

<b>Date:</b>	20 November 2023	<b>App Number:</b>	LU/0125/23
<b>Reporting Planner:</b>	Layla Gruebner	<b>Site Visit on:</b>	04 September 2023

<b>Applicant:</b>	Kelly Road Investments Limited
<b>Property Address:</b>	3 Kelly Road Cambridge 3434
<b>Legal Description:</b>	LOT 5 DPS 1176 as held in Record of Title SA1053/180
<b>Site Area:</b>	1,019m <sup>2</sup>
<b>Activity Status:</b>	Non-Complying
<b>Zoning:</b>	Residential
<b>Policy Area(s):</b>	C2/C3 Structure Plan Area
<b>Designation(s):</b>	N/A
<b>Special Feature(s):</b>	Poor Soakage
<b>Proposal:</b>	Six unit compact housing development in C2 Structure Plan Area within the Residential Zone breaching maximum building length, impermeable surface area, and roof pitch in the C2 area and several compact housing requirements

## 1 INTRODUCTION

Bark and Associates Limited ('the agent') is seeking land use consent on behalf of Kelly Road Investments Limited ('the applicant') for a 6 unit compact housing development at 3 Kelly Road, Cambridge.

- A 6 unit compact housing development is proposed where the District Plan provides for seven or more in the Residential Zone.
- The building will be 55m in length, breaching the 20m maximum, and is not stepped to a minimum of 2.4m for a length of 3m.
- The site will have an impermeable surface area of 79%, exceeding the 60% maximum.
- The roof pitch of the building is 25 degrees, not meeting the 30 degree minimum.
- Each unit has an outdoor living area that is 28.46m<sup>2</sup>, which does not meet the minimum area of 30m<sup>2</sup> for a 3 bedroom unit.

Therefore, resource consent is required as a Non-Complying activity.

### 1.1 Description of site

The subject site is located on the eastern side of Kelly Road. The site contains a freehold record of title with a total area of 1,019m<sup>2</sup>.

The property includes an existing dwelling, detached garage, and shed with some existing vegetation along the road and northern boundaries.

Surrounding properties are a mix of residential, commercial and reserve. Kelly Road Cambridge Lodge (motel) is located directly to the south and a new commercial development containing cafes, a grocery store, a gym, physiotherapy office, etc. is located directly to the east. Reserve land is located 140m to the south along Cambridge/Hamilton Road. Other immediate surrounding properties are residential properties developed with a dwelling, garages, sheds and swimming pools similar in size to the subject site. To the south and further west is also C2/C3 Structure Plan Area that is being subdivided into residential lots ranging in size from 300m<sup>2</sup> to 600m<sup>2</sup> which are currently vacant or being developed with dwellings. Te Awa Lifecare retirement village is located further west along Cambridge Road.

The property is sited within the Residential Zone and within the C2 Structure Plan Area policy overlay of the Waipā District Plan ('District Plan').

Council's Special Features Maps identify the entire site as being subject to poor soakage.

Refer to Figures 1 to 14.

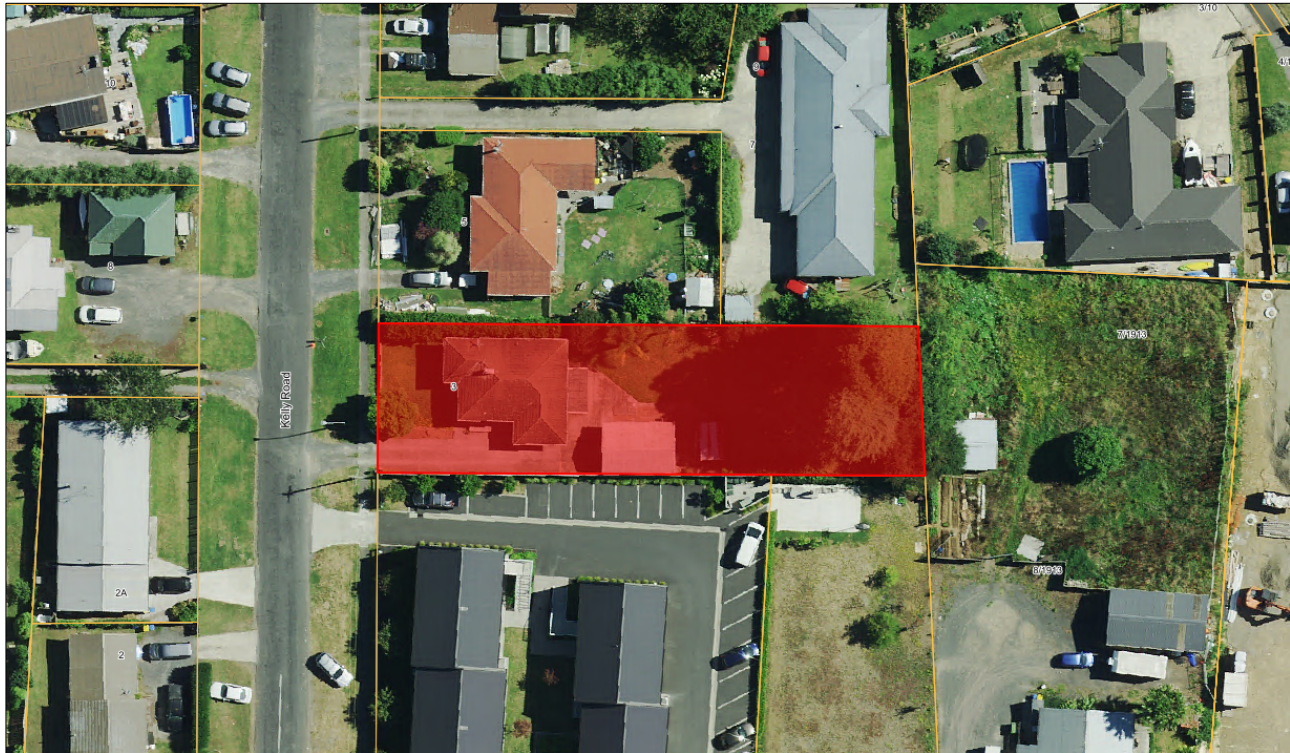
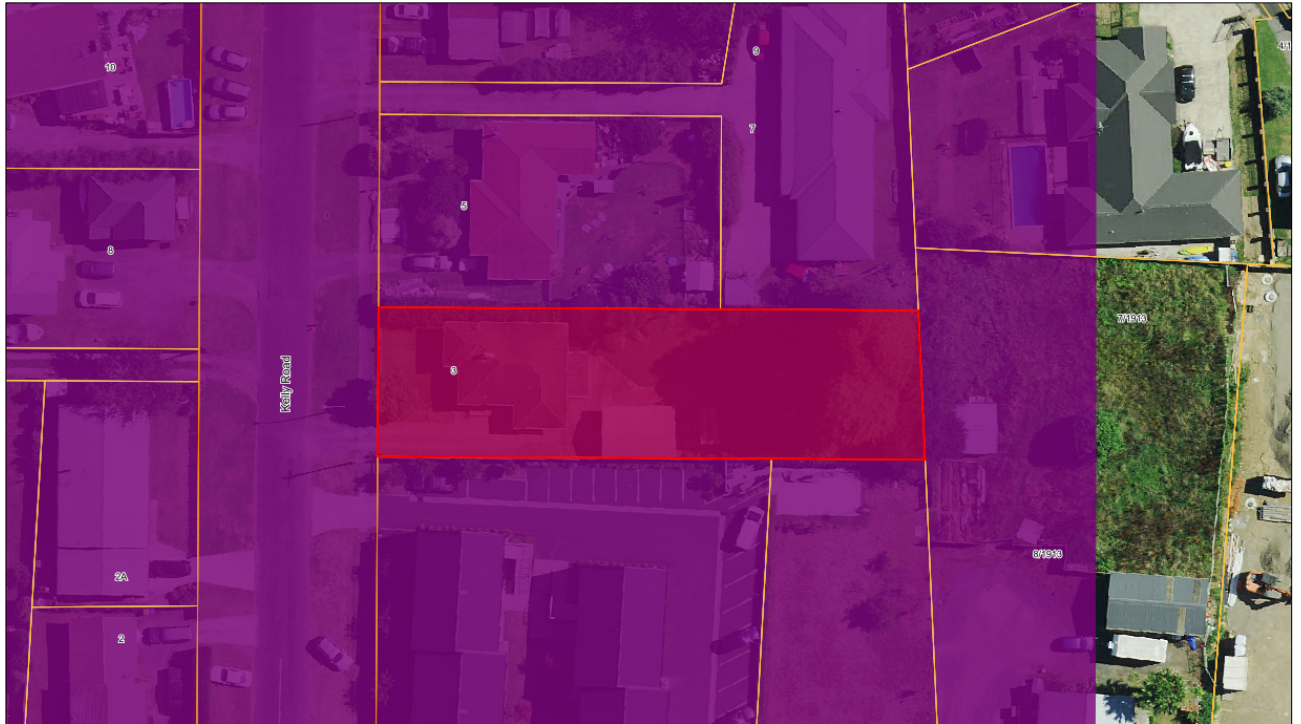


Figure 1: Aerial photograph of site (site shown in red).



**Figure 2:** District Plan Zoning and Policy Overlays.



**Figure 3:** District Plan Special Features – Poor Soakage (purple).



Figure 4: Site visit photo showing entrance to the site from Kelly Road.



Figure 5: Site visit photo showing the site and neighbouring properties 1 & 5 Kelly Road.



**Figure 6:** Site visit photo showing neighbouring motel at 1 Kelly Road.



**Figure 7:** Site visit photo showing neighbour at 5 Kelly Road.



Figure 8: Site visit photo showing existing dwelling and garage within site.



Figure 9: Site visit photo showing rear of existing dwelling facing 5 Kelly Road.



**Figure 10:** Site visit photo showing rear of the site facing east towards commercial development.



**Figure 11:** Site visit photo showing 2A Kelly Road.

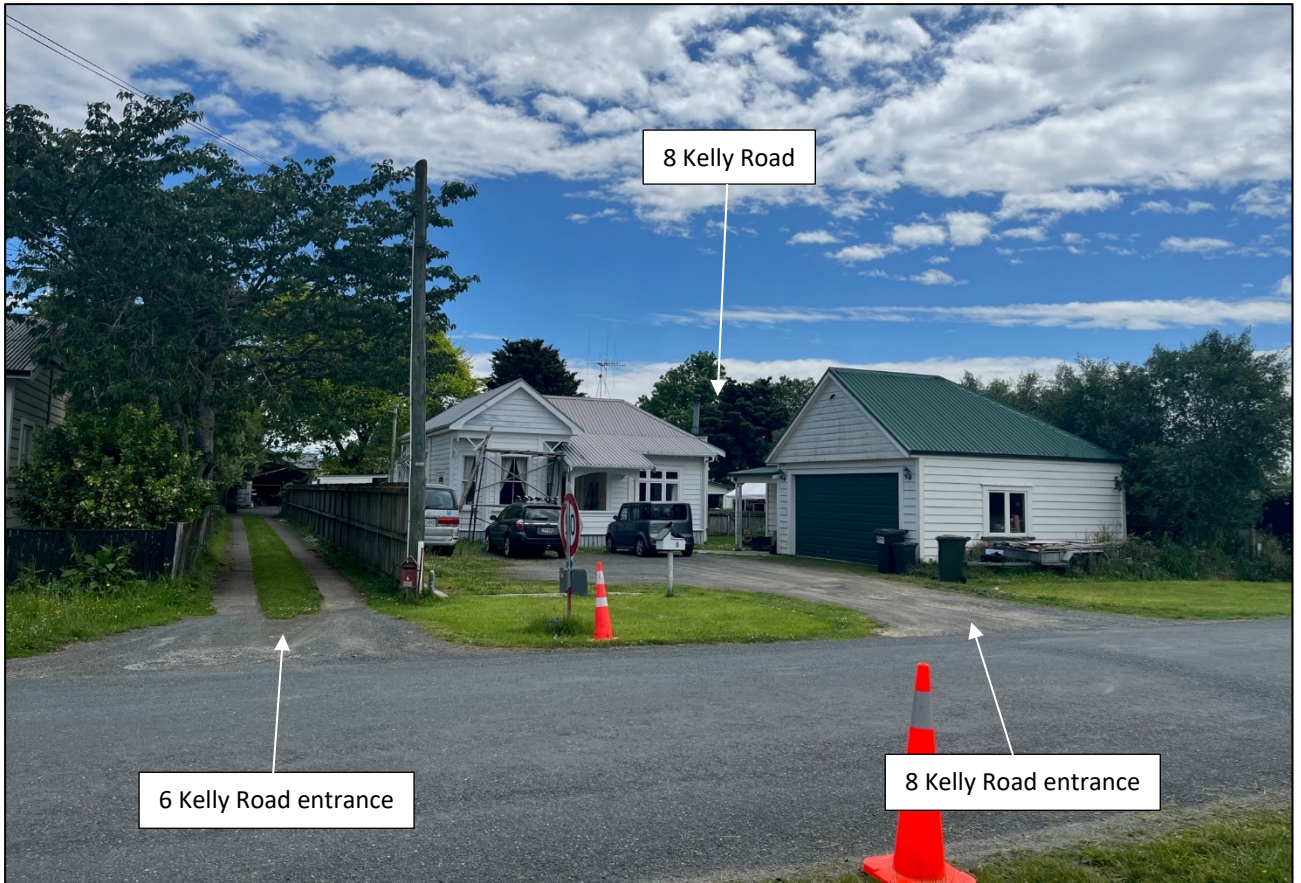


Figure 12: Site visit photo showing 8 Kelly Road and driveway to 6 Kelly Road.



Figure 13: Site visit photo showing rear of the subject site from 1907/1905 Cambridge Road.





**Figure 14:** Site visit photo showing rear of the subject site from 1907/1905 Cambridge Road.

## 1.2 Legal interests in the property

Table 1 below summarises the relevant interests on the existing title.

Title Reference	Legal Description	Size	Date Issued	Relevant Interests
SA1053/180	LOT 5 DPS 1176	1,019m <sup>2</sup>	06 October 1952	<ul style="list-style-type: none"> <li>Fencing Agreement in Transfer S39614</li> <li>12028199.3 Mortgage to Kiwibank Limited</li> </ul>

**Table 1:** Existing title and interests.

The above listed interests do not restrict the proposal from proceeding.

## 1.3 History

The property is not subject to any previous resource consents.

## 1.4 Proposal

Pursuant to Section 88 of the Resource Management Act 1991 ('the Act'), Kelly Road Investments Limited have applied for a land use consent to construct a 6 unit compact housing development that breaches building length, outdoor living area, roof pitch and impermeable surface requirements.

### Units

Six (6) two storey units are proposed in the form of an apartment block 7.22m high and 55m in length. Each unit contains 3 bedrooms, an office, 2 bathrooms, 1 toilet room, open plan living, kitchen and living, and 1 single garage. Each unit has a 28.46m<sup>2</sup> outdoor living area which includes a deck and grassed area, and a service area that is a concreted area for bin storage and a clothes line. These areas are located to the north of each unit and the living area is accessible from the living room.

Each unit has a Gross Floor Area (GFA) of 139.28m<sup>2</sup> to 139.36m<sup>2</sup>. The units will be clad with a mix of materials, including brick veneer, timber cladding, metal cladding and panel garage doors.

### Servicing

Stormwater will be managed onsite via individual underground soakage systems within the accessway.

It is proposed that water supply and wastewater are provided via Council reticulated connection. It is noted that as the density proposed is greater than anticipated in the area, modelling is required to confirm network capacity. This was requested under Section 92 request as per below in Section 1.5 of this report. If the modelling finds there is no capacity, then a connection cannot be approved by water services. Without this connection, the development cannot be serviced, therefore, consent will not be granted if there is no capacity.

### Access

The existing vehicle crossing will be upgraded to provide for access to the units via ROW. Each unit has one car parking space within a single internal garage.

### Landscaping and Fencing

Landscaping will be undertaken along the road (western), northern and eastern boundaries, as well as within the small portion of garden at the ROW front of each unit. Fencing will be constructed along all boundaries, a 1.8m high close boarded timber fence will be located along the northern, eastern and southern boundaries, as well as between each of the units. A 1.2m high visually permeable black power coated pool type fence will be located along the road front boundary as well as a gate to provide entry to the front door of unit 1.

Refer to Figures 15 to 17 below for the proposed site plan and elevation plan for the activity.

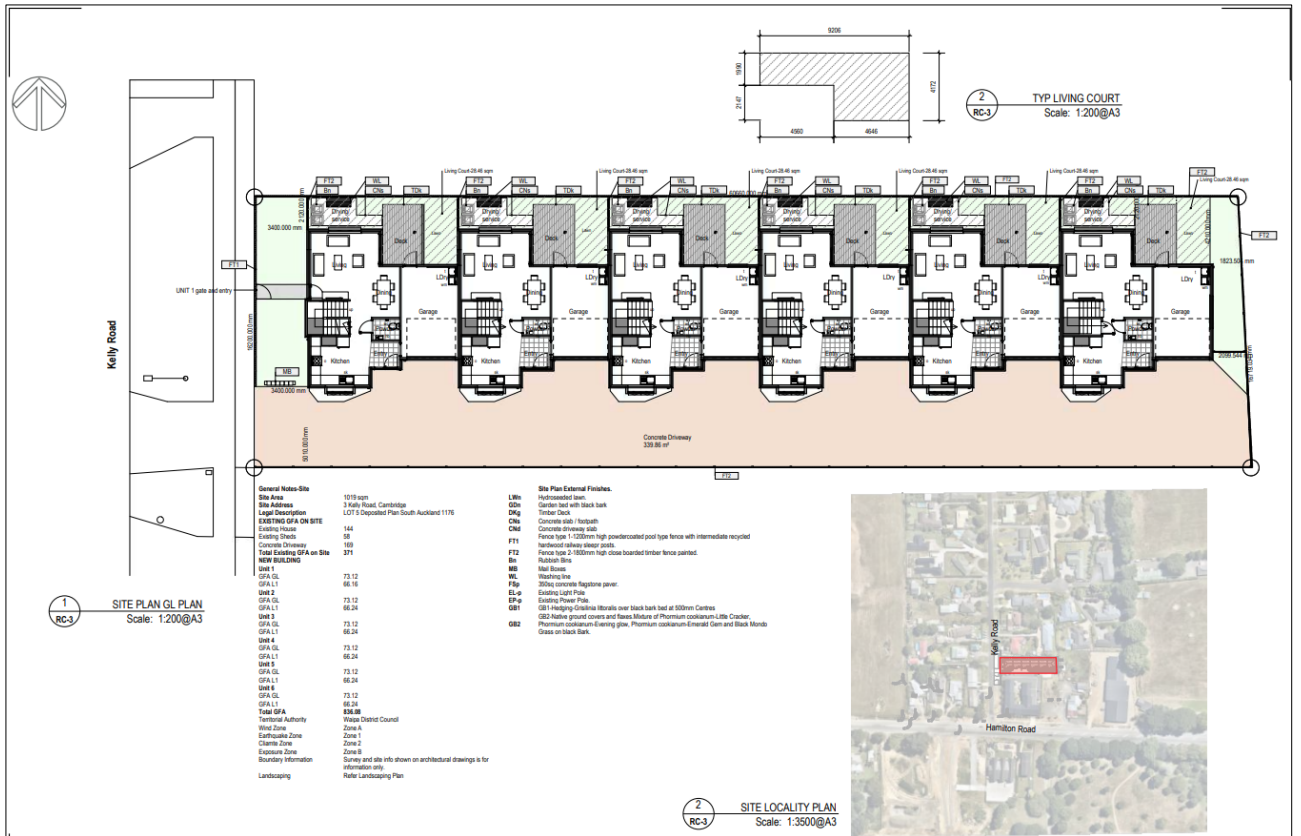


Figure 15: Proposed site plan.



Figure 16: Proposed elevation plan.

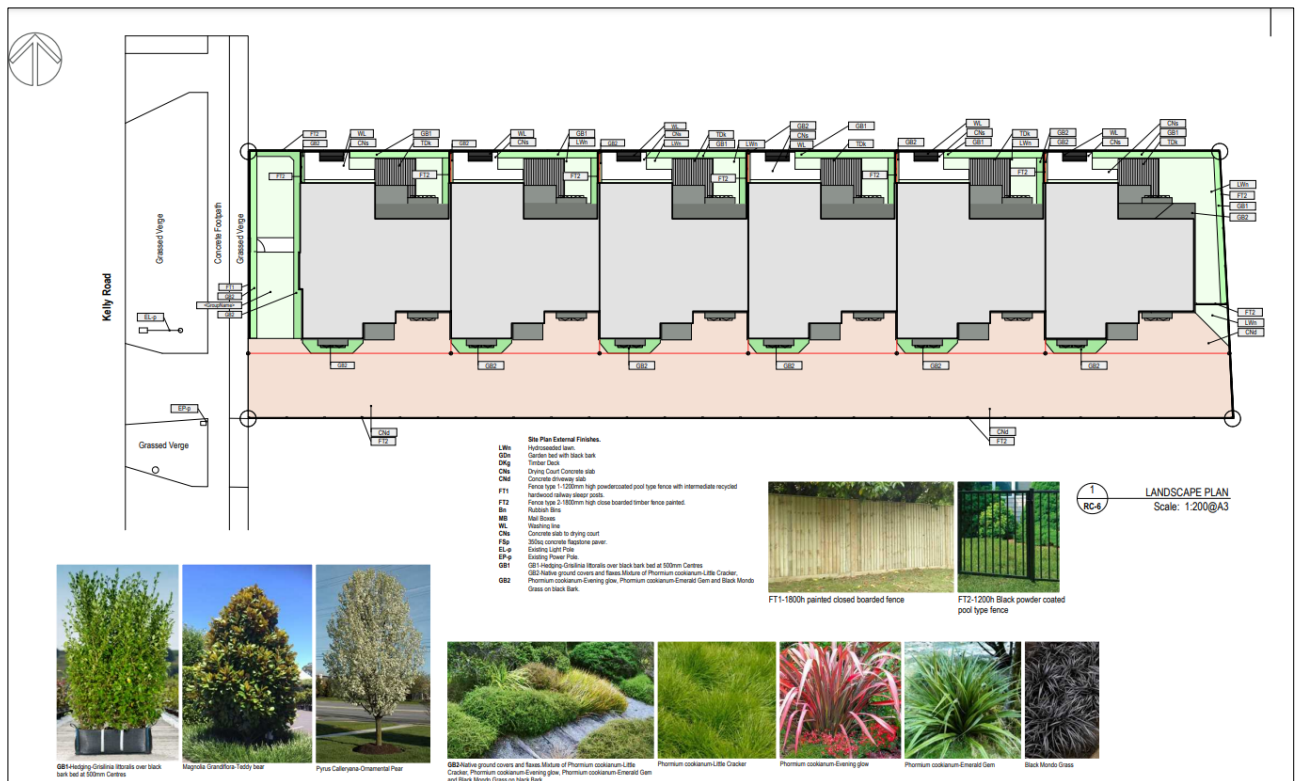


Figure 17: Proposed Landscaping Plan.

## 1.5 Process Matters

A further information request was sent to the applicant’s agent on 17 August 2023, the following information was requested:

1. It has been noted on the Site Plan (Project No: 22002, SC REF: SC10) prepared by Sekta Architects (Doc set: 11056987 Page 49) that suitable vehicle manoeuvring has not been provided. Please provide updated manoeuvring plans in accordance with AS/NZ 2890.1:2004 99.8 percentile car. Please note, vehicles should be able to exit the garage before beginning the manoeuvre.
2. It has also been noted on the Site Plan (Project No: 22002, SC REF: SC10) prepared by Sekta Architects (Doc set: 11056987 Page 49) that the proposed access leg is not suitable. Please provide an updated site plan showing a access leg with a minimum width of 6m. As this access leg will be servicing 6 household units RITS D3.1.6.
3. Please provide water modelling to ensure there is suitable capacity within the surrounding water supply network. As the density of the proposed compact development exceeds 45 persons per hectare.
4. Please provide wastewater modelling to ensure there is suitable capacity within the surrounding wastewater network. As the density of the proposed compact development exceeds 45 persons per hectare.
5. Please provide stormwater modelling to ensure there is suitable capacity within the surrounding stormwater network to cater for the secondary runoff. As there is a significant increase in impermeable surfaces.

6. *Plan RC-6 refers to a 1.8m high close boarded fence (FT1) along the road boundary, please amend to be visually permeable and 1.2m high.*
7. *A small portion of the roof breaches the recession plane as per Rule 2.4.2.11 of the District Plan. Please provide an assessment of effects on this.*
8. *Provide an assessment on policies 2.3.3.4 and 2.3.3.5.*
9. *Demonstrate that the car can fit in each of the garages without overlapping the laundry area and enough space for the garage to close.*
10. *Clarify how the rubbish and recycling bins will be brought out for collection (i.e. through the garage – and will they fit through the garage?).*
11. *Provide details on how the proposal complies with rule 2.4.2.44(k) requiring truck access for rubbish and recycling.*

Points 1, 2, 6-11 have been satisfied, and it is noted that Point 5 requesting stormwater modelling was an error and is instead requesting a Stormwater Management Plan which will be conditioned to be provided at building consent stage.

Points 3 and 4 requesting water and wastewater modelling has not yet been satisfied, the agent has advised that the modelling is currently being undertaken by WSP. The application will remain on hold until this is received. It is noted again that should the modelling find there is no capacity then a connection would not be approved by Council's Water Services group and the development could not therefore proceed.

## **2 REASON FOR THE APPLICATION**

---

A land use consent as described under Section 87A of the Act is required for the reasons set out below.

### **2.1 Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NES)**

These regulations came into force on 1 January 2012 and apply when a person wants to do an activity described in Regulation 5(2) to 5(6) on a piece of land described in Regulation 5(7) or 5(8). Following a review of the historical aerial photographs contained within Council's records, a HAIL activity does not appear to have been undertaken on the site. In accordance with Regulation 5(7), the site is not a 'piece of land' and consent is not required under the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011.

### **2.2 Waipā District Plan Rule Assessment**

An assessment of the proposal's compliance with the relevant rules of the District Plan has been completed. In summary, Table 2 below outlines the relevant rules relating to the proposed activity.

Rule #	Rule Name	Status of Activity	Comment
2.4.1.3(b)	Compact housing seven or more dwellings per site	Not Applicable – refer rule 2.4.1.5 below	6 compact housing units are proposed where the District Plan provides for seven or more. Therefore, this is not provided for and results in the proposal requiring consent as a Non-Complying activity. Refer to Rule 2.4.1.5 below.
2.4.1.5	Non-Complying activities	<b>Non-Complying</b>	6 compact housing units are proposed where the District Plan provides for seven or more. Therefore, this is not provided for and results in the proposal requiring consent as a <b>Non-Complying activity</b> .
2.4.2.2(f)	Minimum building setback from road boundaries	Complies	The building is located 3.4m from the road boundary, meeting the minimum 3m requirement for compact housing in C2/C3.
2.4.2.5	Minimum building setback from internal site boundaries	Complies	The building is located 5m from the southern boundary, 2.1m from the northern boundary and 1.8m from the eastern boundary at the closest point. Therefore, the minimum internal boundary setbacks are met.
2.4.2.10(f)	Maximum height	Complies	The proposed building is 7.22m in height and two storied, which complies with the 13m height and 3 storeys maximum requirement for compact housing within C2/C3.
2.4.2.11	Daylight control	Complies	The building does not penetrate the recession plane on any boundary.
2.4.2.8	Maximum building length	<b>Restricted Discretionary</b>	The proposed building length is 55m, exceeding the 20m maximum and is not stepped to a minimum of 2.4m for a length of 3m.  This non-compliance results in the proposal requiring consent for a <b>Restricted Discretionary activity</b> .
2.4.2.13	Impermeable surfaces	<b>Restricted Discretionary</b>	The proposal will result in a total impermeable surface area of 79%, exceeding the 60% maximum.  This non-compliance results in the proposal requiring consent for a <b>Restricted Discretionary activity</b> .
2.4.2.17	Cambridge North and C1 and C2 Structure Plan Area: on-site soakage	Complies	The proposal provides for onsite stormwater soakage.
2.4.2.20	Neighbourhood amenity and	<b>Restricted Discretionary</b>	The front façade provides 12.72% glazing, not meeting the 15% minimum required.

	safety		
2.4.2.22	Neighbourhood amenity and safety	Complies	The fencing along the road boundary will be no more than 1.2m in height and will be visually permeable.
2.4.2.24	Neighbourhood amenity and safety	<b>Restricted Discretionary</b>	The roof pitch of the building is 25 degrees, not meeting the 30 degree minimum.  This non-compliance results in the proposal requiring consent for a <b>Restricted Discretionary activity</b> .
2.4.2.44	Compact housing	<b>Discretionary</b>	The site is not located within the compact housing overlay and does not meet the minimum site area of 2,000m <sup>2</sup> .  The building exceeds 20m in length without being broken or stepped to a minimum depth of 2.4m and a minimum length of 3m at least once every 20m in length.  Each unit has an outdoor living area that is 28.46m <sup>2</sup> , which does not meet the minimum area of 30m <sup>2</sup> for a 3 bedroom unit.  The site will have a permeable surface area of 21% where a minimum of 30% is required.  These non-compliances result in the proposal requiring consent for a <b>Discretionary activity</b> .
15.4.2.4	Minimum width of vehicle access to rear lots	<b>Discretionary</b>	Although the proposal is not subdividing around the units, it is still in effect creating five rear units ('lots'). Therefore, the proposal does not meet the minimum access width of 6m, the proposed access is 4.08m wide.  This non-compliance results in the proposal requiring consent for a <b>Discretionary activity</b> .

**Table 2:** District Plan rule assessment.

As outlined in the table above, the application is deemed to be a **Non-Complying Activity** being the highest status indicated by the above rules.

### 3 STAFF COMMENTS

#### 3.1 Development Engineering

Council's Development Engineer, Brendan Koevoet, has reviewed the application and notes the following points:

- DE is satisfied with the manoeuvring provided as per requested under Point 1 of the s92 request. Accordingly, the DE is satisfied that the ROW is suitable to accommodate the rear units.
- DE has agreed the Stormwater provisions can be suitably managed via consent conditions, this decision is based on the soakage rates provided within the 3 Waters Assessment Report prepared by GDC Consultants dated 12/07/2023 (Doc set: 11056987 Pg 68 - 69, 89 - 99), and also considering stormwater reports from nearby developments. A condition will be applied should consent be granted that a Stormwater Management Plan is to be provided at building consent stage.
- Water and wastewater modelling is required to ensure there is suitable capacity within the surrounding water supply network. As the density of the proposed compact development exceeds 45 persons per hectare. This was requested under s92 as outlined in Section 1.5 of this report. The agent has advised that the modelling is currently being undertaken by WSP. It is noted again that should the modelling find there is no capacity then a connection will not be approved by water services. This will be reviewed once received by Council.

### 3.2 Urban Design

Council's Urban Design consultant, Annette Jones, has reviewed the application and provided comments, the full comments are included as ECM Doc: 11074841. I have included the key points below:

#### **Site Layout:**

*The front unit of the site is differentiated with its own street address and path from Kelly Street. This front unit has some windows onto the street which provide a frontage, however the opportunity has not been taken to provide passive surveillance and interface to the street from living areas which is a drawback of the proposal (glazing is to the stairwell and first floor bedroom and office windows sill level is above eye level). The terrace units orient the kitchen areas onto the driveway access which provides for CPTED outcomes along this driveway access which also provides the main pedestrian access for the remaining five units.*

*Vehicle access is provided from the southern side of the site to the single garages provided on the ground floor of each unit. It is noted that there is no specific differentiation provided on the ground surface from the vehicle access to delineate the pedestrian access along the boundary.*

#### **Context and Character:**

*A drawback of the development is the lineal nature of the singular block that is 55.69 metres long. Seen in context this proposal is a transition from the bulk of the visitor accommodation on the corner of Kelly Road and Cambridge Road.*

*The neighbours to the north that will see the highest level of change in the character of the site, with six units introduced on this boundary. Breaking down the length into two blocks would mitigate this.*



*An alternative would be to reduce the floor plate and number of bedrooms and break the building into two blocks.*

*In retaining the proposed footprint there are additional mitigation measures that can be made to break down the lineal nature of the elevation. The proposal has used a variety of materials and stepped the façade so that the block is articulated as six dwellings. Other methods are a change in wall colour or placement of specimen trees to further break this elevation for the viewer beyond the site.*

### **Street Relationship & Appearance:**

*While 5 of the 6 dwellings are not directly apparent from Kelly Road they will be visible on an oblique angle as depicted in the illustration below right. Consideration could be given to the role landscaping elements can provide in breaking this long elevation i.e. specimen tree placement.*

### **Amenity:**

#### **On-site amenity**

*Units are arranged with a northern orientation, providing good access to sunlight with lawn and deck areas of a size that is proportional to the number of anticipated occupants, despite this being 1.5m sq under the required 30msq.*

*The entry areas of each unit have a semi-public space with landscaping in front to provide a semi-public space and a degree of privacy for occupants from the shared access. The windows at ground and first level provide oversight of this common area.*

#### **Amenity of adjacent properties**

*Overall the proposed development manages the interface and amenity of adjacent properties in particular those to the south and north through a mix of setbacks in the elevation and differentiation of the elevation with a range of materials. This is also employed on the residential boundary elevation to the west, however, further methods including landscaping with specimen trees would give the impression of further breaking up the bulk and mass of the building especially along the northern boundary with residential dwellings.*

### **Landscape Design:**

*There is a clear distribution of landscaped space providing for a north facing yard area accessible from the living area of each dwelling and a planted area at the front door the south to provide a level of screening and defensible space for the area in front of each unit that faces onto the shared access way.*

*The frontage onto Kelly Street is open with a lawn and flax defining the edge giving full visibility of the letterboxes that front onto the shared access.*

### **Form & Appearance:**

*The proposal follows the pitched rooves anticipated in the area and also seen in surrounding new buildings. The floor plan shows a varied building line where each unit steps out and in at*

each level. This provides visual relief to the façade and positively differentiates each unit. The different material selection supports this and assists the design as there is only one roof across the full length of the six units.

**Conclusions/Recommendations:**

- Identify the location and type of specimen trees as well as their size to indicate the role these will have in breaking up the northern elevation.
  - Consider the differentiated surface that can be provided for pedestrians and the landscaped edge on the southern boundary.
  - Provide greater passive surveillance and interface to the street from living spaces of the front unit facing onto Kelly Street.
- These comments were passed onto the applicant's agent for consideration. No changes were made to the proposal as a result.

## **4 ASSESSMENT FOR THE PURPOSE OF PUBLIC NOTIFICATION**

---

### **4.1 Adequacy of information**

It is my opinion that the information contained within the application is substantially suitable and reliable for the purpose of making a recommendation of and decision on notification. The information within the application is sufficient to understand the characteristics of the proposed activity as it relates to provisions of the District Plan, for identifying the scope and extent of any adverse effects on the environment, and to identify persons who may be affected by the activity's adverse effects.

### **4.2 Mandatory Public Notification - Section 95A(2) & (3) – Step 1**

Council must publicly notify the resource consent where:

- a) it has been requested by the Applicant; or
- b) a further information request has not been complied with or the Applicant refuses to provide the information pursuant to Section 95C; or
- c) the application has been made jointly with an application to exchange recreation reserve land under Section 15AA of the Reserves Act 1977.

In this instance, none of the above situations apply, therefore public notification is not required under Section 95A(2) and 95A(3).

### **4.3 Public notification precluded – Section 95A(5) – Step 2**

The consent is for a resource consent for one or more activities and there are no rules in a National Environmental Standard or the District Plan relevant to this proposal that preclude public notification.

The application is not for a resource consent for one or more of the following:

- a) Controlled activity;
- b) A restricted discretionary, discretionary, or non-complying activity, but only if the activity is a boundary activity;

As the application is not one of the above activities, the application is not precluded from public notification.

#### **4.4 Public notification required in certain circumstances – Section 95A(8) – Step 3**

Council must publicly notify the resource consent where:

- a) The application is for a resource consent for one or more activities, and any of those activities is subject to a rule or national environmental standard that requires public notification; or
- b) The consent authority decides, pursuant to Section 95D, that the activity will have or is likely to have adverse effects on the environment that are more than minor.

In this instance, public notification is not required by a rule or a national environmental standard. Refer to Section 4.5 and 4.6 of this report for Council's assessment of the effects.

#### **4.5 Effects that may or must be disregarded – Section 95D(a), (b), (d) and (e)**

Pursuant to Section 95D, if a rule or national environmental standard permits an activity with that effect the adverse effect of that activity may be disregarded.

##### **4.5.1 Permitted Baseline**

Pursuant to Section 95D, a Council may disregard an adverse effect of the activity on the environment if the plan or a national environmental standard permits an activity with that effect (i.e. the Council may consider the 'permitted baseline'). The permitted baseline is a concept designed to disregard effects on the environment that are permitted by a plan with regard to who is affected and the scale of the effects.

In this case, the permitted baseline is a relevant consideration which would allow for two principal dwellings (one principal dwelling per 500m<sup>2</sup>).

##### **4.5.2 Land excluded from the assessment**

For the purpose of assessing an application to establish whether public notification is required, effects on owners and occupiers of the subject site and adjacent sites, and persons whom have given written approval **must** be disregarded. The adjacent properties to be excluded from the public notification assessment are listed in Table 3 and shown in Figure 18 below.

ID#	Street Address	Legal Description	Owner
1	5 Kelly Road Cambridge 3434	LOT 3 DPS 9804 BLK IX CAMBRIDGE SD	Vincent M Morel Estate
2	9 Kelly Road Cambridge 3434	LOT 2 DPS 9804 BLK IX CAMBRIDGE SD	Alexander K Walford & Allannah C Walford
3	1907 Cambridge Road Cambridge 3434	PT DP 19847 BLK IX CAMBRIDGE SD	Sloane Street Limited
4	1905 Cambridge Road Cambridge 3434	LOT 2 DP 499979	Sloane Street Limited
5	1 Kelly Road Cambridge 3434	LOT 1 DP 499979	Kelly Road Holdings Limited
6	2A Kelly Road Cambridge 3434	LOT 1 DP 410038	Gina M Woodfield & Michael J Woodfield
7	6 Kelly Road Cambridge 3434	LOT 2 DPS 6268 BLK IX CAMBRIDGE SD	Stuart W Turner
8	8 Kelly Road Cambridge 3434	LOT 3 DPS 6268	Sharon E Thomas

**Table 3:** Properties excluded for purposes of public notification assessment.



**Figure 18:** Adjacent properties map (Subject site highlighted in red).

Written approval was obtained by the owners of 1 Kelly Road, the proposal has since changed, however, the written approval is still valid given there has been no change or increase to any non-

compliances in regard to the property. No other written approvals were provided with the application.

#### **4.6 Assessment of Adverse Environmental Effects – Section 95D**

Part 2 of the Act explains the purpose is to “*promote the sustainable management of natural and physical resources*”. In addition, it is noted the meaning of ‘effect’ is defined under the Act as:

*In this Act, unless the context otherwise requires, the term **effect** includes—*

- (a) any positive or adverse effect; and*
- (b) any temporary or permanent effect; and*
- (c) any past, present, or future effect; and*
- (d) any cumulative effect which arises over time or in combination with other effects — regardless of the scale, intensity, duration, or frequency of the effect, and also includes—*
- (e) any potential effect of high probability; and*
- (f) any potential effect of low probability which has a high potential impact.*

With the definition of ‘effect’ in mind, it is considered appropriate to further examine the effects of the proposed activity relating to character and amenity, traffic, and infrastructure effects. It is acknowledged some of these effects are temporary and directly related to the construction of the development.

An assessment of effects is included in Section 6.4 of the application. In accordance with Section 42A(1A) and (1B) of the Act I wish to generally adopt the Applicant’s assessment and provide the additional commentary below.

##### **4.6.1 Effects on character and amenity**

The Act defines amenity values as “*those natural or physical qualities and characteristics of an area that contribute to people’s appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes*”. The Residential Zone accommodates the Districts urban areas and considers bulk, existing environment, density, noise and the relationship between private and public spaces. Collectively these elements form the character of the area.

In terms of character and amenity, the proposed land use will not change the function or use of the site in the sense that it will still be used for residential purpose. However, the proposal is introducing a higher density than what is expected in the context of the existing environment as well as what is anticipated in the area and Structure Plan.

The structure plan has a target density of 12-15 dwellings per hectare (equates to 600m<sup>2</sup> – 800m<sup>2</sup> lot sizes), where the proposal would equate to approximately 60 dwellings per hectare. Compact housing is also being proposed outside of the compact housing overlay, however, it is important to note that compact housing in C2 can be within 200m of the town belt as an equivalent to being in

the compact housing overlay. In addition, compact housing is provided for in the structure plan and includes duplexes, terraces, apartments and town houses as is being proposed.

The surrounding area is an area under rapid change as a result of the Residential Zone in the C2 and C3 Structure Plan areas being activated in the last 2 years. As such, there is a mixture of established lower density development and more recent higher density development meaning the character of the area is mixed and undergoing change as a result of this live zoning and structure plans.

The front unit (unit 1) provides some frontage with windows facing the street and has a clear path for pedestrian access to the front door. However, as per Ms Jones' comments, *the opportunity has not been taken to provide passive surveillance and interface to the street from living areas which is a drawback of the proposal (glazing is to the stairwell and first floor bedroom and office windows sill level is above eye level)*. To soften the interface with the unit, 1.2m high fencing and landscaping along the road boundary, and is appropriately setback to reduce visual dominance from the road. By having low permeable fencing and vegetation, this normally contributes to and encourages passive surveillance and interface with the street. However in this case actual passive surveillance is not achieved given the glazing requirements are not met and the windows provided are limited to the stairwell and above eye level bedroom windows. This is not considered to be a good urban design outcome.



**Figure 19:** 3D rendition of units with landscaping and fencing. **Figure 20:** Road front elevation.

The building will be 55m in length relative to the northern and southern boundaries, the road front of the building will be limited to the front façade of Unit 1. Although the block is not stepped as required by the district plan, there is some stepping between units, in addition, it has been designed to create visual interest along with the proposed landscaping to soften views. However, the lineal nature of the singular block as well as being 55.69m in length is a drawback of the development as per Ms Jones' comments. The proposed block is significantly larger and longer than a single dwelling that would be permitted on site and presents as an uninterrupted mass that is bulky and domineering, as commented by Ms Jones' *while 5 of the 6 dwellings are not directly apparent from Kelly Road they will be visible on an oblique angle* (Figure 19). In addition, Ms Jones' comments that *as the units are similar it does not provide for a mix of households and diversity of occupants on the site*.

Overall, the adverse effects on the wider environment with regard to the character and amenity are considered to be minor.

#### **4.6.2 Effects on the roading network**

Traffic and the effects on the roading network are an instrumental part of the District Plan direction to ensure an integrated approach to land use and transport. At a local scale the integration of new activities need to ensure that the roading network can continue to function in a safe and efficient manner.

The proposed development is anticipated to generate traffic flows of approximately 50 additional vehicle movements per day.

Council's Development Engineer, Brendan Koevoet, has reviewed the application and is satisfied that the network is capable of accommodating the additional vehicle movements and that adequate manoeuvring is able to be achieved on site to ensure vehicles can exit the site in a forward facing direction.

Overall, it is concluded that any adverse effects on the roading network as a result of this proposal will be less than minor.

#### **4.6.3 Effects on Infrastructure**

How and where infrastructure occurs is critical to the suitability of a development and the resulting use of the area. The infrastructure required for the development in the Residential Zone includes water supply, stormwater disposal, wastewater disposal, power and telecommunication connections.

The application has provided a Three Waters Assessment Report (Appendix 4 of the application) which outlines the proposal for wastewater, water supply and stormwater disposal.

Mr Koevoet is satisfied that the stormwater provisions can be suitability managed via consent conditions, this decision is based on the soakage rates provided within the Three Waters Assessment Report prepared by GDC Consultants dated 12/07/2023 (Doc set: 11056987 Pg 68 - 69, 89 - 99), and also considering stormwater reports from nearby developments. A condition will be applied should consent be granted that a Stormwater Management Plan is to be provided at building consent stage.

It is proposed for water supply and wastewater to be supplied via Council reticulated connection. However, as the proposal results in a higher density than provided for (exceeds 45 persons per hectare), water and wastewater modelling is required to ensure there is suitable capacity within the network. This was requested under s92 as outlined in Section 1.5 of this report. The agent has advised that the modelling is currently being undertaken by WSP. It is noted again that should the modelling find there is no capacity then a connection would not be approved by Council's Water Services group.

Overall, based on the technical reports provided with the application, Council's Development Engineering Team advice, and based on water connections being accepted, it is my opinion that any adverse effects on infrastructure will be less than minor.

#### **4.6.4 Summary of Effects**

Overall it is concluded that any adverse effects of the proposal will be less than minor. On this basis the adverse effects are below the more than minor threshold and the proposal does not require public notification.

#### **4.7 Special Circumstances – Section 95A(9) – Step 4**

Council must determine as to whether special circumstances exist in relation to the application that warrant public notification of the application and publicly notify an application if it considers that special circumstances exist. In effect, special circumstances 'trumps' other notification provisions. Special circumstances have been defined as circumstances that are unusual or exceptional, but may be less than extraordinary or unique. Special circumstances provide a mechanism for public notification of an application which may otherwise appear to be routine or uncontentious or minor in its effects.

The purpose of considering special circumstances requires looking at matters that are beyond the plan itself. The fact that a proposal might be contrary to the objectives and policies of a plan is not sufficient to constitute special circumstances. Special circumstances must be more than:

- where a Council has had an indication that people want to make submissions;
- the fact that a large development is proposed; and
- the fact that some persons have concerns about a proposal.

In this instance, the proposal is not considered to have unusual or exceptional circumstances warranting public notification.

#### **4.8 Summary of Public Notification Assessment**

Pursuant to Section 95A, the application has been assessed to determine if public notification is required. In this instance, and for the reasons outlined in Sections 4.1 to 4.7 above, it is not considered that the proposal warrants public notification. For this reason the application is required to be assessed pursuant to Section 95B for limited notification.

## **5 ASSESSMENT FOR THE PURPOSES OF LIMITED NOTIFICATION**

---

Pursuant to Section 95B(1), where a consent authority decides that public notification is not required under Section 95A of the Act, an assessment is required to determine whether limited notification of an application is required.



## **5.1 Affected Customary Rights or Marine Title Groups – Section 95B(2)- Step 1**

The property subject to this application is not within a protected customary rights group area or a customary marine title area as defined by the Marine and Coastal Area (Takutai Moana) Act 2011.

## **5.2 Statutory Acknowledgment Area – Section 95B(3) – Step 1**

Pursuant to Section 95B(3)(a), the Council is required to determine whether the proposed activity is on, or adjacent to, or may affect, land that is the subject of a statutory acknowledgment made in accordance with an Act specified in Schedule 11. The property subject to this consent is within Ngāti Hauā and Raukawa Statutory Acknowledgement Area.

Assessment is now required under Section 95B(3)(b) to determine whether the person to whom the statutory acknowledgment is made is an affected person in accordance with Section 95E of the Act. As the proposal is within an existing residential area, the application was not circulated to Ngāti Hauā or Raukawa. Therefore, pursuant to Section 95E(3)(a), Ngāti Hauā and Raukawa are not an affected person in relation to the application.

## **5.3 Limited Notification Precluded in Certain Circumstances – Section 95B(6) – Step 2**

There are no rules in a National Environmental Standard or in the District Plan relevant to this proposal that preclude limited notification (Section 95B(6)(a)).

The application is not a controlled activity requiring consent under the District Plan (Section 95B(6)(b)).

There are no circumstances relevant to this proposal that preclude limited notification under Section 96B(6) (Step 2).

## **5.4 Certain other affected persons must be notified – Section 95B(7) – Step 3**

Step 3 required Council to determine whether, in accordance with Section 95E whether the following persons are affected:

- In the case of any other boundary activity, an owner of an allotment with an infringed boundary.

The proposal is not a boundary activity (Section 87AAB), so there are no owners of with an infringed boundary that are affected, so there are no parties to notify in this report.

## **5.5 Assessment of adversely affected persons - Section 95B(8) – Step 3**

Assessment is now required under Section 95B(8) to determine whether a person is an affected person in accordance with Section 95E. Under Section 95E, a person is an affected person if the

consent authority decides that the activity's adverse effects on a person are minor or more than minor (but are not less than minor).

The following provides an assessment of the adverse effects on the potentially affected persons.

### **5.5.1 5 Kelly Road**

This property is located to the north of the subject site and includes a dwelling and small garden shed. As per Ms Jones' comments, 5 Kelly Road *will see the highest level of change in the character of the site, with six units introduced on this boundary*. The proposed block will run for approximately 35m along the common boundary between the subject site and 5 Kelly Road. The block will be adjoining the outdoor living area of 5 Kelly Road. Although the block does comply with setbacks, daylight control and building height, the proposal is creating a much higher density than what is reasonably expected. When considering the permitted baseline, the proposed block is well above what is anticipated, in that the permitted baseline could allow two double storied town houses per site, where the proposal will result in a large block comprising 6 double storied units. This is a significant difference in that the proposed block is considerably larger and longer than a single dwelling that would be permitted on site and presents as an uninterrupted mass that is bulky and domineering. In addition to this, the proposal will intensify the activity on site where in the context of the permitted baseline, it would be expected to have 3-4 people per dwelling (6-8 total), whereby the proposed could result in 18-24 people overall. This in turn is considered to increase the activity on site to a level that will affect the reasonable expectation of noise and seclusion of 5 Kelly Road. Therefore, the owners and occupiers of 5 Kelly Road are considered to be affected by the proposal.

### **5.5.2 9 Kelly Road**

This property is located to the north of the subject site and includes a dwelling and vegetation along the north, east, west and south boundaries. The proposed block will run for approximately 20m along the common boundary between the subject site and 9 Kelly Road. The block will be adjoining the garage and parking area of 9 Kelly Road and the block will be approximately 7.78m setback from the garage. In addition, the outdoor living area for 9 Kelly Road is located to the north of the property on the other end of the site away from the subject site. While there is an increase in density and activity from the development, given the orientation of 9 Kelly Road and the separation from the site, the proposed block will not result in any overlooking or dominance on the property. Therefore, the owners and occupiers of 9 Kelly Road are not considered to be affected by the proposal.

### **5.5.3 1907 & 1905 Cambridge Road**

These properties are located to the east and south of the subject site. The property contains a newly constructed commercial development containing cafes, a grocery store, a gym, physiotherapy office, etc., with the subject site adjoining the back of these buildings and carpark area (Figures 13 and 14). Given the nature of the properties being commercial in a residential zone, they are expected to comply with residential noise levels as any other residential activity would, it is considered that any reverse sensitivity effects will be less than minor on 1907 & 1905 Cambridge

Road. In addition, there is a lower expectation of amenity for this property than a residential house would. Being a commercial activity, it is a public space where people go to be seen, rather than a private residence where there is a higher expectation of privacy. Therefore, the owners and occupiers of 1907 & 1905 Cambridge Road are not considered to be affected by the proposal.

#### **5.5.4 1 Kelly Road**

This property is located to the south of the subject site and is the Kelly Road Cambridge Lodge. Written approval has been received from the owner of this property, therefore, any effects on 1 Kelly Road are disregarded.

#### **5.5.5 2A Kelly Road**

This property is located across the road to the west of the subject site. The street contains wide road berms which provide for further setback in addition to the block setback (3.4m) from the road and the 2A Kelly Road dwelling setback (5.5m). Overall, there is approximately 30m of separation between 2A Kelly Road and the subject site (Figure 11). The proposed block will not result in any overlooking or dominance on the property and the proposed fencing and landscaping will soften the view of the front unit. Therefore, the owners and occupiers of 2A Kelly Road are not considered to be affected by the proposal.

#### **5.5.6 6 Kelly Road**

This property is a rear site located down a 50m long driveway across the road to the west of the subject site. 6 Kelly Road will have very limited to no views of the subject site given its location down the driveway and there is a property (8 Kelly Road) between it and the subject site. In addition, there is vegetation within the site providing for further screening. Therefore, the owners and occupiers of 6 Kelly Road are not considered to be affected by the proposal.

#### **5.5.7 8 Kelly Road**

This property is located across the road to the west of the subject site. There is significant setback between 8 Kelly Road and the subject site given the proposed block being sufficiently setback from the road boundary (3.4m), the dwelling on 8 Kelly Road being setback 15m from the road boundary, and the wide road berms providing for additional setback (Figure 12). Overall, there is approximately 39m of separation between 8 Kelly Road and the subject site. In addition, the outdoor living area for 8 Kelly Road is located at the rear of the property at the western portion of the site. The proposed block will not result in any overlooking or dominance on the property and the proposed fencing and landscaping will soften the view of the front unit. Therefore, the owners and occupiers of 8 Kelly Road are not considered to be affected by the proposal.

#### **5.5.8 All other properties**

All other properties beyond those discussed above are not deemed affected given the separation distances between them and the development and the orientation of the properties.

### **5.5.9 Summary of Assessment**

Based on the above assessment, the proposal will have adverse effects that are minor or more than minor on the owners and occupiers of 5 Kelly Road.

### **5.6 Special Circumstances – Section 95B(10) – Step 4**

Pursuant to Section 95B(10), the Council must limit notify an application, to any other persons not already determined to be eligible for limited notification, if it considers that special circumstances exist in relation to the application. The reasons set out in Section 4.7 above are also relevant here and are not repeated. It is my opinion that there are no special circumstances applicable that would warrant the application being notified to any persons.

### **5.7 Summary of Limited Notification Assessment**

Pursuant to Section 95B, the application has been assessed to determine if limited notification is required. In this instance, and for the reasons outlined in Sections 5.1 to 5.5 above, it is considered that the proposal warrants limited notification to the owners and occupiers of 5 Kelly Road.

## 6 SECTION 95 NOTIFICATION RECOMMENDATION AND DECISION UNDER DELEGATED AUTHORITY

---

Pursuant to section 95 A & B application LU/0125/23 for a Non-Complying Activity shall proceed on a **Limited Notified** basis for the reasons discussed above in Section 1 to 5. The application shall be notified to the owners and occupiers of the following property:

- 5 Kelly Road.

**Reporting Officer:**



**Layla Gruebner**

**Planner**

**Dated:** 20 November 2023

**Approved By:**



**Quentin Budd**

**Consents Team Leader**

**Dated:** 20 November 2023