

Statutory Compliance Table

Statutory Requirement	Assessment / Response
Environmental Planning and Assessment Act 1979	
Section 1.3 Objects of the Act	
(a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,	The development would promote the welfare of the community through investment and development of the site and the provision of affordable housing, improved housing provision and choice close to services and public transport. The proposal would result in no impacts to the State's natural resources.
(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,	The proposal includes measures to deliver ecologically sustainable development through a range of design and operation initiatives.
(c) to promote the orderly and economic use and development of land,	Orderly and economic use of the land is achieved as the development would be consistent with objectives of the zone. It will deliver housing in a location in proximity to services and public transport and help revitalise the Padstow Local Centre through increased commercial activity.
(d) to promote the delivery and maintenance of affordable housing,	The proposal provides affordable housing.
(e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,	The proposed development would not result in the loss of any threatened or vulnerable species, demonstrated through the obtainment of a BDAR Waiver.
(f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),	The proposed development is not anticipated to result in any impacts upon built and cultural heritage, including Aboriginal cultural heritage

(g) to promote good design and amenity of the built environment,	The proposal achieves a high standard of design and has been developed in consultation with the NSW SDRP and having regard to the design and amenity controls established by the Apartment Design Guide under the Housing SEPP.
(h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,	The development will be constructed to a high standard.
(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,	The proposal will be assessed by the State Government, with input from the local Council and relevant agencies.
(j) to provide increased opportunity for community participation in environmental planning and assessment.	Community consultation has occurred as part of the application preparation. The proposed development will also be publicly exhibited during the assessment process.

Section 4.15 – Evaluation

(a) the provisions of—	
(i) any environmental planning instrument, and	This table considers all relevant EPIs
(ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and	There are no applicable draft instruments
(iii) any development control plan, and	Under Section 2.10 of the Planning Systems SEPP, DCPs do not apply to SSD.
(iiiia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and	No applicable planning agreement.
(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph),	This table considers the regulations.
(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,	The proposed development will not adversely impact the surrounding environment and incorporates appropriate mitigation measures to minimise any potential impacts. Positive impacts include the delivery of 113 high quality

(c) the suitability of the site for the development,	apartments, including affordable housing to assist with addressing the current housing crisis, in an accessible local centre location, strengthening the role of the commercial centre and generating employment and economic growth
(d) any submissions made in accordance with this Act or the regulations,	The proposed development is consistent with the objectives of the zone and with the expected emerging form of development in this part of the Padstow Local Centre. The site is well located for the proposed mixed use, being within close proximity to retail services and to public transport. There are no specific site constraints that would render the site unsuitable for the proposed development
(e) the public interest.	Any submissions made in accordance with the Act will be considered as part of the Response to Submissions. Given the proposal is consistent with the objectives for the site under the new planning controls, provides additional accommodation including affordable housing, is of a high quality design, and would not result in any unacceptable environmental or amenity to the surrounding area, the public interest is assured.

Biodiversity Conservation Act 2016

Section 7.9 – Biodiversity Assessment for State Significant Development

- (1) This section applies to—
- (a) an application for development consent under Part 4 of the *Environmental Planning and Assessment Act 1979* for State significant development, and
 - (b) an application for approval under Division 5.2 of the *Environmental Planning and Assessment Act 1979* to carry out State significant infrastructure.
- (2) Any such application is to be accompanied by a biodiversity development assessment report unless the Planning Agency Head and the Environment

A BDAR waiver request was submitted to DPHI on 27 August 2024 and the BDAR waiver was subsequently issued by the Department of Climate Change, Energy, the Environment and Water (Environment Agency Head) and DPHI (Planning Agency Head). This waiver confirms that the development is not likely to have any significant impact on biodiversity values and the application does not require a BDAR to be prepared

Agency Head determine that the proposed development is not likely to have any significant impact on biodiversity values.

- (3) The environmental impact statement that accompanies any such application is to include the biodiversity assessment required by the environmental assessment requirements of the Planning Agency Head under the *Environmental Planning and Assessment Act 1979*.

State Environmental Planning Policy (Planning Systems) 2021

Section 2.6 – Declaration of State Significant Development

- (1) Development is declared to be State significant development for the purposes of the Act if—
- (a) the development on the land concerned is, by the operation of an environmental planning instrument, not permissible without development consent under Part 4 of the Act, and
 - (b) the development is specified in Schedule 1 or 2.

The proposal is SSD as it:

- (a) requires development consent (refer to CBLEP 2023 Clause 2.3 and 2.5 in relevant section of table below), and
- (b) is specified in Schedule 1 as outlined below

Schedule 1 – State Significant Development – general

26 Housing development carried out by certain public authorities

- (1) Development carried out by or on behalf of the Aboriginal Housing Office or the Land and Housing Corporation if the development—
- (a) has an estimated development cost of more than \$30 million, or
 - (b) will result in more than 75 dwellings.

The proposal is being carried out on behalf of the Land and Housing Corporation and has an estimated development cost of more than \$30 million and will result in more than 75 dwellings.

State Environmental Planning Policy (Housing) 2021

Chapter 2, Part 2, Division 1 ‘In-fill affordable housing’

Section 15C: Development to which this division applies

- (1) This division applies to development that includes residential development if—
- (a) the development is permitted with consent under Chapter 3, Part 4, Chapter 5 or another environmental planning instrument, and
 - (b) the affordable housing component is at least 10%, and

The division applies as:

- The proposed development is permitted with consent;
- The affordable housing component exceeds 10%;
- The site is within the Six Cities Region.

- (c) all or part of the development is carried out—
- (i) for development on land in the Six Cities Region, other than in the City of Shoalhaven local government area—in an accessible area, or
 - (ii) for development on other land—within 800m walking distance of land in a relevant zone or an equivalent land use zone.

Section 16: Affordable housing requirements for additional floor space ratio

- (1) The maximum floor space ratio for development that includes residential development to which this division applies is the maximum permissible floor space ratio for the land plus an additional floor space ratio of up to 30%, based on the minimum affordable housing component calculated in accordance with subsection (2).
- (2) The minimum affordable housing component, which must be at least 10%, is calculated as follows—

$$\text{affordable housing component} = \frac{\text{additional floor space ratio (as a percentage)}}{2}$$

- (3) If the development includes residential flat buildings or shop top housing, the maximum building height for a building used for residential flat buildings or shop top housing is the maximum permissible building height for the land plus an additional building height that is the same percentage as the additional floor space ratio permitted under subsection (1).

At least 15% of the total GFA is proposed to be provided as affordable housing, noting that the modification proposes 100% affordable housing.

As such a bonus of 30% applies to both floor space and building height.

	CBLEP2023 (refer to relevant section of this table below)	Amended control with additional 30%
FSR	2.5:1	3.25:1
Height	20 m	26 m

The proposal is designed with an FSR of 3.25:1 and therefore complies with the permitted FSR inclusive of the 30% bonus.

The Proposal will exceed the building height control by 2.7m. This has been considered in Section 4 of the Modification Report and the Variation Assessment under separate cover.

Section 19: Non-discretionary development standards

The following non-discretionary development standards apply:

- (a) a minimum site area of 450m²,

- (a) Meets standard: The site has an area of 2992m².
- (b) Does not meet standard: 29.5% of the site area would be landscaped.

(b) a minimum landscaped area that is the lesser of— (i) 35m² per dwelling, or (ii) 30% of the site area, (e) the following number of parking spaces for dwellings used for affordable housing— (i) for each dwelling containing 1 bedroom—at least 0.4 parking spaces, (ii) for each dwelling containing 2 bedrooms—at least 0.5 parking spaces, (iii) for each dwelling containing at least 3 bedrooms— at least 1 parking space, (f) the following number of parking spaces for dwellings not used for affordable housing— (i) for each dwelling containing 1 bedroom—at least 0.5 parking spaces, (ii) for each dwelling containing 2 bedrooms—at least 1 parking space, (iii) for each dwelling containing at least 3 bedrooms—at least 1.5 parking spaces, (g) the minimum internal area, if any, specified in the Apartment Design Guide for the type of residential development,	However, this is not a standard that is required to be met, merely a standard, which if met, can not be used as a basis to refuse consent. A merit assessment of the landscaping notes: - there is no expectation for landscaping under the CBDP given the site is located in a Local Centre zone, - apartments in town centre locations rely less on landscaped open space for amenity than apartments in other locations as occupants have access to a wide range of services that contribute to their amenity, including access to cafes and similar spaces that provide opportunities for social interaction and passive recreation - The modification includes new shared residential common rooms which will supplement the landscaped areas and provide additional communal space. (e) and (f) Meets standard: Parking exceeds minimum requirements (h) Meets standard: exceeds ADG apartment size recommendations
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Section 20: Design requirements

(3) Development consent must not be granted to development under this division unless the consent authority has considered whether the design of the residential development is compatible with— (a) the desirable elements of the character of the local area, or (b) for precincts undergoing transition—the desired future character of the precinct.	The site is within a precinct undergoing transition. The Desired future character of the area is outlined in Council's DCP as follows: <i>Desired character</i> <i>The Padstow Local Centre will continue to function as a successful and bustling centre that is commercially viable, well designed, reflecting the unique characteristics of the place, and recognised by the community as</i>
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one of the twin 'hearts' of the local area alongside the Revesby Local Centre. Carl Little Reserve is the central point from which the local centre radiates, an enlivened mixed use destination that meets the needs of the growing community and is a catalyst for investment. Carl Little Reserve will be home to a modern multi-purpose community facility and civic space, a place for people to come together for events and social activities. The Southern Commercial Core precinct is the local retail magnet with the anchor supermarket. Active street frontages along the main streets (Howard Road, Padstow Parade and Cahors Road) will create a vibrant streetscape where there is day and evening activity, and where shops and restaurants will stay open longer. The streets will be a place where cars travel slowly, making it easier to cross the street and creating a pleasant place to walk, sit and talk. The traditional terrace shops and historic shopfronts will continue to reflect the unique characteristics of the place. Low and medium-rise buildings at appropriate locations will create a sense of enclosure, human scale, order, comfort and enjoyment for people walking in the local centre. Leafy streets will connect people to the low-rise liveable neighbourhoods and provide a stunning platform from which to journey into the local centre. While there are four precincts of distinctive functional and physical character within the local centre as shown in Figure 9b, this section is specific to the Northern and Southern Commercial Cores and Residential Frame. These precincts offer an effective base to implement the desired character and development controls at the local level.

C2 Southern Commercial Core

The Southern Commercial Core is the local retail magnet with the anchor supermarket. Active street frontages along the main streets (Howard Road and Padstow Parade) will create a vibrant streetscape where there is day and evening activity, and where shops and restaurants will stay open longer. The streets will be a place where cars travel slowly, making it easier to cross the street and creating a pleasant place to walk, sit and talk. Variety is also the key to economic resilience and this place will be home to a diversity of building forms, with the tallest buildings next to the railway station. It is recognised the development of the local centre will occur over time, resulting in a rich mixture of old and new buildings with contrasting building heights and architectural styles.

The proposal contributes to the desired future character of the area through:

- the provision of an active street frontage to Padstow Parade, adding to the vibrancy of the streetscape with opportunities for increased day and evening activity,

- new street tree provision and improvements to the footpath providing a pleasant place to walk,
- adding to the diversity of building forms within the centre and making a significant contribution to the improvement of the local building stock
- incorporation of modulation and façade treatments which complement the traditional smaller face brick shop front facades in the centre

Chapter 4: Design of residential apartment development

Section 147: Determination of development applications and modification applications for residential apartment development

- (1) Development consent must not be granted to residential apartment development, and a development consent for residential apartment development must not be modified, unless the consent authority has considered the following—
- (a) the quality of the design of the development, evaluated in accordance with the design principles for residential apartment development set out in Schedule 9,
 - (b) the Apartment Design Guide,
 - (c) any advice received from a design review panel within 14 days after the consent authority referred the development application or modification application to the panel.

The proposal has been designed in accordance with Schedule 9 of the Housing SEPP and the Apartment Design Guide ('ADG'), with compliance detailed in the Architect's Design Report

The design has also given consideration to advice received from The State Design Review Panel (SDRP) prior to lodgement of the original application.

Section 148: Non-discretionary development standards for residential apartment development—the Act, s 4.15

- (2) The following are non-discretionary development standards—
- (a) the car parking for the building must be equal to, or greater than, the recommended minimum amount of car parking specified in Part 3J of the Apartment Design Guide,

Non-discretionary standards for carparking in Section 19 override the ADG requirements for parking identified in this section.

The internal area of each apartment complies with the ADG

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| <p>(b) the internal area for each apartment must be equal to, or greater than, the recommended minimum internal area for the apartment type specified in Part 4D of the Apartment Design Guide,</p> <p>(c) the ceiling heights for the building must be equal to, or greater than, the recommended minimum ceiling heights specified in Part 4C of the Apartment Design Guide.</p> | <p>Ceiling heights comply with the ADG</p> |
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State Environmental Planning Policy (Sustainable Buildings) 2022

Chapter 2 – Standards for residential development - BASIX

Clause 2.1(1): Schedule 1 sets out the standards that apply to BASIX developments including new residential buildings.

Clause 2.1(5): development consent must not be granted unless the consent authority is satisfied the embodied emissions attributable to the development have been quantified.

BASIX certificates accompany the application in satisfaction of the requirements of the SEPP and demonstrating that embodied emissions attributable to the development have been quantified.

State Environmental Planning Policy (Resilience and Hazards) 2021

Section 4.6 - Contamination and Remediation to be considered in determining development application.

- (1) A consent authority must not consent to the carrying out of any development on land unless:
 - (a) it has considered whether the land is contaminated, and
 - (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and
 - (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.
- (2) Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subsection (4), the consent authority must consider a report specifying the findings of a

A Detailed Site Investigation (DSI) demonstrates the site contains some Asbestos, but otherwise no other contaminants of potential concern. The DSI concludes that subject to remediation in accordance with a Remedial Action Plan (RAP), the site would be made suitable for the intended future land use.

An RAP has been prepared for the site and proposes excavation and disposal off-site of all soil materials impacted with non-friable (bonded) asbestos. It is proposed to carry out remediation in accordance with the RAP and the Department's standard conditions of consent.

On this basis, the Department can be satisfied the land will be made suitable for the proposed development.

preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.

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

Chapter 6: Water Catchments

6.6 Water quality and quantity

- (1) In deciding whether to grant development consent to development on land in a regulated catchment, the consent authority must consider the following—
- (a) whether the development will have a neutral or beneficial effect on the quality of water entering a waterway,
 - (b) whether the development will have an adverse impact on water flow in a natural waterbody,
 - (c) whether the development will increase the amount of stormwater run-off from a site,
 - (d) whether the development will incorporate on-site stormwater retention, infiltration or reuse,
 - (e) the impact of the development on the level and quality of the water table,
 - (f) the cumulative environmental impact of the development on the regulated catchment,
 - (g) whether the development makes adequate provision to protect the quality and quantity of ground water.
- (2) Development consent must not be granted to development on land in a regulated catchment unless the consent authority is satisfied the development ensures—
- (a) the effect on the quality of water entering a natural waterbody will be as close as possible to neutral or beneficial, and
 - (b) the impact on water flow in a natural waterbody will be minimised.

The site is located in the Georges River Catchment, being a regulated catchment for the purpose of Chapter 6 of the Biodiversity SEPP.

An Integrated Water Management Plan demonstrates that the stormwater management measures for the development have been developed to ensure the proposal will have a beneficial effect on the quality of water leaving the site, will include on-site detention, and will not increase stormwater run-off from the site.

A Surface and Groundwater Impact Assessment prepared also demonstrates that subject to standard construction phase mitigation and management measures the proposal will not adversely affect water flow in the waterway, affect the water table, adversely impact groundwater and therefore would not result in any material impacts to aquatic ecology. The proposal is therefore consistent with the relevant requirements for consideration under the SEPP

6.7 Aquatic ecology

- (1) In deciding whether to grant development consent to development on land in a regulated catchment, the consent authority must consider the following—
 - (a) whether the development will have a direct, indirect or cumulative adverse impact on terrestrial, aquatic or migratory animals or vegetation,
 - (b) whether the development involves the clearing of riparian vegetation and, if so, whether the development will require—
 - (i) a controlled activity approval under the [Water Management Act 2000](#), or
 - (ii) a permit under the [Fisheries Management Act 1994](#),
 - (c) whether the development will minimise or avoid—
 - (i) the erosion of land abutting a natural waterbody, or
 - (ii) the sedimentation of a natural waterbody,
 - (d) whether the development will have an adverse impact on wetlands that are not in the coastal wetlands and littoral rainforests area,
 - (e) whether the development includes adequate safeguards and rehabilitation measures to protect aquatic ecology,
 - (f) if the development site adjoins a natural waterbody—whether additional measures are required to ensure a neutral or beneficial effect on the water quality of the waterbody.
- (2) Development consent must not be granted to development on land in a regulated catchment unless the consent authority is satisfied of the following—
 - (a) the direct, indirect or cumulative adverse impact on terrestrial, aquatic or migratory animals or vegetation will be kept to the minimum necessary for the carrying out of the development,
 - (b) the development will not have a direct, indirect or cumulative adverse impact on aquatic reserves,
 - (c) if a controlled activity approval under the [Water Management Act 2000](#) or a permit under the [Fisheries Management Act 1994](#) is required in relation to the clearing of riparian vegetation—the approval or permit has been obtained,
 - (d) the erosion of land abutting a natural waterbody or the sedimentation of a natural waterbody will be minimised,
 - (e) the adverse impact on wetlands that are not in the coastal wetlands and littoral rainforests area will be minimised.

As the site is located more than 700 metres from Salt Pan Creek, and the proposal incorporated measures to ensure appropriate water quality outcomes as discussed above, the Department can be satisfied the proposal would have no impact on aquatic ecology, any terrestrial, aquatic or migratory animals or vegetation, does not require riparian vegetation clearing, does not affect any aquatic reserve, would not impact wetlands or any land erosion abutting a waterway.

6.8 Flooding

- (1) In deciding whether to grant development consent to development on land in a regulated catchment, the consent authority must consider the likely impact of the development on periodic flooding that benefits wetlands and other riverine ecosystems.
- (2) Development consent must not be granted to development on flood liable land in a regulated catchment unless the consent authority is satisfied the development will not—
 - (a) if there is a flood, result in a release of pollutants that may have an adverse impact on the water quality of a natural waterbody, or
 - (b) have an adverse impact on the natural recession of floodwaters into wetlands and other riverine ecosystems.

The proposal is not located on flood liable land and is not subject to any overland flow or flood risk.

Further, as described above, the proposal incorporates water quality control measures to ensure any water discharged from the site would not adversely impact downstream ecosystems.

6.9 Recreation and public access

- (1) In deciding whether to grant development consent to development on land in a regulated catchment, the consent authority must consider—
 - (a) the likely impact of the development on recreational land uses in the regulated catchment, and
 - (b) whether the development will maintain or improve public access to and around foreshores without adverse impact on natural waterbodies, watercourses, wetlands or riparian vegetation.
- (2) Development consent must not be granted to development on land in a regulated catchment unless the consent authority is satisfied of the following—
 - (a) the development will maintain or improve public access to and from natural waterbodies for recreational purposes, including fishing, swimming and boating, without adverse impact on natural waterbodies, watercourses, wetlands or riparian vegetation,
 - (b) new or existing points of public access between natural waterbodies and the site of the development will be stable and safe,
 - (c) if land forming part of the foreshore of a natural waterbody will be made available for public access as a result of the development but is not in public ownership—public access to and use of the land will be safeguarded.

As the site is located more than 700 metres from Salt Pan Creek, the Department can be satisfied the proposal would have no impact on public access to and around the foreshores of the waterway and will not impact on recreational use of the waterway.

6.10 Total Catchment Management

In deciding whether to grant development consent to development on land in a regulated catchment, the consent authority must consult with the council of each adjacent or downstream local government area on which the development is likely to have an adverse environmental impact.

The Department consulted with Canterbury-Bankstown Council as part of the exhibition process. Given no adverse environmental impacts to waterways are expected, additional consultation is not required.

Canterbury Bankstown Local Environmental Plan 2023

Clause 2.3 Zone Objectives and Land Use Table

Zone B2 Local Centre

1 Objectives of zone

- To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.
- To encourage employment opportunities in accessible locations.
- To maximise public transport patronage and encourage walking and cycling.
- To provide for certain residential uses that are compatible with the mix of uses in local centres.
- To promote a high standard of urban design and local amenity.

3 Permitted with consent

Boarding houses; Building identification signs; Business identification signs; Centre-based child care facilities; Commercial premises; Community facilities; Educational establishments; Entertainment facilities; Function centres; Information and education facilities; Local distribution premises; Medical centres; Oyster aquaculture; Passenger transport facilities; Recreation facilities (indoor); Registered clubs; Respite day care centres; Restricted premises; Roads; Service stations; **Shop top housing**; Tank-based aquaculture; Tourist and visitor accommodation; Any other development not specified in item 2 or 4

The site is zoned 'B2 Local Centre'.

The proposed development is consistent with the objectives of the zone in that it:

- Incorporates commercial uses at the ground floor level which provide for a range of retail and business uses to serve the needs of the local area and provide employment opportunities in an accessible location, noting the proximity to Padstow Railway Station;
- Maximises public transport patronage and encourages walking and cycling due to its accessible location, through provision of onsite bicycle parking and EOT facilities;
- Includes permitted residential uses compatible with the mix of uses in Padstow local centre; and
- Will achieve a high standard of urban and landscape design with regard to local amenity

The Applicant is not seeking approval for 'shop top housing' but rather, development consent is sought for a mixed-use development comprising both 'commercial premises' and a 'residential flat building'. 'Commercial premises' are permissible with consent in the zone. In addition, 'residential flat buildings' are also permissible with consent, by virtue of clause 2.5 and clause 23 of Schedule 1 of the LEP (refer below).

Clause 2.5 Additional permitted uses for particular land

2.5 Additional permitted uses for particular land

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| <p>(1) Development on particular land that is described or referred to in Schedule 1 may be carried out—</p> <ul style="list-style-type: none"> (a) with development consent, or (b) if the Schedule so provides—without development consent, in accordance with the conditions (if any) specified in that Schedule in relation to that development. <p>(3) This clause has effect despite anything to the contrary in the Land Use Table or other provision of this Plan.</p> | <p>The land is in Zone B2 and In ‘Area 1’ on the clause application map. As such development for the purpose of residential flat buildings is permitted on the site with development consent. Consent is sought for a mixed-use development incorporating a residential flat building.</p> |
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Schedule 1 Additional permitted uses

23 Use of land in Zones B1 and B2 in Area 1

- (1) This clause applies to land identified as “Area 1” on the [Clause Application Map](#) that is in the following zones—
- (a) Zone B1,
 - (b) Zone B2.
- (2) Development for the purposes of residential flat buildings is permitted with development consent.

Clause 4.3 Height of Buildings

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| <p>(1) The objectives of this clause are as follows—</p> <ul style="list-style-type: none"> (a) to establish the height of development consistent with the character, amenity and landform of the area in which the development will be located, (b) to maintain the prevailing suburban character and amenity by limiting the height of development to a maximum of 2 storeys in Zone R2, (c) to provide appropriate height transitions between development, particularly at zone boundaries, (d) to minimise overshadowing to existing buildings and open space, (e) to minimise the visual impact of development on heritage items and heritage conservation areas, (f) to support building design that contributes positively to the streetscape and visual amenity of an area. <p>(2) The height of a building on any land is not to exceed the maximum height shown for the land on the <i>Height of Buildings Map</i>.</p> | <p>A maximum height of 20 metres applies to the site as per the clause and the Height of Buildings Map, however additional height of 30% is available under the Housing SEPP, resulting in an applicable maximum height of 26 metres.</p> <p>The proposed height non-compliance is comprehensively justified in the accompanying Variation Request, including an assessment against the relevant objectives of the clause.</p> |
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Clause 4.4 Floor Space Ratio

- (1) The objectives of this clause are as follows—
- (a) to establish the bulk and maximum density of development consistent with the character, amenity and capacity of the area in which the development will be located,
 - (b) to ensure the bulk of non-residential development in or adjoining a residential zone is compatible with the prevailing suburban character and amenity of the residential zone,
 - (c) to encourage lot consolidations in commercial centres to facilitate higher quality built form and urban design outcomes,
 - (d) to establish the maximum floor space available for development, taking into account the availability of infrastructure and the generation of vehicular and pedestrian traffic,
 - (e) to provide a suitable balance between landscaping and built form in residential areas.
- (2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the *Floor Space Ratio Map*.

A maximum FSR of 2.5:1 applies to the site as per the clause, however additional floorspace (equivalent to 30% of permissible floor space) is available under the Housing SEPP (refer to relevant section of this table), resulting in an applicable FSR of 3.25:1. The proposal is designed with an FSR of 3.25:1 and therefore complies with the maximum FSR inclusive of the 30% bonus.

Clause 4.6 Exceptions to development standards

- (1) The objectives of this clause are as follows—
- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
 - (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.
- (2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.
- (3) Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—

The clause enables a degree of flexibility and variation from the development standards.

In accordance with the clause, a formal 4.6 Variation Request accompanied the EIS in response to the minor variation to the building height control and demonstrates that compliance with the standard is unreasonable or unnecessary in the circumstances and there are sufficient environmental planning grounds to justify the contravention of the standard in this case.

Although clause 4.6 does not strictly apply to modification applications, a further assessment of the proposed additional non-compliance with the height control is provided in the variation report under separate cover.

- (a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and
- (b) there are sufficient environmental planning grounds to justify the contravention of the development standard.

Clause 6.2 Earthworks

- (3) In deciding whether to grant development consent for earthworks, or for development involving ancillary earthworks, the consent authority must consider the following—
- (a) the likely disruption of, or the detrimental effect on, drainage patterns and soil stability in the locality of the development,
 - (b) the effect of the development on the likely future use or redevelopment of the land,
 - (c) the quality of the fill and the soil to be excavated,
 - (d) the effect of the development on the existing and likely amenity of adjoining properties,
 - (e) the source of the fill material and the destination of the excavated material,
 - (f) the likelihood of disturbing relics,
 - (g) the proximity to, and potential for adverse impacts on, a waterway, drinking water catchment or environmentally sensitive area,
 - (h) appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

Geotechnical investigations and a Surface and Groundwater Impact Assessment demonstrates the development will not result in detrimental impacts in terms of soil stability, drainage or impacts to waterways.

Site Investigations, a Remedial Action Plan and Construction Waste Management Plan address fill quality and soil excavation.

The Acoustic and Vibration assessment demonstrates potential amenity impacts to neighbours during the excavation phase can be managed with appropriate mitigation measures

The ACHAR demonstrates the likelihood of encountering or disturbing relics on the site is low.

Clause 6.4 Stormwater Management and Water Sensitive Urban Design

- (1) The objective of this clause is to avoid or minimise the adverse impacts of urban stormwater on land to which this clause applies and on adjoining properties, native bushland, waterways and ground water systems.
- (2) This clause applies to land in Zones R2, R3, R4, B1, B2, B4, B5, B6, B7, IN1, IN2, SP1, SP2, RE1 and RE2.
- (3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development—

An Integrated Water Management Plan demonstrates that the stormwater management measures for the development in accordance with water sensitive urban design principles have been developed to ensure the proposal will have a beneficial effect on the quality of water leaving the site, will include on-site detention, rainwater harvesting for re-use on the site and will not increase stormwater run-off from the site.

A Surface and Groundwater Impact Assessment demonstrates that subject to standard construction phase

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| <ul style="list-style-type: none"> (a) is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water, and (b) includes, if practicable, on-site stormwater retention for use as an alternative supply to mains water, groundwater or river water, and (c) avoids significant adverse impacts of stormwater runoff on the land on which the development is carried out, adjoining properties and infrastructure, native bushland and receiving waters, or if the impact cannot be reasonably avoided, minimises and mitigates the impact, and (d) includes riparian, stormwater and flooding measures, and (e) is designed to incorporate the following water sensitive urban design principles— <ul style="list-style-type: none"> (i) protection and enhancement of water quality, by improving the quality of stormwater runoff from urban catchments, (ii) minimisation of harmful impacts of urban development on water balance and on surface and groundwater flow regimes, (iii) integration of stormwater management systems into the landscape in a way that provides multiple benefits, including water quality protection, stormwater retention and detention, public open space and recreational and visual amenity. | <p>mitigation and management measures the proposal will not adversely affect stormwater runoff, receiving waters, riparian areas or other natural environments, nor would it result in any adverse impacts to groundwater and the site is not affected by flooding.</p> |
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Clause 6.9 Essential Services

Development consent must not be granted to development unless the consent authority is satisfied that the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required—

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

A Services Infrastructure Assessment demonstrates the site has access to services, including supply of water, electricity and sewerage

The proposal incorporates stormwater management and on-site detention in accordance with Council requirements.

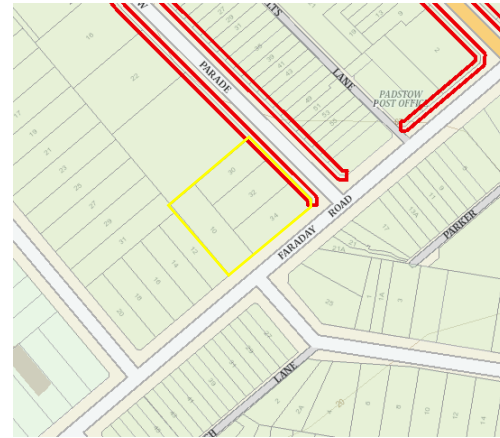
As detailed in the Operational Waste Management Plan, the Applicant proposes to make arrangements for private waste collection for both residential and commercial occupants.

The proposal includes vehicular access from Faraday Road

Clause 6.10 Active Street Frontages

- (1) The objective of this clause is to promote uses that attract pedestrian traffic along certain ground floor street frontages.
- (2) This clause applies to land identified as “Active street frontage” on the [Active Street Frontages Map](#).
- (3) Development consent must not be granted to the erection of a building, or a change of use of a building, on land to which this clause applies unless the consent authority is satisfied —
 - (a) the building will—
 - (i) have an active street frontage, and
 - (ii) consist of design elements that encourage interaction and flow between the inside of the building and the external public areas of the building, and
 - (iii) be used for purposes that encourage the movement and flow of people between the internal and the external public areas of the building, and
 - (b) the development ensures that conflicts between pedestrians, cyclists and vehicles will be minimised.
- (4) An active street frontage is not required for part of a building used for the following—
 - (a) entrances and lobbies, including as part of mixed use development,
 - (b) access for fire services,
 - (c) vehicular access.
- (5) In this clause, a building has an **active street frontage** if all premises on the ground floor of the building facing the street are used for the purposes of business premises or retail premises.

An ‘Active Street Frontage’ applies along the Padstow Parade frontage of the site as shown in the following figure:



Active Street Frontage Map (source: Planning Portal Digital Viewer)

The proposal complies with the clause as all premises on the ground floor facing Padstow Parade are commercial premises (that will be used as business premises or retail premises) or residential lobbies, and the large shopfront windows and openings will encourage the movement and flow of people between the inside of the building and the external public areas.

Vehicle entry to the site would be located on Faraday Road, away from the active frontage to minimise conflicts between vehicles and pedestrians.

Clause 6.15: Design Excellence

- (1) The objective of this clause is to ensure that development exhibits high quality architectural, urban and landscape design.
- (2) This clause applies to the erection of a new building for the following purposes—
 - (a) boarding houses, if the new building has at least 4 storeys,

The requirements of the clause apply as the site includes a residential flat building of at least 4 storeys.

(b) multi dwelling housing of 10 or more dwellings, (c) residential flat buildings, if the new building has at least 4 storeys, (d) schools, if the new building has a gross floor area of 2,000m² or more used for a school, (e) centre-based child care facilities, if the new building will be used for a centre-based child care facility for at least 100 children at one time, (f) seniors housing, if the new building has at least 4 storeys, (g) co-living housing, if the new building has at least 4 storeys, (h) commercial premises, if the new building has a gross floor area of 1,000m² or more used for commercial premises, (i) shop top housing, if the new building has at least 4 storeys, (j) warehouse or distribution centres, if the new building has a gross floor area of 5,000m² or more used for a warehouse or distribution centre. (k) places of public worship, if the new building has a gross floor area of 1,000m² or more used for a place of public worship, (l) registered clubs, if the new building has a gross floor area of 1,000m² or more used for a registered club, (3) Development consent must not be granted to development to which this clause applies unless the consent authority is satisfied the development exhibits design excellence. (4) In deciding whether the development exhibits design excellence, the consent authority must consider the following— (a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved, (b) whether the form and external appearance of the development will improve the quality and amenity of the public domain, (c) whether the development detrimentally impacts on view corridors, (d) how the development addresses the following matters— (i) heritage issues, (ii) the relationship of the development with other existing or proposed development on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form, (iii) bulk, massing and modulation of buildings, (iv) street frontage heights, (v) environmental impacts, including sustainable design, overshadowing, wind and reflectivity,	The Architects provided reports which demonstrate the building has been designed to a very high standard with consideration given to consultation and advice from the State Design Review Panel, Government Architect Design Principles and Residential Amenity Design Principles, as well as the requirements of this clause. The original EIS also addressed all relevant matters for consideration under this clause.
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- (vi) the achievement of the principles of ecologically sustainable development,
 - (vii) pedestrian, cycle, vehicular and service access, circulation and requirements,
 - (viii) the impact on, and any proposed improvements to, the public domain,
 - (ix) the integration of utilities, building services and waste management infrastructure in the site layout and building design,
 - (e) whether the development integrates high quality landscape design in the site layout and building design.
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6.21 Restrictions on development in Zones B1, B2 and B5

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| <p>(1) This clause applies to the following land—</p> <ul style="list-style-type: none"> (a) land in Zone B1, (b) land in Zone B2, (c) land in Zone B5 in Area 2. | <p>The clause applies as the land is in Zone B2.</p> |
| <p>(2) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the ground level of a building resulting from the development will not be used for residential accommodation.</p> | <p>No residential accommodation is proposed at the ground floor.</p> |
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