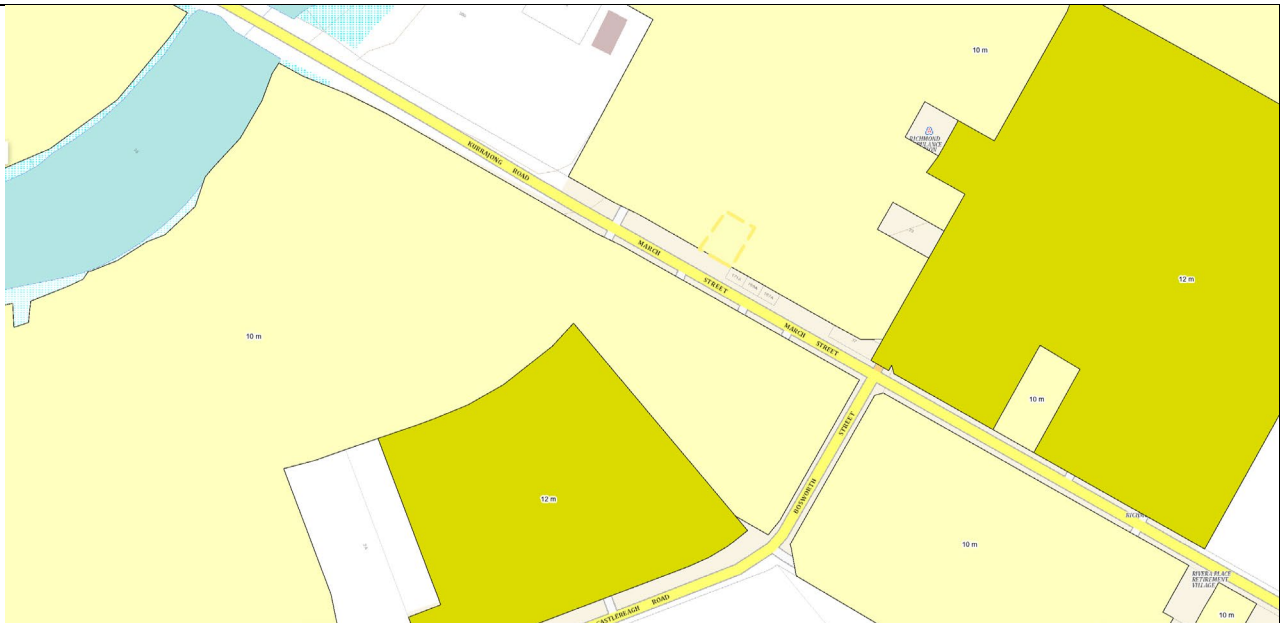


**Figure 11.** Submitted shadow diagrams prepared by McGregor Westlake Architects.

March street is generally characterised with legacy low high density developments amongst low density single dwellings forming the bulk of the streetscape.

With reference to figures 9 & 10, it can be seen that the lift overrun is located to the centre of the development and shadows cast as a result of the overrun are self-contained.

Objective (a) of the Parramatta Local Environmental Plan 2011 seeks to limit developments to a suitable and contextually consistent building form so as to not dominate the existing & future streetscape.



**Figure 12.** Height of buildings Map (Planning Portal)

Contextually the site is located within an R2 zone characterised by high rise legacy developments amongst new low density development. To the East and North of the subject site lies several legacy residential flat building developments and residential flat building developments. To the South of the site lies several legacy multi-dwelling developments. The site precinct to the South features a mix of R1 - General Residential zones, R3 – Medium Density residential as well as a small portion of the area zoned as E2 – Commercial centre to the West (refer to figure 2).

The Clause 4.6 statement and justification was considered against the following cases:

1. *Wehbe v Pittwater Council [2007] NSW LEC 827*

*Wehbe* requires that the applicant must argue, and the consent authority must be satisfied, that compliance with the development standard is unreasonable or unnecessary with the following test:

Compliance with the development standard is reasonable or unnecessary because

- (a) the objectives of the development standard are achieved notwithstanding non-compliance with the standard;
- (b) the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;
- (c) the underlying objective of purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable;
- (d) the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable; or
- (e) "the zoning or particular land" was "unreasonable or inappropriate" so that "a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land" and that "compliance with the standard in that case would be unreasonable or necessary"

The objectives of Clause 4.3 are as follows:

- (a) To nominate heights that will provide a transition in built form and land use intensity within the area covered by this Plan,
- (b) To minimise visual impact, disruption of view, loss of privacy and loss of solar access to existing development,
- (c) To require the height of future buildings to have regard to heritage site and their settings,
- (d) To ensure the preservation of historic views,
- (e) To reinforce and respect the existing character and scale of low-density residential areas,
- (f) To maintain satisfactory sky exposure and daylight to existing buildings within commercial centres, to the sides and rear of tower forms and to key areas of the public domain, including parks, streets and lanes.

**The following comments are made in reference to the test set out under *Wehbe v Pittwater Council [2007] NSW LEC 827***



**1. Are the objectives of the development standard achieved notwithstanding non-compliance with the standard.**

The established locality demonstrates a mix of legacy developments as well as new low density developments indicative of the current zoning. The objectives of the development standard seek to introduce numerical standards for the suitable transition in building height amongst zones and precincts with reference to objectives (a),(b)&(e) of Clause 4.3 of the Hawkesbury Local Environmental Plan. The proposed development seeks to produce a residential flat building incorporating a lift overrun. It is considered that the lift overrun has a negligible impact upon the streetscape and does not impinge upon the solar access of adjoining properties. It is considered that the objectives of the zone are upheld notwithstanding the numerical non-compliance.

**2. Is the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary.**

The underlying objective of Clause 4.3 is to set a numerical standard in achieving an appropriate sense of scale for the locality and its surrounding zones. In this regard, the proposal demonstrates the same quality of appropriateness given the numerical non-compliance.

**3. Would the underlying objective of purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable.**

The objectives of Clause 4.3 serve to provide a numerical basis for assessment. It is regarded that the 10m height restriction is the standard height limitation for R2 low density residential zones. Given the site contains a unique opportunity for the redevelopment of a residential flat building, it is not expected that a negative precedent will be set for typical development permitted under the R2 zoning.

**4. Has the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable**

The locality exhibits developments both legacy and new with compliant development heights. As discussed above, the use of the site as a residential flat building is made by way of existing use rights. Naturally a development without such rights will not be able to develop into a RFB under the current R2 zone. In this respect, this development represents the first of redevelopments along March Street. As such, the majority of the building envelope is limited below the 10m height limit with the only variation sought to the lift overrun consisting of 0.9m above the height limit. It is considered that the variation to the lift run is appropriate given that there are no increases in development yield, floor area and the overrun is considered to be ancillary and subservient to the use.

**5. Is "the zoning or particular land" was "unreasonable or inappropriate" so that "a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land" and that "compliance with the standard in that case would be unreasonable or necessary"**

The zoning of the site was introduced after the establishment of use and construction of the RFB. In this respect, the zoning is appropriate for the Council's vision of the Richmond locality. Notwithstanding, the variation is supported for the reasons provided above.

**Is the exception well founded?**

It is considered that the application on balance seeks to produce suitable housing for the Richmond locality. By extension, the lift overrun is provided to support the eleven (11) units to the site. It is established that this overrun is not visible to the street and does not impinge upon the solar access of adjoining properties.

With regard to the above, it is therefore recommended that the Panel accept the applicant's request for a clause 4.6 variation.



## 9. Hawkesbury Development Control Plan 2002

The Hawkesbury Development Control Plan 2023 was adopted by Council on the 22<sup>nd</sup> of November 2022, and commenced on the 24<sup>th</sup> of July 2023.

It revokes and replaces the following Chapters of the Hawkesbury Development Control Plan 2002:

- Car parking & access
- Effluent disposal
- Heritage conservation

It is noted that the requirements of the Apartment Design Guide (ADG) supersede the residential controls contained within the Hawkesbury Development Control Plan 2002.

A summary of the assessment of the application pursuant to the Hawkesbury Development Control Plan 2023 (HDCP 2023) is provided below:

Chapter 5: Traffic, access street design and parking	
4.1 Off street parking rates	Supportable. <b>Note:</b> 1.1.1: 1 parking space per unit plus 0.2 parking spaces per 2 bedroom dwelling = 14 spaces required. It is noted that 11 spaces are provided. <b>Note:</b> refer to ADG discussion above.  1.1.2: no tandem parking is sought. 1.1.3: noted 1.1.4: no loading areas are sought. 1.2.1: no loading areas are sought. 1.2.2: n/a 1.2.3: n/a 1.2.4: noted 1.3.1: noted 1.3.2: n/a 1.3.3: n/a 1.4.1: a monetary contribution is not sought. 1.5.1: 11 parking spaces are required. <b>Note:</b> refer to ADG discussion above. 1.6.1: no mechanical stackers are sought.
4.2 Parking design requirements.	Compliant subject to the imposition of conditions. <b>Note:</b> 2.1.1: noted. 2.2.1: a waiting bay has been provided to assist in on-site manoeuvring. Council engineers have reviewed the application and raises no objections subject to the imposition of conditions. 2.2.2: n/a 2.2.3: noted. 2.2.4: a buffer of 2.1m has been provided. 2.2.5: noted. 2.2.6: noted. 2.2.7: noted. 2.3.1: noted. 2.3.2: a loading zone is not sought. 2.3.3: a loading zone is not sought. 2.3.4: n/a 2.3.5: noted. 2.3.6: n/a 2.4.1: basement parking is sought.



	<p><b>2.4.2:</b> basement parking is sought. In this respect, landscaping is not considered appropriate under this section.</p> <p><b>2.5.1:</b> noted.</p> <p><b>2.6.1:</b> noted.</p> <p><b>2.6.2:</b> a continuous path has not been marked. A condition of consent has been recommended.</p> <p><b>2.6.3:</b> complies.</p> <p><b>2.7.1:</b> noted.</p> <p><b>2.8.1:</b> n/a</p> <p><b>2.9.1:</b> bicycle parking has been provided to the ground floor lobby.</p> <p><b>2.9.2:</b> noted.</p> <p><b>2.9.3:</b> n/a</p> <p><b>2.10.1:</b> noted. Unclear how PowerPoints will be accessed for charging. A condition of consent will be recommended to this effect.</p> <p><b>2.10.2:</b> n/a</p> <p><b>2.11.1:</b> n/a</p>
<p><b>4.3 Road/access design requirements.</b></p>	<p>Council's development engineers have reviewed the below and raise no objections subject to the imposition of conditions.</p> <p><b>Note:</b></p> <p><b>3.1.1:</b> noted.</p> <p><b>3.2.1:</b> noted.</p> <p><b>3.2.2:</b> noted.</p> <p><b>3.3.1:</b> noted.</p> <p><b>3.4.1:</b> noted.</p> <p><b>3.5.1:</b> noted.</p> <p><b>3.6.1:</b> noted.</p> <p><b>3.7.1:</b> noted.</p> <p><b>3.8.1:</b> noted.</p>

## 10. Development Contributions

Pursuant to Council's adopted 7.12 contributions plan, a development contribution of \$50,270.00 is required to be paid prior to the issue of a construction certificate.

A condition of consent has been recommended.

## 11. EP&A Regulations 2021

Applicable regulation considerations for compliance with the Building Code of Australia, PCA appointment and notice of commencement of works, sign on work sites, critical stage inspections and records of inspection will be covered under the recommended conditions of consent.

## 13. The likely impacts of the development

Council has considered the merits of the proposal and does not raise contentions with the proposal for the reasons as above. Whilst design opportunities were not addressed by the applicant, the proposed development in its current form provides sound demonstration of ADG qualities and objectives.

## 14. Suitability of the Site

The proposed development seeks to produce suitable housing arrangements to the Richmond locality. Given the site's proximity to parks and suitable public transport nodes, the variations to COS and parking spaces are considered appropriate with respect to the two (2) bedroom makeup of the dwelling mix. In this respect, the impacts of the built form are suitably addressed.





## 15. Public Consultation

In accordance with Council's community participation plan 2019, the Development Application was notified from the 10<sup>th</sup> of November 2023 to the 24<sup>th</sup> of November 2023.

In response, Council has received one submission from the owner of the development site. This submission has not been counted per Council's adopted community participation plan given the proponents relationship to the development application.

## 16. Public Interest

The proposed development is considered to have met the aims of an R2 low density residential zone and the relevant sections of Council's development control plan. In this respect, Council does not raise concern with the proposed development being against the public interest.

## 17. Conclusion

After consideration of the development against Section 4.15 of the Environmental Planning and Assessment Act 1979, and the relevant statutory and policy provisions, the proposal *is not* suitable for the site and *is not* in the public interest. Therefore, it is recommended that the application be *refused*.

## 19. Recommendation

Pursuant to Section 4.16 (1)(b) of the Environmental Planning and Assessment Act, 1979:

- **That** the Hawkesbury Local Planning Panel, exercising the function of the consent authority, grant development consent to DA0364/23 for the demolition of existing residential flat building, construction of new residential flat building comprising three levels, basement car-parking, and associated landscape works on the site of 173 March Street, subject to conditions of consent.

The reasons for the conditions imposed on this application are as follows:

1. To facilitate the orderly implementation of the objectives of the *Environmental Planning and Assessment Act 1979* and the aims and objectives of the relevant Council Planning instrument.
2. To ensure that the local amenity is maintained and is not adversely affected and that adequate safeguards are incorporated into the development.
3. To ensure the development does not hinder the proper and orderly development of the subject land and its surrounds.
4. To ensure the relevant matters for consideration under Section 4.15 of *Environmental Planning and Assessment Act 1979* are maintained.

## Report prepared by

[Redacted signature]

**Matthieu Santoso**  
Senior Town Planner  
Hawkesbury City Council



## General conditions

### 1. Appointment of a principal certifier

No work must commence until:

a) A Principal Certifier is appointed for the building/engineering works and the following details relating to the carrying out of the works have been provided:

- (i) name and licence number of the builder/contractor undertaking the construction works; or
- (ii) name and permit number of the owner-builder (if relevant);

b) The Principal Certifier has:

- (i) provided a copy of the notice of its determination to the consent authority, and to Council (within two days after the date of the determination);
- (ii) notified the person having benefit of the consent of any critical stage inspections and other inspections that it requires to be carried out in relation to the approved work;
- (iii) notified Council of its appointment (not less than two days before commencement of building work);

c) The person having benefit of the consent (if not carrying out work as an owner-builder) has:

- (i) appointed a principal contractor who must hold a 'contractor licence' if any residential building work is involved;
- (ii) notified the Principal Certifier of the appointment of the principal contractor;
- (iii) notified the principal contractor of any critical stage inspections or any other inspections that are required to be carried out in relation to the approved work; and

d) At least two days' notice are to be provided to Council of the date on which it is proposed to commence work associated with this development consent.

### 2. Approved Plans and Supporting Documentation

The development must be carried out in accordance with the approved plans and supporting documentation listed below which have been endorsed by Council's approved stamp, except where amended in red on the plans and/or amended by other conditions of consent:

a) Plans Reference:

Drawing Reference No.	Drawing Description	Prepared By	Issue No.	Date
DA00	Cover Sheet & Drawing List	MWA	C	02/08/2023
DA01	Context Analysis	MWA	B	03/07/2023
DA02	Site Analysis	MWA	B	03/07/2023
DA03	Site Plan	MWA	C	18/06/2024
DA04	Basement Plan	MWA	C	20/06/2024
DA05	Ground Floor Plan	MWA	C	18/06/2024
DA06	Level 1 & 2 Plan	MWA	D	27/05/2024
DA07	Roof Plan	MWA	B	03/07/2023
DA08	Landscape Plan	MWA	D	20/06/2024
DA09	North & South Elevations	MWA	D	20/06/2024
DA10	West & East	MWA	D	20/06/2024



	Elevations			
DA11	Section 1 & 2	MWA	C	02/08/2023
DA12	Section 3 & 4	MWA	E	20/06/2024
DA18	ADG Storage	MWA	C	27/05/2024
DA19	Colours & Materials Schedule	MWA	A	31/03/2023
DA21	Facade Detail Sections	MWA	B	03/07/2023
DA22	Driveway Long & Cross Sections	MWA	B	13/06/2024
DA23	Window Schedule	MWA	A	26/07/2023
23016.DA.D.01	Stormwater Management Ground Floor	Brear Development Engineering Services	G	17/06/2024
23016.DA.D.02	Stormwater Management Basement	Brear Development Engineering Services	G	17/06/2024
23016.DA.D.03	Stormwater Management Pump Out Details	Brear Development Engineering Services	G	17/06/2024
23016.DA.D.04	Stormwater Management OSD Details	Brear Development Engineering Services	G	17/06/2024
23016.DA.D.05	Stormwater Management SWMP	Brear Development Engineering Services	G	17/06/2024
23016.DA.D.06	Stormwater Management SWMP Details	Brear Development Engineering Services	G	17/06/2024

b) Document Reference:

Document Title	Reference	Prepared By	Date
SOEE	N/A	Rebecca Zerk	August 2023
Road Traffic & Aircraft Noise Impact Assessment	1121-AC-02-A	Broadcrest Consulting Pty Ltd	05/09/2023
BASIX Certificate	1382937M_02	Rebecca Zerk	27/09/2023
ADG Verification Statement	N/A	MWA	31/03/2023
Clause 4.6 Request	N/A	Rebecca Zerk	N/D
Waste management plan	N/A	Peter Mcgregor	09/05/2023
Traffic Letter	23.354r02v01	Traffic	21/06/2024
TFNSW CNR Letter	SYD24/01176/01	TfNSW	04/07/2024

No works, other than those approved (including raising or lowering of ground levels on the site, or construction of retaining walls on any property boundary) are permitted by this consent.

**Note:** Details of the development shown in the approved plans and documents referenced are altered in the manner indicated by:

- (i) any amendments made by Council on the approved plans or documents;



- (ii) any notes, markings, or stamps on approved plans or documents; and
- (iii) any conditions contained in this consent.

### 3. Archaeology – Discovered during exhibition

As required by the *Heritage Act 1977*, in the event that items, relics, historical cultural fabric and/or deposits are encountered/discovered where they are not expected, works must cease immediately and Council and the NSW Government's Heritage Council must be notified of the discovery.

In the event that archaeological resources are encountered, further archaeological work may be required before works can re-commence, including the statutory requirement under the *Heritage Act 1977* to obtain the necessary approvals/permits from NSW Department of Planning and Environment - Environment and Heritage.

**Note:** The *Heritage Act 1977* imposes substantial penalty infringements and / or imprisonment for the unauthorised destruction of archaeological resources, regardless of whether or not such archaeological resources are known to exist on the site.

### 4. Asbestos Removal

In accordance with the *Work Health and Safety Regulation 2017*, the applicant is to determine the presence of Asbestos Containing Materials (ACMs) in any material that is likely to be disturbed by demolition or refurbishment. This is to be done by commissioning an Asbestos Materials Survey, or a review of existing Asbestos Registers by a competent person. So far as is reasonably practical, ACMs are to be removed prior to any other works being undertaken.

Prior to any ACM removal, a commercially manufactured sign containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring 400mm x 300mm must be erected in a prominent visible position on the site in accordance with Australian Standard AS 1319 - 'Safety Signs for the Occupational Environment'.

If ACMs are encountered during construction or demolition work; measures must be in place in accordance with the *Work Health and Safety Regulation 2017*. Work must not commence or continue until all the necessary safeguards required by SafeWork NSW are fully in place.

In accordance with the *Work Health and Safety Regulation 2017*, a SafeWork NSW licensed Asbestos Removalist is to be engaged to undertake asbestos removal.

The person entitled to act on this consent must notify adjoining residents in writing five working days prior to the ACM removal works.

Asbestos waste must only be disposed of at a landfill site authorised to receive such waste and transported by a licensed person where necessary. All receipts and supporting documentation must be retained in order to verify lawful disposal and are to be made available to Council on request. Asbestos waste or other ACMs are not to be (re)used at the site.

Following removal of ACMs, a clearance inspection is to be undertaken. A Clearance Certificate is to be provided certifying that the removal is complete and that the site has been made safe.

### 5. Civil Works Specification – Private Land

Council requires the following works to be carried out as part of the development:

- a) earthworks;
- b) stormwater drainage work;
- c) on-site-detention system;
- d) access and car parking;

All civil construction works required by this consent must be undertaken in accordance with Hawkesbury Development Control Plan *Appendix E - Civil Works Specification*.



A Construction Certificate is required to be in force prior to work commencing. It may be necessary to obtain appropriate Compliance Certificates for certain aspects of the development prior to the issue of a Construction Certificate.

Inspections must be carried out either by Council or an Accredited Certifier. Should Council be engaged to issue compliance certificates or carry out inspections, fees can be provided on request.

#### **6. Excavation – Aboriginal Relics**

If any Aboriginal object (including evidence of habitation or remains) is discovered during the course of the work:

- all excavation or disturbance of the area must stop immediately in that area; and
- NSW Department of Planning and Environment - Office of Environment and Heritage Group must be advised of the discovery.

All necessary approvals from NSW Department of Planning and Environment - Office of Environment and Heritage Group must be obtained and a copy provided to Council prior to works recommencing.

**Note:** If an Aboriginal object is discovered, an Aboriginal Heritage Impact Permit may be required under the *National Parks and Wildlife Act 1974*.

#### **7. Excavation – No Material to be Removed**

No excavated material, including soil, is to be removed from the site.

#### **8. Occupation Certificate Required Prio to the Use of the Building**

The building must not be occupied or used prior to the issuing of an Occupation Certificate by the Principal Certifier. Where a partial Occupation Certificate has been issued, only that part of the building to which the Certificate applies may be occupied or used.

A copy of any Occupation Certificate must be submitted to Council within two days of its issue.

#### **9. Part 6 Certificates Required**

The accredited certifier must provide copies of all Part 6 Certificates issued under the *Environmental Planning and Assessment Act 1979* relevant to this development to Council within seven days of issuing the certificate.

**Note:** A registration fee applies.

#### **10. Prescribed Conditions – Compliance with National Construction Code**

All building works must be carried out in accordance with the requirements of the National Construction Code (Building Code of Australia).

#### **11. Road Opening Permit**

Should the subdivision/ development necessitate the installation or upgrading of utility services or any other works on Council land beyond the immediate road frontage of the development site and these works are not covered by a Construction Certificate issued by Council under the consent then a separate road opening permit must be applied for and the works inspected by Council's Construction and Maintenance Services team.

**Note:** The contractor is responsible for instructing sub-contractors or service authority providers of this requirement. Contact Council's Construction and Maintenance Engineer if it is unclear whether a separate road opening permit is required.

#### **12. Vegetation Removal – Approved in Associated with Development**

Onsite vegetation located within ten metres of the approved building and within one metre of the edge of the approved driveway may be removed without separate approval being obtained from Council.



All other vegetation situated on the site must be retained and appropriate measures must be taken to ensure its long-term preservation.

**13. Works must not commence until a Construction Certificate is issued.**

Construction or preparatory work (including earthworks or tree and/or vegetation removal) must not commence until:

- a) a Construction Certificate is obtained from either Council or an Accredited Certifier;
- b) a Principal Certifier is appointed; and
- c) a Notice of Commencement is lodged with Council.

**Note:** If the Construction Certificate is issued by an Accredited Certifier that is not Council it will be necessary to lodge the Construction Certificate and other approved documents with Council within two days of such approval (a registration fee is payable upon lodgement).

**14. Works on Public Land – Not permitted without Approval**

No work can be undertaken within adjoining public lands (i.e. Parks, Reserves, Roads etc.) without the prior written consent of Council or other relevant authority. In this regard the person having benefit of the consent is to contact Council prior to the commencement of any design works or preparation of a Construction and Traffic Management Plan.

The developer must bear the cost of all works associated with the development that occurs on public land, including the restoration of any damaged areas.

**15. Roads Act 1993 Approval**

A separate Roads Act 1993 (Section 138) approval is required from a Roads Authority before any work is carried out within Public Roads.

The contractor undertaking the subdivision construction work is responsible for instructing sub-contractors or service authority providers of this requirement..

**16. TfNSW Requirements**

The conditions stipulated in TfNSW's letter of concurrence dated 04/07/2023 (Ref no. SYD24/01176/01) form part of this consent and are attached.

**Before the issue of a Construction Certificate**

**17. Access for persons with a Disability – Design Audit**

Certification by an accredited access consultant must be submitted certifying the development's compliance with the National Construction Code (Building Code of Australia) and Disability (Access to Premises - Buildings) Standards 2010.

This certification must be submitted to the Accredited Certifier with the application for a Construction Certificate.

**18. Building Sustainability Index (BASIX) Certificate**

The BASIX Certificate approved in conjunction with this development must be submitted to the Accredited Certifier with the Construction Certificate application. All commitments in the BASIX Certificate must be shown on the plans accompanying the application for the Construction Certificate prior to the issue of any Construction Certificate.

The commitments identified in the BASIX Certificate and on the plans or specifications are to be fulfilled.



Where changes are proposed to the BASIX commitments, the applicant must submit a new BASIX Certificate to the Accredited Certifier.

Prior to the issue of a Final Occupation Certificate, certification of compliance with the BASIX Certificate must be provided to the Principal Certifier.

**Note:** If any proposed changes in the BASIX commitments are inconsistent with the development consent the applicant will be required to submit a modification to the development consent to Council under Section 4.55 of the *Environmental Planning and Assessment Act 1979*.

#### 19. Car Parking and Allocation of Spaces

Car parking spaces must be provided in accordance with the approved plans/the Hawkesbury Development Control Plan 2002 - Appendix E Civil Works Specification (Part 2 - Construction Specification) and Western Sydney Engineering Design Manual Document WS190098 EDM Rev.: PCG\_03, April 2021 and National Construction Code (Building Code of Australia and AS 2890.6 - 'Parking facilities: Off-street parking for people with disabilities'. The minimum number of spaces provided must be as follows:

- 11 - Staff/Visitor
- 2 - Accessible Car Spaces.

All car parking spaces are to be identified by line-marking and appropriate signposting.

Details demonstrating compliance with the above requirements must be submitted to the Accredited Certifier prior to issue of the Construction Certificate.

#### 20. Detailed Drainage Design – Residential

A detailed drainage design of the site must be submitted to and approved by Council prior to the release of the Construction Certificate. The detailed plan must:

- a) be generally in accordance with Stormwater Management Plan ref no.DWG. 23016 DA Sheets D.01 through to D06, Rev G dated 17/06/2024 prepared by Brear Development;
- b) drain to the March Street;
- c) indicate the method of disposal of all stormwater and must include existing ground levels, finished surface levels on all paved areas, estimated flow rates, invert levels and sizes of all pipelines;
- d) be to the satisfaction of the Accredited Certifier;
- e) be designed to cater for a 1 in 5 year Average Recurrence Interval storm event;
- f) show details of any overflow drainage paths and that they be designed to cater for 1 in 100 year Average Recurrence Interval storm event; and
- g) comply with the Hawkesbury Development Control Plan 2002 - Appendix E and Australian Standard AS 3500 - 'Plumbing and Drainage' unless a variation is specifically noted and approved by the Development Application concept drainage plan.

#### 21. Dilapidation Survey – Damage to Public Infrastructure

A dilapidation survey and report (including photographic record) must be prepared by a suitably qualified consultant detailing the pre-developed condition of [INSERT: list of infrastructure]. Particular attention must be paid to accurately recording any pre-developed damaged areas so that Council is fully informed when assessing any damage to public infrastructure caused as a result of the development.

Details demonstrating compliance with the above requirements must be submitted to the Accredited Certifier prior to issue of the Construction Certificate.

**Note:** The developer may be held liable for all damage to public infrastructure in the vicinity of the site, where such damage is not accurately recorded and demonstrated as pre-existing under the requirements of this condition.





## 22. Driveway Construction – Residential in Council Road Reserve

An 'Agreement Form for Driveways' must be submitted to Council prior to the issue of a Construction Certificate. Evidence of lodgement and payment for this application must be provided to the Accredited Certifier.

The vehicular crossing must:

- a) have a minimum width of 4.5 metres (including 0.75 wings at each end) within the road reserve;
- b) not interfere with existing public infrastructure;
- c) have a sealed finish; and
- d) be constructed in accordance with Council's 'Driveway Specification' and Hawkesbury Development Control Plan 2002 - Appendix E - Civil Works Specification.

**Note:** The 'Agreement Form for Driveways' and the 'Driveway Specification' are available from Council's website.

## 23. Driveway Construction – Residential within Property

A standard residential vehicular driveway must be constructed within the property. The driveway must:

- a) have a minimum width of 3.0 metres within the property;
- b) have a sealed finish; and
- c) be constructed in accordance with Hawkesbury Council's 'Driveway Specification' and Hawkesbury Development Control Plan 2002 - Appendix E - Civil Works Specification.

Details of the driveway are to be included on plans submitted to the Accredited Certifier prior to issue of a Construction Certificate.

## 24. Engineer designed pavement – Residential

The vehicle pavement must be designed by a qualified civil/geotechnical engineer and certified to be satisfactory for the expected traffic loadings from a development of this size and type. Pavement to comply with Australian Standard AS 3727 'Pavements Part 1: Residential'. Details to the above are to be incorporated on plans submitted to Council prior to the issue of the Construction Certificate.

## 25. Erosion and Sediment Control Plan

Prior to the issue of the Construction Certificate, the applicant must submit to and obtain the Accredited Certifier approval of an Erosion and Sediment Control Plan (ESCP). The ESCP must show the location of site boundaries, adjoining roads, approximate grades, vegetation, site access, impervious areas, existing and proposed site drainage and a north point.

The ESCP must take into account the requirements of Landcom's publication 'Managing Urban Stormwater - Soils and Construction' (2004). The plan must show the following:

- a) timing of works;
- b) nature and extent of earthworks, including the amount of any cut and fill;
- c) where applicable the diversion of runoff from upslope lands around the disturbed areas;
- d) location of all soil and other material stockpiles including topsoil storage;
- e) location and type of proposed erosion and sediment control measures;
- f) site rehabilitation proposals; and
- g) frequency and nature of maintenance program.

## 26. External lighting – installations in vicinity of RAAF Base Richmond



Any outdoor lighting design must comply with the requirements of Civil Aviation Safety Authority Manual of Standards Part 139 Aerodromes. Luminaries with no upward light component (e.g. aero screen type) are to be used for any outdoor lighting.

Details demonstrating compliance with the above must be provided to the Accredited Certifier prior to the issue of the Construction Certificate.

**Note:** Outdoor lighting installations complying with Civil Aviation Safety Authority Manual of Standards Part 139 Aerodromes will in most instances be acceptable having regard to aircraft operations. The suitability for aircraft operations of any lighting installation will be subject to both ground and flight survey (inclusive of ATC Tower). Should the installation at the time of survey, or at any future period, be considered detrimental to the safety of aircraft operations the Department of Defence or CASA may require the lighting to be extinguished or suitably modified so as to eliminate such concern.

#### 27. External Materials – Approved Schedule of Finishes

The external colours and finishes of the building must be generally in accordance with the approved schedule of finishes and materials.

Details must be submitted to the Accredited Certifier prior to the issue of the Construction Certificate.

#### 28. External Materials – Materials having low reflective qualities (RAAF Base Richmond)

All roof materials used on the approved building are to have a low reflective quality to minimise glare impact associated with aircraft operations in conjunction with RAAF Base Richmond.

Details demonstrating compliance with this requirement must be submitted to the Accredited Certifier prior to issue of the Construction Certificate.

#### 29. Kerb Design

Plans must clearly show that all kerb used is to be in accordance with Table 6.9 of Part I Appendix E Civil Works Specifications of the Hawkesbury Development Control Plan 2002.

Flush kerbs must be constructed with either fibre reinforced concrete or standard concrete with 2 x 12mm steel reinforcing bars.

Details demonstrating compliance with this condition are to be submitted to the Accredited Certifier prior to the issue of the Construction Certificate.

#### 30. Long Service Levy Payment

The payment of a long service levy as required under Part 5 of the *Building and Construction Industry Long Service Payments Act 1986* is required. Evidence that the levy has been paid, is to be submitted to the Principal Certifier prior to the issue of any Construction Certificate.

**Note:** The long service levy is applied to all NSW building and construction projects of \$250,000 or more (inc. GST). The current rate is 0.25% of the total cost of the work. Payments can be made at Long Service Payments Corporation offices or most councils.

#### 31. Noise and Vibration from Major Roads and Rail Corridors – Residential Development

To minimise the impact of noise and vibration on residential development from any adjoining main road or rail corridor, the recommendations of the approved acoustic report are to be imposed on amended plans prior to the issue of a Construction Certificate.

Plans and specifications detailing the recommendations of the acoustic impact assessment are to be submitted to the Accredited Certifier for approval prior to the issue of the Construction Certificate.

#### 32. On site Stormwater Detention Design Compliance



On-Site Detention (OSD) for stormwater is required to be provided for this development. Details including calculations are to be shown on plans submitted for the Construction Certificate to the Satisfaction of the Accredited Certifier. OSD must comply with the following:

- a) OSD must be provided to maintain all stormwater discharges for storms from 50% AEP up to and including the 1% AEP; and
- b) the OSD system is to be designed in accordance with the Hawkesbury Development Control Plan - Appendix E, Civil Works Specification (Part 1 - Design Specifications and Part 2 - Construction Specifications).

Details demonstrating compliance with the above requirements must be submitted to the Accredited Certifier prior to issue of the Construction Certificate.

### **33. Overland Flow**

The development must not create adverse impacts to neighbouring properties in relation to overland flow and must meet the following requirements:

- a) water flowing from the property must not be redirected or concentrated to adjoining properties;
- b) water flowing into the property from adjoining lots must not be impeded or diverted; and
- c) water flow must follow the natural flow directions without increasing velocity.

Details demonstrating compliance with the above must be provided to the Accredited Certifier prior to the issue of a Construction Certificate.

### **34. Redundant Driveway – Kerb to Property Boundary**

The redundant vehicular concrete driveway must be removed and the area appropriately turfed and/or paved in a manner that conforms to the adjoining road reserve. The area forward of the front boundary must be kept smooth, even and free from any trip hazards. This work must be carried out at the proponents expense, including all alterations of public infrastructure where necessary.

Details demonstrating compliance with these requirements are to be submitted to the Accredited Certifier prior to the issue of the Construction Certificate.

### **35. Redundant Vehicular Layback**

All redundant vehicular layback crossing(s) must be removed and replaced with kerb and gutter to match adjacent road construction and infrastructure. This work must be carried out at the proponents expense, including all alterations of public infrastructure where necessary.

Details demonstrating compliance with these requirements are to be submitted to the Accredited Certifier prior to the issue of the Construction Certificate.

### **36. Section 7.12 (Monetary) Contributions**

A contribution under Section 7.12 of the *Environmental Planning and Assessment Act 1979* must be paid in accordance with the following:

#### a) Contribution Required

In accordance with Council's Section 7.12 (previously S94A) Contributions Plan 2015, a monetary contribution (indexed at the time of payment) must be paid to Council for the amount specified below.

#### b) Amount of Contribution

The amount of the contribution is \$50,270.00.



This fee is based on the supplied value-of-works of \$5,027,000.00.

The contribution amount detailed in (b) will be indexed at the time of actual payment in accordance with movement in the Consumer Price Index as published by the Australian Bureau of Statistics (Table 6401.0).

Contributions must be receipted by Council and evidence of payment submitted to the Accredited Certifier prior to the issue of any Construction Certificate.

**Note:** In the event that the estimated value of works increases in association with the Construction Certificate the Section 7.12 contribution payable is to be based on the revised value of works.

Please contact our Customer Experience Team on (02) 4560-4444 or email [council@hawkesbury.nsw.gov.au](mailto:council@hawkesbury.nsw.gov.au) prior to payment of this fee

### **37. Structural Engineers Design – Concrete and Structural Steel**

A qualified Structural Engineer's design for all reinforced concrete and structural steel must be provided to the Accredited Certifier prior to issue of Construction Certificate.

### **38. Structural Engineers Design – Retaining Walls**

Any retaining walls having a height exceeding 600mm proposed in conjunction with the development are required to be designed by a practicing structural engineer.

Details demonstrating compliance with this requirement must be submitted to the Accredited Certifier prior to issue of the Construction Certificate.

### **39. Structural Engineers Design – Structures Adjacent to Drainage/Piped Easements**

The walls of any structure adjoining the easement boundary must be designed by a suitably qualified engineer to withstand all forces should the easement be excavated to existing pipe invert level. Footings are to be designed such that they are set to below pipe invert level or alternatively founded on sound rock.

Details demonstrating compliance with the above requirements must be submitted to the Accredited Certifier prior to issue of the Construction Certificate.

### **40. Sydney Water – Section 73 Compliance Certificate**

A Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be obtained. Application must be made through an authorised Water Servicing Coordinator. For details refer to Sydney Water's website.

Following application, a 'Notice of Requirements' will be forwarded detailing water and/or sewer extensions to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

The 'Notice of Requirements' or Section 73 Certificate must be submitted to the Accredited Certifier prior to the issue of any Construction Certificate.

### **41. Traffic Control Plan**

A Traffic Control Plan prepared in accordance with the Roads and Maritime Services publication 'Traffic Control at Worksites' is to be prepared by an appropriately qualified person and submitted to Council, prior to commencement of any works, for approval.

Where the site adjoins a Transport for NSW controlled road, the Traffic Management Plan is to be approved by Transport for NSW before submission to Council for approval.



Details demonstrating compliance with these requirements are to be submitted to the Accredited Certifier prior to the issue of the Construction Certificate.

#### 42. **Traffic Management Plan**

A detailed Traffic Management Plan must be submitted to the Accredited Certifier prior to the issue of the Construction Certificate indicating how construction vehicles will safely enter and exit the site in a practical manner whilst minimising any negative effects on the surrounding roads and community. The Traffic Management Plan must include the following:

- a) construction access to the site is to be solely from March Street;
- b) the proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure wholly within the site;
- c) measures to provide for ongoing use or temporary closure of adjacent road reserve;
- d) all loaded vehicles entering or leaving the site must have their loads covered;
- e) the proposed method of access to and egress from the site for vehicles is to be safe and practical; and
- f) any associated Traffic Control Plans prepared by an appropriately qualified person in accordance with the Roads and Maritime Services publication 'Traffic Control at Worksites'.

Where the site adjoins a Transport for NSW controlled road, the Traffic Management Plan is to be approved by Transport for NSW before incorporation into the Construction Management Plan. Details demonstrating compliance with these requirements are to be submitted to the Accredited Certifier prior to the issue of the Construction Certificate.

#### 43. **Verification of Driveway Grades with Relevant Standards**

To verify that vehicular access will comply with Australian Standard AS 2890.1 - 'Parking Facilities Part 1: Off Street Parking Requirements', a scaled long section of the proposed driveway from the boundary to the garage must be submitted for the Construction Certificate and must include:

- a) existing natural surface levels;
- b) proposed grades and finished surfaces; and
- c) details of the method of treatment of any fill/retaining wall which may be required in conjunction with the proposed driveway.

#### 44. **Lot Amalgamation**

Evidence of amalgamation of two properties, 173 and 175 March Street (Lot 6 DP 234451 and Lot 7 DP 234451), must be provided to the Certifying authority prior to the issue of a Construction Certificate.

#### 45. **Basement Car Parking Plan of Management**

A detailed Basement Car Parking Plan of Management must be submitted to the Certifier prior to the issue of Construction Certificate indicating how the vehicles accessing the premise will safely enter and exit the basement car park in a practical manner. The plan must include as a minimum the following:

- All parking bay allocations to be clearly identified by suitable numbering system and line marking
- Accessible parking spaces must be marked and signposted in accordance with AS2890.6 Parking facilities: Off-street parking for people with disabilities
- Traffic flow directional pavement marking to be provided
- Two Visitor Parking spaces shall be signposted as 'REAR TO WALL' parking
- Vehicle waiting bays shall be clearly marked
- A traffic light design, installation and operation system for basement car park must be provided Reason: This is required to demonstrate that the proposed basement car park can be operated and managed safely and the system is reliable, practical and is safe for all users.

#### 46. **Fencing Details**



Details of the proposed palisade front fence is to be provided to the satisfaction of the certifying authority prior to the issue of a Construction Certificate.

Any front fence is not to be greater than a height of 1.2m from natural ground level.

#### **47. Accessible Pathways**

A continuous accessible path of travel must be provided between designated car parking spaces for people with a disability and lift lobby or access points servicing the development. These are to be indicated on amended plans prior to the issue of a Construction Certificate.

#### **Before Building Work Commences**

#### **48. Adjoining Building Dilapidation Report**

Before commencing any demolition or excavation works a dilapidation report is required to be prepared on any part of a building situated on an adjoining parcel of land that is within two metres of the proposed works.

**Note:** If the person preparing the report is denied access to the building for the purpose of an inspection, the report may be prepared from an external inspection.

#### **49. Asbestos Material Handling**

Any Asbestos Containing Material (ACM) that is likely to be disturbed by demolition or construction activities must be removed prior to the commencement of works in accordance with Clause 458 of the *Work Health and Safety Regulation 2017*.

This requires that:

- a) any friable material, or bonded material contaminated with asbestos-containing dust must be removed by an appropriately licensed person; or,
- b) any bonded material in excess of 10 square Metres is to be removed by an appropriately licensed person; or,
- c) an amount of material less than 10 square Metres that is not contaminated with dust must be removed by a competent person who has been trained in asbestos handling in accordance with clause 445 of the *Work Health and Safety Regulation 2017*.

All ACMs are to be removed in accordance with the National Occupational Health and Safety Commission (NOHSC): 'Code of Practice for the Safe Removal of Asbestos' 2018. ACMs must not be reused on the site.

The person having the benefit of this consent must provide the Principal Certifier with a copy of a signed contract before any works commence. Any such contract must indicate whether any ACMs will be removed, and if so, must specify the landfill site (that may lawfully receive asbestos) to which the ACMs are to be delivered. If the contract indicates that the ACMs will be removed to a specified landfill site, the person having the benefit of the consent must give the Principal Certifier a copy of a receipt from the operator of the landfill site stating that all the ACMs referred to in the contract has been received by the operator.

#### **50. Construction Certificate – required prior to commencement of works**

A Construction Certificate as specified in this consent is required prior to the commencement of work on the site.

The works must be undertaken in accordance with the NSW Environment Protection Authority "interim construction noise guideline".

#### **51. Construction Management Plan**





A Construction Management Plan must be submitted to and approved by Council prior to the commencement of works.

The Construction Management Plan must include the following:

- a) Summary - A concise (maximum three page) summary of key points from all documentation;
- b) Background - Provide details of the proposed works including the extent, staging and proposed timing of the works;
- c) Consultation - The manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process and the establishment of a protocol for complaints handling and management;
- d) Noise - Details in relation to how works will be undertaken in accordance with the Interim Construction Noise Guideline published by the NSW Environment Protection Authority;
- e) Dust - Details in accordance with the Dust Management Measures condition requirements;
- f) Vibration - A Vibration Compliance Letter in accordance with the relevant vibration condition requirements;
- g) Traffic - A Detailed Traffic Management Plan in accordance with the Traffic Management Plan condition requirements;
- h) Soil and Water Management - Detailed Soil and Water Management Plan in accordance with the Soil and Water Management Plan condition requirements;
- i) Water Quality Assessment and Monitoring - A report clearly detailing planned water quality monitoring proposed for the development in accordance with the requirements of the Water Quality Assessment and Monitoring condition;
- j) Any site specific Heritage and Archaeological Management; and
- k) Any site specific Ecological Impact Mitigation Measures.

#### **52. Demolition – Notice**

- a) Notice is to be given to Council of the date on which it is proposed to commence demolition. This notice must:
  - (i) be given not less than two days before the date on which it is proposed to commence demolition work;
  - (ii) provide details of the name, contact details of the demolisher/contractor undertaking the work;
  - (iii) provide the relevant SafeWork NSW License details of the demolisher/contractor; and
  - (iv) details of the demolisher/contractors current Public Liability/Risk Insurance Policy providing for a minimum cover of \$10 million.
  
- b) Notice is to be given to adjoining property owners of the date on which it is proposed to commence demolition. This notice must:
  - (i) be given not less than two days before the date on which it is proposed to commence demolition work;
  - (ii) provide details of the name, contact details of the demolisher/contractor undertaking the work; and
  - (iii) provide the telephone number of SafeWork NSW Asbestos/Demolition Hotline - 1800 672 718.

#### **53. Demolition – Work Plans**

The demolition work must comply with the provisions of Australian Standard AS 2601 - 'The Demolition of Structures'. The work plans required by Australian Standard AS 2601 - 'The Demolition of Structures' must be accompanied by a written statement from a suitably qualified person that the proposals contained in the work plan comply with the safety requirements of the Standard.

The work plans and the statement of compliance must be submitted and be to the satisfaction of the Principal Certifier prior to the commencement of works.

#### **54. Erosion and Sediment Control – Minor Development**

Erosion and sediment control devices are to be installed and maintained until the site is fully stabilised in accordance with Hawkesbury Council's publication Guidelines for Erosion and Sediment control on a building site (2017).



## 55. Notice of Commencement

No work shall commence until a notice of commencement has been provided to Council. This notice is to be provided not less than two days from the date on which it is proposed to commence work associated with this Development Consent. The notice must also contain:

- a) details of the appointment of a Principal Certifier (PCA) providing name, address and telephone number; and
- b) details of the name, address and licence details of the Builder.

## 56. Prescribed Conditions – residential building work

In the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the following information:

- a) In the case of work for which a principal contractor is required to be appointed:
  - (i) the name and licence number of the principal contractor; and
  - (ii) the name of the insurer by which the work is insured under Part 6 of that Act.
- b) In the case of work to be done by an owner-builder:
  - (i) the name of the owner-builder; and
  - (ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under (b) becomes out of date, further work must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

## 57. Prescribed Conditions – Shoring and Adequacy of Adjoining property

Development that involves an excavation that extends below the level of the base of the footings of a building, structure or work (including any structure or work within a road or rail corridor) on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

- a) protect and support the building, structure or work from possible damage from the excavation; and
- b) where necessary, underpin the building, structure or work to prevent any such damage.

**Note:** This condition does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

## 58. Principal Certifier – Details

The applicant must advise Council of the name, address and contact number of the Principal Certifier, in accordance with Section 6.6(2) of the Environmental Planning and Assessment Act 1979.

## 59. Principal Certifier – Site sign

A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:



- a) showing the name, address and telephone number of the Principal Certifier for the work;
- b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours; and
- c) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed

#### **60. Protection of Adjoining Public land**

The public land adjoining the site must not be affected by site works, construction materials stockpiles, waste, building products and debris, site sheds, spoil placement or the like.

No access for vehicles, machinery or goods to the site must be gained across public land (other than the road reserve) without a prior written approval from Council.

#### **61. Restriction of Site Access to prevent unauthorised material**

The property entry and exit points must be secured at all times to prevent the unauthorised entry of vehicles, and to ensure that the site manager can control and prevent dumping of waste and potentially contaminated material whilst fill material is being imported or managed on site.

#### **62. Road Opening permit required**

A separate Road Opening Permit under Section 138 of the *Roads Act 1993* must be obtained from Council, in the case of local or regional roads, or from Transport for NSW, in the case of State Roads, prior to the commencement of any:

- a) excavation or disturbance of a road reserve (including footpath, nature strip or road pavement) to access services including sewer, stormwater drains, water mains, gas mains, telecommunications or for any other purpose; or
- b) erection of a structure or carry out a work in, on or over a public road; or
- c) removal or interference with any structure, work or tree on a public road; or
- d) pumping of water into a public road from any land adjoining the road; or
- e) connection of a road (whether public or private) to a public road.

Any public place affected by works must be kept lit between sunset and sunrise if it is likely to be hazardous.

All precautions must be taken to protect the public while work is in progress. Traffic control must be undertaken in accordance with Australian Standard AS 1742 - 'Manual Uniform Traffic Control Services - Parts 1, 2 and 3'.

Upon completion of the work, the road reserve must be restored to its original state so as to ensure that there are no hazards that may impact on the public.

#### **63. Site Safety Fencing**

The site is to be secured by a fence, in accordance with SafeWork NSW requirements, to prevent unauthorised access during the period of all works.

#### **64. Support and Protection for Neighbouring Buildings**

If an excavation associated with the approved development extends below the level of the base of the footings of a building on an adjoining property the person having the benefit of this consent must, at that person's own expense:

- a) protect and support the adjoining premises from possible damage from the excavation;



- b) where necessary, underpin the adjoining premises to prevent any such damage; and
- c) provide a minimum seven days written notice to the owners/occupiers of adjoining properties giving details of the excavation and the proposed method of support of the excavated area.

The proponent is liable for any part of the cost of work carried out for the purposes of this condition whether carried out on the development site or on any adjoining land.

#### **65. Survey Certificate – Building to be Verified by a registered Surveyor**

In order to ensure compliance with approved plans, a Survey Certificate, prepared by a Registered Surveyor, including locating any easements affecting the subject land, is to be undertaken:

- a) a set-out survey prior to the placement of any footings showing the proposed building and its relationship to the boundaries; and/or

Progress surveys must be submitted to the Principal Certifier at the time of carrying out relevant progress inspections. Under no circumstances is work allowed to proceed should such survey information be unavailable or reveal discrepancies between the approved plans and the works as constructed.

#### **66. Sydney Water – Endorsement of Approved Plans**

The approved plans must be submitted to and endorsed by Sydney Water via the 'Sydney Water Tap-in' website to determine whether the development will affect Sydney Water's water mains, stormwater drains and/or easements, and if further requirements need to be met. Plans will be appropriately stamped.

Please refer to Sydney Water's website.

Evidence of the building plan approval must be forwarded to the Principal Certifier prior to the commencement of works.

#### **67. Toilet Facilities**

Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.

Each toilet must:

- a) be a standard flushing toilet connected to a public sewer;
- b) be attached to an approved on-site effluent disposal system;
- c) be a temporary chemical closet that is regularly maintained; and
- d) appropriate facilities for the disposal of sanitary items are to be provided within the toilet.

#### **68. Vibration Impacts**

All plant and equipment to be used or installed on the premises must comply with the vibration limits specified in 'Assessing Vibration: a technical guideline' prepared by the NSW Environment Protection Authority at the boundary of any affected receiver.

A certificate from an appropriately qualified acoustic consultant must be submitted to the Principal Certifier prior to the commencement of works, certifying that all plant and equipment on the site, together with the proposed plant and equipment, operating simultaneously will comply with the requirements of this condition.

#### **69. Works within an Existing Easement**

All adjoining properties either benefited or burdened by the existing easement must be notified of the proposed works within the easement in writing, including commencement and completion dates.

Evidence of this notification is to be provided to the Principal Certifier.



## **During Building Work**

### **70. Approved Construction Hours**

Clearing of land, running of machinery, excavation, and/or earthworks, building works and the delivery of building materials must be carried out between the following hours:

- a) between 7am and 6pm, Mondays to Fridays inclusive;
- b) between 8am and 4pm, Saturdays;
- c) no work on Sundays and public holidays;
- d) works may be undertaken outside these hours where:
  - (i) the delivery of vehicles, plant or materials is required outside these hours by the Police or other authorities;
  - (ii) it is required in an emergency to avoid the loss of life, damage to property and/or to prevent environmental harm; and
  - (iii) a variation is approved in advance in writing by Council.

### **71. Construction management plan – implementation**

All aspects of the Construction Management Plan must be implemented and maintained until the completion of works.

### **72. Earthworks – General requirements**

All earthworks being undertaken as part of this approval must comply with the following:

- a) topsoil must be stripped only from approved areas and must be stockpiled for re-use during site rehabilitation and landscaping;
- b) once the topsoil has been removed the natural batter must be suitably stepped, scarified or roughened to prevent slipping and the fill is to be keyed in to hold the toe of the fill batter in place;
- c) filling must comprise either uncontaminated Virgin Excavated Natural Material (VENM) or Excavated Natural Material (ENM). Contamination certificates for all source material must be provided to the Principal Certifier prior to placing any fill on site or Council Officers upon request;
- d) a ticketing system is to accompany any material being brought to the site. A register is to be kept on site to cross reference against the source records. An independent site auditor is to be engaged to undertake appropriate certification regarding the monitoring and validation of the fill material imported to the site as being sound, suitable for the proposed use and free of contamination;
- e) where batters exceed a ratio of three horizontal to one vertical, retaining walls, stoneflagging or terracing must be constructed;
- f) all fill within the site must be placed in layers not exceeding 300mm thickness and compacted to achieve a minimum dry density ratio of 98% when tested in accordance with Australian Standard AS 1289 - 'Methods of testing soils for engineering purposes unless otherwise specified'; and
- g) all disturbed areas are to be stabilised/revegetated, using a minimum 300mm surface layer of topsoil, as soon as practicable after the completion of filling works.

Details of all contractors, excavators, and/or truck deliveries must be recorded and provided to Council Officers upon request.

Note: ENM is defined by the Excavated Natural Material Exemption - NSW Environment Protection Authority.

### **73. Earthworks – Removal, management and Transportation of fill**

All excavated fill material that is to be removed from the site must only be sent to:

- a) a NSW Environment Protection Authority licensed waste disposal facility. A copy of the receipts from the waste disposal facility must be kept and must be provided to the Principal Certifier prior to the issue of a Final Occupation Certificate, or authorised officer of Council upon request; or



- b) a site which has a current development consent for the importation of fill material or falls under exempt development provisions.

All removed excavated material must be transported and disposed of in accordance with the NSW Environment Protection Authority guidelines applicable at the time of removal.

#### 74. Erosion and Sediment Control Plan – Implementation

Erosion and sediment control devices are to be installed and maintained until the site is fully stabilised in accordance with the approved Erosion and Sediment Control Plan.

#### 75. Overland Stormwater Flow Management

The works associated with the development must ensure that:

- a) all natural water flow from adjoining properties is not impeded or diverted; and
- b) surface and subsurface water flows are not redirected or concentrated onto adjoining properties.

#### 76. Site Management During Construction

The following requirements relating to site management apply during and immediately following construction:

- a) All materials and equipment must be stored wholly within the work site unless an approval to store them elsewhere is held.
- b) Waste materials (including excavation, demolition and construction waste materials) must be managed on the site and then disposed of at a waste management facility.
- c) Copies of receipts stating the following must be given to the Principal Certifier:
  - (i) the place to which waste materials were transported;
  - (ii) the name of the contractor transporting the materials; and
  - (iii) the quantity of materials transported off-site and recycled or disposed of.
- d) Any run-off and erosion control measures required must be maintained within their operating capacity until the completion of the works to prevent debris escaping from the site into drainage systems, waterways, adjoining properties and roads.
- e) During construction:
  - (i) all vehicles entering or leaving the site must have their loads covered;
  - (ii) all vehicles, before leaving the site, must be cleaned of dirt, sand and other materials, to avoid tracking these materials onto public roads; and
  - (iii) any public place affected by works must be kept lit between sunset and sunrise if it is likely to be hazardous to the public.
- f) At the completion of the works, the work site must be left clear of waste and debris.

**Note:** In the event it is not possible to keep the footpath or road reserve clear during construction works written approval from Council must be obtained prior to any closing of the road reserve or footpath area. The closure must take place in accordance with Council's written approval. The area must be signposted and such signposting be maintained in a way that ensures public safety at all times.

#### 77. Topsoil and material stockpiles management

During construction the proponent must ensure that the site is maintained in a state that will not cause dust or water pollution as defined by the *Protection of the Environment Operations Act 1997*. To ensure this:

- a) sediment and erosion control devices must be installed prior to any works being undertaken;
- b) topsoil must only be stripped from approved areas and must be stockpiled for re-use during site rehabilitation and landscaping;
- c) stockpiles of topsoil, sand, aggregate, spoil or other material are to be stored within the site only; and





d) stockpiles must be stored clear of any drainage line or easement, natural watercourse, footpath, kerb, or roadway.

**Note:** Fines may be applied where pollution is caused by the construction or associated earthworks.

#### 78. **Traffic Management – Installation of Devices**

Traffic Management Devices must be installed and maintained for the duration of the proposed works in compliance with the approved Traffic Management Plan.

#### 79. **Water Management – Excavated Areas**

All excavated areas are to be kept free from the accumulation of water.

Excavation pit water must be disposed in either of the following ways:

- a) pumped into tankers for disposal at an Environment Protection Authority (EPA) licensed waste facility; or
- b) pumped into Council's stormwater system - subject to meeting minimum requirements for water quality in relation to suspended solids, acidity, chemical composition or any other contaminants. A report from a NATA accredited laboratory of sample test results is required to be provided to Council for consideration.

Prior to disposal of any excavation water into Council's stormwater system written approval from Council is required.

Should groundwater enter the excavation area a Groundwater Licence under Part 5 of the *Water Act 1912* is required from the Natural Resource Access Regulator prior to any dewatering taking place.

#### 80. **Critical Stage Inspections**

Prior to the commencement of building work and at nominated stages during the construction of the building, a minimum of 48 hours' notice is required to be provided to allow the Principal Certifier to ensure that the critical stage inspections are undertaken.

**Note:** Critical stage inspections are required to be carried out in accordance with Section 61 of the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*.

#### 81. **Loading and Unloading during Construction**

The following requirements relating to loading and unloading apply during construction:

- a) All loading and unloading associated with construction activity must be accommodated on site.
- b) If, during excavation, it is not feasible for loading and unloading to take place on site, a Works Zone on the street may be considered by Council.
- c) A Works Zone may be required if loading and unloading is not possible on site. If a Works Zone is warranted an application must be made to Council at least 8 weeks prior to commencement of work on the site. An approval for a Works Zone may be given for a specific period and certain hours of the days to meet the particular need for the site for such facilities at various stages of construction. The approval will be reviewed periodically for any adjustment necessitated by the progress of the construction activities.
- d) Where hoisting activity over the public place is proposed to be undertaken including hoisting from a Works Zone, a separate approval must be obtained from Council.

#### **Before the issue of an Occupation Certificate**

#### 82. **Car parking – Allocation of Spaces**



The approved parking spaces must be allocated as detailed below. All spaces must be appropriately line-marked and labelled according to this requirement prior to the issue of an Occupation Certificate or the use commencing, whichever is earlier. If the development is to be strata subdivided, the car park layout must respect the required allocation of:

- a) 11 residential parking spaces;
- b) 2 visitor parking spaces.

#### **83. Car Parking Area – Directional marking required**

The entry/exit points and internal aisle ways associated with the car parking area are to be marked with pavement arrows to direct traffic movements in and out of the site and guide traffic circulation through the car park.

#### **84. Dilapidation Report – Completion of works**

On completion of the development the subject of this consent and prior to the issue of the Occupation Certificate, a final dilapidation report is to be prepared by an appropriately qualified person and is to be provided to the Principal Certifier and Council identifying:

- a) whether any damage to surrounding properties and/or public infrastructure has occurred as a result of the development;
- b) the nature and extent of any damage caused to the adjoining property and/or public infrastructure as a result of the development;
- c) the nature and extent of works required to rectify any damage caused to the adjoining property and/or public infrastructure as a result of the proposed development;
- d) the nature and extent of works carried out to rectify any damage caused to the adjoining property and/or public infrastructure as a result of the development; and
- e) the nature and extent of any agreements entered into for rectification of any damage caused to the adjoining property and/or public infrastructure as a result of the development.

This report must reference the original dilapidation survey and reports that were required to be provided to the Principal Certifier in accordance with this consent.

The developer must bear the cost of carrying out works to restore all damage to adjoining buildings as a result of the carrying out of the development, and no occupation of the development must occur until damage caused as a result of the carrying out of the development is rectified.

#### **85. Infrastructure Repair at Completion of Works**

Prior to the issue of any Occupation Certificate:

- a) all works in the road reserve must be fully completed; and
- b) any public infrastructure damaged as a result of the development must be repaired to the satisfaction of Council.

#### **86. Kerb and Gutter Construction**

A concrete kerb 150mm in height and gutter must be constructed along the entire frontage of the site. The construction of the kerb and gutter is to satisfy the requirements of the Hawkesbury Development Control Plan - Appendix E.

The works specified in this condition must be completed to the satisfaction of Council prior to the issue of any Occupation Certificate.

#### **87. Landscaping Works to be completed**

All landscaping works approved under this consent are to be completed prior to the issue of a Final Occupation Certificate.



#### **88. On-site Stormwater Detention – Compliance Certification**

Upon completion of the on-site stormwater detention system, certification from a consulting engineer and a works as executed drawing are to be provided to Council stating that the works are in accordance with or satisfy the design intent of the approved system.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of any Occupation Certificate.

#### **89. On-site Stormwater Detention – Plan of Management**

A Plan of Management for the on-site stormwater detention facilities must be prepared setting out all design and operational parameters for the detention facilities including design levels, hydrology and hydraulics, inspection, maintenance requirements and time intervals for such inspection and maintenance.

The Plan of Management is to be submitted to and approved by Council prior to the issue of the final Occupation Certificate.

#### **90. On-site Stormwater Detention – Positive Covenant required**

A positive covenant must be created on the title of the land providing the following:

- a) the registered proprietors will at all times maintain, repair and keep the on-site stormwater detention facilities in a good and safe condition and state of repair, in accordance with the approved design to the reasonable satisfaction, at all times, of Council, having due regard to the Plan of Management for the operation and maintenance of the on-site stormwater detention facilities;
- b) the liability under the Covenant will jointly and severally bind the registered proprietors of the proposed dwellings; and
- c) Council only will be entitled to release or modify the Covenant.

The terms of the positive covenant are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Council prior to lodgement with NSW Land Registry Services.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of the final Occupation Certificate.

#### **91. Vehicle Access Signage**

Vehicle entrances and exits must be clearly signposted, including street number, and visible from both the street and site at all times.

#### **92. Vehicle Crossing and Associated Driveway**

The approved vehicular crossing(s) and associated driveway must be constructed prior to issue of an Occupation Certificate.

#### **93. Visitor Car Parking – Sign to be provided**

A sign must be installed within the site adjacent to the driveway entrance advising of the location of visitor car parking.

Visitor car parking shall be signposted as such and include signage advising parking spaces as REAR TO WALL parking.

#### **94. Works as Executed Drawings required**



Works-As-Executed drawings are to be submitted to Council detailing the following information:

- a) invert levels of tanks, pits and pipes;
- b) surface levels of pits and surrounding ground levels;
- c) levels of surrounding kerb;
- d) floor levels of buildings;
- e) top of kerb levels at the front of the lot; and
- f) extent of inundation.

**95. Basement Car parking**

A certification of compliance of constructed Basement Car Parking with the approved basement plan of management is to be provided to the Certifier prior to the issue of Occupation Certificate.

**96. Acoustic Requirements – Major Road and Rail corridors**

The building must be constructed to satisfy the requirements of the approved Acoustic Impact Assessment Ref No.1121-AC-02-A prepared by Broadcrest Consulting Pty Ltd and dated 05/09/2023 and Australian Standard AS 3671 - 'Acoustics - Road traffic noise intrusion - Building siting and construction', and Australian Standard AS 2107 - 'Acoustics - Recommended design sound levels and reverberation times for building interiors'.

Details demonstrating compliance with this requirement must be submitted to the Accredited Certifier prior to issue of any Occupation Certificate.

**97. BASIX Commitments**

Suitable evidence that the commitments identified in the BASIX Certificate and on the plans or specifications have been fulfilled must be provided to the Principal Certifier prior to the issue of an Occupation Certificate.

**98. Certification of Smoke Detection and Alarm system**

An automatic smoke detection and alarm system must be installed in residential development by a licensed electrician. Smoke alarms must comply with Australian Standard AS 3786 – 'Smoke alarms' and be connected to the consumer mains power where supplied to the building.

A Certificate from a licenced electrician must be provided to the Principal Certifier prior to the issue of an Occupation Certificate.

**99. Consolidation of Lots**

The existing allotments must be consolidated into a single allotment and the plan of consolidation is to be registered with NSW Land Registry Services prior to the issue of a Final Occupation Certificate.

**100. Design Verification SEPP 65 (Design Quality of Residential Flat Development)**

A design verification statement is required to be prepared by a qualified designer confirming that the residential flat development achieves the design quality outcomes of the development as shown on plans and specifications. This statement must have regard to the design quality principles set out in Part 2 of State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development.

This verification statement must be provided to the Principal Certifier prior to the issue of the Occupation Certificate.

**101. Energy Provider Certificate**



Documentary evidence from an Energy Provider confirming that satisfactory arrangements have been made to serve the proposed development must be provided to the Principal Certifier prior to the issue of the Occupation Certificate.

#### **102. Suitability of Glazing – Balustrades**

Glass balustrades must be designed and installed in accordance with Australian/New Zealand Standard AS/NZS 1170.1 - 'Structural design actions - Permanent, imposed and other actions'.

Engineering certification must be provided to the Principal Certifier for glass balustrading used in the development prior to the issue of an Occupation Certificate.

#### **103. Suitability of Glazing – Windows and Doors**

Glazing materials installed in the building must be in accordance with Australian Standards AS 1288 - 'Glass in Buildings - Selection and Installation' and AS 2047 - 'Windows and external glazed doors in buildings', e.g. windows, doors, footlights, balustrades and shower screens.

A Certificate of Compliance is required to be provided to the Principal Certifier prior to the issue of an Occupation Certificate.

**Note:** The certificate is required to be signed by the manufacturer and the installer.

#### **104. Survey Certificate at Completion**

A Survey Certificate, prepared by a Registered Surveyor, is to certify the location of the building in relation to the boundaries of the allotment.

The certificate is to be submitted to the Principal Certifier prior to the issue of any Occupation Certificate.

#### **105. Sydney Water – Section 73 Compliance Certificate**

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be provided to the Principal Certifier prior to issue of the Occupation Certificate. For details refer to Sydney Water's website.

#### **106. Telecommunications Provider Certificate**

Documentary evidence from a telecommunications carrier confirming that services are available for the development must be provided to the Principal Certifier prior to issue of the Occupation Certificate.

#### **107. Private Waste Collection**

Written evidence of the engagement of a private waste contractor to service the waste collection of all units is to be obtained prior to the issue of a Occupation Certificate.

Kerbside collection is not permitted on this site and all waste collection is to be undertaken on-site.

#### **108. EV Charging**

All residential (non-visitor) car parking spaces must be equipped with an EV ready connection prior to the issue of a Occupation Certificate.

#### **109. Fire Safety Certificate**

A Final Fire Safety Certificate for all new fire safety measures is required to be provided to Council prior to the issue of an Occupation Certificate.



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## **Occupation and Ongoing Use**

### **110. Annual Fire Safety Statement**

The owner of the building is responsible for the lodgement with Council of an Annual Fire Safety Statement from a competent person so as to confirm the essential fire safety measures required to be provided in the building exist and are being maintained. The Annual Fire Safety Statement must be issued within 12 months of the issue of the Final Fire Safety Certificate, and then on an annual basis thereafter.

A copy of the Fire Safety Statement obtained and Fire Safety Schedule must also be:

- a) forwarded to the Commissioner of Fire and Rescue New South Wales by email to [afss@fire.nsw.gov.au](mailto:afss@fire.nsw.gov.au); and
- b) prominently displayed in the building.

### **111. Graffiti Removal**

The owner/lessee of the building must remove any graffiti which appears on the buildings, fences, signs and other surfaces of the property within 48 hours of its application in accordance with the environmental maintenance objectives of 'Crime Prevention Through Environmental Design'.