Department of Planning, Housing and Infrastructure

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Banks Avenue, Pagewood, Affordable Housing

State Significant Development Assessment Report (SSD-83256472)

August 2026





Acknowledgement of Country

The Department of Planning, Housing and Infrastructure acknowledges that it stands on Aboriginal land. We acknowledge the Traditional Custodians of the land and show our respect for Elders past, present and emerging through thoughtful and collaborative approaches to our work, seeking to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally and economically.

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Executive Summary

This report details the Department of Planning, Housing and Infrastructure's (the Department) assessment of the State significant development (SSD) application SSD-83256472 at 68-80 Banks Avenue, Pagewood in the Bayside local government area (LGA).

Homes NSW (the Applicant) proposes to construct three 7- 8 storey residential flat buildings providing 224 apartments comprising 84 social housing and 140 private market units.

Homes NSW proposes to partner with a community housing provider (CHP), who will be responsible for developing, maintaining and managing the social housing component for a minimum 25 year period. The land will be retained by Homes NSW, while the social housing dwellings will be retained by Homes NSW or in ownership of a non-for-profit CHP consistent with management of the broader affordable/social housing portfolio across NSW.

The proposal has an estimated development cost (EDC) of $159,186,990 and is anticipated to generate 557 construction jobs.

The proposal is classified as SSD under section 4.36 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) as it is development carried out by Land and Housing Corporation (operating as Homes NSW) with an EDC of greater than $30 million in accordance with section 26 of Schedule 1 of the *State Environmental Planning Policy (Planning Systems) 2021* (Planning Systems SEPP). Consequently, the Minister for Planning and Public Spaces is the consent authority for the project under section 4.5A of the EP&A Act.

The Department exhibited the environmental impact statement (EIS) from 4 December 2025 until 17 December 2025. During the exhibition period, the Department received:

- 16 submissions from the public (one in support, six comments and nine objections)
- comments from Bayside Council (Council)
- advice from four Government agencies

The key issues raised in submissions relate to bulk and scale, landscaping, traffic and parking, safety and amenity impacts.

The Applicant submitted a Response to Submissions (RtS) report and additional information to address the issues raised by the Department, Council, agencies and public submissions (see Appendix A).

Key refinements include minor amendments to the landscape design, additional motorcycle parking, additional canopy trees, street trees and podium planting. The Department has considered the

proposal and the Applicant's response to concerns raised in its assessment at Section 5 and Appendix C.

The Department has considered the merits of the proposal in accordance with the relevant matters under section 4.15(1) of the EP&A Act, the issues raised in the submissions, the Applicant's response and additional information.

The Department considers the proposal as acceptable as it:

- supports the NSW Government's priority to deliver well-located housing by providing 224 apartments close to public transport, jobs, and services
- delivers substantial public benefit by dedicating 84 apartments for social housing, addressing critical demand in the area
- is permissible with consent, consistent with the objectives of the R3 Medium Density Residential zone under the *Bayside Local Environmental Plan 2021* (BLEP 2021), and generally complies with all other statutory controls for the site
- is of an appropriate bulk and scale that is compatible with the existing character of this site and the surrounding area
- would provide a high level of internal and external amenity for future residents, consistent with the principles and design criteria of the *Statement Environmental Planning Policy (Housing) 2021* (Housing SEPP) and the Apartment Design Guide (ADG)
- would not result in unreasonable overshadowing, view loss, wind, heritage or privacy impacts to neighbouring properties or the public domain
- would not result in any significant adverse traffic impacts on the surrounding road network
- would not lead to unreasonable flood impacts or risks, with a range of conditions recommended to effectively mitigate and manage flood impacts
- would deliver public and economic benefit through generating up to 557 construction jobs.

The Department has recommended conditions to appropriately manage any residual issues.

The Department considers the proposal is in the public interest and recommends that the proposal be approved, subject to conditions.

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1 Introduction

1.1 The proposal

Homes NSW (the Applicant) proposes to construct three 7-8 storey residential flat buildings, comprising 224 dwellings across two stages, including 84 social housing and 140 private market apartments, basement parking, landscaping and communal open.

The project description and mitigation measures provided in the EIS and RtS (**Appendix A**) form the basis of this assessment and will inform the development consent if the proposal is approved.

An overview of the proposal is provided in **Section 2** and the Applicant's EIS at **Appendix A**.

1.2 Project location

The site is located at 68-80 Banks Avenue, Pagewood in the Bayside LGA as shown in **Figure 1**, with further project location details described in **Table 1**.



Figure 1 | Local context map (Source: Nearmap, 2026)

Table 1 | Key aspects of the project site

Aspect	Description
Address	68-80 Banks Avenue, Pagewood
Local government area	Bayside Council
Legal description	Lots 1-17 DP 35180 and Lot 1 DP 527564
Site area	9,262 m^2
Existing development	Five 2-3 storey residential flat buildings containing 82 social housing dwellings.
Surrounding roads	Frontage to Banks Avenue to the west and Park Parade to the north and south.
Surrounding development	Development surrounding the site includes: • 1-2 storey dwelling houses to the north and south along Park Parade • Bonnie Doon Golf Course to the west across Banks Avenue • Jellicoe Park to the east • Eastgardens 200 m to the south comprising multiple high density residential flat buildings between 7 and 20 storeys • Westfield Eastgardens Shopping Centre 600 m south of the site.
Topography	The site has a 1.5 m slope from north to the south-west.
Existing access	Two vehicular entrances from Banks Avenue, providing access to at-grade parking.
Public transport	The site is accessible by public transport with bus services along Heffron Road within 180 m of the site and Bunnerong Road within 500 m of the site, with connections to the Sydney CBD, Eastern Suburbs and South Sydney.
Heritage	The site is not listed as a heritage item, subject to an interim heritage order, or within a heritage conservation area. The site is adjacent Jellicoe Park which is a local heritage item.
Flooding	The site is affected by overland flooding during a 1% Annual Exceedance Probability (AEP) flood event and the Probable Maximum Flood (PMF) event, with low to moderate hazard levels (H1-H3) across the site.

2 Project

The Applicant seeks approval for the construction of three 7- 8 storey residential flat buildings to deliver 224 dwellings (84 social housing and 140 market apartments) with basement parking, landscaping, demolition, site preparation and associated works.

The key aspects of the project are provided in detail in the Project Description chapter of the EIS (see **Appendix A**) and outlined in **Table 2** and shown in **Figure 2** to **Figure 4**.

Homes NSW proposes to deliver the project in partnership with a CHP, who will develop, maintain and manage the social housing component for a minimum 25 year period. The land will be retained by Homes NSW, while the social housing dwellings will be retained by Homes NSW or in ownership of a non-for-profit CHP consistent with management of the broader affordable/social housing portfolio across NSW.

Table 2 | Key aspects of the project

Aspect	Description
Gross floor area (GFA)/ Floor Space Ratio (FSR)	20,201.1 m^2 / 2.18:1
Building Height	• Building A: 25.5 m (7 storeys) • Building B: 29.4 m (8 storeys) • Building C: 28.9 m (8 storeys)
Dwelling mix and tenure	Tenure mix is 38% social housing and 62% market housing comprising: 84 social housing apartments (Building A): • 1-bedroom apartments: 53 • 2-bedroom apartments: 27 • 3-bedroom apartments: 4 140 market housing apartments (Buildings B and C): • 1-bedroom apartments: 29 • 2-bedroom apartments: 80 • 3-bedroom apartments: 31

Aspect	Description
Parking	236 car parking spaces, 90 bicycle parking spaces and 2 motorcycle parking spaces comprising: Building A: • 36 car parking spaces, including 7 accessible spaces and 1 car share space • 68 bicycle parking spaces • 2 motorcycle parking spaces Building B and C: • 200 car parking spaces, including 19 accessible spaces and 28 visitor spaces • 22 bicycle parking spaces
Access	Three vehicular access points are proposed at: • Park Parade (south) for Building A • Park Parade (north) for buildings B and C • Banks Avenue for the proposed layby and waste collection area.
Communal areas	2,080.1 m^2 (22.5% of the site) of communal space, comprising: • 746 m^2 in Building A (social housing) • 1,334.1 m^2 in buildings B and C (market housing)
Landscaping	• 4,719 m^2 (51% of the site) of landscaped area • 1,825 m^2 (19.7% of the site) proposed tree canopy • 2,217.7m^2 (23.9% of the site) of deep soil area
Site preparation and services	Removal of 67 trees, demolition of five buildings, bulk earthworks, utilities, and remediation.
Staging	Stage 1 comprises Building A (social housing) and the shared layby and communal open space. Stage 2 comprises Building B and C (market buildings).
EDC	$159,186,990
Employment	557 construction jobs

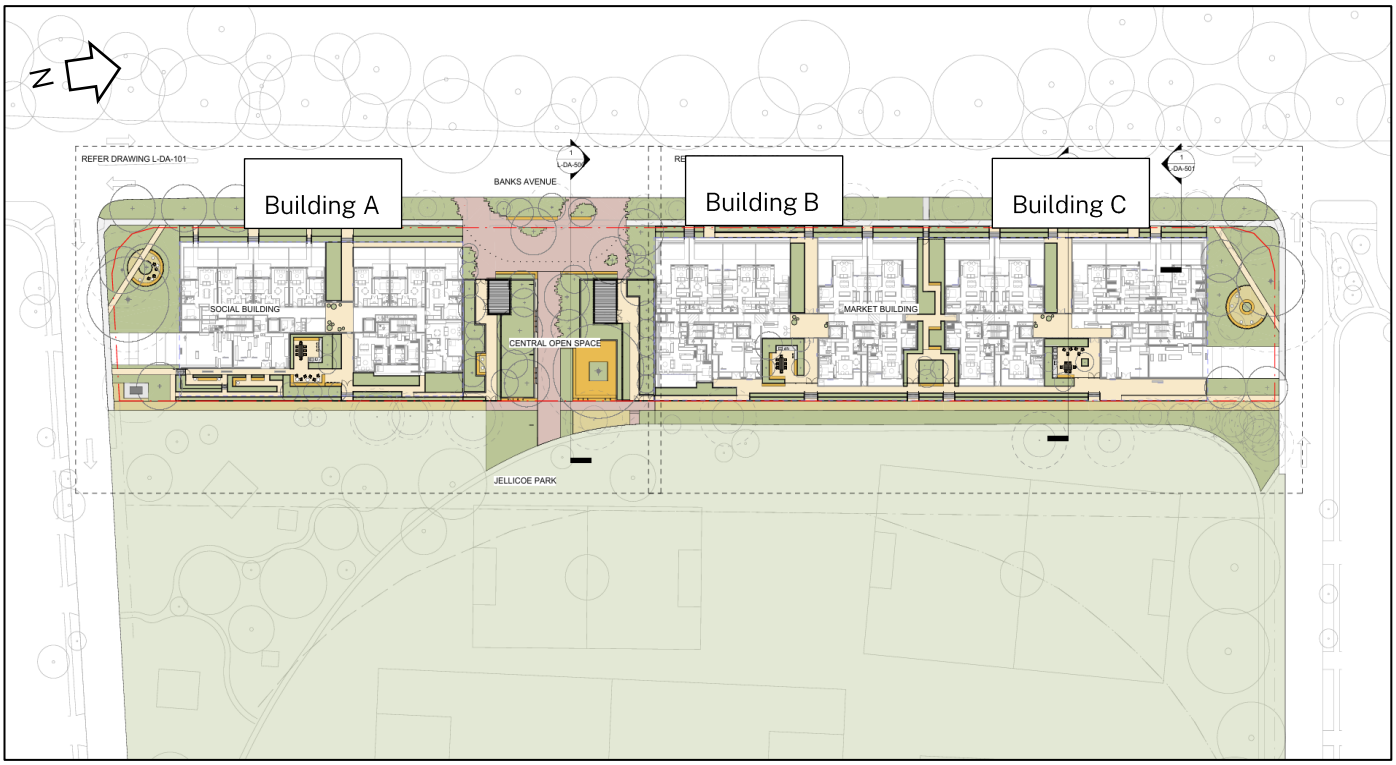


Figure 2 | Site plan (Source: Turf Design Studios, 2026)

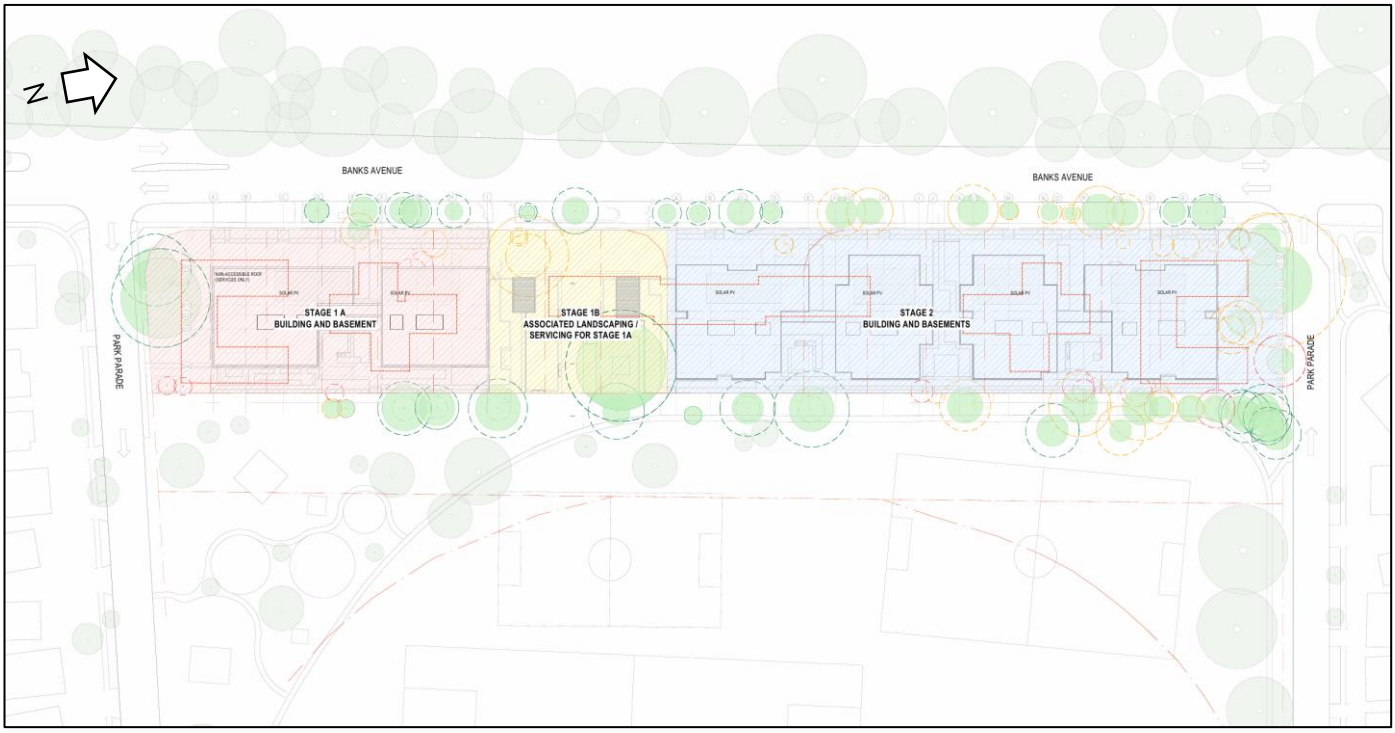


Figure 3 | Staging Plan (Source: BVN, 2026)



Figure 4 | Visualisation from Jellicoe Park (Source: BVN, 2026)

3 Policy and statutory context

3.1 Housing supply

The NSW Government has a target of 377,000 well-located homes by 2029, as part of the National Housing Accord, which provides a national target of delivering 1.2 million new, well-located homes over the five year period between July 2024 and June 2029.

In December 2023, the NSW Government introduced a new SSD pathway for developments undertaken by the Land and Housing Corporation (operating as Homes NSW) and Aboriginal Housing Office to better facilitate the delivery of social and affordable housing with an EDC of over $30 million, or where the development would deliver more than 75 new homes. This reform aims to support the delivery of social and affordable housing developments by these agencies.

Additionally, the Housing SEPP was amended to introduce new in-fill affordable housing provisions for relevant authorities, including NSW Land and Housing Corporation, the Aboriginal Housing Office and Landcom, which permit floor space ratio (FSR) and building height bonuses for development which includes an affordable housing component.

These reforms aim to support the delivery of social and affordable housing developments by these agencies.

This SSD application has been submitted pursuant to these initiatives and aims to support the renewal and delivery of well-located affordable housing.

3.2 Permissibility and assessment pathway

Details of the legal pathway under which consent is sought, and the permissibility of the proposal are provided in Table 3 below.

Table 3 | Permissibility and assessment pathway

Consideration	Description
Assessment pathway	The proposal is declared SSD under section 4.36 of the EP&A Act as it satisfies the criteria under section 2.6(1) and section 26 of Schedule 1 of the Planning Systems SEPP, as it has an EDC of more than $30 million, will involve more than 75 dwellings, and is a proposal being carried out by or on behalf of the Land and Housing Corporation (now Homes NSW).
Consent authority	The Minister for Planning and Public Spaces is the consent authority under section 4.5(a) of the EP&A Act.

Consideration	Description
Permissibility	The site is zoned R3 Medium Density Residential under the BLEP 2021. Residential flat buildings are permissible with consent in the R3 Medium Density Residential zone under Schedule 1, clause 35 of the BLEP 2021.

3.3 Other approvals and authorisations

Under section 4.41 of the EP&A Act, a number of other authorisations required under other Acts are not required for SSD and SSI. This is because all relevant issues are considered during the assessment of the SSD application.

Under section 4.42 of the EP&A Act, certain approvals cannot be refused if they are necessary to carry out the SSD. These authorisations must be substantially consistent with any SSD development consent for the project.

The Department has consulted with and considered the advice of the relevant agencies responsible for these other authorisations in its assessment of the proposal (see **Section 4** and **Section 5**). Suitable conditions have been included in the recommended conditions of consent at **0**.

3.4 Planning Secretary's environmental assessment requirements

The Department's review determined that the EIS addresses each matter set out in the Planning Secretary's environmental assessment requirements (SEARs) issued on 12 May 2025 and is sufficient to enable an adequate consideration and assessment of the project for determination purposes.

3.5 Mandatory matters for consideration

Mandatory matters for consideration include:

- matters of consideration required by the EP&A Act
- objects of the EP&A Act and ecologically sustainable development (ESD)
- biodiversity development assessment report
- matters of consideration required by the EP&A Regulation
- matters of consideration required by environmental planning instruments.

The Department's consideration of these matters is summarised in **Appendix C**. As a result of this consideration, the Department is satisfied that the development meets statutory requirements.

4 Engagement

4.1 Exhibition of the EIS

After accepting the development application and EIS, the Department:

- publicly exhibited the proposal from 4 December 2025 until 17 December 2025 on the NSW Planning Portal.
- notified occupiers and landowners in the vicinity of the site about the public exhibition.
- notified and invited comment from relevant agencies and Council.
- undertook a site visit on 2 March 2026.

The Department received 16 public submissions (nine objections, one in support and six comments), advice from four agencies and comments from Council.

The Department asked the Applicant to respond to the issues raised in submissions and the comments received from agencies and Council, and the Department's key issues letter. On 31 March 2026, the Applicant provided the Response to Submissions (RtS) report (see **Appendix A**) which outlined minor refinements and included additional supporting information.

The Department made the RtS and additional information publicly available on the NSW Planning Portal and notified the relevant agencies and Council. A summary of the key issues raised in submissions and agency advice is provided below.

4.1.1 Summary of advice received from government agencies

A summary of the agency advice is provided in **Table 4**. A link to the full copy of the advice is provided in **Appendix A**.

Table 4 | Summary of agency advice

Agency	Advice summary
NSW Department of Climate Change, Energy, the Environment and Water (DCCEEW) - Conservation Programs, Heritage and Regulation Group (CPHR)	CPHR raised concerns about potential changes in flood levels, potential obstructions caused by raised garden beds, displacement of flood storage, and reliance on flood-prone access and shelter-in-place during flood events. CPHR recommended the following actions to resolve these concerns: • confirm whether accesses identified as G and H are internal or external • update flood modelling to reflect the approved landscape design

Agency	Advice summary
	• require entrances and access points above the higher of 1% AEP + 0.5m freeboard or PMF as a condition of consent • clarify site representation and flood storage impacts • refer to NSW SES regarding evacuation and community safety. CPHR advised that the proposal is consistent with the biodiversity development assessment report (BDAR) waiver granted by CPHR on 27 November 2025.
NSW State Emergency Services (SES)	SES advised that the Applicant should demonstrate consistency with the Shelter in Place Guideline for Flash flooding with regards to any proposed refuge area and understanding the potential duration of isolation from the commencement of rainfall. SES also recommended that the Applicant explore options to improve the flood resilience of the development during detailed design.
DCCEEW -Water Group	NSW DCCEEW Water Group raised no objection and recommended conditions regarding the need for a water access licence (WAL) to account for the maximum predicted water take, in accordance with requirements of the *Water Management Act 2000*.
Ausgrid	Ausgrid provided general advice on existing electrical infrastructure and any potential requirements for additional works. Ausgrid raised no objection to the proposal and supplied standard regulatory material to support safety in design.

4.1.2 Summary of council submissions

Council provided comments on the proposal and recommended conditions of consent. The matters raised by Council are summarised below and a link to the full copy of Council submissions is provided in Appendix A:

- the increase in offsite flood levels exceed Council's maximum criteria
- flood modelling has not included proposed cut and fill levels
- lack of information on the proposed stormwater system
- vehicle access to site must be relocated from Park Parade to Banks Avenue to avoid potential illegal manoeuvring and increased congestion along Park Parade.

Council provided recommended conditions of consent to address these concerns.

4.1.3 Summary of public submissions

The Department received 16 public submissions (nine objections, one in support and six comments).

Key issues raised in the public submissions are provided in Table 5 and a link to all submissions in full is provided in Appendix A.

The Department's consideration of community views is provided in Appendix B.

Table 5 | Key issues raised in public submissions on the EIS

Issue	Number and % of Submissions
Traffic impacts	10 (63%)
Scale of development and character	4 (25%)
Provision of social housing	4 (25%)
Inadequate services and infrastructure	4 (25%)
Access to public transport	4 (25%)
Amenity impacts to nearby development	3 (19%)

The following issues were raised by two or less submissions:

- noise impacts
- inadequate engagement
- tree removal
- safety
- statutory compliance.

5 Assessment

The Department has assessed the proposal, considering all documentation submitted by the Applicant, all issues raised in submissions and all advice provided by agencies.

The issues below are considered by the Department to be key assessment issues and are discussed in the following sections:

- built form
- amenity
- flooding.

The Department's consideration of other issues is described in **Section 5.4** and the appendices of this report.

5.1 Built form

The Department considers the following aspects key in determining the suitability of built form:

- building height and density
- design quality.

5.1.1 **Building height and density**

The site has a maximum permissible building height of 28.6 m and floor space ratio (FSR) of 2.15:1 comprising:

- a base maximum FSR of 1.65:1 under the BLEP 2021 and an additional 0.5:1 FSR bonus under section 17 of the Housing SEPP
- a base maximum building height of 22 m under the BLEP 2021 and an additional 30% bonus (6.6m) height under section 18 of the Housing SEPP.

The development proposes a maximum building height of 25.5 to 29.4 m. Building A fully complies with the maximum permissible building height, however the lift overrun of Building B and C exceeds the maximum building height by 0.1 to 0.8 m (0.35% to 2.8% variation), respectively (see **Figure 5** and **Figure 6**).

The proposal seeks approval for a FSR of 2.18:1 which exceeds the maximum FSR by 0.03:1 (1.4% variation).

The Applicant has prepared two written requests to justify the variations to height and FSR (refer to Appendix A).

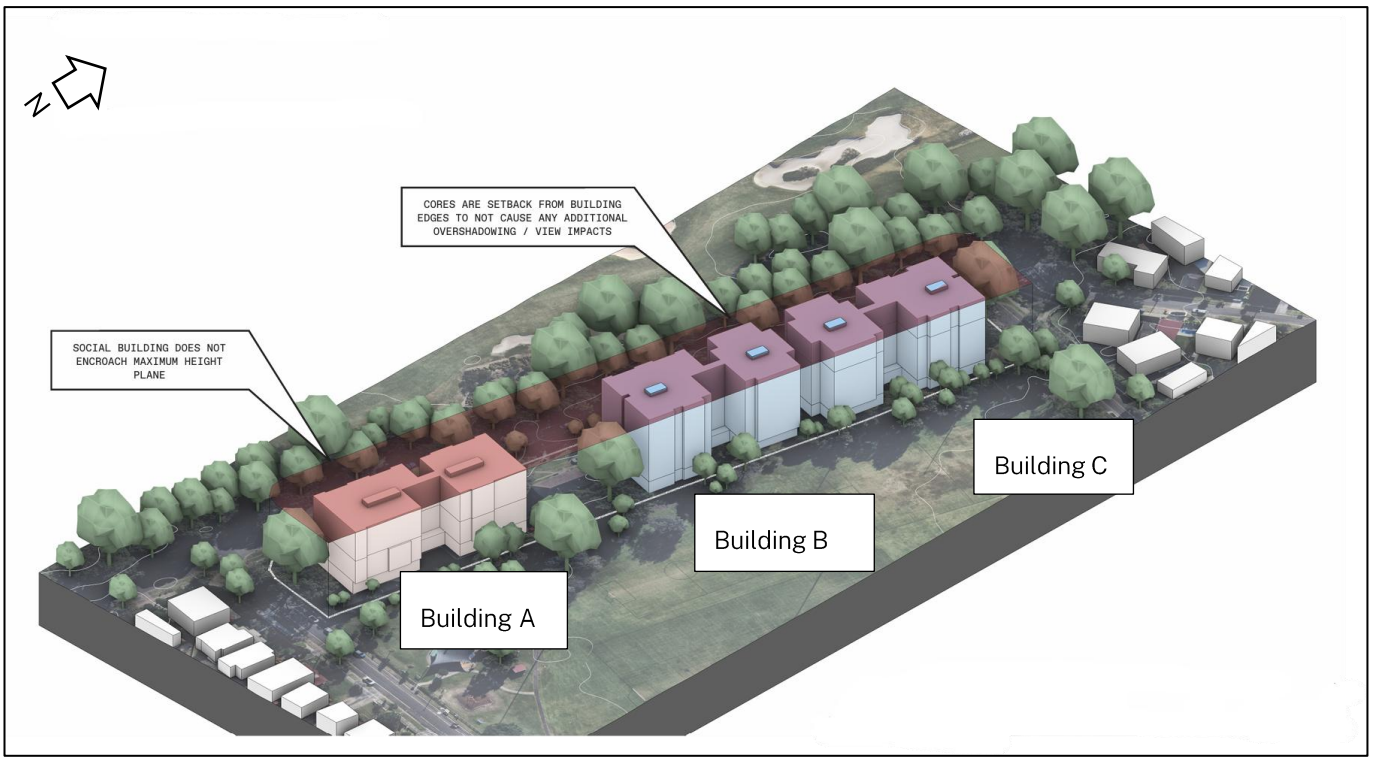


Figure 5 | Height plane (Source: BVN, 2026)

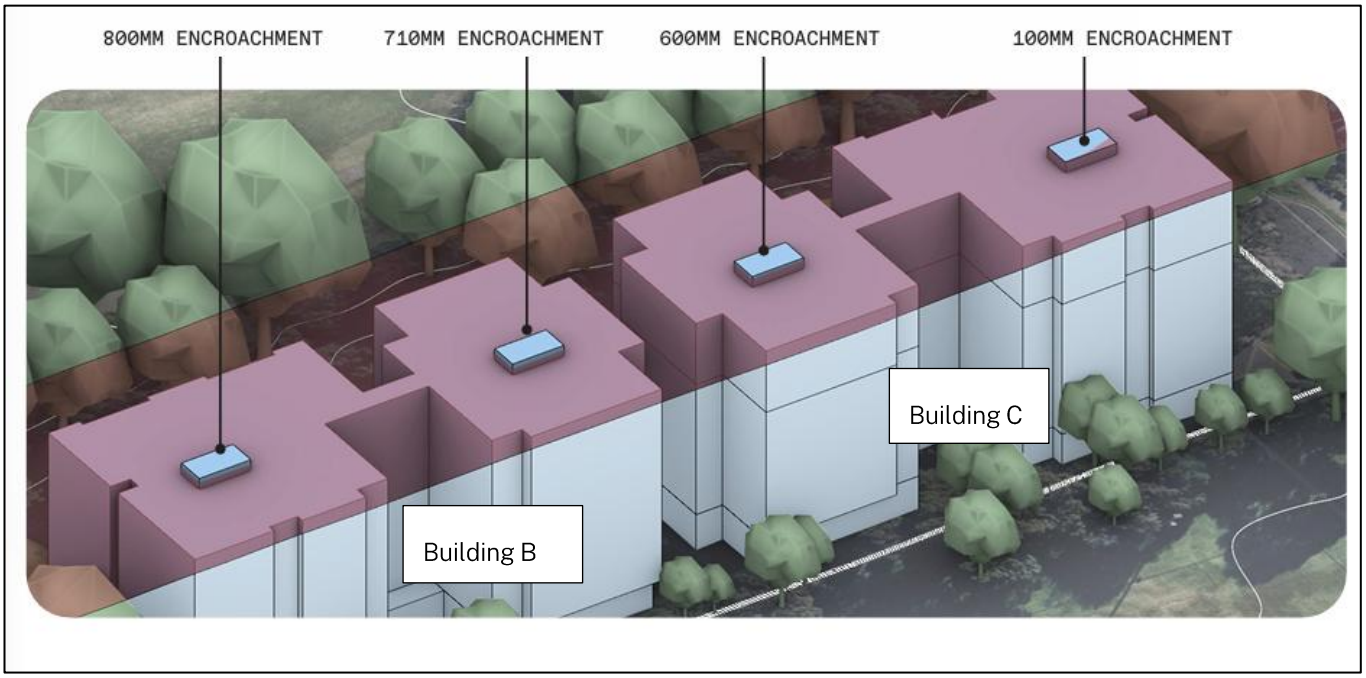


Figure 6 | Height plane breach (Source: BVN, 2026)

Public submissions raised concern that the proposal exceeds statutory provisions applying to the site and the scale of the proposal is out of character with the surrounding area and would adversely impact existing character.

The Department acknowledges that the proposal would be more visually prominent than the site's existing development and the immediately neighbouring low-density dwellings to the north and south. However, the proposed buildings align with the objectives of the R3 medium density zone and generally complies with the height and floor space controls, except for very minor variations.

The Department also notes that the proposal would be compatible with the desired future character of the area which envisages medium and high-density development adjacent to low density areas. The high density Pagewood Centro development which includes taller development (up to 20 storeys) is located 200 m south of the site at 106 Banks Avenue, Eastgardens.

The Department has considered concerns raised in submissions and carefully assessed the Applicant's variation requests. The Department is satisfied that compliance with the maximum building height and FSR development standards are considered unreasonable and unnecessary and that there are sufficient environmental planning grounds to justify the contraventions. Refer to **Appendix D** for the Department's assessment of the Applicant's clause 4.6 variation requests.

The Department is satisfied that the objectives of the development standards have been met and that the bulk and scale of the proposed development is acceptable as:

- the proposed height variation is minor and limited to the lift overruns of buildings B and C
- Building A fully complies with the maximum permissible height, supporting an appropriate transitional height to adjoining properties to the south
- the height exceedance is, in part, driven by the need to raise the ground floor level to accommodate the flood planning level ensuring safety of future residents, responding to the site's topography and flooding constraints (refer to **Section 5.3**)
- the proposed FSR variation is minor and does not result in adverse bulk and scale impacts as the buildings have appropriate setbacks, communal open space and landscaping, delivering a higher-quality urban design outcome
- overshadowing, visual and privacy impacts to surrounding areas including residential development to the north and south of the site are minimised and considered acceptable (refer to **Section 5.1.2**)
- the buildings incorporate modulation, articulation, and architectural detailing that assist in reducing its perceived bulk and scale.

5.1.2 Design quality

Public submissions raised concerns that the proposed design would negatively impact on the character of the area.

The proposal was reviewed by the State Design Review Panel (SDRP) which generally supported the design of the proposal and identified opportunities to articulate built form, break down building mass, provide varying setbacks, and increase residential amenity. The Applicant addressed the SDRP's comments and refined the proposal by providing:

- varied setbacks for buildings B and C to increase areas of deep soil
- increased amenity for buildings B and C, including additional breaks, articulation and openings to the park
- increased landscape buffers and screening to the communal open space to reduce overlooking from the proposed apartments
- increased width of the central open space link between Jellicoe Park and Banks Avenue
- additional entries to the buildings to improve wayfinding
- reduced number of apartments per lift core
- revised temporary waste collection to reduce visual impact.



Figure 7 | Visualisation of the central open space from Banks Avenue to Jellicoe Park (Source: BVN, 2026)

The Department has carefully considered the SDRP's advice and public submissions and is satisfied that the proposal demonstrates an acceptable design approach for the locality and would be compatible with the character of the area as:

- the building footprints respond to landscaped features of the locality allowing appropriate communal open space, publicly accessible open space, tree retention and planting
- the central open space between buildings A and B enables views and public access areas through the site from Banks Avenue to Jellicoe Park
- apartments are oriented to have views over Jellicoe Park and the Bonnie Doon Golf Course, and the buildings have breaks with articulation and openings fronting the park to maximise outlook and passive surveillance
- the waste storage area is only used temporarily, prior to waste collection and concealed within a landscaped structure (rooftop pergola and climbers)
- the proposed masonry base creates a natural delineation of private and public spaces, and promotes a green edge along Jellicoe Park and Banks Avenue
- the materials and finishes would provide a complementary backdrop to the landscaping and emphasise a natural aesthetic.

The Department is satisfied the proposal would result in a high-quality design outcome for the site.

5.2 Amenity

Public submissions raise concerns that the proposal would result in negative amenity impacts for surrounding properties and for future occupants. The ADG provides planning guidance to ensure acceptable levels of amenity are provided to residential flat buildings and adjoining development. The Department has undertaken a detailed assessment of the proposal against the ADG at **Appendix C** which confirms that the development is generally consistent with all relevant ADG provisions. The Department has considered the following key amenity issues below:

- overshadowing
- solar access
- building separation.

5.2.1 **Overshadowing**

Public submissions raised concerns that the proposal would create overshadowing impacts to Jellicoe Park. The Applicant submitted shadow diagrams and sun eye diagrams to demonstrate overshadowing impacts to Jellicoe Park, Bonnie Doon Golf Course and adjoining residential properties mid-winter (refer to **Figure 8**).

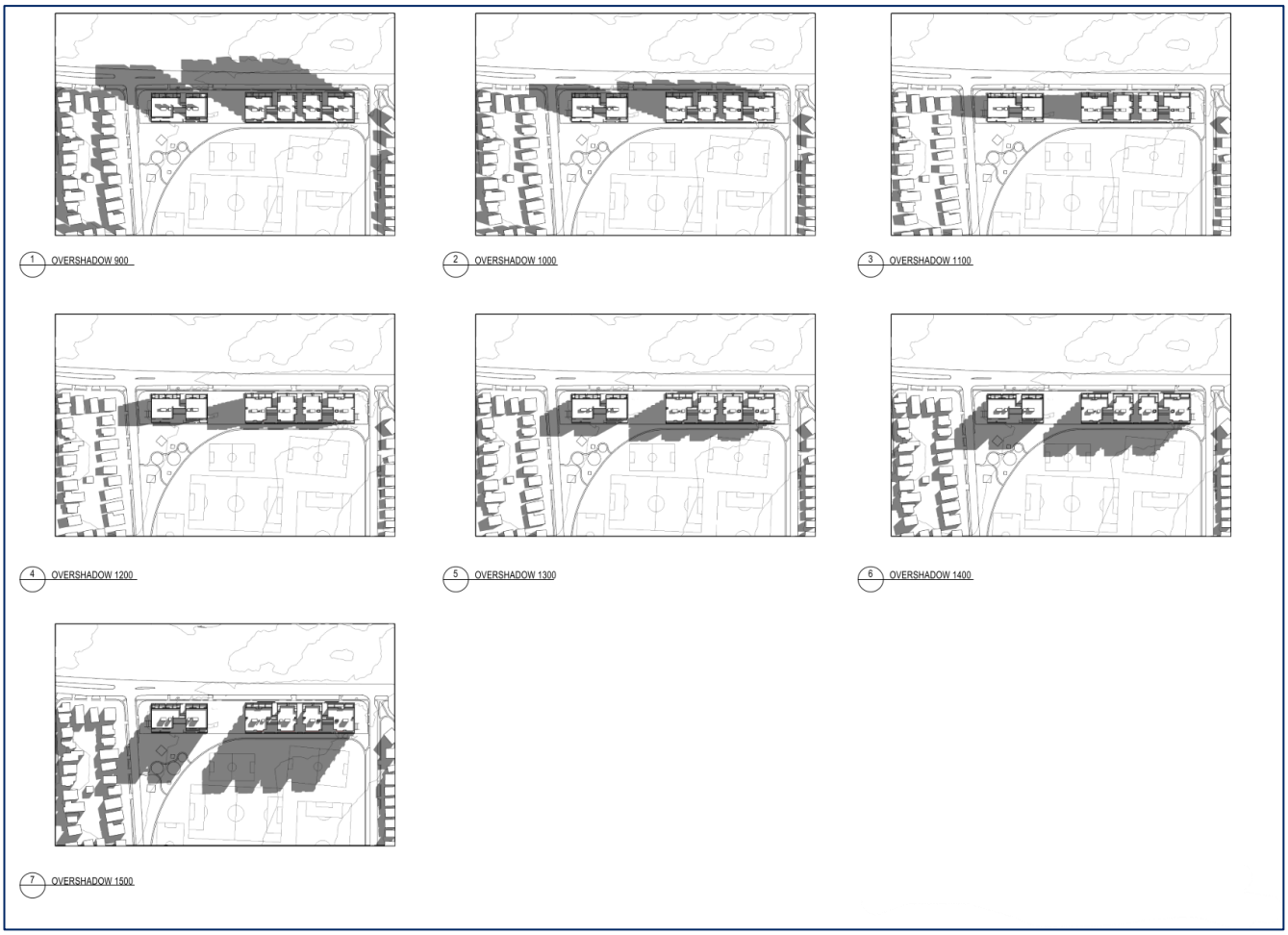


Figure 8 | Mid-winter shadow diagrams (Source: BVN, 2026)

The Applicant's shadow diagrams demonstrate that during mid-winter:

- overshadowing impacts on surrounding public open spaces are limited. Jellicoe Park is unaffected between 9 am and 12 pm, with only a small portion of its western section affected between 1 pm and 3 pm. The existing playground and sports fields continue to receive at least 3 hours of sunlight between 9 am and 3 pm
- overshadowing of surrounding properties is minor, with dwellings along Park Parade experiencing only limited impacts, generally confined to partial shading of living areas at 3 pm
- the proposal maintains acceptable solar access to nearby recreational areas, with only partial overshadowing of the eastern edge of Bonnie Doon Golf Course between 9 am and 10 am
- the proposed central open space between buildings A and B receives at least 3 hours of sunlight between 9 am and 3 pm.

The Department has considered the public submissions, the Applicant's RtS and shadow diagrams, and considers overshadowing impacts acceptable. The orientation of the site and scale of the development limits overshadowing impacts and enables all surrounding properties to maintain adequate mid-winter sunlight.

5.2.2 Solar access

The ADG recommends that a minimum of 70% of apartments receive at least two hours of direct sunlight to living rooms and private open spaces between 9 am and 3 pm at mid-winter, and that no more than 15% of apartments receive no direct sunlight within this period.

The proposal has been designed so that:

- 67.4% of apartments in the development (151 of 224) receive a minimum of two hours of solar access
- 70.2% of Building A's apartments (59 of 84) receive a minimum of two hours of solar access
- 65.7% of buildings B and C's apartments (92 of 140) receive a minimum of two hours of solar access
- all apartments receive 1 hour 45 minutes of direct sunlight.

There is a marginal 6 apartment (2.6%) variation from the ADG criteria which is not considered to significantly affect residential amenity. Despite the minor shortfall in solar access, the Department considers the proposal to demonstrate acceptable overall solar performance consistent with the objectives and intent of the ADG as:

- the proposal has excellent access to public open space, communal open space and natural cross ventilation which all achieve a high level of solar access
- all apartments achieve at least 1 hour 45 minutes of direct sunlight, demonstrating equitable solar access for all apartments.

5.2.3 Building separation

The ADG recommends a minimum separation distance of 18 m between habitable rooms and 9 m between habitable and non-habitable spaces for apartment buildings with a height of 5-8 storeys on the same site.

A minimum separation distance of 6 m is proposed between habitable rooms in buildings B and C (refer to red highlighted areas in **Figure 9**).

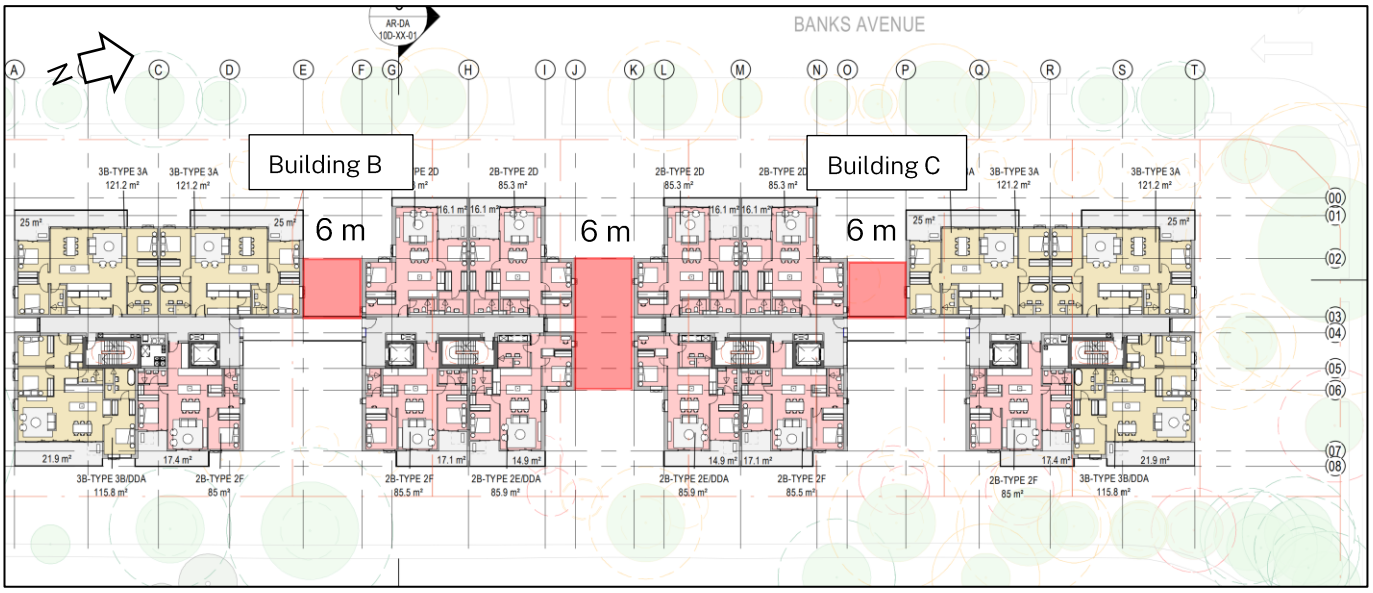


Figure 9 | Floor plan (Source: BVN, 2026)

To address the reduced separation distances and improve visual privacy, the proposal incorporates angled screening on windows and blank walls to limit direct overlooking. Additionally, balconies are oriented to the east and west overlooking Jellicoe Park and Bonnie Doon Golf Course to further minimise visual and acoustic privacy impacts between apartments.

The Department considers the building separation acceptable as the proposal has incorporated mitigation measures to adequately achieve reasonable levels of external and internal privacy and maximise amenity in accordance with the objectives of the ADG.

5.3 Flooding

5.3.1 **Existing flooding**

The Applicant has submitted a Flood Impact Risk Assessment (FIRA), which confirms the site is affected by overland flooding during the 1 % AEP flood and PMF events.

Banks Avenue is predicted to experience flash flooding, with critical storm durations of less than six hours during a 1% AEP event. Flooding in the area is characterised by a rapid rise in water levels with little warning and relatively short durations, typically lasting only a few hours.

Council's adopted Flood Study (2018) identifies localised inundation and trapped low points within the catchment, including near the Heffron Road and Banks Avenue intersection. The associated Floodplain Risk Management Plan confirms flash flooding with short warning times and durations, and does not support evacuation, instead emphasising preparedness.

During the 1% AEP flood event, flood depths across the site are generally shallow, ranging from 0.10 m to 0.50 m, with low flow velocities of up to approximately 0.30 m/s. Flood hazard is generally up to

H2, representing conditions that may be unsafe for some vehicles but are generally manageable for people and buildings. In the PMF event, flood depths and hazards increase, with the highest hazard areas concentrated around the site corners near Banks Avenue and Park Parade, where conditions become unsafe for vehicles and more vulnerable people (refer to **Figures 10** and **11**).

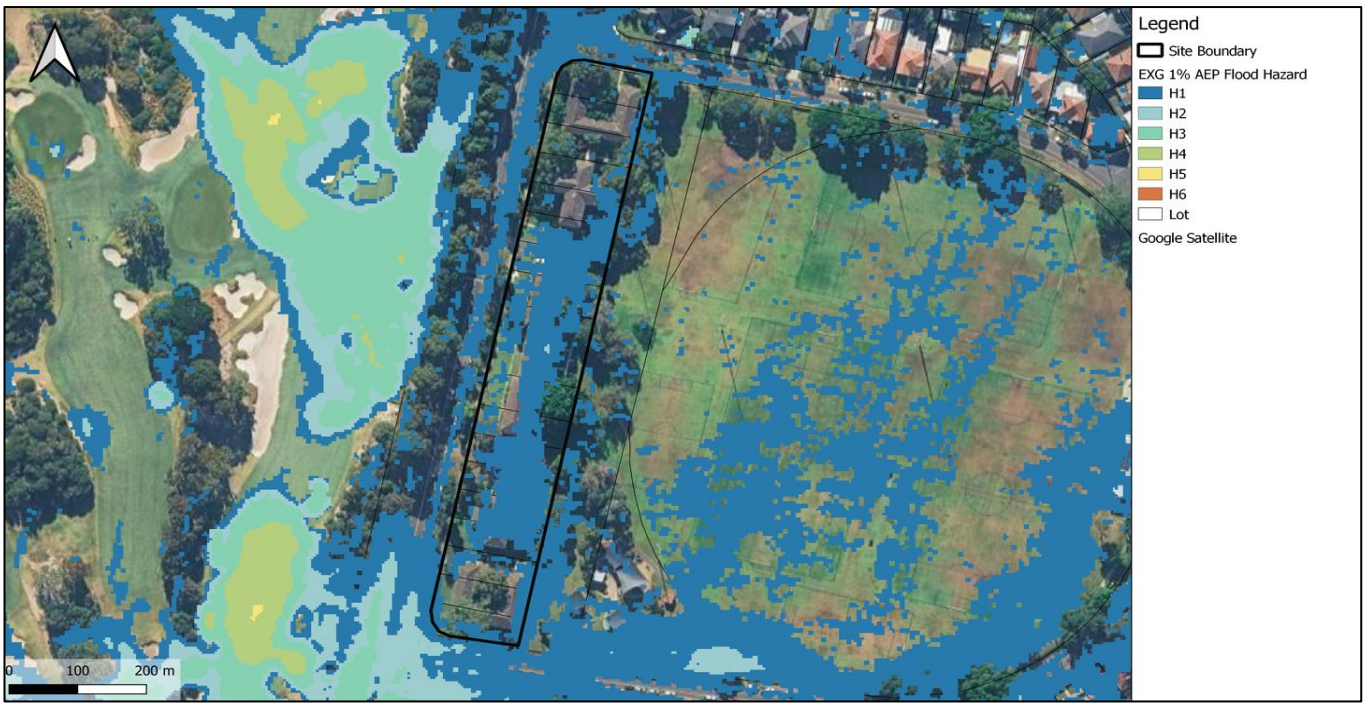


Figure 10 | 1% AEP existing flood hazard (Source: Mott MacDonald, 2026)

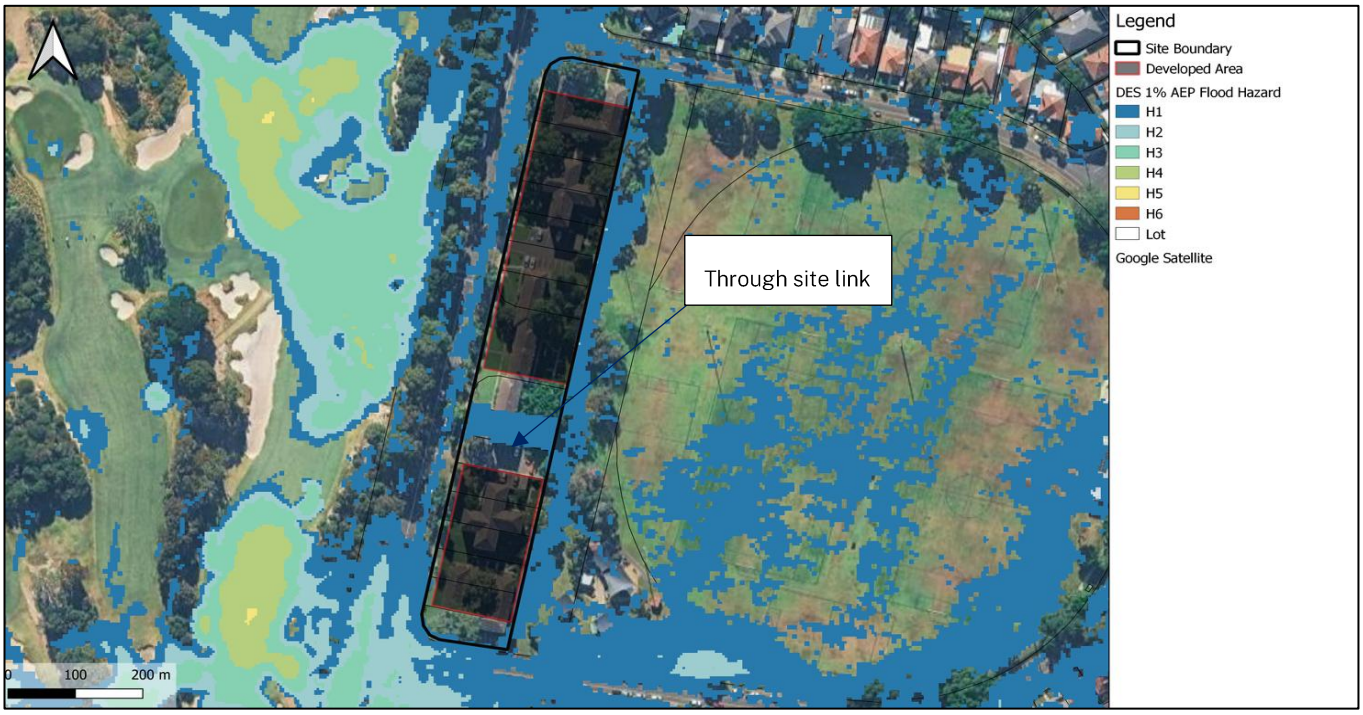


Figure 11 | 1% AEP proposed flood hazard (Source: Mott MacDonald, 2026)

5.3.2 Agency and Council advice

NSW SES advised that the proposal should pursue opportunities to improve the flood resilience during the detailed design stage and do not support private flood evacuation plans.

CPHR advised that there was uncertainty in the accuracy of flood modelling and how it represented the proposed landscaped areas raised concern with the consequences of allowing increased population in an area where shelter in place is the only viable evacuation strategy.

Council and CPHR also raised concerns regarding potential increased flood levels on adjoining properties and the adequacy of the proposed flood response. Council requested amended flood modelling to demonstrate that off-site flood level increases are limited to 10 mm and 50 mm during the 1% AEP and PMF flood events, providing flood contour mapping and model outputs, and confirming proposed cut and fill has been included into the flood assessment.

5.3.3 Applicant's flood response

The Applicant provided a revised FIRA to address matters raised by the Department, agencies and Council (see **Section 5.3.2**), incorporating design refinements to improve flood resilience, manage overland flow paths and minimise impacts both within and beyond the site. The revised assessment provided additional information regarding flood behaviour across the site, the suitability of the proposed shelter-in-place strategy and potential off-site flood impacts.

The proposal includes a defined through-site flow path that directs floodwaters from east to west between buildings A and B. Flood depths within the corridor remain shallow and are contained within a controlled flow path separated from building edges. The Applicant responded to Council's advice by clarifying that changes in flood levels are primarily attributable to proposed site grading and flow redistribution, with no change to flood hazard classifications (remaining within H1-H2) during the 1% AEP and PMF events. Hydraulic modelling also indicates negligible changes to peak flows and velocities during the 1% AEP event.

In response to concerns raised by CPHR and Council regarding off-site flood impacts, the Applicant identified minor and localised increases in flood levels along the Jellicoe Park boundary associated with flow accumulation around the proposed building. Predicted increases are generally between 10 mm and 50 mm, with isolated increases of up to 200 mm during the 1% AEP flood event occurring within existing depressions in the Park (see the orange areas on **Figure 12** below). The Applicant advised that these impacts would be limited in extent and addressed through detailed design measures to minimise adverse flood impacts and avoid the redistribution of flood risk. The Applicant also confirmed that Accesses G and H are external accesses and that, in the event of inundation, raised thresholds and finished floor levels would prevent floodwater entering the building and basement via the lift cores.

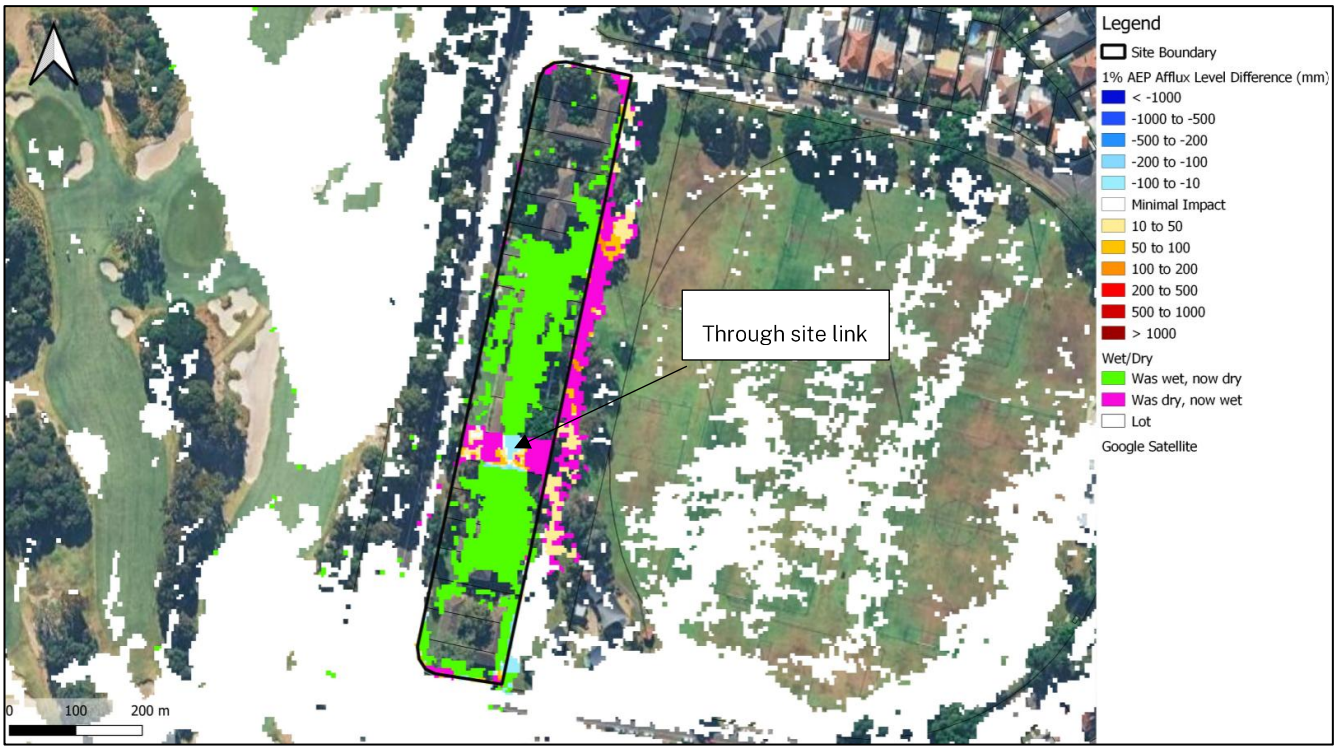


Figure 12 | 1% AEP flood level increase (Source: Mott MacDonald, 2026)

In response to SES advice regarding flood resilience, the Applicant advised that all habitable floor levels, building entrances and basement access points are located above the 1% AEP flood level plus 500 mm freeboard, consistent with Council's requirements and CPHR's recommendations.

In response to concerns raised by CPHR and SES, the Applicant advised that a shelter-in-place strategy is the most appropriate emergency response, having regard to the site's flash flooding characteristics, limited warning times, rapid flood onset and relatively short flood duration. The Applicant notes that this approach aligns with Council's adopted flood study and has been supported by a Flood Emergency Response Plan that includes flood monitoring, communication and vertical evacuation procedures.

5.3.4 Department's assessment

The Department has carefully considered the revised FIRA, public submissions, advice from Council and agencies, and relevant guidelines. The Department is satisfied that flooding impacts can be appropriately mitigated and managed, and that the proposal would not result in unreasonable flood impacts or risks, subject to recommended conditions of consent, including detailed structural design and the preparation and ongoing implementation of a Flood Emergency Response Plan (FERP).

The Department is satisfied that flooding impacts can be appropriately mitigated and managed, as:

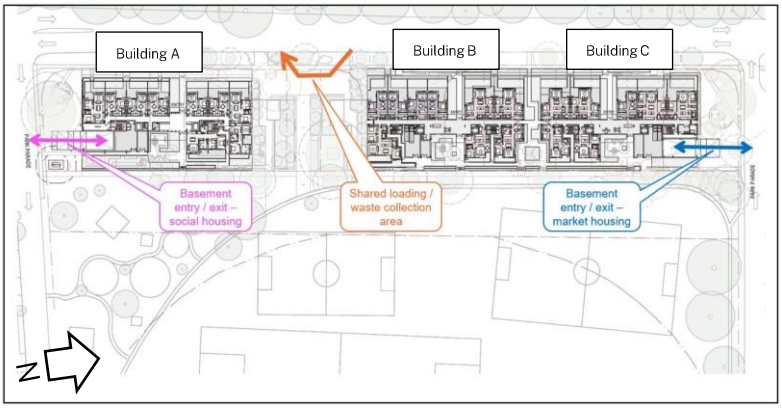
- all habitable levels and building and basement entrances are set above the 1% AEP flood level plus a 500 mm freeboard, consistent with Council's requirements and CPHR's recommended condition of consent
- on-site flooding during a 1% AEP event is largely confined to the through-site link, with flood hazards generally remaining within the H1 category (generally safe for people, vehicles and buildings) across the site and adjoining properties. Flood risks within the through-site link would be managed through signage and a plan of management
- during the 1% AEP event, off-site flood impacts are limited to areas adjoining Jellicoe Park, where increases in flood depth are generally localised and associated with flow accumulation around the edges of the proposed building. Flood depth increases are typically between 10 mm and 50 mm, with isolated increases of up to 200 mm occurring within existing depressions in the park. These increases are considered acceptable in the circumstance given the small area of affectation on the edge of the park and that the proposal would not result in any increase in flood hazard classification, which remains within the H1 category
- the Department is satisfied that concerns raised by CPHR and Council regarding the impacts of landscaping on flood affectation can be appropriately resolved through detailed design. A condition of consent requires revised flood modelling to incorporate all proposed ground level changes and building footprints, with any identified increase in flooding to be mitigated through amendments to the stormwater design prior to construction
- the shelter-in-place strategy is considered appropriate given the site's flash flood characteristics, absence of a safe evacuation route and demonstrated risks associated with off-site evacuation. The approach is supported by an assessment of the full range of flood events, including the PMF, and is consistent with the emergency response approach adopted in Council's Flood Study and the *NSW Shelter in Place Guidelines*. A Flood Emergency Response Plan (FERP) would be implemented to support occupant awareness, flood monitoring and safe shelter-in-place procedures.

5.4 Other issues

The Department's consideration of other issues is summarised in Table 6 below.

Table 6 | Assessment of other issues

Issue	Consideration	Recommended conditions
Traffic	Public submissions raised concerns with increased traffic congestion, particularly along Park Parade during peak periods of use at Jellicoe Park. The Applicant submitted a Transport Impact Assessment (TIA) which estimated that the proposal would generate 35 trips in the AM peak and 28 trips in the PM peak periods. The TIA assumed the worst-case scenario that all development traffic would utilise the Banks Avenue and Heffron Road signalised intersection to access the broader road network and found no change to the level of service (LoS), graded at a stable flow (B), with delays increasing by one second during the AM peak period and 3 seconds during the PM peak period. The Department has considered the Applicant's TIA, Council's comments and public submissions and is satisfied that the proposal is unlikely to result in adverse impacts on the operation of the surrounding road network as: • traffic generated by the proposal would be equivalent to approximately 1 vehicle every 2 minutes in peak periods • the road network and intersection of Banks Avenue and Heffron Road would continue to operate at an acceptable level of service with a stable flow • the site is within walking distance of regular bus services and retail facilities at the Westfields Eastgardens shopping centre, which would promote the use of non-private vehicle transport.	No conditions recommended
Car parking	Public submissions raised concern that insufficient car parking is provided, which would increase pressure on the surrounding street network. Council requested that a car share space be included in the Building A basement for social housing tenants.	The Department recommends conditions for: • Car parking to be designed in accordance with the relevant Australian Standards

Issue	Consideration	Recommended conditions
	Under the Housing SEPP car parking non-discretionary development standard (NDDS) for affordable housing, a minimum of 122 parking spaces is required. The proposal exceeds the car parking space requirements under the Housing SEPP as 236 parking spaces are provided comprising: • 36 car spaces including 7 accessible spaces and 1 car share space for Building A (social housing) • 200 car parking spaces, including 19 accessible spaces and 28 visitor spaces for Building B and C (market housing). The Department considers the proposed parking provisions are sufficient and they are consistent with parking rates under the Housing SEPP. In response to Council's concerns, a condition is proposed to ensure a car share space is provided for Building A.	• 236 car parking spaces to be provided with the development • A car share space provided for Building A
Access to the site	Council and public submissions raised concerns regarding the basement carpark entries from Park Parade (see **Figure 13**) due to Park Parade being a narrow one-way road. Council advised that the basement design may encourage illegal turns when entering and exiting the site.  Figure **13** | Basement access (Source: JMT Consulting, 2025) In response to the concerns raised, the Applicant contends that the proposed access from Park Parade is appropriate as:	Recommended conditions relating to: • operational conditions for safe vehicular access • preparation and implementation of a car parking, loading and services management plan

Issue	Consideration	Recommended conditions
	• the volume of anticipated traffic movements is relatively low, equivalent to one vehicle every two minutes and service vehicle access is solely via Banks Avenue • providing basement ramps via Banks Avenue would require use of a significant portion of the basement footprint for the access to adequately address required flood planning levels and would require an additional basement level to support car parking • locating vehicle ramps via Banks Avenue, along with the driveway access points for service vehicles, would create a total of four crossovers on the Banks Avenue frontage which impacts on-street parking and would introduce conflict between cars and pedestrians. The Department has carefully considered the matters raised by Council and the Applicant's response and considers the location for basement access points suitable given the site constraints and minimal traffic impacts caused by the proposal.	
Access to public transport	Public submissions raised concern that the site does not have adequate access to public transport. The Department has reviewed public transport in the locality, noting that bus services operate along Heffron Road within 180 m of the site and Bunnerong Road within 500 m of the site, connecting the site to the Sydney CBD and Eastern Suburbs. The Department is satisfied that the proposal provides a density of development which is compatible with the planning controls for the site and is located within an accessible area to existing bus services as well as the Westfields Eastgardens shopping centre. A Green Travel Plan is recommended as a condition of consent to further promote use of active and public transport.	Recommended conditions relating to preparation and implementation a Green Travel Plan
Tree removal	Public submissions raised concerns that the proposal will result in a significant loss of canopy coverage at the site.	Recommended conditions of consent relating to tree removal, tree protection,

Issue	Consideration	Recommended conditions
	The site has an existing tree canopy cover of 2,239 m^2 (24.1%). The Applicant provided Landscape Plans and an Arboricultural Impact Assessment (AIA) that identified the: • removal of 67 trees • retention of 47 trees • planting of 56 trees This results in a proposed tree canopy cover of 1,825 m^2 (19.7%). Nine trees proposed for removal have a high retention value, with remainder having low to medium retention value. The AIA includes tree protection measures to ensure trees to be retained at the site, and on adjoining land, will be protected through the construction process. Council provided their support of the AIA, tree removal, planting and management across the site and encouraged greater provision of trees within Jellicoe Park. Council has recommended conditions of consent for tree removal and retention. The Department acknowledges that the proposal would reduce tree canopy cover by approximately 414 m^2, from 2,239 m^2 (24.1%) to 1,825 m^2 (19.7%). However, a large majority of removed trees have low to medium retention value. The proposal retains 47 existing trees, incorporates 56 replacement trees and includes tree protection measures to safeguard retained vegetation during construction. The Department considers the landscaping strategy would provide an appropriate balance between development of the site and landscape outcomes. Replacement planting would contribute to long-term canopy establishment and enhance the site's landscape character over time. Subject to the recommended conditions relating to tree retention, protection and replacement planting, the Department considers the proposed tree removal acceptable.	tree management and AIA recommendations

Issue	Consideration	Recommended conditions
Heritage impacts	The Applicant has prepared an Aboriginal Archaeological Due Diligence Report (ADDR) and Heritage Impact Statement (HIS). The ADDR advised that there is low potential for subsurface Aboriginal archaeological deposits given the swampy and flood-prone conditions and development that occurred in the region by the early to mid-1900s. The ADDR recommends the proposal adopts an unexpected finds protocol and human remains protocol accordingly. The HIS assessed the impacts of the proposal on Jellicoe Park which is identified as local heritage under the BLEP 2021. The HIS concludes the proposal would have a minor to neutral impact on the views and setting of Jellicoe Park and would conserve the visual integrity and historical contribution of Jellicoe Park, whilst also retaining the relationship with the surrounding low density residential context. The Department has considered the ADDR and HIS and considers the heritage impacts acceptable subject to recommended conditions of consent.	The Department recommended conditions of consent for an unexpected finds protocol
Construction impacts	Public submissions raised concerns regarding potential construction impacts from the proposal. The Applicant has provided construction management plans for waste, traffic and transport, noise, and vibration. The Applicant's NVIA includes a noise and vibration assessment for construction works which found that the maximum predicted noise levels at nearby receivers would be: • 71 dB(A) during demolition • 71 dB(A) during excavation and foundation works • 62 dB(A) during structural works Construction noise is not anticipated to exceed the highly affected noise levels as set out in the NSW's *Interim Construction Noise Guideline*, and mitigation measures are recommended to appropriately manage construction noise.	The Department Recommended conditions including preparation of a: • Construction Traffic and Pedestrian Sub-Plan • Construction Noise and Vibration Management Sub-Plan • Air Quality Management Sub-Plan • Construction Waste Management Plan

Issue	Consideration	Recommended conditions
	The Applicant has provided a preliminary Construction Traffic Management Plan (CTMP) outlining traffic management procedures during construction including worker induction, site access, loading and on-street work zone. The preliminary CPTMP identifies up to five construction vehicles per hour accessing the site from Banks Avenue during construction. The Applicant has provided a Waste Management Plan that provides mitigation measures for waste minimisation and removal during construction and demolition. Mitigation measures provided by the Applicant include providing a comprehensive construction management plan prior to works commencing. To ensure traffic, vibration and noise impacts are addressed during construction, conditions are recommended requiring final detailed construction management plans to be prepared and implemented to mitigate and manage these issues. Hours of construction will be in accordance with NSW's "Interim Construction Noise Guideline" (ICNG) per recommended conditions. The Department has recommended several conditions to ensure the construction does not cause unreasonable impact to the amenity of adjoining properties or result in damage to the public domain. The Department is satisfied that construction impacts associated with the proposal can be appropriately managed subject to conditions of consent.	• Soil and Water Management Plan • Erosion and Sediment Control Plan Standard construction conditions including ICNG hours of construction are also recommended.
Operational noise impacts	The Applicant has provided a NVIA that assessed operational noise impacts associated with the proposal. The Department has considered the findings and recommendations of the NVIA and is satisfied that the proposal can achieve acceptable internal acoustic amenity for residents and can be designed to mitigate any noise impacts on surrounding properties as:	The Department recommends that the recommendations of the NVIA to be implemented

Issue	Consideration	Recommended conditions
	• noise intrusion for habitable rooms can be mitigated via façade construction standards • noise from mechanical plant will be further assessed at the detailed design stage to ensure compliance with recommended noise levels • use of the layby and temporary waste storage area would be limited between 6 am to 6 pm, and per Council's waste collection schedule. • traffic noise generation from the development (existing and expected traffic volumes) are anticipated to result in less than a 2dB increase and is consistent with the NSW Road Noise Policy. Subject to the recommendations of the NVIA, the Department is satisfied that the proposal can achieve acceptable internal acoustic amenity and can be designed and operated to mitigate any noise impacts on surrounding properties.	
Waste management	The Applicant has provided a Waste Management Plan that outlines construction and operational waste management. Operational waste will be collected from the proposed layby along Banks Avenue. The Applicant has advised that waste will be transported to and from the temporary storage area by building management prior to waste collection, ensuring that no residents will need to transport bins to and from the basement. Council raised concern with the waste collection location, recommending that waste collection be relocated to the basements of each building noting that the proposed arrangement creates excessive travel lengths and limiting potential landscaping. Council also requested a revised Waste Management Plan that is consistent with Council's Waste Management Specifications regarding the number of bins and waste room sizes. The Department has considered Council's comments, and the Applicant's Waste Management Plan and considers the waste	Recommended conditions of consent requiring the preparation of a: • Demolition Waste Management Plan • Construction Waste Management Plan • Final Operational Waste Management Plan

Issue	Consideration	Recommended conditions
	collection location acceptable as the area is only used temporarily, prior to waste collection and concealed within a landscaped structure (rooftop pergola and climbers). The Department is satisfied that waste can be appropriately managed, subject to recommended conditions.	
Social impacts and safety	Public submissions raised concerns about the proposed housing tenure and the potential for anti-social behaviour. The Applicant has advised in their Community Consultation Report that they will collaborate with the appointed CHP on mitigation techniques including a detailed tenant allocation policy. The appointed CHP will have clear procedures in place to address disruptive behaviour, along with a dedicated phone line for community enquiries and feedback. The Department considers the proposal designed in accordance with the CPTED principles (refer to **Appendix C**) and is satisfied the proposal would deliver a range of positive social outcomes, particularly by providing social housing that benefits the community by offering accommodation for low-income, elderly, and disadvantaged individuals who are unable to access market housing. The Department is satisfied the proposal would deliver a range of positive social outcomes, particularly by providing additional social housing. The Department recommends a condition requiring the preparation and implementation of an Operational Plan of Management that outlines ongoing management requirements and measures to minimise and resolve any operational impacts on the surrounding community.	Recommended condition requiring the preparation of an Operational Plan of Management
Earthworks	The Applicant has provided a cut and fill plan that proposes a maximum fill of 1.5 m and maximum cut of 5-10 m (for the proposed basements. The proposal includes an excess balance of -27,489 m^2 cut.	Recommended conditions requiring cut and fill to be consistent with the approved plans.

Issue	Consideration	Recommended conditions
	The Department considers the proposed cut and fill acceptable as: • the level change will not significantly interfere with flooding impacts in the catchment area • the site continues to slope in the same direction • the proposed fill will support flood planning levels • it does not result in significant level changes throughout the site and adjoining properties • excess cut will be appropriately managed through construction management and remediation management plans.	
Stormwater	The Applicant has provided Civil Plans and an Integrated Water Management Plan (IWMP) which outlines the proposed stormwater management strategy and demonstrate how stormwater management quantity and quality requirements are met. Council has provided recommended conditions of consent for stormwater management. The Department considers the proposal to incorporate appropriate stormwater management measures and stormwater would be appropriately managed through conditions of consent.	Recommended conditions of consent for stormwater design.
Groundwater	The Applicant has provided a Groundwater Assessment Report that anticipates minor aquifer interference activity with a maximum inflow of 0.76ML/year. The Department accepts these findings and conditions of consent have been recommended to ensure any groundwater impacts are appropriately managed during construction and operation.	Recommended conditions of consent to identify groundwater impacts during operation. Should inflow exceed 3ML/year, a water access licence (WAL) is to be obtained, unless an exemption applies under the Water Management (General) Regulation 2025.

Issue	Consideration	Recommended conditions
Services	Public submissions raised concerns that the proposal would not have adequate access to services. Two substations are proposed to be constructed and commissioned onsite. Ausgrid has reviewed the proposal and provided recommended conditions to address this. The Department has recommended conditions of consent to ensure appropriate connections are made prior to occupation of any dwelling, including stormwater, sewage, and electricity. The Department is satisfied that, subject to the recommended conditions, the site will be serviced appropriately.	Recommended conditions consent requiring: • substations to be constructed and commissioned per Ausgrid's requirements • services arrangements to be finalised and connected prior to the issue of an occupation certificate.
Demand on local infrastructure and contributions	Public submissions raised concern regarding a lack of improvement to local infrastructure, particularly due to the size of the development. Council has requested that Section 7.11 contributions be paid in accordance with the City of Botany Bay Section 7.11 Development Contributions Plan 2016. This plan does not include an exemption for either social or affordable housing. The Applicant has requested an exemption to paying local contributions, given the public benefit of the proposal in delivering social housing, and per the local contributions practice notes. The Department's *Practice Note - Exempting certain development from contributions* recognises that that Crown developments are not likely to require the provision of public services and amenities in the same way as private developments, and notes that contributions may be waived for such developments that provide a public service or facility. The Department has considered the Crown's role in providing an essential community service, the benefits the development	Recommended condition of consent relating to payment of local contributions for the market housing component of development.

Issue	Consideration	Recommended conditions
	brings, and the cost that is accountable to all taxpayers in NSW. The Department considers that the proposed social housing component of the development would provide lasting public benefits by offering accommodation for low-income, elderly, and disadvantaged individuals who are unable to access market housing. This contributes to reducing homelessness, encourages economic and social participation, and improves the health and well-being of future tenants. After carefully considering Council's Section 7.11 Contributions Plan and the Department's Practice Note, the Department considers it would be reasonable to exempt the social housing component of the proposal (84 dwellings) from payment of Section 7.11 contributions. This recognises the role the Crown plays in delivering publicly funded social infrastructure that supports Government initiatives aimed at increasing social housing affordability and reducing the cost of delivering social housing. The market housing component (140 dwellings) of the development would still be subject to Section 7.11 contributions. The Department notes that the State Government's Housing and Productivity Contribution (HPC) does not apply to the social housing component of development but would apply to the 140 market dwellings. The Department concludes that the payment of a HPC and Section 7.11 contributions for the market housing will ensure the proposal contributes towards local and State infrastructure for the increased population on the site.	

6 Evaluation

The Department's assessment has considered the relevant matters and objects of the EP&A Act, including the principles of ESD (**Appendix C**), advice from agencies, Council and public submissions (**Section 4**), and Government policies and plans (**Section 3**).

The Department's assessment concludes that the proposal is acceptable as it:

- supports the NSW Government's priority to deliver well-located housing by providing 224 apartments close to public transport, jobs, and services
- delivers substantial public benefit by dedicating 84 apartments for social housing, addressing critical demand in the area
- is permissible with consent, consistent with the objectives of the R3 Medium Density Residential zone under the BLEP 2021, and generally complies with all other statutory controls for the site
- is of an appropriate bulk and scale that is compatible with the existing character of this site and the surrounding area
- would provide a high level of internal and external amenity for future residents, consistent with the principles and design criteria of the Housing SEPP and the ADG
- would not result in unreasonable overshadowing, view loss, wind, heritage or privacy impacts to neighbouring properties or the public domain
- would not result in any significant adverse traffic impacts on the surrounding road network
- would not lead to unreasonable flood impacts or risks, with a range of conditions recommended to effectively mitigate and manage flood impacts
- would deliver public and economic benefit through generating up to 557 construction jobs.

The Department has recommended a range of conditions to manage any residual environmental impacts (see **Appendix E**).

The Department considers the impacts of the development are acceptable and can be appropriately managed or mitigated through the implementation of recommended conditions of consent. Consequently, the Department considers the project should be approved, subject to conditions.

7 Recommendation

It is recommended that the Minister for Planning and Public Spaces:

- **consider** the findings and recommendations of this report
- **accept and adopt** the findings and recommendations in this report as the reasons for making the decision to grant consent to the application
- **agree** with the key reasons for approval listed in the notice of decision
- **grant consent** for the application in respect of Banks Avenue, Pagewood, Affordable Housing (SSD-83256472), subject to the conditions in the attached development consent
- **sign** the attached development consent **(Appendix E).**

Recommended by:



Stephen Dobbs
Team Leader
Social and Diverse Housing Assessments

Recommended by:



Paulina Wythes
Director
Social and Diverse Housing Assessments

Recommended by:



Amy Watson
A/Executive Director
Housing and Key Sites Assessment

Recommended by:



Madeleine Thomas
A/Deputy Secretary
Development Assessment and Sustainability

8 Determination

The recommendation is adopted/not adopted by:

The Hon. Paul Scully MP
Minister for Planning and Public Spaces
Dated: 4/8/26

Appendices

Appendix A – List of referenced documents, submissions and advice

The following documents can be accessed at https://www.planningportal.nsw.gov.au/major-projects/projects/banks-avenue-pagewood-affordable-housing:

- Environmental Impact Statement
- Clause 4.6 variation request
- Response to submission report
- Applicant's additional information
- Submissions (public and Council)
- Agency advice

Appendix B – Community views for draft Notice of Decision

Table 7 | Consideration of community views

Issue	Consideration
Excessive bulk and scale, visual impact, and loss of character • the proposal is out of character with development within the adjoining R2 Low Density Residential zone • the proposal's bulk and scale will result in a loss of character • view loss	*Assessment* • The Department considers the proposed density, bulk and scale, and design to be acceptable as: ○ the building height generally complies with the maximum permissible building height, except for minor variations to the lift overrun which would not result in any adverse visual or overshadowing impacts ○ the proposal is compatible with the R3 Medium Density Residential zone and the desired future character of the area which envisaged high and medium density development adjacent to low density residential areas ○ the proposal incorporates modulation, articulation, and architectural detailing that assist in reducing its perceived bulk and scale ○ the proposal maintains acceptable amenity to the neighbouring properties in terms of solar access and privacy ○ materials, finishes, and proposed landscaping soften the development and promote a green aesthetic consistent with the surrounding locality ○ the proposal provides generous boundary setbacks, communal open space for residents and high-quality landscape and improvements to the Banks Avenue frontage ○ the proposal retains the visual value of Jellicoe Park *Recommended conditions* • The Department review and approve the final materials and finishes prior to the commencement of construction.
Traffic impacts and car parking • insufficient traffic analysis • access to basement car parking should not be from Park Parade	*Assessment* • The Applicant provided a Transport Impact Assessment (TIA) that reviewed existing and proposed traffic conditions, as well as traffic generation caused by the proposal. The TIA found that the level of service of the Banks Avenue and Heffron Road intersection would retain an acceptable level of service. The traffic generated by the proposal would be equivalent to approximately 1 vehicle every 2 minutes in peak periods which is considered low.

Issue	Consideration
• insufficient car parking • traffic impacts on the surrounding road network • on-street car parking is at capacity	• The Department considers the proposed access to basement car parking along Park Parade acceptable as it limits the number of cross-overs along Banks Avenue, reduces the number of basement levels and the proposal does not cause significant traffic generation. • The Housing SEPP includes a non-discretionary development standard (NDDS), establishing a minimum car parking rate of 122 car parking spaces for the proposal. The proposal includes 236 car parking spaces which meets the NDDS. • The objective of the NDDS is to prevent the consent authority from requiring more onerous standards or refusing an application if the development complies with the NDDS. *Recommended conditions* • Allocation of minimum parking spaces compliant with relevant Australian Standards. • Construction Traffic Management Plan. • Car parking, Loading, and Servicing Management Plan.
Social housing • More social housing should be provided • social housing should be restricted to essential workers • tenant concerns	*Assessment* • The Department is satisfied that the development is designed and can be managed to minimise safety risks and anti-social behaviour. • The community housing provider will have a detailed tenant allocation policy with clear procedures in place to address disruptive behaviour. • The proposal would improve the quality and increase the number of existing social housing provided onsite by two homes. *Recommended conditions* • Preparation and implementation of a Plan of Management.
Inadequate services and infrastructure	*Assessment* • The proposal is not anticipated to place undue pressure on emergency services, utilities, and local infrastructure. • Ausgrid has reviewed the proposal and provided recommended conditions for appropriate construction and commissioning of the proposed substations. • The 140 market dwellings would be liable for Section 7.11 and HPC to local and State infrastructure.

Issue	Consideration
	Recommended conditions • Service and utility connections be finalised prior to occupation • Payment of Section 7.11 contributions and HPC for the market dwellings.
Access to public transport • Public transport is already at capacity	*Assessment* • The site is located in an accessible area with access to regular bus services. • Transport for NSW is responsible for monitoring public transport usage and where necessary implementing bus services aligned to passenger numbers and travel patterns. *Recommended conditions* • Implementation of a final Green Travel Plan.
Overshadowing • Overshadowing to Jellicoe Park • overshadowing to adjoining dwellings	*Assessment* • The proposal includes shadow diagrams that demonstrate overshadowing impacts during the Winter Solstice. • The proposal has been assessed as having an acceptable shadow impact to adjoining properties and the public domain. *Recommended conditions* • No conditions are recommended.

Appendix C – Statutory matters for consideration

Matters for consideration required by the EP&A Act

Section 4.15 of the EP&A Act sets out general matters to be considered by a consent authority when determining a development application. The table below outlines the consideration of these matters.

Table 8 | Matters for consideration

Matter for consideration	Department's assessment
Environmental planning instruments, proposed instruments, development control plans & planning agreements	Appendix C
EP&A Regulation	Appendix C
Likely impacts	Section 5
Suitability of the site	Section 1.2, Section 3 and Section 5
Public submissions	Section 4 and Section 5
Public interest	Section 4, Section 5 and Section 6

Objects of the EP&A Act

In determining the application, the consent authority should consider whether the project is consistent with the relevant objects of the EP&A Act (section 1.3) including the principles of ESD. Consideration of those factors is described in Table 9 below.

As a result of its analysis, the Department is satisfied that the development is consistent with the objectives of the EP&A Act and the principles of ESD.

Table 9 | Objects of the EP&A Act and how they have been considered

Object	Consideration
(a) to promote the social and economic welfare of the community and a better environment by the proper management, development, and	The proposal promotes the social and economic welfare of the community by providing affordable housing in an area well serviced by good access to transport and urban services, and, in doing so,

Object	Consideration
conservation of the State's natural and other resources,	contributes to the achievement of State, regional, and local planning objectives. The proposal would not impact any natural or artificial resources, agricultural land, or natural areas.
(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 ESD initiatives and sustainability measures, which would allow the proposal to meet the BASIX requirements.
(c) to promote the orderly and economic use and development of land,	The proposal involves the orderly and economic use of land through the efficient development of an underutilised urban site that is within walking distance of the Westfields Eastgardens shopping centre. Residential development on the site is permissible with consent, and the form of the development has regard to the character of the locality. The proposal offers accommodation for low-income, elderly, and disadvantaged individuals who are unable to access market housing. This contributes to reducing homelessness and encourages economic participation.
(d) to promote the delivery and maintenance of affordable housing,	The proposal will deliver 84 social housing dwellings which are classified as 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 proposal will not adversely affect the environment, being unlikely to have any significant impact on biodiversity values. This is confirmed by the BDAR waiver obtained prior to determination.
(f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),	The Department is satisfied the proposal is acceptable in terms of potential heritage impact to built and cultural heritage (including Aboriginal cultural heritage (Section 5)). Conditions have been

Object	Consideration
	recommended to manage unexpected finds during demolition, construction, and operation.
(g) to promote good design and amenity of the built environment,	The proposal has been designed to minimise amenity impacts to neighbours and the surrounding environment and to provide good levels of internal amenity (Section 5). Other amenity impacts would be managed by either the form of the development or by the recommended conditions of consent for mitigation measures during the construction and operational phase of the development.
(h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,	The proposal demonstrates that construction work will be undertaken with national construction standards, relevant regulation, and site-specific construction management plans. Any impacts during this phase will be monitored and managed in keeping with the conditions of consent set out to mitigate any impacts. The conditions of consent will ensure the development is accessible and capable of complying with the requirements of the relevant sections of the National Construction Code. Ongoing management and maintenance of the development shall be undertaken by the community housing provider.
(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,	The Department publicly exhibited the proposed development as outlined in Section 4, which included consultation with Council and other public authorities and consideration of their responses.
(j) to provide increased opportunity for community participation in environmental planning and assessment.	The Department publicly exhibited the application which included notifying adjoining landowners and displaying the application on the Department's website. The Applicant's RtS and additional information was made available on the Department's website. Engagement activities carried out by the Department are detailed in Section 4 and Section 5.

Section 4.15(1) matters for consideration

The matters for consideration under section 4.15(1) that apply to SSD in accordance with section 4.40 of the EP&A Act have been addressed in **Table 10** below.

Table 10 | Section 4.15(1) matters for consideration

Section 4.15(1) Evaluation	Consideration
(i) any environmental planning instrument, and	The Department's consideration of relevant environmental planning instruments (EPIs) is provided below, at **Section 5** and in this appendix. The proposal is considered satisfactory in addressing the 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	The proposal is not subject to a draft planning instrument that is or has been the subject of public consultation under the EP&A Act.
(iii) any development control plan, and	Pursuant to Section 2.10 of the Planning Systems SEPP, development control plans do not apply to SSD.
(iiia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and	The site is not subject to a planning agreement or draft planning agreement under section 7.4.
(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph),	The proposal meets the relevant requirements of the EP&A Regulation, including the procedures relating to applications, public participation procedures for SSD and Schedule 2 relating to the EIS.
(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 impacts of the proposal have been appropriately mitigated or conditioned as discussed in **Section 5** and this appendix.

Section 4.15(1) Evaluation	Consideration
(c) the suitability of the site for the development,	The Department has assessed and recommends the site as suitable for the proposal as discussed in **Section 5** and this appendix.
(d) any submissions made in accordance with this Act or the regulations,	Consideration has been given to the submissions received during the exhibition of the proposal as discussed in **Section 4, Section 5,** and **Appendix B.**
(e) the public interest.	The proposal is in the public interest as it contributes to increasing the housing supply and offering accommodation for low-income, elderly, and disadvantaged individuals who are unable to access market housing. The environmental impacts of the development will be appropriately managed though the design of the project, and recommended conditions of consent.

Ecologically sustainable development

The EP&A Act adopts the definition of ecologically sustainable development (ESD) found in the *Protection of the Environment Administration Act 1991*. Section 6(2) of that Act states that ESD requires the effective integration of economic and environmental considerations in decision-making processes and that ESD can be achieved through the implementation of:

- the precautionary principle
- inter-generational equity
- conservation of biological diversity and ecological integrity
- improved valuation, pricing and incentive mechanisms.

The Department required the Applicant to demonstrate how the principles of ESD have been incorporated into the project, including how it addresses:

- national best practice sustainable building principles to improve environmental performance and reduce ecological impact
- projected climate change impacts.
- The proposal has committed to the following minimum sustainability targets:
- achieve a weighted NatHERS average of 7 stars

- exceed Basix minimum energy requirement and meets water requirements
- meet the BASIX thermal performance requirements.

The Department has considered the proposal in relation to the ESD principles. The precautionary and inter-generational equity principles have been applied in the decision-making process via a thorough and rigorous assessment of the environmental impacts of the proposal. The conservation principle has been applied through the provision of new landscaping around, on and within the proposal and the valuation principle has been applied through the efficient use of the site, application of sustainability measures and creation of new employment opportunities.

The Department has recommended conditions requiring the implementation of ESD measures and minimum sustainability targets.

Biodiversity development assessment report

Section 7.9(2) of the *Biodiversity Conservation Act 2016* (BC Act) requires all SSD applications to be accompanied by a Biodiversity Development Assessment Report (BDAR) unless the Planning Agency Head and the Environment Agency Head determine that the project is not likely to have any significant impact on biodiversity values (as identified in the BC Act and in the Biodiversity Conservation Regulation 2017).

A BDAR waiver request was submitted to the Department and the Environment Agency Head and the Team Leader, Social and Diverse Housing Assessments, as delegate of the Planning Secretary, determined that the development is not likely to have any significant impact on biodiversity values. A BDAR waiver was granted on 27 November 2025.

Water Management Act 2000

A Water Access License must be obtained where groundwater is intercepted by a development, unless an exemption under Clause 7, Schedule 4 of the Water Management (General) Regulation 2018 applies.

DEECCW – Water Group sought clarification during the exhibition period of the water take of the development and whether all basements will be tanked.

The Applicant responded that the Groundwater Impact Assessment has been prepared which sets out that estimated groundwater inflows are minor and below 3ML/yr (0.76 ML/yr during construction with no ongoing water take due to a tanked basement design).

NSW DCCEEW Water Group responded they reviewed the Response to Submissions and is satisfied with the information provided. DCCEEW Water makes post approval recommendations regarding and water licensing. Under the Water Management Act 2000, if groundwater is intercepted a WAL

must be obtained prior to any water take occurring unless an exemption under the Water Management (General) Regulation 2025 applies.

The Department recommends standard conditions for managing groundwater take and monitoring.

EP&A Regulation

The EP&A Regulation requires the Applicant to have regard to the *State Significant Development Guidelines* when preparing their application. In addition, the SEARs require the Applicant to have regard to the following:

- *Social Impact Assessment Guideline for State Significant Projects*
- *Undertaking Engagement Guidelines for State Significant Projects*

The Department considers the Applicant's documents have considered the relevant guidelines and that the project has complied with the relevant sections of the EP&A Regulation, including with regard to notification and fees.

Environmental Planning Instruments (EPIs)

Controls considered as part of the assessment of the proposal are:

- *State Environmental Planning Policy (Planning Systems) 2021* (Planning Systems SEPP)
- *State Environmental Planning Policy (Housing) 2021* (Housing SEPP)
- *State Environmental Planning Policy (Sustainable Buildings) 2022* (Sustainable Buildings SEPP)
- *State Environmental Planning Policy (Resilience and Hazards) 2021* (Resilience and Hazards)
- *State Environmental Planning Policy (Transport and Infrastructure) 2021* (Transport and Infrastructure)
- *State Environmental Planning Policy (Biodiversity and Conservation) 2021* (Biodiversity and Conservation SEPP)
- *Bayside Local Environment Plan 2021* (BLEP 2021)

State Environmental Planning Policy (Planning Systems) 2021

The proposal is SSD under section 2.6(1) and section 26 of Schedule 2 of the Planning Systems SEPP, being development for more than 75 dwellings, carried out by Land and Housing Corporation (operating as Homes NSW) with an EDC of more than $30 million.

State Environmental Planning Policy (Housing) 2021

A summary of the Department's consideration of the relevant standards contained in the *State Environmental Planning Policy (Housing) 2021* (Housing SEPP) are provided in **Table 11** below.

Table 11 | Housing SEPP compliance table

Control	Department's consideration
Chapter 2 Affordable Housing	
15A Objective of division The objective of this division is to facilitate the delivery of new in-fill affordable housing to meet the needs of very low, low and moderate income households.	The Department finds this proposal consistent as it provides 84 social housing apartments.
15C Development to which 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, Chapter 6, or another environmental planning instrument, and (b) the affordable housing component is at least 10%, and (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 or Port Stephens 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.	(a) Consistent. Residential flat buildings are permitted with consent as an additional permitted use in the R3 Medium Density zone under Schedule 1 of the BLEP 2021. (b) Consistent. The proposal will deliver 37.5% affordable housing on the basis that social housing is defined as affordable housing pursuant to Section 15B (2) of the Housing SEPP. (c) Consistent. The site is located within the Six Cities Region and is an 'accessible area' as defined in Schedule 10 of the Housing SEPP.
16 Affordable housing requirements for additional floor space ratio	Not applicable as the bonus provisions under Section 17 and 18 apply.
17 Additional floor space ratio for relevant authorities and registered community housing providers (1) This section applies to residential development to which this division applies that is carried out—	(1) This section applies as: (a) the development is carried out by Homes NSW who are defined as a relevant authority. (b) the maximum permissible floor space ratio per the BLEP 2021 is 1.65:1.

Control	Department's consideration
(a) by or on behalf of a relevant authority or registered community housing provider, and (b) on land with a maximum permissible floor space ratio of 2:1 or less. (2) The maximum floor space ratio for the development is— (a) the maximum floor space ratio calculated in accordance with section 16, or (b) the maximum floor space ratio calculated in accordance with subsection (3). (3) The maximum floor space ratio for subsection (2)(b) is the maximum permissible floor space ratio for the development on the land plus an additional floor space ratio of— if the affordable housing component is at least 50%—0.5:1	(3) The following additional floor space ratio applies: The affordable housing component is 100% (given all development undertaken by Homes NSW is classified as affordable housing for the purposes of the Housing SEPP). As such, the maximum FSR permitted onsite is 2.15:1. The proposal has a GFA of 20,201.1 m^2 which results in an FSR of 2.18:1. This has been justified by a Clause 4.6 variation request considered in detail at **Appendix D**.
18 Affordable housing requirements for additional building height (1) This section applies to development that includes residential development to which this division applies if the development— (a) includes residential flat buildings or shop top housing, and (b) does not use the additional floor space ratio permitted under section 16. (2) The maximum building height for a building used for residential flat buildings or shop top housing is the maximum permissible building height for the development on the land plus an additional building height of up to 30%, based on a minimum affordable housing component calculated in accordance with subsection (3). (3) The minimum affordable housing component, which must be at least 10%, is calculated as follows— $\text{affordable housing component} = \frac{\text{additional building height (as a percentage)}}{2}$	(1) This section applies as: (a) the development is for a residential flat building. (b) the development does not use the additional floor space ratio under section 16. (2) The site is subject to a maximum building height of 22 m pursuant to the BLEP 2021. This section increases the height to a maximum of 28.6 m. The development has a building height of 25.5 to 29.4 m. The minor variation has been justified by a Clause 4.6 variation request considered in detail at **Appendix D**. (3) The proposal is 100% affordable given all development undertaken by Homes NSW is classified as affordable housing for the purposes of the Housing SEPP.

Control	Department's consideration
19 Non-discretionary development standards—the Act, s 4.15 (2) The following are non-discretionary development standards in relation to the residential development to which this division applies— (a) a minimum site area of 450 m^2, (b) a minimum landscaped area that is the lesser of— (i) 35 m^2 per dwelling, or (ii) 30% of the site area, (c) a deep soil zone on at least 15% of the site area, where— (i) each deep soil zone has minimum dimensions of 3m, and (ii) if practicable, at least 65% of the deep soil zone is located at the rear of the site, (d) living rooms and private open spaces in at least 70% of the dwellings receive at least 3 hours of direct solar access between 9 am and 3 pm at mid-winter, (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, (g) the minimum internal area, if any, specified in the Apartment Design Guide for the type of residential development, Subsection (2)(c) and (d) do not apply to development to which Chapter 4 applies.	Consistent: (2) The proposal is consistent with the non-discretionary development standards as follows: (a) The total site area is 9,262 m^2, which meets the minimum site area of 450 m^2. (b) 4,719 m^2 of landscaped area is proposed which is equivalent to 51% of the site area. (c) Non-discretionary standards for deep soil do not apply to development to which Chapter 4 applies. (d) Non-discretionary standards for solar access do not apply to development to which Chapter 4 applies. (e) Car parking spaces are consistent with this development standard and have been calculated as follows: • 1-bedroom: 82 x 0.4 = 32.8 (33) • 2-bedroom: 107 x 0.5 = 53.5 (54) • 3-bedroom: 35 x 1 = 35 ○ Total required: 122 spaces ○ Total provided: 236 spaces (g) All apartments are compliant with minimum internal areas specified in the ADG. (3) Noted.
20 Design requirements (1) Development consent must not be granted to development for the purposes of dual occupancies, manor houses or multi dwelling housing (terraces) under this division unless the	The Housing SEPP requires the consent authority to consider whether the design of the proposal is compatible with the desirable elements of the character of the local area, or the desired future character of the precinct for precincts undergoing

Control	Department's consideration
consent authority has considered the Low Rise Housing Diversity Design Guide, to the extent to which the guide is not inconsistent with this policy. (2) Subsection (1) does not apply to development to which Chapter 4 applies. (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.**	transition. As outlined in Section 5, the Department has carefully considered the proposal and its local context. The Department considers the proposal compatible with the future character of Pagewood and existing residential development in the locality, having a built form and scale appropriate for the emerging mid-high density area.
21 Must be affordable housing for at least 15 years (1) Development consent must not be granted to development under this division unless the consent authority is satisfied that for a period of at least 15 years commencing on the day an occupation certificate is issued for the development— (a) the development will include the affordable housing component required for the development under section 16, 17 or 18, and (b) the affordable housing component will be managed by a registered community housing provider. This section does not apply to development carried out by or on behalf of the Aboriginal Housing Office or the Land and Housing Corporation.	Section 21 of the Housing SEPP does not apply to development carried out by Land and Housing Corporation.
Chapter 4 Design of residential apartment development	

Control	Department's consideration
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.	(a) The Department has considered the quality of the design of the proposal and evaluated the development in accordance with the design principles for residential apartment development set out in Schedule 9. Refer to Table 12 below for details. (b) The Department has considered the proposal against the ADG and has found it to be generally consistent with the relevant criteria. Refer to Table 13 below for details. (c) The proposal has been subject to two SDRPs. The Department has considered advice received from these SDRPs and found the development to adopt the recommendations of the SDRP.
148 Non-discretionary development standards for residential apartment development – the Act, s4.15 (2) The following 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, (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 (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.	The Department finds the proposal consistent with, Part 3J, Part 4C and Part 4D of the ADG. Refer to Table 13 for details.

Schedule 9 of the Housing SEPP identifies design principles for residential apartment development. The Department has evaluated the quality of the design of development in accordance with these design principles and consider the development to satisfy the requirements of Chapter 4, Section 147(1)(a) of the Housing SEPP. Refer to Table 12 below.

Table 12 | Schedule 9 design principles

Principle	Consideration
Context and neighbourhood character	The Department has considered the height, scale, and design of the development at Section 5 and concludes the proposal responds to the site and surrounding area and maintains adequate levels of amenity for existing neighbouring properties.
Built form and scale	The proposal seeks to vary the development standard for height. The proposal would notably increase the bulk and scale of buildings on this site when compared to the existing development. However, the development is compatible with the desired future character for this site in line with the BLEP which envisages medium to high density development adjacent to existing low density development. The proposal has achieved acceptable building proportions, architectural detailing, and public domain outcomes.
Density	The proposal has been assessed against the ADG (discussed further below) which demonstrates that the development achieves an acceptable level of amenity. The Applicant has also demonstrated that the increased density on this site can be appropriately managed.
Sustainability	The development is designed in accordance with ESD principles and satisfies BASIX requirements in relation to energy efficiency, water conservation, and thermal comfort.
Landscape	The proposal would provide an appropriate balance between the built form and landscaping through the provision of a landscaped communal area and significant deep soil and tree canopy area.
Amenity	The proposal is consistent with the ADG criteria for solar access, natural ventilation, visual privacy, the size of apartments, and open space. Where the criteria cannot be achieved, the Applicant has nominated appropriate alternative performance solutions to ensure amenity is maximised onsite. The proposal is considered to not result in unacceptable overshadowing, privacy, and visual impacts to adjoining properties as discussed in Section 5.2.
Safety	The proposal promotes the principles of CPTED (Table 13 below) and will ensure onsite and offsite flood risks are mitigated (refer to Section 5.3).

Principle	Consideration
Housing diversity and social interaction	The development will improve affordable housing supply and provide for a mix of apartment types and opportunities for social interaction in communal areas.
Aesthetics	The project has been the subject to the SDRP process to achieve high quality architectural and landscape design. The development is well-designed and appropriately responds to the desired future character for this site without adversely impacting the surrounding area.

Apartment Design Guide

The ADG provides guidelines for residential flat building development to ensure apartments are provided with an appropriate level of residential amenity. The Department has assessed the proposal against the ADG and considers the development generally consistent with the design standards. Refer to Table 13 below.

Table 13 | Consistency with the Apartment Design Guide

ADG Principle	Comment	Consistent
3A Site Analysis	The Applicant has prepared a detailed site analysis that demonstrates design decisions have been based on opportunities and constraints of the site conditions and their relationship to the surrounding context.	Consistent
3B Orientation	The building type and layout responds to the streetscape and site, while optimising solar access within the development and minimising overshadowing to neighbouring properties in midwinter. All buildings are orientated to align with Banks Avenue and allow for direct vehicle and pedestrian access.	Consistent
3C Public Domain Interface	The transition between private and public domain would not compromise safety and security and would enhance the public domain. Amenity of the public domain is retained and enhanced through the provision of street trees and publicly accessible open space.	Consistent

ADG Principle	Comment	Consistent
	The Department has considered the public submissions and Applicant's response and considers the proposal to be designed in accordance with the CPTED principles as follows: Natural surveillance The proposal has been designed to maximise natural surveillance by: • orientating apartments to allow for clear sightlines of public and communal spaces and providing well-lit public areas • ensuring building entrances are clear and legible • locating communal open space in areas of high activity. Natural access control The proposal has been designed to allow for natural access control by: • utilising landscaping, fencing, paving and paths to direct pedestrian and vehicle access and providing a natural barrier to areas not intended for access • clearly defining buildings, parking areas, and loading zones. Territorial reinforcement The proposal has been designed to create a sense of ownership through territorial reinforcement by: • providing clear private and public entries for residents and visitors • clearly defining boundaries of public and private areas. Maintenance and management The proposal will be maintained and managed through:	

ADG Principle	Comment	Consistent
	• regular cleaning and repairs • graffiti removal • landscaping maintenance • operational management plans.	
3D Communal and Public Open Space Site area: 9,262 m^2 25% of the site area = 2,315.5 m^2 50% to receive minimum two hours on June 21 (9am-3pm)	The proposal will provide a total of 2,081 m^2 (22.5%) of communal open space. While the proposal has a 2.5% shortfall in communal and public open space, the Department is satisfied that the proposed open space areas are of high quality and that nearby open space areas would be available for future residents, given the site's adjacency to Jellicoe Park. The proposal exceeds the ADG minimum solar access standards between 9am and 3pm during the Winter Solstice.	Inconsistent (acceptable)
3E Deep Soil Zones Minimum dimensions of 6 m 7% of site area = 648.34 m^2	1,765.7 m^2 (19%) of deep soil zones are provided with a minimum dimension of 6 m. An additional 452 m^2 (4.8%) of deep soil zones are provided with a dimension less than 6 m.	Consistent
3F Visual Privacy **Up to 12 m (4 storeys)** 6 m between habitable rooms and balconies and 3 m between non-habitable rooms **Up to 25 m (5-8 storeys)** 9 m between habitable rooms and balconies and 4.5 m between non-habitable rooms **Over 25 m (9 + storeys)** 12 m between habitable rooms and balconies and 6 m between non-habitable rooms.	The front setback to Banks Avenue is proposed at 5.5 m, consistent with the prevailing front street setback. The setback to Jellicoe Park ranges from 3.1 m to 6 m and accommodates landscaping within the setback. The setback to Park Parade (north and south) ranges from 13.3 m to 14.6 m and accommodates landscaping. A 6 m building separation is proposed between Building B and Building C. While this is inconsistent with the recommended building separation, there are no balconies within this setback, nor living areas. Additionally, the Applicant proposes translucent	Inconsistent (acceptable)

ADG Principle	Comment	Consistent
	glass / angled / offset window treatments to further increase the privacy of future residents. The Department is satisfied that the proposal achieves the visual privacy objectives of the ADG through appropriate apartment layouts and building facades.	
3G Pedestrian Access and Entries	Pedestrian access and entries to the development are accessible and easy to identify from the surrounding roads.	Consistent
3H Vehicle Access	Vehicle access is designed and located to achieve safety, minimise conflicts between pedestrians and vehicles, and create high quality streetscapes. Garbage collection, loading and servicing areas are located centrally to the site and will be screened. All vehicles will be able to enter and exit the driveway in a forward direction to minimise potential conflicts.	Consistent
3J Bicycle and Car Parking The *Guide to Transport Impact Assessment* adopts the following recommended car parking rates: • 0.7 spaces per studio/1-bedroom unit • 1 space per 2-bedroom unit • 1.6 spaces per 3-bedroom unit	The recommended car parking rate is as follows: Building A • 1-bedroom apartments: 53 x 0.7 = 37.1 (38) spaces • 2-bedroom apartments: 27 x 1 = 27 spaces • 3-bedroom apartments: 4 x 1.6 = 6.4 (7) spaces Building A total required: 72 spaces Building B • 1-bedroom apartments: 20 x 0.7 = 14 spaces • 2-bedroom apartments: 27 x 1 = 27 spaces • 3-bedroom apartments: 14 x 1.6 = 22.4 (23) spaces Building B total required: 64 spaces Building C	Consistent

ADG Principle	Comment	Consistent
	• 1-bedroom apartments: 9 x 0.7 = 6.3 (7) spaces • 2-bedroom apartments: 53 x 1 = 53 spaces • 3-bedroom apartments: 17 x 1.6 = 27.2 (28) spaces Building C total required: 88 spaces Total required: 224 spaces The proposal would provide 236 car parking spaces comprising 200 private Market spaces and 36 Social housing spaces. This exceeds the minimum by 12 spaces, and these additional spaces are allocated to the private market housing building. The proposal is consistent with the non-discretionary standards for car parking under section 19 of the Housing SEPP. The proposal is compliant with this development standard and therefore no further car parking assessment is required for this matter. Refer to Table 8 for details.	
4A Solar and Daylight Access Minimum of 2 hours direct sunlight to at least 70% of units (living rooms and private open space) in mid-winter. A maximum of 15% of units receive no direct sunlight.	67.4% of all apartments (151 of 224) receive a minimum of two hours of solar access in mid-winter. Building A 59 of the 84 (70.2%) affordable apartments receive a minimum of 2 hours of sunlight to the living rooms and private open space in mid-winter. Building B 42 of 73 (57.5%) apartments receive a minimum of two hours of solar access in mid-winter. Building C 50 of 67 (74.6%) apartments receive a minimum of two hours of solar access in mid-winter. All apartments receive 1 hour 45 minutes of direct sunlight in mid-winter. There is a marginal 2.6% inconsistency with the ADG, across the whole development which is considered to not significantly affect residential amenity. The shortfall arises from	Inconsistent (acceptable)

ADG Principle	Comment	Consistent
	the site's orientation and urban context rather than from the design response. The Department is satisfied the development maximises direct solar access through building layout and apartment design.	
4B Natural Ventilation At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building.	The development uses a mix of single aspect and multi-aspect apartments with appropriate depth and window augmentation. The development has ensured natural ventilation is shared across all buildings as follows: Social housing: • 51 units cross ventilated (61%) • 33 units with single aspect (39%) Market housing • 119 units cross ventilated (85%) • 21 units with single aspect (15%) 170 of the 224 units (76%) achieve natural cross ventilation in accordance with the ADG.	Consistent
4C Ceiling Heights	3.2 m floor to floor heights are proposed with ceiling heights generally consistent with the ADG.	Consistent
4D Apartment Size and Layout Studio – 35 m^2 One bedroom – 50 m^2 Two bedrooms – 75 m^2* Three bedroom – 95 m^2* *(Including second bathroom in two- and three-bedroom units)	All units achieve or exceed the minimum internal area. Apartments satisfy the design criteria for windows, room depths, bedroom size and living room widths. All habitable rooms have a window in an external wall with an appropriate glazed area. All habitable room depths are less than 2.5 x ceiling height. All apartments have open plan rooms with depths equal to or less than 8 m from a window with kitchens at 8m or less.	Consistent

ADG Principle	Comment	Consistent
	All main bedrooms are equal to or greater than 10 m^2 and secondary bedrooms are equal to or greater than 9 m^2. All bedrooms exceed the 3 m dimension requirement All living rooms exceed the minimum width requirements. All cross through apartments are at least 4 m wide. All habitable room depth/width recommendations are satisfied. Apartments satisfy the design criteria for windows, room depths, bedroom size and living room widths.	
4E Private Open Space and Balconies Studio - 4m^2 / no min. depth One bedroom - 8m^2 / 2m Two bedroom - 10m^2 / 2m Three bedroom - 12m^2 / 2.4m Ground Floor – 15m^2 /3m	Seven ground floor units are raised to achieve flood planning requirements and instead have balconies that are under the minimum 15 m^2, but consistent with the recommended minimum balcony sizes. The private open space is appropriately located to enhance liveability for residents, adjacent living areas, oriented appropriately, with longer face presenting outwards. All apartments meet or exceed the minimum private open space and balcony area and dimension criteria.	Consistent
4F Common Circulation and Spaces The maximum number of apartments off a circulation core on a single level is eight For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40	The market housing buildings have four lift cores and the social housing building, two lift cores. This ensures no more than seven apartments are accessed from a single circulation core, and that less than 39 apartments share a single lift in the social housing building, and less than 36 apartments in the market housing building.	Consistent
4G Storage Studio – 4 m^3.	Internal storage generally meets the recommended minimum volume. All storage is located within the proposed units.	Consistent

ADG Principle	Comment	Consistent
One bedroom – 6 m^3. Two bedroom – 8 m^3. Three bedroom – 10 m^3. At least 50% of the required storage is to be located within the apartment.		
4H Acoustic Privacy and 4J Noise and Pollution	The development minimises the transfer of noise through layout and acoustic treatments. In accordance with the recommendations of the acoustic report, apartments will be appropriately insulated to ensure compliance from external noise sources.	Consistent
4K Apartment Mix	The development includes the following apartment mix: Building A (social housing) • 1-bedroom: 53 apartments • 2-bedroom: 27 apartments • 3-bedroom: 4 apartments Building B (market housing) • 1-bedroom: 20 apartments • 2-bedroom: 27 apartments • 3-bedroom: 14 apartments Building C (market housing) • 1-bedroom: 9 apartments • 2-bedroom: 53 apartments • 3-bedroom: 17 apartments The development provides a range of apartment types and sizes to cater for different household types. Apartment types have been distributed to suitable locations across all buildings.	Consistent

ADG Principle	Comment	Consistent
	Ground floor apartments are generally larger at ground level and provide greater private open space.	
4M Facades	The proposed facade offers a positive contribution to the character of the development and streetscape.	Consistent
4N Roof Design	Rooftop services are integrated into the building design.	Consistent
4O Landscape Design and 4P Planting on Structures	A detailed landscape plan has been provided for the podium areas and public domain. The landscape design contributes to the streetscape.	Consistent
4Q Universal Design 20% silver-level liveable. Reference to Council's DCP for recommended provision of adaptable apartments.	20 of the 84 (24%) affordable housing apartments would incorporate the DDA/liveable requirements. 35 of the 140 (25%) market housing apartments would incorporate the DDA/liveable requirements. Conditions of consent are recommended to ensure consistency with the Liveable Housing Guidelines' levels.	Consistent
4T Awnings and Signage	All awnings are integrated with the building design.	Consistent
4U Energy Efficiency	The development incorporates passive environmental design including using appropriate materials.	Consistent
4V Water Management and Conservation	Water efficient fittings and appliances will be installed. On site water treatment is provided through the provision for a water treatment device, as part of the proposed design.	Consistent
4W Waste Management	Adequate bin storage and waste collection is provided and designed to minimise impacts on the streetscape, per recommended condition of consent.	Consistent
4X Building Maintenance	The materials are appropriately selected to minimise long term maintenance obligations.	Consistent

State Environmental Planning Policy (Sustainable Buildings) 2022

The *State Environmental Planning Policy (Sustainable Buildings) 2022* (Sustainable Buildings SEPP) aims to encourage the design and construction of more sustainable buildings across NSW. Chapter 2 of the Sustainable Buildings SEPP requires all new residential dwellings to meet the Building Sustainability Index (BASIX) standards.

The Applicant has provided a BASIX certificate confirming the proposal will be energy efficient, water efficient and provide adequate thermal comfort in accordance with the BASIX standards. Conditions of consent are recommended to ensure the proposal remains compliant with the BASIX certificate.

State Environmental Planning Policy (Biodiversity and Conservation) 2021

The *State Environmental Planning Policy (Biodiversity and Conservation) 2021* (Biodiversity and Conservation SEPP) aims to protect the biodiversity value of vegetation in nonrural areas and to protect the water quality and quantity of water catchments.

The Department accepts the findings of the Applicant's BDAR waiver request which described the site as highly disturbed with little vegetation and with limited potential to provide breeding habitat for threatened species. Additionally, the proposed vegetation clearing is considered to not exceed the biodiversity offset scheme threshold. A BDAR waiver was subsequently issued on 27 November 2025.

Chapter 2 of the of the Biodiversity and Conservation SEPP states that a person must not clear vegetation in a non-rural area of the State without the authority conferred by a permit granted by Council. Council has provided recommended conditions of consent for tree removal .

State Environmental Planning Policy (Transport and Infrastructure) 2021

The *State Environmental Planning Policy (Transport and Infrastructure) 2021* (Transport and Infrastructure SEPP) aims to facilitate the effective delivery of infrastructure across the State by improving regulatory certainty and efficiency, identifying matters to be considered in the assessment of development adjacent to types of infrastructure development, and providing for consultation with Government agencies about certain development during the assessment process.

Section 2.48 of the Transport and Infrastructure requires the consent authority to notify the relevant utility authority about the proposal. The Department has consulted with Ausgrid, and their response is summarised at **Section 4.**

Sections 2.122 of the Transport and Infrastructure SEPP requires written notice to be provided to Transport for NSW prior to granting consent for a development classified as traffic-generating

development. The Department consulted with Transport for NSW, with their response summarised at Section 4.

State Environmental Planning Policy (Resilience and Hazards) 2021

The *State Environmental Planning Policy (Resilience and Hazards) 2021* (Resilience and Hazards SEPP) aims to ensure that potential contamination issues are considered in the determination of a development application. The Resilience and Hazards SEPP requires the consent authority to consider whether the land is contaminated, and if so, whether the land is suitable for the purpose of the development.

Section 4.6 of the Resilience and Hazards SEPP requires a consent authority to not grant consent for a development unless it has considered whether the land is contaminated, and if the land is contaminated that it is satisfied that it is suitable in its contaminated state or that it will be suitable after remediation, for the purpose for which the development is proposed to be carried out. Further, the consent authority must consider 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.

The proposal includes a Detailed Site Investigation (DSI) which investigated the contamination in soil and groundwater at the site. The DSI found that whilst there are no health risks to current site users, there is a potential risk to future site users by contaminated soils and fill that requires remediation.

A Remediation Action Plan (RAP) has been prepared, recommending remediation of contaminated materials. The RAP advises that subject to the remediation recommendations, the land can be made suitable for the development.

The Department has assessed the proposal and considers that the site can be made suitable for development, subject to recommended conditions of consent, including conducting a Hazardous Buildings Material prior to demolition of any buildings.

Bayside Local Environmental Plan 2021

The Department has consulted with Council throughout the assessment process and has considered all relevant provisions of BLEP 2021 and those matters raised by Council in its assessment of the proposal. The Department concludes that the development is consistent with the relevant provisions of BLEP 2021. Consideration of the relevant clauses of BLEP 2021 is provided in Table 14.

Table 14 | Consistency with the BLEP 2021

LEP Clause/Requirement	Assessment/Comment	Complies
PART 1 - PRELIMINARY		
1.1 Aims of the Plan	The proposal is consistent with the aims of the plan	Yes
1.8A Savings provisions	The BLEP 2021 is the applicable local environmental plan	Not applicable
PART 2 – PERMITTED OR PROHIBITED DEVELOPMENT		
Zoning	The site is zoned R3 Medium Density Residential. Residential flat buildings are permitted with consent as an additional permitted use in certain areas zoned R3 Medium Density Residential. The site is within Area 35 which permits residential flat buildings with consent pursuant to schedule 1, section 35 of the BLEP 2021.	Yes
2.6 Subdivision – consent requirements	No subdivision is proposed.	Not applicable
2.7 Demolition	The proposal seeks development consent for demolition.	Yes
PART 4 – PRINCIPAL DEVELOPMENT STANDARDS		
4.1 Minimum subdivision lot size	No subdivision is proposed.	Not applicable
4.3 Height of Buildings	The site is mapped as having a maximum height of buildings of 22 m. The proposal benefits from an additional 30% building height bonus pursuant to section 18 of the Housing SEPP, permitting a maximum building height of 28.6 m at the site. The development proposes a maximum building height of 25.5 to 29.4 m.	Non-compliant (acceptable subject to clause 4.6 variation)
4.4 Floor Space Ratio	The site is mapped as having a maximum FSR of 1.65:1. The proposal benefits from an additional 0.5:1 floor space permitting an FSR of 2.15:1. The proposal has a GFA of 20,201.1 m^2 which results in an FSR of 2.18:1.	Non-compliant (acceptable subject to clause 4.6 variation)

LEP Clause/Requirement	Assessment/Comment	Complies
4.5 Calculation of floor space ratio and site area	The FSR and site area have been calculated in accordance with this clause.	Yes
4.6 Exception to development standards	The proposal seeks to vary the maximum height of buildings and floor space ratio development standards. The Applicant has submitted written requests to justify the variations. The Department considers the Applicant has demonstrated that compliance with the development standards is unreasonable and unnecessary, and there are sufficient environmental planning grounds to justify the contravention of the development standards. Refer to **Appendix D** for details.	Yes
PART 5 – MISCELLANEOUS PROVISIONS		
5.10 Heritage Conservation	The site adjoins local heritage item Jellicoe Park (I338). Council has reviewed the proposal and provided recommendations for the tree removal and planting within Jellicoe Park. The proposal does not involve any other demolishing, moving, or altering any heritage item or Aboriginal object. The proposal does not involve the erection of a building or subdivision on land to which a heritage item or Aboriginal object or place is located. An unexpected finds protocol has been conditioned.	Yes
5.21 Flood Planning	The Applicant provided a Flood Assessment Report which adequately addressing flooding of the site. The Department considers the proposal: • compatible with the flood function and behaviour of the land as habitable levels and building and basement entrances are located above the flood planning level • will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties as impacts are generally limited to the through-site link, with flood hazards	Yes

LEP Clause/Requirement	Assessment/Comment	Complies
	generally remaining within the H1 category (generally safe for people, vehicles and buildings) across the site and adjoining properties during the 1% AEP flood event • off-site flood impacts are limited to areas adjoining Jellicoe Park, where increases in flood depth are generally localised and associated with flow accumulation around the edges of the proposed building. Flood depth increases are typically between 10 mm and 50 mm, with isolated increases of up to 200 mm occurring within existing depressions in the park. These increases are considered acceptable in the circumstance given the small area of affectation on the edge of the park and that the proposal would not result in any increase in flood hazard classification, which remains within the H1 category • proposes a shelter in place emergency response which would not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood • incorporates appropriate measures to manage risk to life in the event of a flood including shelter in place • will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses The Department has carefully considered and is satisfied that: • the impact of the development on projected changes to flood behaviour as a result of	

LEP Clause/Requirement	Assessment/Comment	Complies
	climate change have been addressed by the Applicant's Flood Impact Risk Assessment • the design and scale of buildings resulting from the development are appropriate and respond to the flooding constraints of the site • the development incorporates measures to minimise the risk to life by locating habitable levels and building and basement entrances above the flood planning level and proposes shelter in place to provide refuge to people in the event of a flood • the design is appropriate on the site and would not require the modification, relocation or removal of buildings if the surrounding area is impacted by flooding or coastal erosion. The Department considers the requirements of this clause to be addressed. Refer to the Department's assessment at Section 5.3.	
PART 6 – ADDITIONAL LOCAL PROVISIONS		
6.2 Earthworks	The Department considers that the proposed earthworks are unlikely to have a detrimental impact on drainage and will not negatively affect the future use of the land, or the amenity of neighbouring properties. The quality of fill and excavated material, as well as measures to avoid, minimise, or mitigate the impacts of the development, have also been considered. Conditions are recommended to ensure alignment with these considerations.	Yes
6.3 Stormwater management and water sensitive urban design	The Department considers that the proposal complies with the requirements of the BLEP 2021, ensuring the use of water-permeable surfaces, on-site stormwater retention where practicable, and measures to mitigate runoff impacts. Conditions are recommended to ensure alignment with these considerations.	Yes

LEP Clause/Requirement	Assessment/Comment	Complies
6.11 Essential services	The Department is satisfied that essential services such as water, electricity and waste are available for the proposal and will be appropriately connected subject to recommended conditions of consent.	Yes
SCHEDULE 1 – ADDITIONAL PERMITTED USES		
35 Use of certain land in R3 Medium Density Residential zone for residential flat buildings	The site is land identified as "35" pursuant to the *Additional Permitted Uses Map.* Residential flat buildings are permitted with consent on land identified as "35".	Yes

Appendix D – Consideration of Clause 4.6 Variation Requests

Clause 4.6(2) of the BLEP 2021 permits the consent authority to consider varying a development standard imposed by an EPI. The aim of clause 4.6 is to provide an appropriate degree of flexibility in applying development standards, to achieve better development outcomes. Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the Applicant has demonstrated that:

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

In accordance with section 35B of the EP&A Regulation, the Applicant has prepared a written request to vary the height of buildings and FSR development standards as they apply to the site (see **Appendix A**).

The Department's consideration of the Applicant's request is provided below with reference to the *Guide to Varying Development Standards November 2023* and other relevant tests.

Height of buildings

Nature of the variation

The mapped maximum height of buildings control for the proposal is 22 m in accordance with Clause 4.3 (2B) (See **Figure 15** below). The proposal benefits from an additional 30% building height bonus (6.6 m) pursuant to section 18 of the Housing SEPP, permitting a maximum building height of 28.6 m at the site.

The Applicant is seeking to vary the maximum building height by 0.1 to 0.8 m (0.35% to 2.8%) as shown in **Figure 14** and **Table 15** below for details.

Table 15 | Building height variation

Building	Height limit (LEP + Housing SEPP)	Proposed height	Variation	Building component
A	28.6 m	28.6 m	Nil	Nil
B	28.6 m	29.4 m	0.71 m - 0.8 m (2.5-2.8%)	Lift overrun

Building	Height limit (LEP + Housing SEPP)	Proposed height	Variation	Building component
C	28.6 m	29.2 m	0.1 m - 0.6 m (0.35% - 2.1%)	Lift overrun

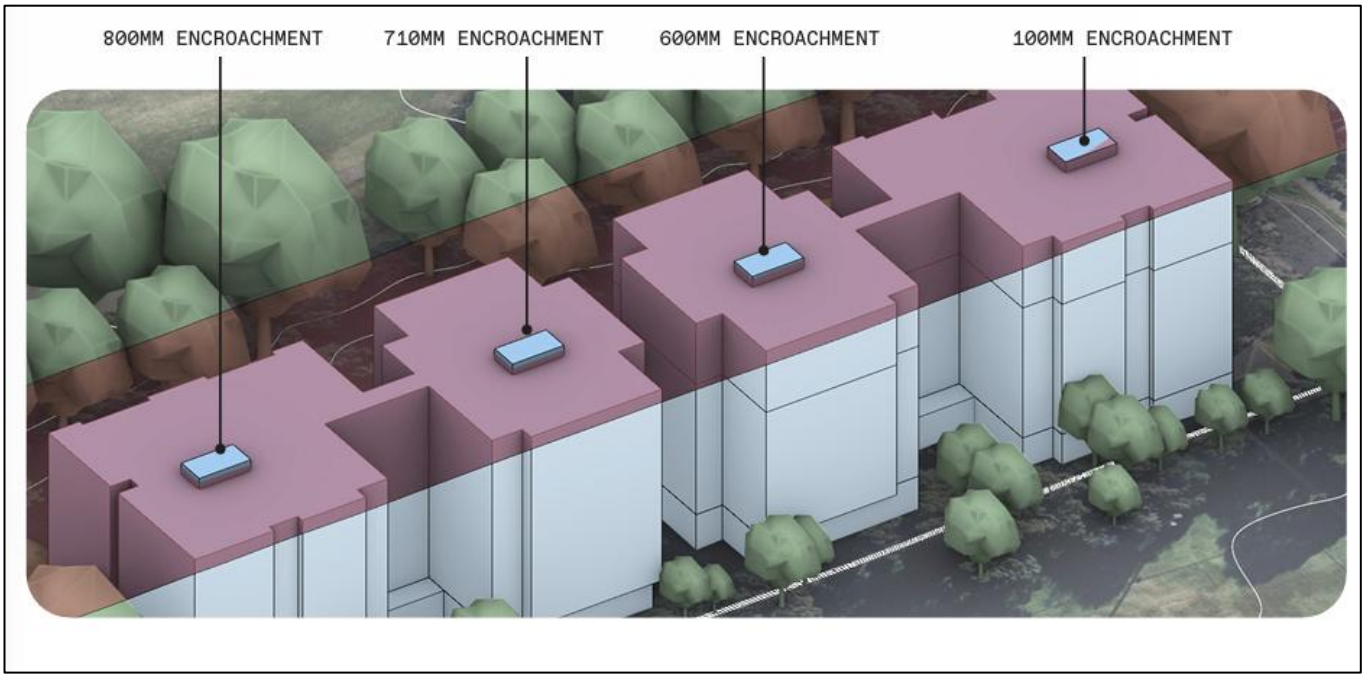


Figure 14 | Height plane breach at Building B and Building C (Source: BVN, 2026)



Figure 15 | Height of buildings map (Source: NSW Government, 2026)

Unreasonable or unnecessary

The Applicant demonstrates that compliance with the development standard is unreasonable and unnecessary in the circumstances of this case, having regard to the Department's *Guide to Varying Development Standards November 2023* and the five methods outlined in *Wehbe v Pittwater Council [2007] NSWLEC 827*. The first test establishes that compliance with the development standard would be unreasonable or unnecessary where a development achieves the objectives of the standard.

The objectives of clause 4.3 of the BLEP 2021 are as follows:

(a) to ensure that building height is consistent with the desired future character of an area,

(b) to minimise visual impact of new development, disruption of views, loss of privacy and loss of solar access to existing development,

(c) to nominate heights that will provide an appropriate transition in built form and land use intensity.

Section 15A of the Housing SEPP states that the objective of the division is to facilitate the delivery of new in-fill affordable housing to meet the needs of very low, low, and moderate income households.

One of the five methods established by *Wehbe v Pittwater Council [2007] NSWLEC 827* need only be satisfied to demonstrate that compliance with the development standard is unreasonable or unnecessary.

The Department has assessed the Applicant's written request and considers compliance with the development standard as unreasonable and unnecessary in the circumstances as the proposal meets the objectives of clause 4.3 of the BLEP as follows:

- the proposal is generally consistent with the height control, with the exceedance limited to the lift overruns which would not result in any perceived additional impacts
- the height exceedance is, in part, driven by the need to raise the ground floor level to accommodate the flood planning level ensuring safety of future residents
- the proposal provides appropriate setbacks, communal open space, landscaping and tree planting and adjoins Jellicoe Park
- the proposal does not result in view loss and minimises overshadowing and privacy impacts to the surrounding properties (see **Section 5.1.3** and **Appendix C** for details).

Sufficient environmental planning grounds to justify the contravention

The Applicant's written request justifies contravention of the development standard on the following environmental planning grounds:

- the additional overshadowing due to the height exceedance would be almost inconceivable
- the proposal has no significant visual impact detrimental to the locality
- the height exceedance does not result in any additional storeys than that which would be achievable with the existing height controls

The Department considers the Applicant has adequately demonstrated there are environmental planning grounds to justify the contravention to the development standard, and the proposal will result in supportable planning outcomes.

Floor Space ratio

The mapped maximum FSR control for the proposal is 1.65:1 m in accordance with Clause 4.4 (2H) (See **Figure 16** below). The proposal benefits from an additional 0.5:1 building height bonus pursuant to section 17 of the Housing SEPP, permitting a maximum FSR of 2.15:1 m at the site.

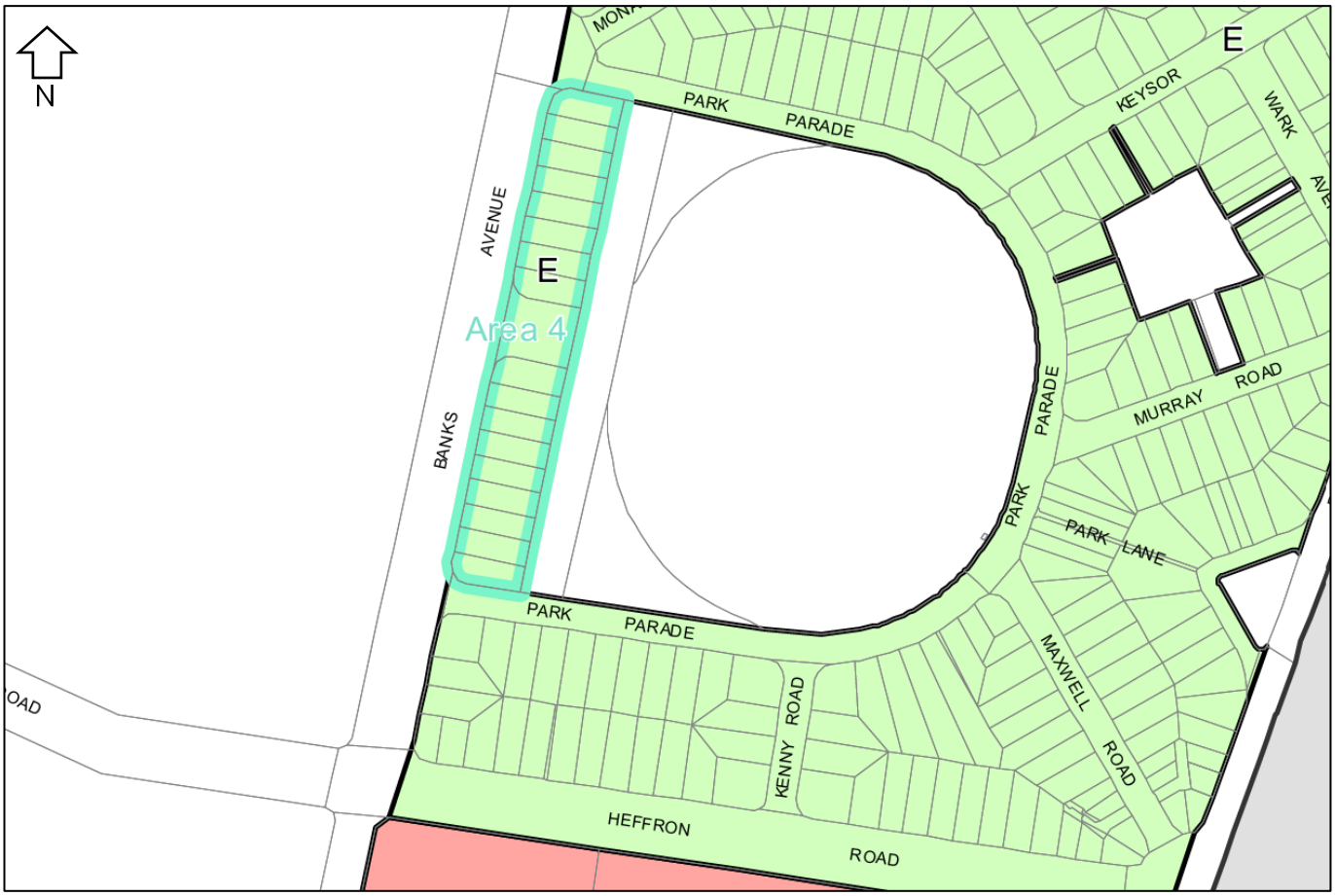


Figure 16 | FSR map (Source: NSW Government, 2026)

The Applicant proposes an FSR of 2.18:1 and GFA of 20,201.1 m^2 resulting in a variation of 288.1 m^2 (1.4%).

The Applicant demonstrates that compliance with the development standard is unreasonable and unnecessary in the circumstances of this case, having regard to the Department's *Guide to Varying Development Standards November 2023* and the five methods outlined in *Wehbe v Pittwater Council [2007] NSWLEC 827*. The first test establishes that compliance with the development standard would be unreasonable or unnecessary where a development achieves the objectives of the standard.

The objectives of clause 4.4 of the BLEP 2021 are as follows:

(a) to establish standards for the maximum development density and intensity of land use,

(b) to ensure buildings are compatible with the bulk and scale of the existing and desired future character of the locality,

(c) to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain,

(d) to maintain an appropriate visual relationship between new development and the existing character of areas or locations that are not undergoing or likely to undergo a substantial transformation,

(e) to ensure buildings do not adversely affect the streetscape, skyline or landscape when viewed from adjoining roads and other public places such as parks and community facilities.

Section 15A of the Housing SEPP states that the objective of the division is to facilitate the delivery of new in-fill affordable housing to meet the needs of very low, low, and moderate income households.

One of the five methods established by *Wehbe v Pittwater Council [2007] NSWLEC 827* need only be satisfied to demonstrate that compliance with the development standard is unreasonable or unnecessary.

The Department has assessed the Applicant's written request and considers compliance with the development standard as unreasonable and unnecessary in the circumstances as the proposal meets the objectives of clause 4.4 of the BLEP as follows:

- the proposed bulk and scale is reflective of a compliant scheme, maintaining an appropriate visual relationship with the locality
- the proposal has acceptable setbacks and central open space which maximises tree retention, tree planting and landscape opportunities to enhance the public domain
- the proposal minimises visual, overshadowing and privacy impacts
- the streetscape is protected and visual integrity of Jellicoe Park is retained

Sufficient environmental planning grounds to justify the contravention

The Applicant's written request justifies contravention of the development standard on the following environmental planning grounds:

- revising the proposal to be compliant would result in a reduction of 288.1 m^2 (approximately 3-4 dwellings), while not altering the perceived bulk or scale already proposed
- the proposal has no significant visual impact or overshadowing detrimental to the locality.

The Department considers the Applicant has adequately demonstrated there are environmental planning grounds to justify the contravention to the development standard, and the proposal will result in supportable planning outcomes.

Appendix E – Recommended instrument of consent

https://www.planningportal.nsw.gov.au/major-projects/projects/banks-avenue-pagewood-affordable-housing