

STRATHFIELD COUNCIL

STRATHFIELD LOCAL PLANNING PANEL MEETING AGENDA

Strathfield Municipal Council

Notice is hereby given that a Strathfield Local Planning Panel Meeting will be held at Town Hall (Supper Room), 65 Homebush Road, Strathfield on:

Thursday 10 October 2024

Commencing at 4pm for the purpose of considering items included on the Agenda

Persons in the gallery are advised that the proceedings of the meeting are being recorded for the purpose of ensuring the accuracy of the Minutes. However, under the Local Government Act 1993, no other tape recording is permitted without the authority of the Council or Committee. Tape recording includes a video camera and any electronic device capable of recording speech.



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TO: Strathfield Local Planning Panel Meeting - 10 October 2024
REPORT: SLPP – Report No. 6
SUBJECT: DA2024.59 - 13-14 THE CRESCENT, STRATHFIELD - LOT A AND B DP16209
DA NO. DA2024.59

SUMMARY

Proposal:	Demolition of existing structures onsite and construction of a six-storey co-living housing development comprising of 93 rooms and basement parking for 19 cars.
Applicant:	The Trustee for J.J. Discretionary Trust
Owner:	J.J. Holdings (NSW) Pty Ltd.
Date of lodgement:	30 May 2024
Notification period:	14 June 2024 – 6 July 2024
Submissions received:	Fifteen (15) objecting One (1) supporting
Assessment officer:	A Chikkerur
Estimated cost of works:	\$13,108,780.00
Zoning:	R3 – Medium Density Residential - SLEP 2012
Heritage:	N/A
Flood affected:	No
Is a Clause 4.6 variation proposed?	Yes – Building Height, FSR and Landscaping Clause 4.3 - Building = 30% under SLEP 2012 Clause 68 FSR = 17.6% under SEPP (Housing)
Extent of the variation supported?	Nil
Local Planning Panel Criteria	Development Standard Variation >10% and Number of Unique Submissions
RECOMMENDATION OF OFFICER:	Refusal

EXECUTIVE SUMMARY

Proposal

Development consent is being sought for the demolition of existing structures and construction of a six (6) storey co-living housing development comprising of 93 double rooms and basement parking for 19 car spaces.

On the 8th August 2024, the Applicant commenced Class 1 Land and Environment Court proceedings against the Council's deemed refusal of the development application.

This report is to provide formal determination of the application.

Site and Locality

The site is identified as 13-14 The Crescent, Homebush and has a legal description of Lot A and Lot B DP 16209. The site is irregular in shape and has a combined frontage of 28.1m, an eastern boundary of 43.295m, a rear boundary of 27.665m and a western boundary of 48.215m. Lot A has a site area of 649.9sqm and Lot B has a site area of 615.8sqm. In total, the combined site area for Lot A and Lot B is 1,265.7sqm. There is a gentle slope that runs from the rear to the front of approximately 2.2m.

To the east is a three-storey residential flat building and to the west is a single storey commercial building containing a car mechanic and printing business. To the rear of the site along Burlington Road are two residential flat buildings consisting of 2-3 storeys in height.

Environmental Planning Instruments

State Environmental Planning Policy (Housing) 2021

The proposed co-living has been assessed under SEPP (Housing) and fails to comply with several standards under Chapter 2 – Part 3 – Retention of existing affordable rental and Chapter 3 – Part 3 – Co-living House.

State Environmental Planning Policy (Biodiversity and Conservation) 2021

The proposed development has been assessed under SEPP (Biodiversity and Conservation) 2021 and fails to comply with the aims under Chapter 2 – Vegetation in non-rural areas.

State Environmental Planning Policy (Resilience and Hazards) 2021

The proposed development has been assessed under SEPP (Resilience and Hazards) 2021 and fails to comply with Clause 4.6 under Chapter 4 – Remediation of land.

Strathfield Local Environmental Plan (SLEP) 2012

The site is zoned R3-Medium Density Residential under the provisions of SLEP 2012, and the proposal is a permissible by virtue of SEPP (Housing). The proposal fails to comply with Clause 4.3 Building Height and Clause 4.4 Floor Space Ratio, being a principal development standard. A Clause 4.6 justification statement has been submitted for the variation and is discussed in detail in the report.

Strathfield Consolidated Development Control Plan (SCDCP) 2005

The proposed development is non-compliant with a number of the provisions within SCDCP 2005. This is discussed in more detail in the body of the report.

Notification

The application was notified in accordance with Council's Community Participation Plan (CPP) from 14 June to 6 July 2024 where fifteen (15) submissions were received raising the following concerns.

- Traffic:
 - Insufficient on-site parking for 186 residents.
 - Lack of existing street parking.
 - Will create traffic congestion.
- Bulk and Scale
 - Overshadowing impacts
 - Inadequate justifications for the non-compliances with the SLEP 2012 Building Height and FSR development standard.

- Visual bulk and not providing sufficient transition from MUI Zone to R3 Medium Density zone where the nearby buildings are typically 3-5 storeys.
- Overdevelopment
- Noise Pollution
- Affordable Housing
 - Concerns of short-term rental housing which does not address the current housing crisis.
 - Concerns the proposed rooms will not be affordable and won't assist in the rental housing crisis.
- Increased Waste Generation
- Inconsistent plans with the Statement of Environmental Effects
- Streetscape and Character
 - Inconsistent with the character of the community
 - Unacceptable amenity impacts to adjoining properties
 - No community consultation was held for such a proposal
 - Maintenance of the proposed ground floor water feature. Concerns of potential contamination from stormwater.
 - Visual and Acoustic privacy impacts
 - With a transient population using this kind of development there are potential safety risks.
 - Excavation work for the basement will impact on the structural integrity of the adjoining properties.

Issues

- Overdevelopment of the site.
- Unjustified breach to the Height principal development standard
- Unjustified breach to the Floor Space Ratio principal development standard
- Non-compliant setbacks and landscape area provisions
- Visual Privacy impacts and
- Insufficient information submitted to address relevant State Environmental Planning Policies and various LEP and DCP requirements.

Conclusion

Having regards to the heads of consideration under Section 4.15 of the Environmental Planning & Assessment (EP&A) Act 1979, Development Application (DA) 2024/59 is recommended for refusal subject to attached reason of refusal.

RECOMMENDATION

In consideration of the written request made by the applicant pursuant to Clause 4.6 of the Strathfield Local Environmental Plan 2012, the consent authority is not satisfied that the non-compliance with the development standard contained in Clause 4.3 – Height and Clause 4.4 Floor Space Ratio of the SLEP 2012 is well founded and that there are sufficient environmental planning grounds to justify contravening the development standard.

That Development Application No. DA2024.59 for demolition of existing structures and construction of a six (6) storey co-living housing development comprising of 93 double rooms and basement parking at 13 and 14

The Crescent, Homebush be **REFUSED** for the reasons outlined in the attached development assessment report.

ATTACHMENTS

1. DA2024.59 - 13 The Crescent HOMEBUSH, 14 The Crescent HOMEBUSH - Standard SLPP Reprt Template



SLPP REPORT

Property:	13 The Crescent HOMEBUSH, 14 The Crescent HOMEBUSH DA 2024/59
Proposal:	Demolition of existing structures and construction of a six (6) storey co-living housing development comprising of 93 double rooms and basement parking.
Applicant:	The Trustee for J.J. DISCRETIONARY TRUST
Owner:	J.J. Holdings (NSW) Pty Ltd.
Date of lodgement:	30 May 2024
Notification period:	14 June 2024 – 06 July 2024
Submissions received:	Fifteen (15) objecting to the proposal and One (1) supporting the proposal
Assessment officer:	A Chi2kkerur
Estimated cost of works:	\$13,108,780.00
Zoning:	R3-Medium Density Residential - SLEP 2012
Heritage:	N/A
Flood affected:	No
Is a Clause 4.6 Variation Proposed:	Yes – Clause 4.3 – Building Height (30%) under SLEP 2012 and Clause 68 (2, a) – Floor Space Ratio under SEPP (Housing)
Local Planning Panel Criteria	Development Standard Variation >10% and Number of Unique Submissions
RECOMMENDATION OF OFFICER:	Refusal



Figure 1: Aerial view of the subject site (outlined in yellow).

EXECUTIVE SUMMARY

Proposal

Development consent is being sought for the demolition of existing structures and construction of a six (6) storey co-living housing development comprising of 93 double rooms and basement parking for 19 car spaces.

On the 8th of August 2024, the Applicant commenced Class 1 Land and Environment Court proceedings against the Council's deemed refusal of the development application.

This report is to provide formal determination of the application.

Site and Locality

The site is identified as 13-14 The Crescent, Homebush and has a legal description of Lot A and Lot B DP 16209. The site is irregular in shape and has a combined frontage of 28.1m, an eastern boundary of 43.295m, a rear boundary of 27.665m and a western boundary of 48.215m. Lot A has a site area of 649.9sqm and Lot B has a site area of 615.8sqm. In total, the combined site area for Lot A and Lot B is 1,265.7sqm. There is a gentle slope that runs from the rear to the front of approximately 2.2m.

To the east is a three-storey residential flat building and to the west is a single storey commercial building containing a car mechanic and printing business. To the rear of the site along Burlington Road are two residential flat buildings consisting of 2-3 storeys in height.



Environmental Planning Instruments

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The proposed co-living has been assessed under SEPP (Housing) and fails to comply with several standards under Chapter 2 – Part 3 – Retention of existing affordable rental and Chapter 3 – Part 3 – Co-living House.

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The proposed development has been assessed under SEPP (Biodiversity and Conservation) 2021 and fails to comply with the aims under Chapter 2 – Vegetation in non-rural areas.

State Environmental Planning Policy (Resilience and Hazards) 2021

The proposed development has been assessed under SEPP (Resilience and Hazards) 2021 and fails to comply with Clause 4.6 under Chapter 4 – Remediation of land.

Strathfield Local Environmental Plan (SLEP) 2012

The site is zoned R3-Medium Density Residential under the provisions of SLEP 2012, and the proposal is a permissible by virtue of SEPP (Housing). The proposal fails to comply with Clause 4.3 Building Height and Clause 4.4 Floor Space Ratio, being a principal development standard. A Clause 4.6 justification statement has been submitted for the variation and is discussed in detail in the report.

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The proposed development is non-compliant with a number of the provisions within SCDCP 2005. This is discussed in more detail in the body of the report.

Notification

The application was notified in accordance with Council's Community Participation Plan (CPP) from 14 June to 6 July 2024 where fifteen (15) submissions were received objecting to the proposal and raising the following concerns:

- Traffic:
 - Insufficient on-site parking for 186 residents.
 - Lack of existing street parking.
 - Will create traffic congestion.
- Bulk and Scale
 - Overshadowing impacts
 - Inadequate justifications for the non-compliances with the SLEP 2012 Building Height and FSR development standard.
 - Visual bulk and not providing sufficient transition from MU1 Zone to R3 Medium Density zone where the nearby buildings are typically 3-5 storeys.
 - Overdevelopment
- Noise Pollution
- Affordable Housing
 - Concerns of short-term rental housing which does not address the current housing crisis.
 - Concerns the proposed rooms will not be affordable and won't assist in the rental housing crisis.



- Increased Waste Generation
- Inconsistent plans with the Statement of Environmental Effects
- Streetscape and Character
 - Inconsistent with the character of the community
 - Unacceptable amenity impacts to adjoining properties
 - No community consultation was held for such a proposal
 - Maintenance of the proposed ground floor water feature. Concerns of potential contamination from stormwater.
 - Visual and Acoustic privacy impacts
 - With a transient population using this kind of development there are potential safety risks.
 - Excavation work for the basement will impact on the structural integrity of the adjoining properties.

Issues

- Overdevelopment of the site.
- Unjustified breach to the Height principal development standard
- Unjustified breach to the Floor Space Ratio principal development standard
- Non-compliant setbacks and landscape area provisions
- Visual Privacy impacts and
- Insufficient information submitted to address relevant State Environmental Planning Policies and various LEP and DCP requirements.

Conclusion

Having regards to the heads of consideration under Section 4.15 of the Environmental Planning & Assessment (EP&A) Act 1979, Development Application (DA) 2024/59 is recommended for refusal subject to attached reason of refusal.



REPORT IN FULL

Proposal

Council has received an application for the demolition of existing structures and construction of a six (6) storey co-living housing development comprising of 93 double rooms and basement parking. Specifically, the proposal includes:

a) Demolition:

- i. Two residential flat buildings (one on 13 The Crescent and the other on 14 The Crescent).
- ii. Garages and carports.

b) Tree Removal:

- i. Removal of 1 x street tree and 3 x on-site trees for new vehicular access.

c) Construction of a six storey co-living housing development comprising:

i. Basement Level

- Car parking for 19 spaces including 2 accessible spaces.
- Bicycle parking for 14 bicycles.
- Motorcycle parking for 3 motorcycles.
- Fire pump room
- Bulky waste room.
- Bin room.

ii. Ground Level:

- Entry Courtyard.
- Water feature with above atrium
- Common room with kitchen, workspace, dining and lounge area
- Accessible bathroom
- Cleaners room
- Communications room
- Plant rooms for electrical, hydraulic and other services.
- New vehicular crossover and driveway to access basement garage.
- Card access at entrance to basement
- Mailboxes
- Hydrant booster
- External common area
- Landscaping
- Lift and fire stairs



- Front fence
 - Zone for a substation if required.
- iii. Levels 1-3
- 18 co-living rooms (maximum 2 occupants in each room).
 - 2 x accessible rooms (maximum 2 occupants in each room)
 - Total of 60 rooms across Levels, 1, 2 and 3.
 - Void/atrium.
 - Lifts and fire stairs.
- iv. Level 4
- 20 co-living rooms (maximum 2 occupants in each room)
 - Void/atrium
 - Lifts and fire stairs
- v. Level 5
- 13 co-living rooms (max 2 occupants in each room)
 - Non-trafficable roof garden
 - Void/Atrium
 - Lifts and fire stairs

The Site and Locality

The site is identified as 13-14 The Crescent, Homebush and has a legal description of Lot A and Lot B DP 16209. The site is irregular in shape and has a combined frontage of 28.1m, an eastern boundary of 43.295m, a rear boundary of 27.665m and a western boundary of 48.215m. Lot A has a site area of 649.9sqm and Lot B has a site area of 615.8sqm. In total, the combined site area for Lot A and Lot B is 1,265.7sqm. There is a gentle slope that runs from the rear to the front of approximately 2.2m.

Currently on the site are 2 x two-storey residential flat buildings containing 4 units each to form a total of eight units, two garages and a carport at the rear. A central driveway provides vehicular access for both buildings and there is a separate pedestrian entrances to each building. The site is zoned R3 – Medium Density Residential. The proposal involves the construction of co-living housing which is permissible with consent in the zone applying to the land.

To the east is a three-storey residential flat building and to the west is a single storey commercial building containing a car mechanic and printing business. To the rear of the site along Burlington Road are two residential flat buildings consisting of 2-3 storeys in height.

Across the road from the site is Homebush train station, and on the other side of the railway are a mix of small to high density residential flat buildings.



Figure 2: Existing development on the subject site, as viewed from the street.



Figure 3: Adjoining residential flat building to the east at 7-9 Burlington Road.



Figure 4: Adjoining commercial building to the east at 15-16 The Crescent.

Background

Date	Comments
30 May 2024	Application was lodged with Council
14 June to 5 July 2024	Application was on public notification in accordance with the Community Participation Plan (CPP). Fifteen (15) submissions were receiving objecting to the proposal and one (1) submission received supporting the proposal.
8 August 2024	The Applicant commenced Class 1 Land and Environment Court proceedings against the Council's deemed refusal of the development application.

Referrals – Internal and External

Tree Management Officer

The proposed development was referred to Council's Tree Management Officer who provided the following comments:

"A Landscape Plan and an Arboricultural Impact Assessment (AIA) Report has not been provided.

The proposal includes the removal of 1 x Lophstemon confertus (Brushbox) street tree to facilitate the new vehicular crossover. This is not supported as the tree is in good health and condition."



As such, due to the insufficient information, a complete assessment with regards to the impact of the proposal on the existing street trees could not be undertaken.

Development Engineer

The proposed development was referred to Council's Development Engineer who didn't raise any concerns subject to conditions of consent.

Traffic Engineer

The proposed development was referred to Council's Traffic Engineer who supported the proposal providing the following comments.

"The onsite parking provision is consistent with the Co-living SEPP (Housing) and is considered satisfactory.

Co-Living Housing (within accessible area) - 0.2 car spaces for each room, application of the SEPP criteria to the development scheme indicates the following:

93 rooms X 0.2 - 18.6 (19) spaces.

It is proposed to provide 19 car spaces in the development (including 2 accessible spaces) in compliance with the SEPP & NCC requirements.

The Boarding House / Co living Housing SEPP does not specify a provision of bicycle or motorcycle parking for Co-living housing however it is proposed to provide 3 motorcycle spaces and 14 bicycle spaces which is considered to be appropriate to the circumstances."

Environmental Health – Waste

The proposed development was referred to Council's Waste Referral Officer who was not satisfied with the proposal and provided the following information:

"A number of items have been flagged/or are missing within the WMP that must be addressed before approval. These are listed below:

- *Information gaps found across entire document – i.e. No name or signature on the applicant details page, incomplete 'Plans and Drawings (all developments)' section, incomplete 'Construction Design' section.*
- *Incorrect waste generation calculations under 'Ongoing Operations'.*
- *Size of bins need to be specified – i.e. 3 x 660L red bins and 9 x 660L yellow bins.*
- *The bulk collection area must be provided at a rate of 4sqm per 10 units and should be located adjacent to waste and recycling storage rooms. It currently does not fit the requirements for 93 units and is located too far from the bin storage room.*
- *WMP must incorporate requirements in respect to collection points, paths, and methods must be provided.*
- *Details of the Waste Storage Area must be illustrated on the plans submitted for the Construction Certificate for approval.*
- *WMP should indicate where ongoing waste collection areas are located indicating waste disposal areas, collection ^{points}, methods/containers/bins used as well as paths from disposal to collection.*
- *Contractor must be specified in the WMP with written evidence of valid contracts for the regular private onsite collection and disposal of general waste and recyclables*



generated must be provided, indicating how collection will occur on the site. The private licensed waste contractor must confirm the frequency of the waste collections (general waste, recycling and others) and the size and location of the storage room is suitable for the frequency of the waste collection. These arrangements must be detailed clearly to demonstrate ongoing waste operations.

- Waste education must be provided through signs in common areas indicating how to avoid, reduce, reuse and recycle waste.
- Missing litter management plan within the WMP – Building management must ensure that the area of public footpath or public area adjacent to the premises is maintained in a clean and tidy condition. Litter management plan must be included in the WMP, indicating all steps being taken to prevent, reduce and collect any litter produced by the site as well as measures to conduct litter collection within a 50m radius from entrance or exit.

Environmental Health – Contamination

The proposed development was referred to Environmental Health Officer for Contamination who did not support the proposed development due to insufficient information submitted with the application. Refer To SEPP (Resilience and Hazards) 2021 for further discussion.

Section 4.15 Assessment – EP&A Act 1979

The following is an assessment of the application with regard to Section 4.15(1) of the EP&A Act 1979.

(1) Matters for consideration – general

In determining an application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

- (a) the provision of:
 - (i) any environmental planning instrument,

Environmental Planning Instruments

STATE ENVIRONMENTAL PLANNING POLICY (HOUSING) 2021

The SEPP (Housing) is applied to the assessment as the proposed development is classified as a “co-living” development which falls under “Diverse Housing” of the SEPP.

Chapter 2 – Part 3 – Retention of existing affordable rental housing

Standard	Proposal	Compliance Yes/No/N/A
46 Buildings to which Part applies		
(1) This Part applies to a low-rental residential building on land within the following areas— (a) the Eastern Harbour City, (b) the Central River City,	The proposal falls under the Eastern Harbour City. As such, this clause applies.	Applicable.



<p>(c) the Western Parkland City, (d) the Central Coast City, (e) the City of Newcastle local government area, (f) the City of Wollongong local government area.</p>		
<p>47 Reduction of availability of affordable housing</p>		
<p>1) Development for the following purposes, in relation to a building to which this Part applies, is permitted with development consent— (a) demolishing the building, (b) altering or adding to the structure or fabric of the inside or outside of the building, (c) changing the use of the building to another use, (d) if the building is a residential flat building—strata subdivision of the building.</p>	<p>The proposal includes the demolition of two existing residential flat buildings.</p>	<p>Applicable.</p>
<p>(2) In determining whether to grant development consent, the consent authority must take into account the <i>Guidelines for the Retention of Existing Affordable Rental Housing</i>, published by the Department in October 2009 and the following— (a) whether the development will reduce the amount of affordable housing in the area, (b) whether there is available sufficient comparable accommodation to satisfy the demand for the accommodation, (c) whether the development is likely to result in adverse social and economic effects on the general community, (d) whether adequate arrangements have been made to assist the residents who are likely to be</p>	<p>The submitted Statement of Environmental Effects includes a basic rental analysis of the two existing residential flat buildings comprising of 4 x 2-bedroom units each.</p> <p>It was concluded the existing units were considered to be low- rental and that the provision of 93 co-living rooms would offset the loss of affordable housing.</p>	<p>No, insufficient information submitted. The submitted Statement of Environmental Effects concludes the demolition of the existing residential flat buildings will be reducing existing low-rental affordable housing.</p> <p>There is insufficient justification on how the provision of 93 co-living rooms can offset the loss of affordable housing as no information has been provided on whether there is sufficient comparable accommodation to satisfy the demand for the accommodation or whether adequate arrangements have been made to assist the residents who are likely to be displaced to find comparable accommodation.</p>



<p>displaced to find comparable accommodation, (e) the extent to which the development will contribute to a cumulative loss of affordable housing in the local government area, (f) whether the building is structurally sound, including— (i) the extent to which the building complies with relevant fire safety requirements, and (ii) the estimated cost of carrying out work necessary to ensure the building is structurally sound and complies with relevant fire safety requirements, (g) whether the imposition of an affordable housing condition requiring the payment of a monetary contribution would adequately mitigate the reduction of affordable housing resulting from the development, (h) for a boarding house—the financial viability of the continued use of the boarding house.</p>		
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Chapter 3 – Part 3 – Co-living housing

Standard	Proposal	Compliance Yes/No/N/A
<p>67 Co-living housing may be carried out on certain land with consent Development for the purposes of co-living housing may be carried out with consent on land in a zone in which—</p>		
<p>(a) development for the purposes of co-living housing is permitted under another environmental planning instrument, or (b) development for the purposes of residential flat buildings or shop top housing is permitted under Chapter 5 or another environmental planning instrument.</p>	<p>Residential flat buildings are permitted in R3 Medium Density Residential zones. As such, co-living housing is permitted on the subject site.</p>	<p>Yes.</p>
<p>68 Non-discretionary development standards—the Act, s 4.15</p>		



<p>(2) The following are non-discretionary development standards in relation to development for the purposes of co-living housing—</p> <p>(a) for development in a zone in which residential flat buildings are permitted—a floor space ratio that is not more than—</p> <p>(i) the maximum permissible floor space ratio for residential accommodation on the land, and</p> <p>(ii) an additional 10% of the maximum permissible floor space ratio if the additional floor space is used only for the purposes of co-living housing,</p>	<p>Max FSR for the site is 1.45:1 or 1,265.7sqm. As the development proposes co-living development, it benefits from a 10% FSR onus which results in a max FSR of 1.595:1 or 2,018.8sqm.</p> <p>Proposed: Ground Floor = 210sqm Level 1 = 469sqm Level 2 = 469sqm Level 3 = 469sqm Level 4 = 463sqm Level 5 = 293sqm</p> <p>Total = 2,375sqm</p> <p>Variation = 356.2sqm or 17.6%</p>	<p>No – Clause 4.6 provided. See assessment below.</p>
<p>(c) for co-living housing containing more than 6 private rooms—</p> <p>(i) a total of at least 30sqm of communal living area plus at least a further 2sqm for each private room in excess of 6 private rooms, and</p> <p>(ii) minimum dimensions of 3m for each communal living area,</p> <p>Required:</p> <p>93 rooms = 204sqm</p>	<p>Proposed = 204sqm on the ground floor.</p>	<p>Yes</p>
<p>(d) communal open spaces—</p> <p>(i) with a total area of at least 20% of the site area,</p> <p>20% of the site area = 253.14sqm</p> <p>and</p> <p>(ii) each with minimum dimensions of 3m,</p>	<p>Proposed = 466.9sqm</p> <p>Minimum = 3m dimension</p>	<p>Yes</p> <p>Yes.</p>
<p>(e) unless a relevant planning instrument specifies a lower number—</p> <p>(i) for development on land in an accessible area—0.2</p>		



parking spaces for each private room, or Required = 0.2 x 93 rooms = 19 spaces	Proposed = 19 spaces (including 2 accessible spaces)	Yes.
(f) for development on land in Zone R2 Low Density Residential or Zone R3 Medium Density Residential—the minimum landscaping requirements for multi dwelling housing under a relevant planning instrument, Required = minimum 50% or 632.85sqm	Proposed = 23.4% or 295.9sqm (Check the landscape definition under SDCP 2005).	No – a Clause 4.6 has not been submitted for seeking variation to this development standard.
(g) for development on land in Zone R4 High Density Residential—the minimum landscaping requirements for residential flat buildings under a relevant planning instrument.	The site is zoned R3	N/A
69 Standards for co-living housing		
(1) Development consent must not be granted for development for the purposes of co-living housing unless the consent authority is satisfied that—		
(a) each private room has a floor area, excluding an area, if any, used for the purposes of private kitchen or bathroom facilities, that is not more than 25sqm and not less than— (i) for a private room intended to be used by a single occupant—12sqm, or (ii) otherwise—16sqm, and	All 93 private rooms are proposed to be double rooms. Each private room is provided with a minimum 16sqm.	Yes
(b) the minimum lot size for the co-living housing is not less than— (i) for development on land in Zone R2 Low Density Residential—600sqm, or (ii) for development on other land—800sqm, and	The site is more than 800sqm (1265.7sqm).	Yes
(c) for development on land in Zone R2 Low Density Residential or an equivalent land use zone, the co-living housing— (i) will not contain more than 12 private rooms, and	The site is not zoned R2 Low Density	N/A



(ii) will be in an accessible area, and		
(d) the co-living housing will contain an appropriate workspace for the manager, either within the communal living area or in a separate space, and	It is proposed for the manager workspace to be within the ground floor communal workspace area.	Yes
(e) for co-living housing on land in a business zone—no part of the ground floor of the co-living housing that fronts a street will be used for residential purposes unless another environmental planning instrument permits the use, and	The site is zoned R3	N/A
(f) adequate bathroom, laundry and kitchen facilities will be available within the co-living housing for the use of each occupant, and	A separate bathroom and kitchen facility is provided for each private room.	Yes
(g) each private room will be used by no more than 2 occupants, and	No more than 2 occupants per room is proposed	Yes
(h) the co-living housing will include adequate bicycle and motorcycle parking spaces.	3 motorcycle spaces and 14 bicycle spaces are proposed.	Yes
2) Development consent must not be granted for development for the purposes of co-living housing unless the consent authority considers whether—		
(a) the front, side and rear setbacks for the co-living housing are not less than— (i) for development on land in Zone R2 Low Density Residential or Zone R3 Medium Density Residential—the minimum setback requirements for multi dwelling housing under a relevant planning instrument, or (ii) for development on land in Zone R4 High Density Residential—the minimum setback requirements for residential flat buildings under a relevant planning instrument, and	4m side setbacks under SCDCP	No
(b) if the co-living housing has at least 3 storeys—the building will comply with the	The proposal includes 6 storeys.	No, the proposal is non-compliant along the



minimum building separation distances specified in the Apartment Design Guide, and	Minimum is 9m under the ADG for 5-8 storeys. Eastern property = 1.2m Western property = 3m Southern boundary = 9m	eastern and western boundary.
(c) at least 3 hours of direct solar access will be provided between 9am and 3pm at mid-winter in at least 1 communal living area, and	At least 3 hours of solar access can be achieved within the north facing communal living areas.	Yes
(f) the design of the building will be compatible with— (i) the desirable elements of the character of the local area, or (ii) for precincts undergoing transition—the desired future character of the precinct.	Insufficient information has been submitted to consider the impact of the proposed development and its compatibility with the local character.	No
70 No subdivision		
Development consent must not be granted for the subdivision of co-living housing into separate lots.	Subdivision is not proposed	N/A

STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY AND CONSERVATION) 2021

Chapter 2 – Vegetation in non-rural areas - Part 2.1 – Preliminary

2.1 Aims of chapter.

The aims of this Chapter are—

- (a) *to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and*
- (b) *to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.*

The proposal includes removal of 1 x street tree which is considered to have a high retention value.

A landscape plan and an Arborist Report were not submitted. As such, inadequate measures were undertaken to preserve the high retention native trees located on the subject site.

Clause 2.10 – Council may issue permit for clearing of vegetation.

The application was referred to Council’s Tree Management Officer who did not support the removal of native trees on the site to facilitate the development.

Therefore, this is recommended as a reason for refusal.



STATE ENVIRONMENTAL PLANNING POLICY (SUSTAINABLE BUILDINGS) 2022

A BASIX Certificate has not been issued in accordance with the standards of State Environmental Planning Policy (Sustainable Buildings) 2022. As such, there is insufficient information that the commitments required by this certificate have been satisfied. This is recommended as a reason for refusal.

STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE AND HAZARDS) 2021

Chapter 4 – Remediation of Land

Clause 4.6 – Contamination and remediation to be considered in determining development application

(1) A consent authority must not consent to the carrying out of any development on land unless—

- (a) it has considered whether the land is contaminated, and
- (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and
- (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.

The proposed development was referred to Environmental Health Officer for Contamination who provided the following comments:

"A number of potential areas of environmental concern (PAEC) have been identified in the Preliminary Site Investigation (PSI) report by EBG:

Further information is required to enable Environmental Health to provide further comment.

- **Detailed Site Investigation (DSI)** – the Preliminary Site Investigation report prepared by EBG concluded a DSI is required. The DSI must comply with the NSW EPA guidelines for "Consultants Reporting on Contaminated Land" (2020) and the recommendations of Section 6 of the above-mentioned report. The report is to be undertaken by a suitably qualified environmental consultant. The DSI shall target the Potential Areas of Environmental Concern (PAEC) as cited in Section 6.2 of the report. The Site has a total area of 1,259sqm, which requires a minimum of at least 8 sampling points to characterise the site. The soil sampling, analysis, QA/QC and reporting shall be in accordance with NEPM 2013. The results of sub floor vapour assessment shall be incorporated into the DSI.
- **Sub Floor Vapour (VOC/hydrocarbon) Assessment**
Sub soil / floor vapour assessment is to be taken within the property. Sampling points can be drilled directly through the concrete slab of the building/s or directly into the soil (particularly along the boundary with the mechanical workshop (old services station). Semi-permanent sampling points (stainless steel) inserted into the drilled hole, or direct push extensions, shall be used to take the samples. The investigation is to be undertaken in accordance with Vapour Intrusion: Technical Practice Note (DECCW /EPA NSW) 2010.

As there is insufficient information to carry out a comprehensive assessment of the proposal, this is recommended as a reason for refusal.



STRATHFIELD LOCAL ENVIRONMENTAL PLAN (SLEP) 2012

The development site is subject to the SLEP 2012.

Part 2 – Permitted or Prohibited Development

The proposed “co-living development” is defined as below under SLEP 2012:

co-living housing means a building or place that—

- (a) has at least 6 private rooms, some or all of which may have private kitchen and bathroom facilities, and
- (b) provides occupants with a principal place of residence for at least 3 months, and
- (c) has shared facilities, such as a communal living room, bathroom, kitchen or laundry, maintained by a managing agent, who provides management services 24 hours a day, but does not include backpackers’ accommodation, a boarding house, a group home, hotel or motel accommodation, seniors housing or a serviced apartment.

Note—

Co-living housing is a type of **residential accommodation**—see the definition of that term in this Dictionary.

The subject site is zoned R3-Medium Density Residential, and the proposed development is a prohibited form of development with Council’s consent. However, Clause 67 (b) under SEPP (Housing) which supersedes the SLEP 2012 states:

“Development for the purposes of co-living housing may be carried out with consent on land in a zone in which –

- (a) development for the purposes of co-living housing is permitted under another environmental planning instrument, or
- (b) **development for the purposes of residential flat buildings or shop top housing is permitted under Chapter 5 or another environmental planning instrument.**

As residential flat buildings are a permissible form of development under the R3 Medium Density Zone, applying to the land, co-living is also considered to be permitted.

Part 4 – Principal Development Standards

Applicable SLEP 2012 Clause	Development Standards	Development Proposal	Compliance/ Comment
4.1A Minimum lot sizes for RFB	R3 – 1000sqm	1256.7sqm	Yes
4.3 Height of Buildings	14m	18.3m Variation = 4.3m or 30.7% including the lift overrun.	No
4.4 Floor Space Ratio	1.45:1 1835.265sqm With FSR bonus of an additional 10% =	1.876:1 2375sqm Variation = 356.2sqm or 17.6%	No



	1.595:1 2018.8sqm	or		
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Assessment of Clause 4.6 Variation – Height and Floor Space Ratio

The objectives of this clause are as follows:

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

Clause 4.6(3) states that:

“(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

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

A written request under the provisions of Clause 4.6 of Strathfield LEP 2012 was lodged as the proposed development seeks a variation to the following development standards:

Clause 4.3 – Height of Buildings

The proposal does not comply with the maximum permissible building height of 14m stipulated within Clause 4.3 – Height of Buildings. The proposed overall building height is 18.3m including the lift overrun.

The development proposal exceeds the maximum permissible building height by 4.3m which is a 30.7% variation to the development standard.

Whether compliance with the development standard is unreasonable or unnecessary

With regard to testing whether compliance with the development standard is unreasonable or unnecessary as per cl 4.6(3)(a), *Wehbe v Pittwater Council* (2007) 156 LGERA 446; [2007] NSWLEC 827 (*Wehbe*) at [42] - [51], Preston CJ summarises the common ways in which compliance with the development standard may be demonstrated as unreasonable or unnecessary.

The objectives under Clause 4.3 – Height have been considered below:

- a) to ensure that development is of a height that is generally compatible with, or which improves the appearance of the existing area,
- (b) to encourage a consolidation pattern that leads to the optimum sustainable capacity height for the area,
- (c) to achieve a diversity of small and large development options.

Applicant’s comments addressing the above objectives:

- a) to ensure that development is of a height that is generally compatible with, or which improves the appearance of the existing area,



Applicant Comment: As the site is located between two zones being MU1 Mixed Use Zone and R3 Medium Density Residential with different building envelope controls, the building height proposed is considered to be suitable for various reasons. Firstly, the proposed density allowed on the site is envisaged by both the Strathfield LEP 2012 and the Housing SEPP.

Refer to Figures 5 and 6 (SIC) below demonstrating the site in relation to the current zoning and building height maps. The building footprint is also restricted by the applicable landscaping controls prescribed by the Strathfield DCP 2005 which requires 50% landscaped area. Subsequently, the applicable State and Council planning controls do not facilitate the orderly and economic development of the site.

Secondly, properties located within a 1.2km radius from the train station have been designated as an accelerated precinct under the Transport Orientated Development Program proposed by the NSW Government. It is expected that the site and surrounding area will be earmarked for higher density, and therefore this proposed development has considered these future controls.

Finally, the proposal and the associated building height variation cannot ignore the existing built environment and the desired future character of the area. Therefore, the design is responsive to the surrounding buildings and has applied appropriate building envelope controls including FSR, building height and setbacks, to achieve an exceptional urban design and planning outcome. The building will exhibit design excellence and has carefully considered the relevant State and Council planning controls, including the ADG. Therefore, the proposal can achieve this objective.

(b) *to encourage a consolidation pattern that leads to the optimum sustainable capacity height for the area,*

Applicant Comment: As discussed above, there is a conflict between the existing applicable building height and FSR controls, the existing established buildings, and future controls envisaged by the NSW Government. The adjoining sites are already established buildings and can be redeveloped in the future. The proposed co-living housing development at the subject site does not restrict the ability of these properties to redevelop and incorporating a suitable building height.

(c) *to achieve a diversity of small and large development options.*

Applicant Comment: The proposed co-living development offers an alternative housing option for a diverse range of people. The design provides high quality internal and external amenity for residents while also assisting with the housing shortage. The scale of the proposal is consistent with the site size and has considered the existing build form of adjoining properties. The proposal is also consistent with the pattern of redevelopment located to the north of Homebush train station and will serve as a catalyst for other future developments south of the train station.

Assessment Officer Comment:

The Clause 4.6 justification statement refers to the Transport Oriented Development program that includes an increased height and number of storeys standard as a reason to contravene the development standard. The site does not fall within the mapped area for the Homebush Transport Oriented Development program (Homebush TOD) and as such, cannot be used as the benchmark for the building scale for future development on the subject site. In addition, the Homebush TOD is currently on exhibition and is not considered to be imminent.



The Clause 4.6 statement refers to the subject site adjoining MU1 – Mixed Use Zone as a reason to contravene the development standard. The maximum permissible height and number of storeys to the site as it is currently zoned R3 Medium Density Residential. There are currently no planning proposals within Council for the rezoning of that area. As such, the height and number of storeys controls which are applicable in the MU1 zone are not applicable to the subject site zoned R3 Medium Density.

Little consideration has been given to the Heritage Items located within the immediate vicinity of the subject site with no Heritage Impact Statement submitted with the application.

As such, the submitted Clause 4.6 statement fails to justify that variation to Clause 4.3 – Height is unreasonable or unnecessary and that there are sufficient planning grounds to warrant such variation.

Clause 4.4 – Floor Space Ratio

The proposal does not comply with the prescribed maximum permissible floor space ratio as outlined under SEPP (Housing) and SLEP 2012.

SEPP (Housing) allows for an additional 10% floor space bonus on top of the maximum floor space allowed on the site if the additional floor space is used only for the purposes of co-living housing. In total, the maximum floor space allowed for the site including the bonus is 1.595:1 or 2,018.8sqm.

The proposed overall floor space ratio exceeds the maximum allowed at 1.876:1 or 2375sqm.

The development proposal exceeds the maximum permissible floor space ratio by 356.2m which is a 17.6% variation to the development standard. A Clause 4.6 justification statement was submitted with the application which is assessed below.

Whether compliance with the development standard is unreasonable or unnecessary

With regard to testing whether compliance with the development standard is unreasonable or unnecessary as per cl 4.6(3)(a), *Wehbe v Pittwater Council* (2007) 156 LGERA 446; [2007] NSWLEC 827 (*Wehbe*) at [42] - [51], Preston CJ summarises the common ways in which compliance with the development standard may be demonstrated as unreasonable or unnecessary.

The objectives under Clause 4.4 – Floor Space Ratio have been considered below:

- (1) *The objectives of this clause are as follows—*
- (a) *to ensure that dwellings are in keeping with the built form character of the local area,*
 - (b) *to provide consistency in the bulk and scale of new dwellings in residential areas,*
 - (c) *to minimise the impact of new development on the amenity of adjoining properties,*
 - (d) *to minimise the impact of development on heritage conservation areas and heritage items,*

Applicant's comments addressing the above objectives:

- (a) *to ensure that dwellings are in keeping with the built form character of the local area,*

Applicant Comment: As the site is located between two zones being MU1 Mixed Use Zone and R3 Medium Density Residential with different building envelope controls, the proposed FSR is considered to be suitable for various reasons. Firstly, the proposed density allowed on the site is envisaged by both the Strathfield LEP 2012 and the Housing SEPP. The building



footprint is also restricted by the applicable landscaping controls prescribed by the Strathfield DCP 2005 which requires 50% landscaped area. Subsequently, the applicable State and Council planning controls do not facilitate the orderly and economic development of the site.

Secondly, properties located within a 1.2km radius from the train station have been designated as an accelerated precinct under the Transport Orientated Development Program proposed by the NSW Government. It is expected that the site and surrounding area will be earmarked for higher density, and therefore this proposed development has considered these future controls.

Finally, the proposal and the associated FSR variation cannot ignore the existing built environment and the desired future character of the area. Therefore, the design is responsive to the surrounding buildings and has applied appropriate building envelope controls including FSR, building height and setbacks, to achieve an exceptional urban design and planning outcome. The building will exhibit design excellence and has carefully considered the relevant State and Council planning controls, including the ADG. Therefore, the proposal can achieve this objective.

(d) *to provide consistency in the bulk and scale of new dwellings in residential areas,*

Applicant Comment: The proposed co-living housing development has been carefully designed to ensure the bulk and scale is commensurate with the existing and future character of the area. As the site adjoins a precinct which allows a higher FSR of 3:1, the proposed FSR of 1.876:1 will provide a high-quality design and urban planning outcome for the site and surrounding area.

(e) *to minimise the impact of new development on the amenity of adjoining properties,*

Applicant Comment: As discussed above, there is a conflict between the existing applicable building height and FSR controls, the existing established buildings, and future controls envisaged by the NSW Government. The adjoining sites are already established buildings and can be redeveloped in the future. The proposed co-living housing development has been carefully designed to ensure amenity to the adjoining properties including acoustic and visual privacy, solar access, and views, are minimised.

The site is not heritage listed or located within a heritage conservation area. There are various properties within the vicinity of the site that are heritage listed including at 17, 18, 20, 22 and 23 The Crescent, and the Homebush Train Station. The proposal is sensitively designed to ensure there are no heritage impacts on these properties. As such, the proposal and the associated FSR variation achieves this objective.

Assessment Officer Comment:

The Clause 4.6 justification statement refers to the Transport Oriented Development program which includes a higher floor space standard as a reason to contravene the development standard. The site does not fall within the mapped area for the Homebush Transport Oriented Development program (Homebush TOD) and as such cannot be used as the benchmark for the building scale for future development on the subject site. In addition, the Homebush TOD is currently on exhibition and is not considered to be imminent.

The Clause 4.6 statement refers to the subject site adjoining MU1 – Mixed Use Zone as a reason to contravene the development standard. The maximum permissible floor space ratio applies to the site as it is currently zoned R3 Medium Density Residential. There are currently no planning proposals within Council for the rezoning of that area. As such, the floor space



ratio controls applicable in the MU1 zone are not applicable to the subject site zoned R3 Medium Density.

In addition, the proposal includes non-compliant side setbacks as prescribed under SEPP (Housing) which adds to the overall bulk and scale of the development with its excessive height and floor space ratio.

Little consideration has been given to the Heritage Items located within the immediate vicinity of the subject site with no Heritage Impact Statement submitted with the application.

As such, the submitted Clause 4.6 statement fails to justify that variation to Clause 4.4 – Floor Space Ratio is unreasonable or unnecessary and that there are sufficient planning grounds to warrant such variation.

Part 5 – Miscellaneous Provisions

Clause 5.10 - Heritage Conservation

(5) Heritage assessment

The consent authority may, before granting consent to any development—

(a) on land on which a heritage item is located, or

(b) on land that is within a heritage conservation area, or

***(c) on land that is within the vicinity of land referred to in paragraph (a) or (b),** require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.*

The subject site is not listed as a heritage item or located within a heritage conservation area.

However, the subject site is in the vicinity of several heritage items within the immediate vicinity.

A Heritage Impact Statement has not been submitted to discuss the impact of the proposed development of the heritage items located within the immediate vicinity of the subject site.

Flood Planning

The proposed site has not been identified within the flood planning levels and as such, the provisions of Clause 5.21 are not applicable to the subject development.

Part 6 – Additional Local Provisions

Clause 6.1 - Acid Sulfate Soils

The subject site is identified as having Class 5 Acid Sulfate Soils but is not located within 500m of a Class 1, 2, 3 or 4 soils. Therefore, development consent under the provisions of this section is not required and as such an Acid Sulfate Soils Management Plan is not required.

Clause 6.2 - Earthworks

The proposal involves significant excavation works for the provision of a basement, driveway ramp and ancillary works. The extent of excavation is considered to be unacceptable as the basement is proposed to be built boundary to boundary with nil setback to the side boundaries.



There is insufficient information that the proposed works are unlikely to disrupt or effect existing drainage patterns or soil stability in the locality or effect the future use or development of the land. Accordingly, the proposed excavation works fail to satisfactorily address the objectives of this Clause 6.2.

Clause 6.4 - Essential Services

Clause 6.4 of the SLEP 2012 requires consideration to be given to the adequacy of essential services available to the subject site. The subject site is located within a well serviced area and features existing water and electricity connection and access to Council's stormwater drainage system. As such, the subject site is considered to be adequately serviced for the purposes of the proposed development

(ii) any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority, and

There are no draft planning instruments that are applicable to the proposed development on the subject site.

(iii) any development control plan,

The proposed development is subject to the provisions of the Strathfield Consolidated Development Control Plan (SCDCP) 2005. The following comments are made with respect to the proposal satisfying the objectives and controls contained within the SCDCP 2005.

Strathfield Consolidated Development Control Plan 2005 (SCDCP 2005)

Part C – Multiple- Unit Housing

DCP 2005 Part C – Multiple Unit Housing is of relevance to the assessment of an application for a residential flat building and as such applies to the subject application.

Clause 6(1) of SEPP 65 (Now under Chapter 4 of SEPP (Housing) 2021) confirms that in the event of any inconsistency between the controls of the ADG and Council's Development Control Plan, the objectives, design criteria and design guidance set out in the ADG prevail. This confirms that if a development control plan contains provisions that specify requirements, standards or controls in relation to the following matters, those provisions are of no effect:

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

The remaining matters of relevance provided in the DCP have been addressed in the table below.



Control	Proposal	Compliance
2.2 Density Bulk and Scale Building Envelope (Height, Scale and Setbacks)		
<p>Building Height and Scale</p> <p>1. Density Sub Zone = 3-4 storey units</p> <p>2. The finished floor level of the ground floor units being the units with immediate access to street level shall be not more than 1.2m above natural ground level.</p>	<p>6 storeys</p> <p>There are no ground floor co-living rooms proposed</p>	<p>No</p> <p>N/A</p>
<p>Front Setbacks</p> <p>1. Developments are required to comply with the following front setback controls:</p> <p>(i) Subject to exceptions set out below, a minimum setback to the street alignment of 9m is required for all new buildings.</p> <p>(ii) For sites with frontage to two or more streets, the total sum of the two setback areas must be equal to or greater than 12 metres and each setback must be a minimum of 3 metres. All car parking structures are to be located behind the front building alignment.</p> <p>2. Notwithstanding requirement 1, developments may be setback less than 9 metres where the predominant setback in the street block is less than 9 metres, or the setback would not conflict with the existing streetscape.</p>	<p>Varies between 6m and 9m.</p> <p>The site only comprises one street frontage.</p> <p>Parking is located within the basement</p> <p>All the commercial buildings to the west of the site are zoned MU1 and have a nil front setback. Due to the unique site conditions, the proposed front setback is considered to be an appropriate design response.</p>	<p>No.</p> <p>N/A</p> <p>Yes</p> <p>Yes</p>
<p>Building Envelope – Side and Rear setbacks</p> <p>4. Side and rear setbacks are intended to maintain a</p>		



<p>reasonably consistent relationship between buildings, allotment boundaries and adjacent development, limit potential for overlooking of neighbouring properties and allow adequate daylight, sunlight and ventilation to living areas and private open spaces of new and neighbouring dwellings.</p> <p>Within the building envelope, developments are required to comply with the following side and rear setback controls:</p> <p>(i) A minimum side setback of 4 metres each side shall be provided in all development. Minor encroachments to this minimum setback shall be considered on their merits for elements such as eaves, pergolas, electricity or gas meters, steps, ramps or the like.</p>	<p>The side setbacks are less than 4m.</p>	<p>No</p>
<p>Basement Setbacks</p> <p>The outer walls of basements shall comply with the setbacks required in this section.</p> <p>Setbacks from Easements</p> <p>Sydney Water Corporation requires that all buildings and structures be at least one metre from any easement or public sewer main. Exceptions may be considered on their merit. In all cases, development must comply with the Corporation's requirements for building over or adjacent to sewer mains.</p>	<p>The basement is built to the boundaries to accommodate the number of car parking spots.</p>	<p>No.</p>



Part H – Waste Management and Minimisation

Section 2.1 Waste Management Plan

The submitted waste management plan does not specify the size of bins located in the basement (i.e. 3 x 660L red bins and 9 x 660L yellow bins).

Section 3.6.3– Controls

The application is to include an additional storage area to be provided for the temporary storage of bulky items (e.g. mattresses/furniture) at a rate of 4sqm per 10 units. The proposal includes 93 units and as such requires a minimum of 22.5sqm storage area to be set aside for bulky items. The proposed basement includes a total of 9.7sqm area for bulky waste.

As such, the proposal is deficient by 12.8sqm and is not supported.

Part K – Development on Contaminated Land

The proposal fails to comply with the controls outlined under Part K of the SCDCP 2005. The Preliminary Site Investigation (PSI) report prepared by EBG concluded that a Detailed Site Investigation Report (DSI) is required which has not been submitted. Several potential areas of environmental concern (PAEC) have been identified in the PSI however, further consideration of those areas has not been provided, and as such a proper assessment cannot be undertaken.

This forms as a reason for refusal.

Part O – Trees

The proposal fails to comply with the objectives outlined in Section 1.4 under Part O – Trees of the SCDCP 2005 where an integrated approach to urban development which promotes tree retention and protection at the early stages of a development proposal has not been considered. In addition, the proposal fails to promote the maintenance and preservation of Strathfield's tree canopy areas as only one street tree is proposed to be retained. This forms as a reason for refusal.

Part P – Heritage

The subject site is in the vicinity of several heritage items. A Heritage Impact Statement has not been submitted to discuss the impact of the proposed development on the heritage items located within the immediate vicinity of the subject site. This forms as a reason for refusal.

Part Q - Urban Design

The proposal fails to comply with the controls under Part Q of SCDCP 2005. Adequate solar access diagrams have not been submitted to ensure compliance with Section 3.5 Solar Access and cross ventilation. Specifically, the proposal has insufficient information demonstrating that sunlight access is provided to private open space and habitable rooms to improve amenity and energy efficiency. This is especially with regards to Units 112, 113, 212, 213, 312, 313, 412, 413, 509 and 510.

(iv) Any matters prescribed by the regulations, that apply to the land to which the development application relates,



The requirements of Australian Standard AS2601–1991: The Demolition of Structures is relevant to the determination of a development application for the demolition of a building.

The proposed development does the demolition of a building. Should this application be approved, appropriate conditions of consent may be imposed to ensure compliance with the requirements of the above standard.

(f) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,

The proposed development is of a scale and character that is not in keeping with other developments being constructed in the locality. The proposal is considered to have a significant impact on the natural and built environment.

(c) the suitability of the site for the development,

There is a significant amount of insufficient information with the development application which has not allowed for the complete assessment of the impact of the proposal and whether it is suitable for the site.

(d) any submissions made in accordance with this Act or the regulations,

In accordance with the provisions of Council’s Community Participation Plan (CPP), the application was placed on neighbour notification for a period of 14 days where adjoining property owners were notified in writing of the proposal and invited to comment. Fifteen submissions were received raising the following concerns:

Concern	Comment
Traffic: <ul style="list-style-type: none"> Insufficient on-site parking for 186 residents. Lack of existing street parking. Will create traffic congestion. 	The application was referred to Council’s Traffic Engineer who was satisfied with the proposed provision of on-site car parking.
Bulk and Scale <ul style="list-style-type: none"> Overshadowing impacts Inadequate justifications for the non-compliances with the SLEP 2012 Building Height and FSR development standard. Visual bulk and not providing sufficient transition from MU1 Zone to R3 Medium Density zone where the nearby buildings are typically 3-5 storeys. Overdevelopment 	Agreed. Forms as a reason for refusal.
Noise Pollution	Were this application recommended for approval, suitable conditions would have been included in the consent for the management of adverse acoustic impacts of the proposal on the adjoining properties.
Affordable Housing	Agreed. Forms as a reason for refusal.



<ul style="list-style-type: none"> Concerns of short-term rental housing which does not address the current housing crisis. Concerns the proposed rooms will not be affordable and won't assist in the rental housing crisis. 	
Increased Waste Generation	Refer to discussion under Part H – Waste Management under SCDCP 2005.
Inconsistent plans with the Statement of Environmental Effects	Agreed. Forms as a reason for refusal.
Streetscape and Character <ul style="list-style-type: none"> Inconsistent with the character of the community Unacceptable amenity impacts to adjoining properties 	Agreed. Forms as a reason for refusal.
No community consultation was held for such a proposal	Noted.
Maintenance of the proposed ground floor water feature. Concerns of potential contamination from stormwater.	The proposed application was referred to Council's Development Engineer who did not raise any concerns regarding the proposed stormwater.
Visual and Acoustic privacy impacts	Agreed. Forms as a reason for refusal.
With a transient population using this kind of development there are potential safety risks.	The proposed co-living development is a permissible form of development under SEPP (Housing).
Excavation work for the basement will impact on the structural integrity of the	Were this application recommended for approval, suitable conditions would have been included to ensure all excavation works for the basement will occur within the building envelope of the subject site.

(e) the public interest.

The proposed development is of a scale and character that does conflicts with the public interest. The public interest is served through the consistent application of planning controls. The proposal includes numerous non-compliances under the State Policies, SLEP and SCDCP. As such, the proposal is not considered to be in the public interest.

Local Infrastructure Contributions

Section 7.13 of the EP&A Act 1979 relates to the collection of monetary contributions from applicants for use in developing key local infrastructure. A consent authority may impose a condition under Section 7.11 or 7.12 only if it is of a kind allowed by, and is determined in accordance with, a contributions plan (subject to any direction of the Minister under this Division).

As this application is recommended for refusal, the contributions have not been calculated for the proposal.

Conclusion

The application has been assessed having regard to the Heads of Consideration under Section 4.15(1) of the EP&A Act 1979, including the provisions of the SLEP 2012 and SCDCP 2005.



Following detailed assessment, it is considered that DA 2024/59 should be refused for the following reasons:

Reasons for refusal:

1. Refusal Reason – Environmental Planning Instrument

- a. State Environmental Planning Policy (Biodiversity and Conservation) 2021
 - i. Chapter 2 – Vegetation in non-rural areas.
 - The proposed removal of one (1) street tree fails to comply with the aims under Chapter 2 – Vegetation in non-rural areas of the SEPP Biodiversity & Conservation because the proposal fails to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.
- b. State Environmental Planning Policy (Sustainability) 2021
 - i. A BASIX Certificate has not been submitted for the proposed development.
- c. State Environmental Planning Policy (Resilience and Hazards) 2021
 - i. Chapter 4 – Remediation of land. A detailed site investigation and remediation strategy has not been provided.
- d. State Environmental Planning Policy (Housing) 2021
 - i. Chapter 2- Part 3 – Retention of existing affordable rental housing.
 - ii. Chapter 3 – Part 3 – Co-living Housing
 - The proposal is non-compliant with Clause 68 (2)(a) of SEPP Housing as the proposal exceeds the maximum permissible floor space ratio on the land and the additional 10% bonus. The proposal seeks a combined maximum FSR at 1.876:1 or 2,375sqm. This is a variation of 17.6% or 356.2sqm to the maximum floor space ratio allowed.
 - The proposed development fails to comply with Clause 68 (2, f) of SEPP Housing which prescribes a minimum of 50% or 632.85sqm of the site to be landscaped for development on land in Zone R3 Medium Density. The proposal has a landscaped area of 34%. A Clause 4.6 statement has not been submitted for seeking a variation to this development standard.
 - The proposed development fails to comply with the side setback requirements for development in the R3 zone set out in clause 69 (2)(a) of SEPP (Housing). Clause 69(2)(a) requires the minimum setbacks of a multi dwelling housing to apply to the site which is a minimum of 4m on either side. The proposal has a side setback of 1m on the eastern and western elevation.
 - The proposed development fails to comply with Clause 69 (2)(b) of SEPP Housing because the proposed building does not meet the minimum building separation distances specified in the Apartment Design Guide (ADG). The proposed development fails to comply with the required separation distances in Design Criteria 1 of the ADG, as the proposed separation on the eastern boundary of the building fails to provide the required separation distances for habitable rooms on Level 4 and 5 of 9 meters, with the proposed



separation distance on the eastern boundary being 6m on Level 4 and 6.8m on Level 5 (measured to the terrace).

e. Strathfield Local Environmental Plan

i. Clause 4.3 – Height of Buildings

- The proposed building is non-compliant with Clause 4.3 of SLEP 2012, which allows for a maximum building height of 14m. The building height for the proposed development is 18.3m. This exceeds the maximum building height by 4.3m with a variation of 30% to the development standard of the maximum height allowed on the site.

ii. Clause 4.4 – Floor Space Ratio

- The proposal seeks a combined maximum FSR at 1.876:1 or 2,375sqm. This is a variation of 17.6% or 356.2sqm to the maximum floor space ratio allowed. As such, the proposal is non-compliant with Clause 4.4 under the SLEP 2012.

iii. Clause 4.6 – Exceptions to development standards

- The Clause 4.6 variation request does not demonstrate that compliance with the FSR standard is unreasonable or unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify contravening the development standard

iv. Clause 5.10 – Heritage Conservation

v. Clause 6.2 – Earthworks

2. Refusal Reason – Development Control Plan (Strathfield Consolidated Development Control Plan)

a. Part C – Multiple Unit Housing

- i. The proposed building is non-compliant with Section 2.2(1) of SCDCP 2005 where the maximum number of storeys under R3 Medium Residential zone is 3-4 storeys. The proposal includes 6 storeys.
- ii. The proposal fails to comply with Section 2.7 - Open Space and Landscaping under Part C of SCDCP 2005 where the minimum landscaping required is 50% or 635.85sqm. A total of 34% or 428.3sqm landscaping is proposed including the landscaping on Level 5.
- iii. The proposed development fails to comply with Section 2.2 (4) under Part C of SCDCP 2005 because the proposed basement is built boundary to boundary with nil setback.

b. Part H – Waste minimisation and management

- i. The proposal fails to comply with Section 2.1 of Part H of SCDCP 2005. The submitted waste management plan does not specify the size of bins located in the basement.
- ii. The proposal fails to comply with Section 3.6.3 (e) of Part H of SCDCP 2005 as it does not provide adequate storage area for the temporary storage of bulky items at a rate of 4sqm per 10 units. The proposal includes 93 units and as such requires a minimum of 22.5sqm storage area to be set aside for bulky items. The proposed basement includes a total of 9.7sqm area for bulky waste. As such, the proposal is deficient by 12.8sqm.

c. Part K - Development on Contaminated Land



- i. The Preliminary Site Investigation report prepared by EBG concluded a Detailed Site Investigation (DSI) report is required which has not been submitted. Several potential areas of environmental concern (PAEC) have been identified in the Preliminary Site Investigation (PSI) report by EBG however further consideration of those areas has not been provided, and as such a proper assessment cannot be undertaken.
- d. Part O – Tree Management
 - i. The proposal fails to comply with the objectives outlined in Section 1.4 under Part O – Trees of the SCDCP 2005 where an integrated approach to urban development which promotes tree retention and protection at the early stages of a development proposal has not been considered. In addition, the proposal fails to promote the maintenance and preservation of Strathfield’s tree canopy areas.
 - ii. The proposal fails to comply with Section 4.2 (c) of Part O of SDCP 2005. There are currently 2 x Lophostemon confertus (Brush Box) Street Trees existing in front of the site. One in front of No. 13 The Crescent and one in front of No. 14 Crescent, Homebush. The proposed development proposes the removal of the tree in front of No. 13 The Crescent for a new driveway access. Removal of the tree is not supported to facilitate the new vehicular crossover.
 - iii. The proposed location for a potential substation is not supported as it falls within the Structural Root Zone and Tree Protection Zone of the street tree proposed to be retained.
- e. Part P – Heritage
 - i. The subject site is in the vicinity of several heritage items. A Heritage Impact Statement has not been submitted to discuss the impact of the proposed development on the heritage items located within the immediate vicinity of the subject site.
- f. Part Q – Urban Design Controls
 - i. The proposal fails to comply with objectives of Section 3.3 under Part Q – Urban Design Controls of SCDCP 2005 because the development causes unreasonable overlooking of habitable rooms of adjoining properties due to non-compliant building separation.

3. Refusal Reason – Inconsistent plans and documents

- a. The architectural plans are inconsistent with the submitted survey plans.
- b. The Statement of Environmental Effects and the architectural plans propose the removal of 3 x on-site trees. However, there are currently no existing trees remaining on the subject property as shown on the survey plan. The survey plan accurately illustrates that there are no on-site trees which were removed at the beginning of 2024 without a Tree Permit.

4. Refusal Reason – Inadequate Information

- a. The proposed development fails to comply with Clause 3 (h) under SEPP (Housing) 2021 where sufficient assessment has not been undertaken under Chapter 2 Part 3 of SEPP Housing to demonstrate the new development has mitigated the loss of existing affordable rental housing.



- b. The submitted statement of environmental effects is inadequate in the assessment under Clause 47 (2) of SEPP Housing for the retention of existing affordable housing.
- c. A written request has not been made pursuant to Clause 68 (2, f) of SEPP Housing in relation to the proposed variation to the minimum landscaped area required for the subject site.
- d. No Landscape Plan has been provided although the submitted architectural plans notes 'refer to landscape plans.'
- e. The Preliminary Site Investigation report prepared by EBG concluded a Detailed Site Investigation (DSI) report is required which has not been submitted. Several potential areas of environmental concern (PAEC) have been identified in the Preliminary Site Investigation (PSI) report by EBG however further consideration of those areas has not been provided, and as such a proper assessment cannot be undertaken.
- f. The proposed basement includes the provision of a small waste truck to have a forward enter and exit to collect waste from the bin room. The submitted plans do not provide the internal head clearance at the entry point of the basement to show the proposed ramp is adequate to facilitate the forward enter and exit of the waste truck and other vehicles.
- g. The subject site is in the vicinity of several heritage items. A Heritage Impact Statement has not been submitted to discuss the impact of the proposed development on the heritage items located within the immediate vicinity of the subject site.
- h. The submitted Statement of Environmental Effects has not completed an assessment under Section 3 – Development in the vicinity of Heritage Items, Part P Heritage of SCDP 2005. There is insufficient information that the proposed development is designed and sited in a manner sympathetic to the significance of the heritage properties located within the vicinity of the subject site.

