



# **AGENDA FOR THE CANTERBURY BANKSTOWN LOCAL PLANNING PANEL MEETING**

**19 November 2018 - 6.00pm**

**Location:**

**Council Chambers  
Cnr Chapel Road and the Mall,  
Bankstown**

---

## ORDER OF BUSINESS

---

### APOLOGIES AND DECLARATIONS OF INTEREST

### CONFIRMATION OF MINUTES OF PREVIOUS MEETING

### REVESBY WARD

**1        87 Eldridge Road, Condell Park**

Demolition of Existing Site Structures and Removal of Driveway and concrete  
Paths

3

### BANKSTOWN WARD

**2        40 and 40A Hoskins Avenue, Bankstown, 78 and 80 Marshall Street,  
Bankstown**

Demolition of Existing Structures and construction of a Four Storey  
Residential Flat Building Comprising of Forty Four Units, Basement Carparking  
and Associated Site Works

13

**3        Planning Proposal - 167 Hume Highway Greenacre (The Palms Hotel)**

47

**4        15 Kitchener Parade, Bankstown**

Demolition of Existing Structures and Construction of a Ten Storey Mixed-use  
Residential/Commercial Building Comprising Eleven Residential Apartments,  
Three Levels of College Classrooms, a Café and Three Levels of Basement Car  
Parking

81

**5        17 Lascelles Avenue, Greenacre**

Conversion of an Existing Unauthorised Outbuilding to a Secondary Dwelling

123

**6        22 Prairie Vale Road, Bankstown**

Demolition of all Existing Structures and Removal of all Vegetation on 22  
Prairie Vale Road, Bankstown

141

**7        Planning Proposal - 353-355 Waterloo Road Greenacre (Chullora  
Marketplace)**

151

---

## Canterbury Bankstown Local Planning Panel - 19 November 2018

---

<b>ITEM 1</b>	<b>87 Eldridge Road, Condell Park</b>
	<b>Demolition of Existing Site Structures and Removal of Driveway and Concrete Paths</b>
<b>FILE</b>	<b>DA-798/2018 - Revesby</b>
<b>ZONING</b>	<b>R2 Low Density Residential</b>
<b>DATE OF LODGEMENT</b>	<b>16 October 2018</b>
<b>APPLICANT</b>	<b>City of Canterbury Bankstown</b>
<b>OWNERS</b>	<b>Bankstown City Council</b>
<b>ESTIMATED VALUE</b>	<b>\$35,000.00</b>
<b>AUTHOR</b>	<b>Development Services</b>

### REPORT

---

This matter is reported to the Local Planning Panel due to direction from the Minister for Planning in regards to development applications that pose a conflict of interest, where the applicant or land owner is Council, and where the proposed development is not listed as a prescribed exemption to this conflict of interest. The applicant of this development application, and the owner of the site subject to this application, is the City of Canterbury Bankstown (listed as Bankstown City Council on record).

Development Application No. DA-798/2018 proposes the demolition of all existing structures and the removal of a driveway and concrete path, as well as the removal of all vegetation on 87 Eldridge Road, Condell Park NSW. The structures on site are limited to a freestanding single dwelling, comprised of fibre cement (containing asbestos), a detached garage, and an outbuilding.

DA-798/2018 has been assessed against Bankstown Local Environmental Plan (BLEP) 2015 and Bankstown Development Control Plan (BDCP) 2015 Part B13 Waste Management and Minimisation) and the application complies with all relevant development standards, objectives and controls.

The application was not advertised/notified.

## **POLICY IMPACT**

---

This matter has no direct policy implications.

## **FINANCIAL IMPACT**

---

This matter has no direct financial implications.

## **RECOMMENDATION**

---

It is recommended that the application be approved subject to the attached conditions.

## **ATTACHMENTS**

---

- A. Section 4.15 Assessment
- B. Conditions of Consent



## **DA-798/2018 ASSESSMENT REPORT**

### **SITE & LOCALITY DESCRIPTION**

The subject site is known as 87 Eldridge Road, Condell Park. The site is an irregular, rectangular allotment that is currently zoned R2 Low Density Residential. The site contains a single, free-standing dwelling house, a detached garage and an outbuilding, surrounded by a colorbond fence. The site generally slopes from south to north, away from Eldridge Road. Vegetation on site is limited to shrubbery, mostly contained within the front building setback. A significant tree is located adjacent to the rear of the allotment, on Council-owned land known as Eldridge Reserve. The subject site is bounded to the northern border by Council-owned reserve, to the eastern and western boundaries by residential land known as 85 Eldridge Road, 82, 80, and 78 Olive Street, and on the southern boundary by Eldridge Road.

The surrounding development consists of free-standing single dwellings, many with outbuildings and Council owned reserve land. The site is located within close proximity to industrial land (IN1 General Industrial).

Aerial of 87 Eldridge Road, Condell Park



### **PROPOSED DEVELOPMENT**

The Development Application proposes the demolition of all structures and removal of all vegetation on site.

**SECTION 4.15 ASSESSMENT**

The proposed development has been assessed pursuant to section 4.15 of the Environmental Planning and Assessment Act, 1979. In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the proposed development.

**Environmental planning instruments [section 4.15(1)(a)(i)]*****Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment***

The site is located within land identified as being affected by *Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment*, being a deemed SEPP under Clause 120 of Schedule 6 of the *EP&A Act, 1979*. The GMREP contains a series of general and specific planning principles which are to be taken into consideration in the determination of development applications. An assessment of the proposal indicates that the development is generally consistent with the aims and objectives of the plan, as well as the planning principles as set out in Clause 8 of the GMREP.

***State Environmental Planning Policy No. 55 – Remediation of Land***

The provisions of Clause 7 of *State Environmental Planning Policy No. 55 – Remediation of Land* specifies that 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 subject site has long been used for residential purposes. The building contains asbestos and lead paint, with a Hazardous Building Materials Register having been carried out on site. The selected contractor is to provide an asbestos and hazardous materials removal plan and submit the plan to Council prior to the demolition works commencing. A clearance certificate is to be handed to Council upon completion of the works by the contractor.

There is no evidence to suggest that the site is contaminated, nor is it considered necessary for any further investigation to be undertaken with regard to potential site contamination. The subject site is considered suitable for the proposed development and therefore the development application satisfies the provisions of SEPP No. 55.

***Bankstown Local Environmental Plan 2015***

The following clauses of the Bankstown Local Environmental Plan 2015 were taken into consideration:

Clause 1.2 – Aims of Plan

Clause 2.1 – Land use zones

Clause 2.2 – Zoning of land to which Plan applies

Clause 2.3 – Zone objectives and Land Use Table

Clause 2.7 – Demolition requires development consent

Clause 5.1A – Development on land intended to be acquired for public purpose

Clause 6.1 – Acid sulfate soils

Clause 6.2 – Earthworks

An assessment of the Development Application revealed that the proposal complies with the matters raised in each of the above clauses of *Bankstown Local Environmental Plan (BLEP) 2015*.

***Draft environmental planning instruments [section 4.15(1)(a)(ii)]***

There are no applicable draft environmental planning instruments.

***Development control plans [section 4.15(1)(a)(iii)]***

The following table provides a summary of the development application against the controls contained in Part B13 of *Bankstown Development Control Plan 2015*.

STANDARD	PROPOSED	BDCP 2015 PART B13	
		REQUIRED	COMPLIANCE
Waste Management Plan	The proposal was submitted with a Waste Management Plan	All proposals are to be accompanied by a Waste Management Plan prepared in accordance with the Waste Management Guide for New Developments and the Bankstown Demolition and Construction Guidelines.	Yes

***Planning agreements [section 4.15(1)(a)(iiia)]***

There are no planning agreements that apply to this application.

***The regulations [section 4.15(1)(a)(iv)]***

The proposal does not raise any issues with respect to the Regulations.

**The likely impacts of the development [section 4.15(1)(b)]**

The proposal does not raise any likely impacts on neighbouring properties, or on the area as a whole.

**Suitability of the site [section 4.15(1)(c)]**

The site is considered suitable for the proposed development.

**Submissions [section 4.15(1)(d)]**

No submissions have been received.

**The public interest [section 4.15(1)(e)]**

It is concluded that the proposed development would not contravene the public interest.

**CONCLUSION**

The Development Application has been assessed in accordance with the provisions of Section 4.15 of the Environmental Planning and Assessment Act, 1979, and the relevant planning controls.

The proposed development complies with all applicable planning controls. Therefore, approval of the development application is recommended.

## CONDITIONS OF CONSENT

- 1) The proposal shall comply with the conditions of this Development Consent.
- 2) Development shall take place in accordance with Development Application No. 798/2018, submitted by Stuart Dutton, accompanied by Drawing Nos. 1 & 2 of 2, prepared by the City of Canterbury Bankstown, dated 13.08.2018 and affixed with Council's approval stamp, except where otherwise altered by the specific amendments listed hereunder and/or except where amended by the conditions contained in this approval.

## CONDITIONS TO BE SATISFIED PRIOR TO DEMOLITION

- 3) Existing trees within the vicinity of the construction works or paths of travel for construction vehicles accessing the development that are to be retained shall be protected with temporary fencing of a style non injurious to tree roots, placed 2m from the trunk base of the existing tree to prevent damage during construction, and retained in accordance with Council's Tree Preservation Order. There is to be no stockpiling of materials within the 2m fenced zone.
- 4) Council warning sign for Soil and Water Management must be displayed on the most prominent point of the site, visible to both the street and site works. The sign must be displayed throughout the construction period.
- 5) Prior to the commencement of work, the applicant must provide a temporary on-site toilet if access to existing toilets on site is not adequate.
- 6) A sign shall be displayed on the site indicating the name of the person responsible for the site and a telephone number of which that person can be contacted during and outside normal working hours or when the site is unattended.
- 7) A sign must be erected in a prominent position on any site on which demolition work is being carried out:
  - a) showing the name of the principal contractor (if any) for any demolition work and a telephone number on which that person may be contacted outside working hours, and
  - b) stating that unauthorised entry to the work site is prohibited.

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

- 8) The developer is to notify adjoining residents seven (7) working days prior to demolition. Such notification is to be clearly written on A4 size paper giving the date demolition will commence and be placed in the letterbox of every premises (including



every residential flat or unit, if any) either side, immediately at the rear of, and directly opposite the demolition site.

- 9) Written notice is to be given to Canterbury-Bankstown Council for inspection prior to demolition. Such written notice is to include the date when demolition will commence and details of the name, address, business hours and contact telephone number and licence number of the demolisher. The following building inspections shall be undertaken by Canterbury-Bankstown Council:
  - a) A *precommencement* inspection shall be carried out by Council when all the site works required as part of this consent are installed on the site and prior to demolition commencing.
- 10) Prior to demolition, the applicant must erect a sign at the front of the property with the demolisher's name, license number, contact phone number and site address.
- 11) Prior to demolition, the applicant must erect a 2.4m high temporary fence or hoarding between the work site and any public place. Access to the site shall be restricted to Authorised Persons Only and the site shall be secured against unauthorised entry when the building work is not in progress or the site is otherwise unoccupied. Where demolition is to occur within 3m of a public place a Work Permit application for the construction of a Class A or Class B hoarding shall be submitted to Council for approval.
- 12) Suitable erosion and sediment control measures shall be erected prior to the commencement of demolition works and shall be maintained at all times.
- 13) Prior to the demolition of any building constructed before 1970, a Work Plan shall be prepared and submitted to Council in accordance with Australian Standard AS2601-2001 by a person with suitable expertise and experience. The Work Plan shall outline the identification of any hazardous materials, including surfaces coated with lead paint, method of demolition, the precautions to be employed to minimise any dust nuisance and the disposal methods for hazardous materials.
- 14) The demolition plans must be submitted to the appropriate Sydney Water Office to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements. If the development complies with Sydney Water's requirements, the demolition plans will be stamped indicating that no further requirements are necessary.

## **CONDITIONS TO BE SATISFIED DURING DEMOLITION**

- 15) Demolition is to be carried out in accordance with the appropriate provisions of Australian Standard AS2601-2001.
- 16) The hours of demolition work shall be limited to between 7.00am and 6.00pm on weekdays, 7.00am and 1.00pm on Saturdays and no work shall be carried out on

Sundays and public holidays, and weekends (Saturdays and Sundays) adjacent to public holidays.

- 17) Where materials containing asbestos cement are to be removed, demolition is to be carried out by licensed contractors who have current Workcover Accreditation in asbestos removal.
- 18) Hazardous or intractable wastes arising from the demolition process shall be removed and disposed of in accordance with the requirements of WorkCover NSW and the NSW EPA 'Environmental Guidelines: Assessment, Classification and Management of Liquid and Non-Liquid Wastes 2004'.
- 19) Demolition procedures shall maximise the reuse and recycling of demolished materials in order to reduce the environmental impacts of waste disposal.
- 20) During demolition, the public footway and public road shall be clear at all times and shall not be obstructed by any demolished material or vehicles. The public road and footway shall be swept (NOT hosed) clean of any material, including clay, soil and sand. (NOTE: If required, Council will clean the public road/footway at the applicant's expense). On the spot fines may be levied by Council against the demolisher and or owner for failure to comply with this condition.
- 21) All vehicles leaving the site with demolition materials shall have their loads covered and vehicles shall not track soil and other material onto the public roads and footways and the footway shall be suitably protected against damage when plant and vehicles access the site. All loading of vehicles with demolished materials shall occur on site.
- 22) The burning of any demolished material on site is not permitted and offenders will be prosecuted.
- 23) Care shall be taken during demolition to ensure that existing services on the site (ie. sewer, electricity, gas, phone) are not damaged. Any damage caused to existing services shall be repaired by the relevant authority at the applicant's expense.
- 24) All excavations and backfilling must be executed safely and in accordance with the relevant Australian Standards.
- 25) If soil conditions require it, retaining walls or other approved methods of preventing movement of the soil must be provided, and adequate provisions must be made for drainage. Separate approval may be required for retaining walls should they be required.
- 26) If the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

- a) protect and support the adjoining premises from possible damage from the excavation, and
  - b) where necessary, underpin the adjoining premises to prevent any such damage.
- 27) Prior to the commencement of work, the builder shall prepare a photographic record of the road reserve which clearly shows its condition prior to works occurring on site. For the entirety of demolition, subdivision or construction works, there shall be no stockpiling of building spoil, materials, or storage of equipment on the public road, including the footway and the road reserve shall be maintained in a safe condition at all times. No work shall be carried out on the public road, including the footway, unless a Work Permit authorised by Council has been obtained.
- 28) A *final* inspection shall be carried out by Council when the demolition works have been completed to ensure that the site is left in a satisfactory manner, in accordance with the conditions of this consent. A clearance certificate from a suitably qualified individual shall be provided prior to all final inspection certifications issued.

**NOTE:** Payment of an inspection fee at Council's current rate will be required prior to each inspection. Council requires 24 hours notice to carry out inspections. Arrangements for inspections can be made by phoning **9707 9410** or **9707 9635**.

-END-



---

## Canterbury Bankstown Local Planning Panel - 19 November 2018

---

<b>ITEM 2</b>	<b>40 and 40A Hoskins Avenue, Bankstown, 78 and 80 Marshall Street, Bankstown</b>
	<b>Demolition of Existing Structures and Construction of a Four Storey Residential Flat Building Comprising of 44 Units, Basement Car-Parking and Associated Site Works</b>
<b>FILE</b>	<b>DA-1241/2017 - Bankstown</b>
<b>ZONING</b>	<b>Zone R4 High Density Residential</b>
<b>DATE OF LODGEMENT</b>	<b>22 December 2017</b>
<b>APPLICANT</b>	<b>Aswar Constructions Pty Ltd</b>
<b>OWNERS</b>	<b>OPG Investments Pty Ltd and Aswar Constructions Pty Ltd</b>
<b>ESTIMATED VALUE</b>	<b>\$17,348,730</b>
<b>AUTHOR</b>	<b>Development Services</b>

### REPORT

---

This matter is reported to the Canterbury Bankstown Local Planning Panel as the application type is subject to the provisions of State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development and the proposed buildings are at least four storeys in height.

Development Application No. DA-1241/2017 proposes the demolition of existing structures and the construction of two x four storey residential flat buildings comprising of 44 units, basement car-parking for a total of 71 vehicles and associated site works.

The proposal has been assessed against the relevant provisions of State Environmental Planning Policy No. 55 (Remediation of Land), State Environmental Planning Policy No 65— Design Quality of Residential Apartment Development and the associated Apartment Design Guide, State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, Greater Metropolitan Regional Environmental Plan No 2—Georges River Catchment (a deemed SEPP), Bankstown Local Environmental Plan 2015 and Bankstown Development Control Plan 2015.

The proposal generally complies with the relevant legislation except for the variations to visual privacy (separation), apartment layouts, private open space, primary and secondary setbacks and the setback to the rear boundary at the basement level. The variations are relatively minor and considered worthy of support, as set out in this report.

The application was neighbour notified and advertised for a period of 21 days between 17 January 2018 and 6 February 2018 and no objections were received.

## **POLICY IMPACT**

---

The recommendation of this report is that the Development Application be approved. Such a determination would not have any direct policy implications, as it would uphold the relevant planning and development controls.

## **FINANCIAL IMPACT**

---

This matter has no direct financial implications.

## **RECOMMENDATION**

---

It is recommended that the application be approved subject to the attached conditions.

## **ATTACHMENTS**

---

- A. Section 4.15 Assessment Report
- B. Conditions of Consent

## **DA-1241/2017 ASSESSMENT REPORT**

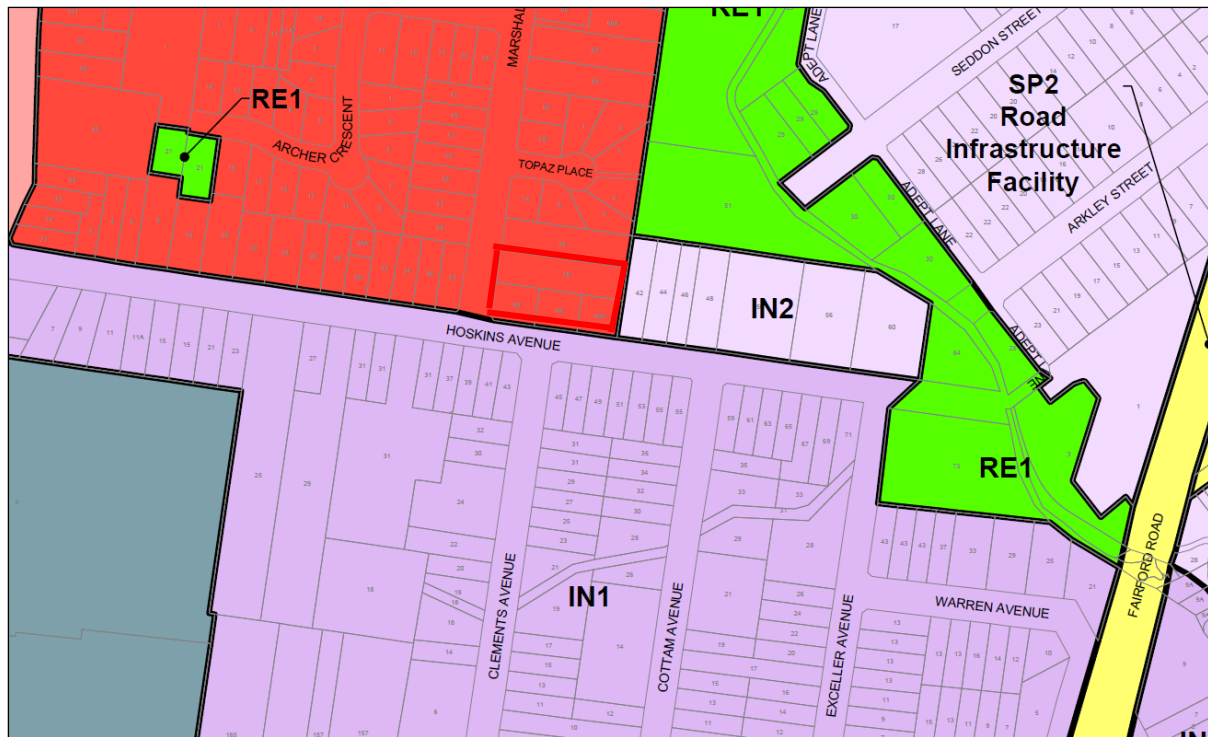
### **SITE & LOCALITY DESCRIPTION**

The subject site is known as 40A-40B Hoskins Avenue and 78-80 Marshall Street, Bankstown and is located within the R4 High Density Residential Zone. The four existing allotments form a rectangular site with a total area of 3395m<sup>2</sup>, being located on a corner, with a primary frontage to Marshall Street of 42.92 metres and a secondary frontage to Hoskins Avenue of 80.47 metres. The site has a fall of approximately 2.67 metres from west to east at a grade of 3.5%. The existing four allotments are all each presently occupied by dwelling houses.

The site is at the interface of the R4 High Density Residential Zone, the IN1 General Industrial Zone and the IN2 Light Industrial Zone. This is reflected in the surrounding land uses. To the northern boundary is No. 76 Marshall Street which contains a multi-dwelling housing development comprising of five dwellings whilst west of the site across Marshall Street are dwelling houses. To the eastern boundary is No. 42-60 Hoskins Avenue, being a vehicle repair station with similar uses being located south of the site across Hoskins Avenue.



Aerial Image – Site and Surrounding Locality



Zoning Map BLEP 2015

### **PROPOSED DEVELOPMENT**

Development Application No. DA-1241/2017 proposes the demolition of existing structures and the construction of two x four storey residential flat buildings comprising of 44 units, basement car-parking for a total of 71 vehicles and associated site works.

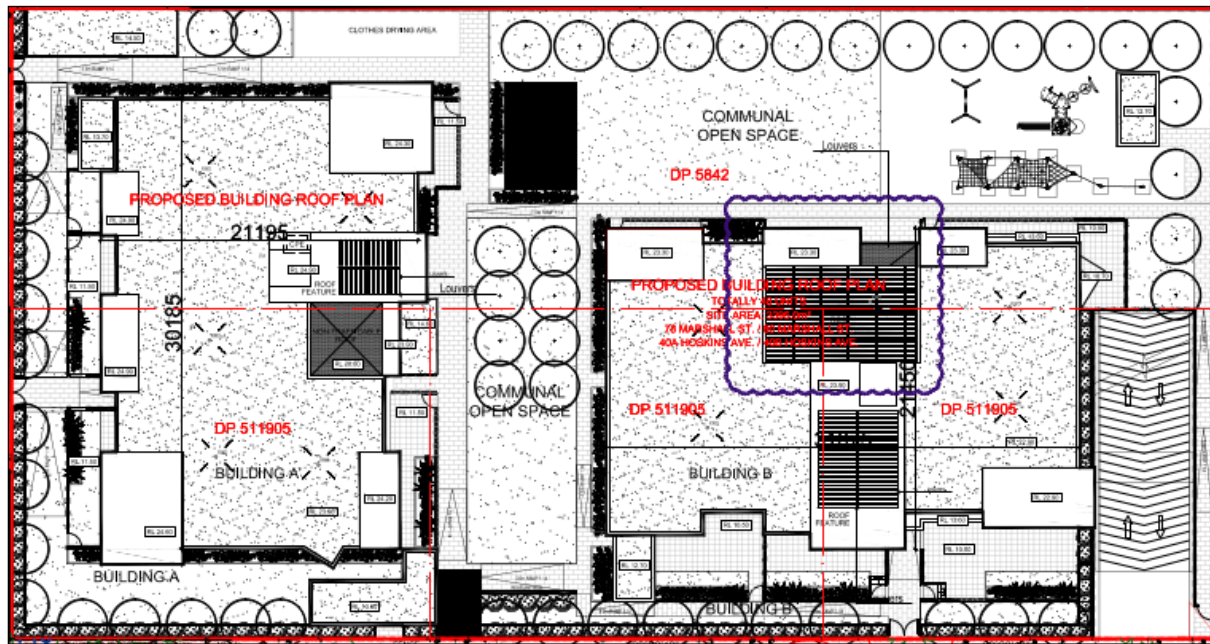
Building A is located to the western end of the site at the corner of Marshall Street and Hoskins Avenue and contains a total of 22 units. Building A consists of two x one bedroom units, 18 x two bedroom units and two x three bedroom units.

Building B is located to the eastern end of the site and also contains 22 units. Building B comprises of four x one bedroom units, 16 x two bedroom units and two x three bedroom units.

In addition to the units at the ground floor, there are also plant equipment rooms for both buildings and bicycle parking within Building A. Separate waste storage rooms are also provided as well as a clothes drying area. Communal open space is included between the two buildings, leading to the principal communal open space area to the north-east corner of the site.

The basement level is accessed via a ramp from Hoskins Avenue to the south-eastern corner of the site. The basement provides car parking for a total of 71 vehicles, including six accessible car spaces and nine visitor car spaces (including one of the accessible car spaces). Four motorcycle spaces are also included within the basement, as well as a car wash bay and storage areas for each unit. Lifts are located in the basement that separately access Building A and Building B.





Site Plan

## **SECTION 4.15 ASSESSMENT**

The proposed development has been assessed pursuant to section 4.15(1) of the *Environmental Planning and Assessment Act, 1979*.

### **Environmental planning instruments [section 4.15(1)(a)(i)]**

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

#### ***State Environmental Planning Policy No. 55 – Remediation of Land***

The provisions of Clause 7 of *State Environmental Planning Policy No. 55 – Remediation of Land* (SEPP 55) specifies that 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 applicant submitted a Preliminary Site Investigation that identified the potential for contamination to be present on site. A Detailed Site Investigation was then submitted with the application which further recommended the preparation of a Remedial Action Plan (RAP). Such a report was prepared and submitted for the review of the Council's Environmental Health Officers. The RAP sets out the remediation work required to make the site suitable for the proposed use. This work is required to be undertaken prior to the issue of a Construction Certificate and will be enforced by a condition of consent. A detailed validation report is required to be submitted to Council after the remediation work is undertaken, also before the issue of a Construction Certificate to verify that the site is suitable for the proposed use. As such, the provisions of Clause 7 of SEPP 55 have been satisfied.

***State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (SEPP 65), and the Apartment Design Guide (ADG)***

SEPP No. 65 applies to residential flat buildings having four or more units and three or more storeys. Accordingly an assessment against the Design Quality Principles in SEPP 65 and the accompanying Apartment Design Guide (ADG) has been carried out.

The proposed development is considered to be consistent with the objectives and Design Quality Principles contained in the SEPP and ADG, and responds appropriately to the site's context. Moreover, the application generally conforms with the key 'design criteria' contained in the Apartment Design Guide, as illustrated in the table below, with the exception of visual privacy (building separation), apartment layouts and private open space.

'DESIGN CRITERIA'	PROPOSED	COMPLIES?
<b>3D-1 Communal open space</b>  25% of the site area is to be communal open space (848.75m <sup>2</sup> ) and 50% of the communal open space must receive at least 2 hours direct sunlight between 9am-3pm on 21 June.	1,023.30m <sup>2</sup> (30%) of the site is to be used as communal open space. At least 50% of the COS is able to achieve at least 2 hours direct sunlight between 9am-3pm on 21 June.	Yes
<b>3E-1 Deep soil zones</b>  7% of the site area is to be deep soil zone (237.65m <sup>2</sup> )	250.20m <sup>2</sup> of the site is deep soil zone.	Yes
<b>3F-1 Visual Privacy (Building separation)</b>  6m setback up to 4 storeys (3m to non-habitable rooms) from side and rear boundaries.	<b>Building A</b> <u><b>North (Side)</b></u>  6m to windows and 5m to balcony blank wall.	Yes          No – see below

<p>12m separation up to 4 storeys (6m to non-habitable rooms) between buildings within the site.</p> <p>0m to blank walls</p>	<p><b><u>East (Separation to Building B)</u></b></p> <p>GF (1<sup>st</sup> storey) – 11.25m between ground floor courtyards and Building B west elevation windows.</p> <p>2<sup>nd</sup> storey - 4<sup>th</sup> storey – minimum 12.59m</p> <p><b><u>Building B North (Side)</u></b></p> <p>GF (1<sup>st</sup> storey) – 14.10m to ground floor courtyards</p> <p>2<sup>nd</sup> storey - 4<sup>th</sup> storey – minimum 15.33m to windows and balconies</p> <p><b><u>East (Side)</u></b></p> <p>GF (1<sup>st</sup> storey) – 6m to ground floor court yard and 7.65m – 9m to windows</p> <p>2<sup>nd</sup> storey – 4<sup>th</sup> storey – 8m to balcony wall and 9m to windows</p> <p><b><u>West (Separation to Building A)</u></b></p> <p>GF (1<sup>st</sup> storey) – 11.25m between windows and Building A ground floor courtyard</p> <p>2<sup>nd</sup> storey - 4<sup>th</sup> storey – minimum 12.59m</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>No – see below</p> <p>Yes</p>
<p><b>3J-1 Car Parking</b></p> <p>Minimum car parking requirement must be provided on site</p>	<p>59 car spaces (including nine visitor spaces) are required under Part B5 of BDCP 2015 and 49 car spaces (including nine visitor spaces) are required pursuant to Roads and Maritime Services (previously Roads and Transport Authority) Guide to Traffic Generating Developments. The ADG applies the lesser requirement.</p> <p>The proposal includes 71 car spaces (including nine visitor car spaces and six accessible car spaces, one of which is a visitor space).</p>	<p>Yes</p>

<b>4A-1 Solar access</b>  70% of units should receive 2hrs solar access between 9am – 3pm midwinter	33 of 44 (75%) units receive 2hrs direct solar access between 9am – 3pm midwinter.	Yes
<b>4A-3 Solar access</b>  A maximum 15% of apartments receive no direct sunlight between 9am and 3pm mid winter	4 of 44 (9%) units receive no direct sunlight at the relevant time.	Yes
<b>4B-3 Natural cross-ventilation</b>  60% of units to be naturally cross-ventilated	32 of 44 (73%) of units are naturally cross-ventilated.	Yes
<b>4C-1 Ceiling heights</b>  Min. 2.7m for habitable rooms.	Floor-to-ceiling heights are 2.7m to habitable rooms.	Yes
<b>4D-1 Unit size</b>  1 bed – min. 50m <sup>2</sup> 2 bed – min. 70m <sup>2</sup> 3 bed – min. 90m <sup>2</sup> Add 5m <sup>2</sup> for each additional bathroom/WC  Every habitable room must have a window in an external wall	1 bed – min. 50m <sup>2</sup> 2 bed, 1 bath – min 70m <sup>2</sup> 2 bed, 2 bath – min 75m <sup>2</sup> 3 bed, 2 bath – min. 95m <sup>2</sup>  All habitable rooms have a window in an external wall.	Yes  Yes
<b>4D-2 Unit Performance maximised</b>  Habitable room depths are limited to a maximum of 6.75m.  In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window	Compliance is achieved for all rooms within the development.	Yes
<b>4D-3 Apartment layouts</b>  • Master Beds: 10m <sup>2</sup> min	Compliance is achieved for all rooms	No – see below



<ul style="list-style-type: none"> <li>• Other beds: 9m<sup>2</sup> min</li> <li>• Bedrooms min dimension of 3m</li> <li>• Living room minimum width 4m for 2 and 3 bedroom apartments</li> </ul>	within the development, except for rooms within Units G02, G04, 103 and 203 of Building A.	
<b>4E-1 Private Open Space</b>  1 bed: Min 8m <sup>2</sup> , 2m depth 2 bed: Min. 10m <sup>2</sup> , 2m depth 3 bed: Min 12m <sup>2</sup> , 2.4m depth to primary balconies. Ground level units: Min 15m <sup>2</sup> , 3m depth	All units meet the required minimum areas and dimensions except for Unit G01 of Building A	No – see below
<b>4F-1 Internal circulation</b>  Max. eight units accessed from a single corridor.	A maximum of six units are accessed from a single corridor.	Yes
<b>4G-1 Storage</b> 1 beds: 6m <sup>3</sup> , 2 beds: 8m <sup>3</sup> , 3 beds: 10m <sup>3</sup> (At least half to be provided within the unit)	All units are provided with sufficient storage with at least half provided within the unit.	Yes

#### Visual Privacy (Building Separation)

Objective 3F-1 requires a separation of 12 metres between the habitable rooms and balconies/courtyards of Building A and Building B. The proposal satisfies this requirement at all levels except the ground floor where the courtyards of Units G04 and G05 of Building A are separated by 11.25 metres from the ground floor windows on the western elevation of Building B. This non-compliance occurs in part due to Units G04 and G05 being provided with courtyards of 30.30m<sup>2</sup> and 21m<sup>2</sup>, exceeding the minimum requirement of 15m<sup>2</sup>.

In this circumstance, it is unnecessary to require strict compliance given that a predominant separation of 12.59 metres is provided between the buildings and a 1.80m high fence is proposed around the courtyards. Additionally, privacy louvres are provided to the subject windows at the ground floor on the western elevation of Building B. These are appropriate design solutions that will mitigate any visual privacy impacts associated with the reduced separation and as such a variation is considered acceptable in this instance.

#### Apartment Layouts

Objective 4D-3 requires bedrooms to achieve a minimum dimension of 3 metres. Compliance is achieved for all bedrooms except the master bedroom in Unit G02 and Bedroom 3 in Unit G04, both within Building A. Those bedrooms achieve minimum dimensions of 2.79m and 2.99 metres respectively. Despite the non-compliance, both bedrooms exceed the minimum area requirement and maintain a usable layout that

provides sufficient amenity. On that basis, and considering that all other bedrooms within the development satisfy this requirement, the non-compliance is supportable in this instance.

Objective 4D-3 requires master bedrooms achieve a minimum internal area of 10m<sup>2</sup>. Compliance is achieved for all bedrooms except the bedrooms in Units 105 and 205, which achieve an area of 9.30m<sup>2</sup>. Both bedrooms exceed the minimum area for 'other bedrooms' (being 9m<sup>2</sup>) and satisfy the minimum dimension requirements. The bedrooms are therefore suitably sized to function for their intended purpose. Additionally, the required wardrobe space is also provided in addition to the 9.30m<sup>2</sup>. On that basis, and considering that all other bedrooms within the development satisfy this requirement, the non-compliance is supportable in this instance.

#### Private Open Space

Objective 4E-1 provides minimum requirements for primary balconies and courtyards. Ground floor units are required to have a courtyard of 15m<sup>2</sup> with a minimum depth of 3 metres. Compliance is achieved for all units except for Unit G01 of Building A, which has a courtyard of 14m<sup>2</sup>. This results in part from the fire stairs being located adjacent to the courtyard which limits the width available for the private open space area. Despite the non-compliance, the courtyard exceeds the minimum depth requirement of 3 metres, being 3.25 metres deep and also exceeds the minimum balcony area of 12m<sup>2</sup> for three bedroom units, which would be the amount of private open space required if the unit was located above the ground floor. The extent of private open space for Unit G01 is therefore considered to be sufficient in this circumstance and on that basis a variation is supportable.

#### ***State Environmental Planning Policy (Building and Sustainability Index: BASIX) 2004***

A valid BASIX Certificate accompanied the Development Application. The Certificate details the required thermal comfort, energy and water commitments which are also illustrated on the submitted architectural plans. The proposal satisfies the requirements of State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 in this instance.

#### ***Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment***

The site is located within land identified as being affected by *Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment*, being a deemed SEPP under Clause 120 of Schedule 6 of the *EP&A Act, 1979*. The GMREP 2 contains a series of general and specific planning principles which are to be taken into consideration in the determination of development applications. An assessment of the proposal indicates that the development is generally consistent with the aims and objectives of the plan, as well as the planning principles as set out in Clause 8 of the GMREP 2.

#### ***Bankstown Local Environmental Plan 2015***

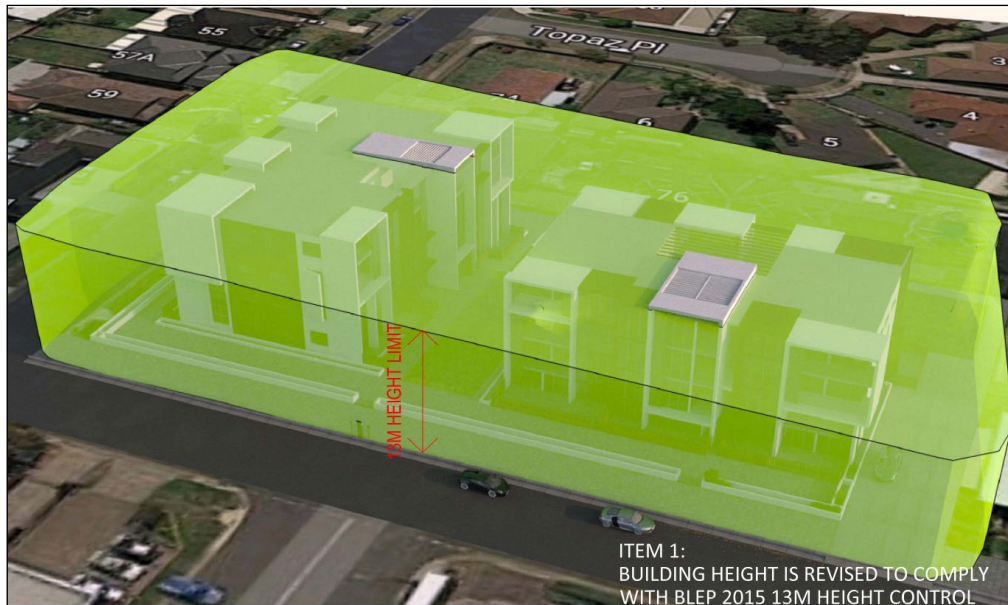
The following clauses of the Bankstown Local Environmental Plan 2015 were taken into consideration:

- Aims of Plan
- Maps
- 1.9A Suspension of covenants, agreements and instruments
- 2.1 Land use zones
- 2.2 Zoning of land to which Plan applies
- 2.3 Zone objectives and Land Use Table
- 2.7 Demolition requires development consent
- Zone R4 High Density Residential
- 4.1B Minimum lot sizes and special provisions for certain dwellings
- 4.3 Height of buildings
- 4.4 Floor space ratio
- 4.5 Calculation of floor space ratio and site area
- 5.6 Architectural roof features
- 6.1 Acid sulfate soils
- 6.2 Earthworks

The following table provides a summary of the development application against the primary numerical controls contained within BLEP 2015.

STANDARD	PERMITTED	PROPOSED	COMPLIANCE
Minimum lot sizes and special provisions for certain dwellings	Minimum site area 1000m <sup>2</sup> Minimum width at front building line 20m	3395m <sup>2</sup> 42.92m	Yes
Height of Buildings	Max 13m	13.70m	Yes (complies with application of Clause 5.6 of BLEP 2015)
Floor space ratio	Max. 1:1	1:1	Yes

Clause 4.3 – Height of buildings of BLEP 2015 limits the overall building height to 13 metres. The proposed development complies with this maximum, except for the roof areas identified within the figure below which reach 13.56 metres (Building A) and 13.67 metres (Building B). These are considered features that satisfy the requirements of Clause 5.6 – Architectural roof features and are therefore permitted to exceed the maximum building height limit.



**Development control plans [section 4.15(1)(a)(iii)]**

The following table provides a summary of the development application against the primary numerical controls contained within Part B1 of BDCP 2015.

STANDARD	PROPOSED	BDCP 2015 PART A1	
		REQUIRED	COMPLIANCE
Storeys	4 storeys	4 storeys (maximum)	Yes
Primary setback	4.50m (minimum)	6m	No – see discussion
Secondary setback	4.88m (minimum)	6m	No – see discussion
Side boundary setback	5m (minimum)	4.50m minimum and an average of 7.725m	No – see discussion
Rear boundary setback	7.67m	4.50m minimum and an average of 7.725m	Yes
Basement side and rear boundary setback	2m	900mm	No – see discussion
Driveway side and rear boundary setback	2m	1m	Yes
Adaptable dwellings	4	1	Yes
Maximum roof pitch	Flat roof design	35 degrees (maximum)	Yes
Landscaping	>45%	45% of the area between the building and the primary & secondary frontage	Yes

**Primary Setback (Marshall Street)**

The proposed development adopts a minimum setback from the primary road frontage (Marshall Street) of 4.50 metres, thereby failing to comply with the 6 metre minimum. The predominant setback to the building wall is 7m - 7.10m with the non-compliance limited to a small encroachment by the fire stairs at the north-western corner of Building A. The

encroachment is limited to the ground floor only and the subject wall is to be finished with a floral pattern cladding, reducing its impact when viewed from the streetscape. When considering the limited nature of the non-compliance and the architectural treatment proposed, a variation is supportable in this instance.

#### Secondary Setback (Hoskins Avenue)

The proposed development adopts minimum setbacks from the secondary road frontage (Hoskins Avenue) to Building A of 4.70 metres, measured to a point encroachment at the 2<sup>nd</sup> storey, and of 5 metres measured to the balcony walls (2<sup>nd</sup> to 4<sup>th</sup> storeys). Additionally, there is a technical non-compliance in relation to the waste room as it is connected to Building A and is setback 1 metre from the boundary.

The varied setbacks create an articulated façade which reduces the visual bulk of Building A to the southern elevation as viewed from Hoskins Avenue. The predominant setback to Building A complies at 6 metres as measured to the building wall, whilst Building B complies for the entirety of the elevation. Requiring strict compliance is unlikely to improve the built form outcome and for the reasons previously stated, the variation is considered supportable in this instance.

With regards to the waste storage room, the proposal could be amended to achieve compliance by separating the room from Building A. There is no utility seen in this solution, given that Council permits waste storage rooms within the front setback. Therefore the existing layout is supported in this circumstance.

#### Side (North) Boundary Setback

The proposed development achieves a minimum side setback to the northern boundary of 5 metres to the blank balcony walls of Building A, with a predominant setback of 6 metres. This satisfies the separation requirements of the ADG which supersede the side/rear setback requirements of BDCP 2015.

#### Basement Side (East) Boundary Setback

The proposed development achieves a minimum setback of 900mm from the eastern (side) boundary at the basement level, thereby falling short of the 2 metre minimum. The area of non-compliance is generally confined to the driveway and internal ramp section of the basement, with a minimum setback of 3.415 metres provided for the remainder of the basement. Despite the non-compliance, the proposal achieves compliance with the minimum driveway setback of 1 metre. The proposed setback is therefore considered suitable in this instance.

#### **Planning agreements [section 4.15(1)(a)(iia)]**

There are no planning agreements applicable to the proposed development.

**The regulations [section 4.15(1)(a)(iv)]**

The proposed development is not inconsistent with the relevant provisions of the Environmental Planning and Assessment Regulation, 2000.

**The likely impacts of the development [section 4.15(1)(b)]**

The likely impacts of the proposal have been managed through the design of the development which is compliant with Council's planning controls, with the exception of the variations which have been addressed previously within this report.

**Suitability of the site [section 4.15(1)(c)]**

The proposed development is permissible with consent on the subject site, and represents a built form that is compatible with the existing and desired future character of the locality, as set out in this report.

**Submissions [section 4.15(1)(d)]**

The application was neighbour notified and advertised for a period of 21. days between 17 January 2018 and 6 February 2018 and no objections were received.

**The public interest [section 4.15(1)(e)]**

Approval of the proposed development is not considered to contravene the public interest.

**CONCLUSION**

The Development Application has been assessed in accordance with the provisions of Section 4.15 of the Environmental Planning and Assessment Act 1979, and the relevant planning controls.

The proposed development complies with all applicable planning controls, with the exception of the variations discussed in this report. When considering the context of the site, it is recommended that the variations are supported. Therefore, approval of the development application is recommended.

**RECOMMENDATION**

It is recommended that the application be approved subject to the attached conditions.

## CONDITIONS OF CONSENT

- 1) The proposal shall comply with the conditions of Development Consent. A Construction Certificate shall not be issued until the plans and specifications meet the required technical standards and the conditions of this Development Consent are satisfied.
- 2) Development shall take place in accordance with Development Application No.DA-1241/2017, submitted by Afif El- Choufani, accompanied by Drawing No. A004, A100, A101, A102, A102a, A103, A120, A130, A200, A201, A202 and A310, Revision E, dated 15 October 2018 and A006, A300 and A350, Revision D, dated 15 August 2018, prepared by Tony Owen Ptnrs and affixed with Council's approval stamp, except where otherwise altered by the specific amendments listed hereunder and/or except where amended by the conditions contained in this approval.
- 3) The acoustic report submitted in support of this application by Acouras Consultancy titled, '*Aswar Construction Pty Ltd, 78 Marshall Street, Bankstown, Acoustic DA Assessment*', document reference, SYD2017-1110-R001C, dated 18/12/2017 forms part of the development consent.
- 4) Any new information which comes to light during works which has the potential to alter previous conclusions about site contamination, shall be notified to Council immediately. Works are to cease until the new information is evaluated by an appropriately qualified and experienced environmental consultant and an appropriate response determined by the applicant and/or owner which is agreed to by Council. Council may also request that a NSW EPA accredited site auditor is involved to assist with the assessment of the new contamination information
- 5) All soils removed from the property shall be classified in accordance with the NSW EPA Waste Classification Guidelines 2014 and be disposed of to an appropriate EPA licensed waste facility.
- 6) The Arboricultural Impact Assessment Report and Tree Management Plan prepared by Redgum Horticultural (Ref: 3711), prepared 10 December 2017, form part of this Development Consent.

## CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

*Prior to the release of a Construction Certificate the following conditions MUST be satisfied and nominated fees/contributions/bonds paid:*

- 7) The Certifying Authority must ensure that any certified plans forming part of the Construction Certificate are not inconsistent with this Development Consent and accompanying plans.
- 8) A detailed landscape plan prepared by a qualified landscape architect or designer is to be approved prior to the issue of a Construction Certificate. The landscape plan is to be



prepared in accordance with the relevant DCP and is to show all features, built structures including retaining walls, irrigation, mulch and natural features such as significant gardens, landscaping, trees, natural drainage lines and rock outcrops that occur within 3 metres of the site boundary. The landscape plan shall consider any stormwater, hydraulic or overland flow design issues where relevant.

- 9) The landscape plan shall include the provision for the replacement of all boundary fencing. A new 1.8m fence is to be erected along all side and rear boundaries of the subject allotment at full cost to the developer. The colour of the fence is to complement the development and the fence is to be constructed of lapped and capped timber paling, sheet metal or other suitable material unless the type of material is stipulated in any flood study prepared for the site. The selection of materials and colours of the fence is to be determined in consultation with the adjoining property owners. Fencing forward of the building line shall be no higher than 1m unless otherwise approved by Council.
- 10) Approval in accordance with Council's Tree Preservation Order (TPO) is granted to lop or remove only the trees identified to be lopped or removed on the approved plans. Separate approval shall be obtained to prune or remove trees on adjoining properties or other trees located on the site. Failure to comply with Council's TPO may result in a fine of up to \$100,000.
- 11) A soil erosion and sediment control plan must be prepared by a suitably qualified professional, in accordance with the Bankstown Demolition and Construction Guidelines and Council's Development Engineering Standards, and submitted to the certifying authority for approval prior to the issue of a construction certificate.
- 12) The Council Approved building plans, including demolition plans, must be submitted to Sydney Water for assessment. This will determine if the proposed structure(s) would affect any Sydney Water infrastructure or if there are additional requirements. Building plan approvals can be submitted online via Sydney Water Tap in™.

Please refer to [www.sydneywater.com.au/tapin](http://www.sydneywater.com.au/tapin)

For Sydney Water's Guidelines for building over or next to assets, visit [www.sydneywater.com.au](http://www.sydneywater.com.au) 'Plumbing, building & developing' then 'Building Plan Approvals' or call 13000 TAPIN.

Prior to release of a construction certificate Sydney Water must issue either a Building Plan Assessment letter which states that your application is approved, or the appropriate plans must be stamped by a Water Servicing Coordinator.

- 13) A Construction Certificate shall not be issued until written proof that all bonds, fees and/or contributions as required by this consent have been paid to the applicable authority.



- 14) A long service levy payment which is 0.35% of the total cost of the work is to be paid to the Building and Construction Industry Long Service Payments Corporation.
- 15) Pursuant to section 80A(1) of the Environmental Planning and Assessment Act 1979, and the Bankstown City Council Section 94A Development Contributions Plan 2009 (Section 94A Plan) , a contribution of \$178,487.80 shall be paid to Council.

The amount to be paid is to be adjusted at the time of actual payment, in accordance with the provisions of the Section 94A plan. The contribution is to be paid before the issue of the construction certificate.

**Note:** The Section 94A Contributions Plans may be inspected at Council's Customer Service Centre, located at Upper Ground Floor, Civic Tower, 66-72 Rickard Road, Bankstown, between the hours of 8.30am-5.00pm Monday to Friday.

- 16) Finished surface levels of all internal works and at the street boundary, including driveways, landscaping and drainage structures, must be as shown on the approved plans. The levels at the street boundary must be consistent with the Street Boundary Alignment Levels issued by Council.
- 17) A Work Permit shall be applied for and obtained from Council for the following engineering works in front of the site, at the applicant's expense:
  - a) A medium duty VFC at the property boundary.
  - b) Drainage connection to Council's system into a new street stormwater inlet pit in accordance with S-101.
  - c) 2 metre wide concrete footway paving along the sites entire frontage to both Hoskins Avenue & Marshall Street.
  - d) Removal of all driveway surfaces, reinstatement of laybacks to kerb and gutter and reshaping of the footway, all associated with redundant VFCs.
  - e) Repair of any damage to the public road including the footway occurring during development works.
  - f) Reinstatement of the footway reserve and adjustment or relocation of existing public utility services to match the footway design levels as proposed on the approved Work Permit. Adjustment or relocation to any public utility services shall be carried out to the requirements of the public utility authority.

Note: As a site survey and design is required to be prepared by Council in order to determine the necessary information, payment for the Work Permit should be made at least twenty one (21) days prior to the information being required and must be approved prior to the issue of the Construction Certificate

- 18) Stormwater drainage from the development shall be designed so as to comply with Council's Development Engineering Standards and the requirements of the BASIX Certificate. A final detailed stormwater drainage design shall be prepared by a qualified Professional Civil Engineer in accordance with the above requirements and shall generally be in accordance with the concept stormwater plan project No. 20170322, issue A dated 18/12/2017 prepared by SGC ENGINEERING VALUE. The final

plan shall be certified by the design engineer that it complies with Council's Development Engineering Standards, the BASIX Certificate and the relevant Australian Standards.

- 19) Where Council approved cut or fill exceeds 200mm and stable batter of 1 vertical to 3 horizontal maximum grade cannot be achieved, then a masonry or other proprietary material retaining wall, intended and suitable for that purpose, shall be constructed within the development site. Note, filling of the site needs specific approval from Council.

The retaining wall shall be located so that it will not impede or obstruct the natural flow of stormwater. Retaining walls exceeding 600mm in height shall be designed by a qualified professional Civil/Structural Engineer. Plans and details prepared and signed by the Engineer are to be submitted to the Principal Certifying Authority (PCA) prior to the issue of the Construction Certificate.

All works associated with the construction of the wall, including backfilling and drainage, is to be located wholly within the allotment boundaries.

- 20) An all weather pavement shall be designed to withstand the anticipated wheel loads for all areas subjected to vehicular movements. Internal pavements specification prepared and certified by all qualified professional Civil Engineer to comply with the relevant Australian Standards, shall be submitted to the Principal Certifying Authority (PCA) for approval prior to the issue of a construction certificate.
- 21) The development is to be carried out in accordance with the commitments shown on the BASIX Certificate. The BASIX commitments approved with this Development Application are to be reflected in the Construction Certificate plans and specifications. Any proposed changes to the BASIX commitments after the Construction Certificate has been issued will require an updated BASIX Certificate and a new Construction Certificate.
- 22) A Construction Certificate shall not be issued until design verification from a qualified designer has been received. The design verification is a statement in which the qualified designer verifies that the plans and specifications achieve or improve the design quality of the development of which Development Consent was granted, having regard to the design quality principles set out in Schedule 1 of SEPP No. 65.
- 23) The Construction Certificate plans shall include details of the garbage receptacle area. The garbage receptacle area shall not be visible from the street. The garbage receptacle area shall be located within the building or screened from the street by dense landscaping.
- 24) Prior to the issue of any Construction Certificate for this development, the applicant must obtain approval from Council's Traffic Section for a Site, Pedestrian and Traffic Management Plan (SPTMP). This Plan must address the measures that will be implemented for pedestrian safety and traffic management as specified below.

A PRIVATE CERTIFIER CANNOT APPROVE YOUR SITE, PEDESTRIAN & TRAFFIC MANAGEMENT PLAN

This plan shall include details of the following:

- a) Proposed ingress and egress points for vehicles to and from the construction site;
- b) Proposed protection of pedestrians, adjacent to the construction site;
- c) Proposed pedestrian management whilst vehicles are entering/exiting the construction site;
- d) Proposed method of loading and unloading excavation machines, building material, construction materials and waste containers during the construction period;
- e) Proposed traffic control measures such as advanced warning signs, barricades, warning lights, after hours contact numbers etc. are required to be displayed and shall be in accordance with Council's and the NSW Roads and Maritime Services requirements and AS1742.3.
- f) Proposed route for transportation of bulk and excavation materials to and from the development site.

The route for transportation to and from the development site of bulk and excavation materials shall generally be by the shortest possible route to the nearest "State Road" via "Regional Roads", with every effort to avoid school zones on public roads. Alternate longer routes will only be considered in order to bypass school zones during school zone hours. If school zones cannot be avoided **no heavy construction vehicle movements are to arrive or depart the site during signposted school zone periods 8:00am - 9:30am and 2:30pm - 4:00pm on school days.**

An Agreement to Council's satisfaction, signed by the applicant/owner specifying the approved route and acknowledging responsibility to pay Council to rectify damages to public property adjacent to the site as a consequence of building works shall be lodged with Council prior to release of any Construction Certificate. Damage will be rectified as required by Council to remove unsafe conditions. All damage must be rectified upon completion of work to the satisfaction of Council.

The approved Site, Pedestrian and Traffic Management Plan is to be implemented prior to the commencement of any works on the construction site.

In addition a RMS Approval / Road Occupancy Licence will be required for works on Regional or State Roads or within 100m of a traffic facility including roundabouts and traffic signals. Refer to Council's Development Engineering Standards for a list of Regional and State Roads.

- 25) Prior to the issue of any Construction Certificate for this development, the Principal Certifying Authority must approve a Site Operations Management Plan (SOMP). This

Plan must address the measures that will be implemented for the ongoing management of operations on and around the construction site, the protection of adjoining properties, and other requirements as specified below.

This plan shall include details of the following:

- a) Proposed hoardings, scaffolding and/or fencing to secure the construction site;
- b) Proposed measures to be implemented, under the separately approved Works Permit issued by Council, for the protection of all public roads and footway areas surrounding the construction site from building activities, crossings by heavy equipment, plant and materials delivery and static load from cranes, concrete pumps and the like;
- c) Proposed method of support of any excavation, adjacent to adjoining buildings or the public road. The proposed method of support is to be certified by a Civil Engineer with National Professional Engineering Registration (NPER) in the construction of civil works.
- d) Proposed measures to be implemented in order to ensure that no soil/excavated material is transported on wheels or tracks of vehicles or plant and deposited on the public road.
- e) Proposed measures for protection of the environment, according to the relevant provisions of the Protection of Environment Operations (POEO) Act, 1997 including procedures to control environmental impacts of work e.g. sediment control, proper removal, disposal or recycling of waste materials, protection of vegetation and control/prevention of pollution i.e. water, air noise, land pollution.

A number of the above matters may require separate approval from Council, particularly those relating to works on or adjacent to Council property. These may be covered by separate conditions of consent contained in this Determination Notice. Appropriate approvals will need to be obtained prior to the approval of this plan.

The approved Site Operations Management Plan is to be implemented prior to the commencement of any works on the site, and an approved copy provided to Council for information. Ongoing compliance with the matters detailed in the SOMP shall be monitored by the appointed Principal Certifying Authority.

- 26) As any works within, or use of, the footway or public road for construction purposes requires separate Council approval under Section 138 of the Roads Act 1993 and/or Section 68 of the Local Government Act 1993, Council requires that prior to any Construction Certificate for this development being issued, evidence of lodgement of an application for a Works Permit and or a Roadway/Footpath Building Occupation Permit shall be obtained where one or more of the following will occur, within, on or over the public footway or public road:

A PRIVATE CERTIFIER CANNOT ISSUE THESE PERMITS

WORKS REQUIRING A 'WORKS PERMIT'

- a) Dig up, disturb, or clear the surface of a public footway or public road,
- b) Remove or interfere with a structure or tree (or any other vegetation) on a public footway or public road,
- c) Connect a road (whether public or private) to a classified road,
- d) Undertake footway, paving, vehicular crossing (driveway), landscaping or stormwater drainage works within a public footway or public road,
- e) Install utilities in, under or over a public road,
- f) Pump water into a public footway or public road from any land adjoining the public road,
- g) Erect a structure or carry out a work in, on or over a public road
- h) Require a work zone on the public road for the unloading and or loading of vehicles
- i) Pump concrete from within a public road,
- j) Stand a mobile crane within a public road
- k) Store waste and recycling containers, skips, bins and/or building materials on any part of the public road.
- l) The work is greater than \$25,000.
- m) Demolition is proposed.
- n) Subdivision is proposed.
- o) A Swimming pool is proposed.

Assessment of Works Permits (a to e) includes the preparation of footway design levels, vehicular crossing plans, dilapidation reports and issue of a Road Opening Permit.

All proposed works within the public road and footway shall be constructed under the supervision and to the satisfaction of Council. The applicant/developer shall arrange for necessary inspections by Council whilst the work is in progress.

For commercial or multi-unit residential developments within the designated CBD or an urban village area, footway design and construction and street tree supply, installation and tree hole detailing shall be as per the Council master plan for that area. Full width footways are to be supplied and installed at full cost to the developer to specification as supplied by Council. Layout plan of pavement to be submitted to Council for approval prior to the issue of the Works Permit.

All Council fees applicable, minimum restoration charges and inspection fees shall be paid prior to the assessment of the Work Permit in accordance with Council's adopted fees and charges. Note: Additional fees after approval will be charged where the Work Permit requires occupation of the Road or Footpath ie Hoardings, Work Zones etc.

In determining a Works Permit, Council can impose conditions and require inspections by Council Officers.

Forms can be obtained from Council's Customer Service counter located on the ground floor of Council's administration building at 66 - 72 Rickard Road, Bankstown or Council's website [www.bankstown.nsw.gov.au](http://www.bankstown.nsw.gov.au)

Part of any approval will require the person or company carrying out the work to carry public liability insurance to a minimum value of ten million dollars. Proof of the policy is to be provided to Council prior to commencing any work approved by the Work Permit including the Road Opening Permit and must remain valid for the duration of the works.

The commencement of any works on public land, including the footway or public road, may incur an on the spot fine of not less than \$1100 per day that work continues without a Works Permit and/or a Roadway/Footpath Building Occupation Permit.

All conditions attached to the permit shall be strictly complied with prior to occupation of the development. Works non-conforming to Council's specification (includes quality of workmanship to Council's satisfaction) shall be rectified by the Council at the applicant's expense.

- 27) The pump out drainage system for the access ramp and basement car parking area shall be provided in accordance with Council's Development Engineering Standards. Engineering details and specifications shall be submitted to the Principal Certifying Authority (PCA) for approval prior to the issue of any Construction Certificate.
- 28) Engineering details and manufacturers specifications for the pumps, switching system and sump pit shall be submitted to the Principal Certifying Authority (PCA) for approval prior to issue of any Construction Certificate.
- 29) For internal driveways with a gradient exceeding 10% (1 in 10), longitudinal profiles of all vehicular driveways and ramps shall be submitted for approval by the Principal Certifying Authority (PCA) prior to the issue of the Construction Certificate. The maximum grade of the driveway/ramp shall not exceed **25%** and shall comply with AS 2890.1. The profile shall be drawn at a reduction ratio of 1 to 25 vertical and horizontal and shall be related to the datum used for the issue of the footway design levels and shall also show the road centre line levels, Council issued footway design levels and gutter levels. Council's Car Clearance Profile in Council's Development Engineering Standards, (Plan No. S 006) shall be used to design the profile.
- 30) The basement of the development is located adjacent to a Council Public Road Reserve. Separate approval and Work Permit is to be obtained from Council for any temporary or permanent anchoring works under Council's Public Road.
- 31) A clear sight line triangle is to be shown on the Construction Certificate Plans at the driveway exit to ensure adequate visibility between vehicles leaving the property, in accordance with AS 2890.1-2004 Fig 3.3.
- 32) Prior to the issue of a construction certificate, the site is to be remediated in accordance with:

- a) The approved Remedial Action Plan, prepared by El Australia Pty Ltd, titled '*ASWAR CONSTRUCTIONS PTY LTD, Remediation Action Plan, 78-80 Marshall Street & 40A- 40B Hoskins Avenue, Bankstown NSW*, report number E23632.E06.Rev0, dated 21 August 2018;
- b) *State Environmental Planning Policy No. 55 - Remediation of Land*;
- c) The guidelines in force under the *Contamination Land Management Act 1997*; and
- d) The applicant must engage an appropriately qualified and experience environmental consultant to supervise all aspects of site remediation and validation.

Any new information which comes to light during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination must be immediately notified to Council in writing and the principal certifying authority.

Any variations to the approved Remediation Action Plan must be submitted to and approved in writing by the Accredited Site Auditor and Council prior to the continuing of such work.

- 33) Prior to issue of the construction certificate the proponent must submit a detailed validation report to Council and the principal certifying authority.

The validation report must be prepared in accordance with:

- a) State Environmental Planning Guideline (SEPP) 55 – Remediation of Land' (Department of Urban Affairs and Planning and NSW EPA, 1998);
- b) Relevant EPA Guidelines, noting in particular the 'Guidelines for Consultants Reporting of Contaminated Sites' (NSW Office of Environment and Heritage, 2011); and
- c) National Environmental Protection (Assessment of Site Contamination) Measure 1999 (as amended 2013).

- The validation report must be prepared, or reviewed and approved by an appropriately qualified environmental consultant.
- The validation report must verify that the land is suitable for the proposed use, and that the remediation and validation of the site has been undertaken in accordance with the Remedial Action Plan, prepared by El Australia Pty Ltd, titled '*ASWAR CONSTRUCTIONS PTY LTD, Remediation Action Plan, 78-80 Marshall Street & 40A-40B Hoskins Avenue, Bankstown NSW*, report number E23632.E06.Rev0, dated 21 August 2018.

- 34) The Applicant shall apply to the Canterbury Bankstown Traffic Committee prior to the issue of a Construction Certificate and obtain approval prior to work commencing for the following works:

- a) Restrictive parking signs to facilitate waste collection.



- b) No Stopping restrictions across part of the driveway to comply with Fig 3.2 from AS 2890.1:2004.
- c) Timed 3P signage across the development frontage in Hoskins Avenue to maintain residential amenity.

All works are at full cost to the applicant/developer.

## **CONDITIONS TO BE SATISFIED PRIOR TO CONSTRUCTION**

- 35) The building / subdivision work in accordance with the development consent must not be commenced until:
- a) a construction certificate for the building / subdivision work has been issued by the council or an accredited certifier, and
  - b) the person having benefit of the development consent has:
    - i. appointed a principal certifying authority for the building / subdivision work, and
    - ii. notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
  - c) the person having the benefit of the development consent, if not carrying out the building work as an owner-builder, has:
    - i. appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential building work is involved, and
    - ii. notified the principal certifying authority of any such appointment, and
    - iii. unless the person is the principal contractor, notified the principal contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
  - d) the person having the benefit of the development consent has given at least 2 days' notice to the council of the person's intention to commence the building / subdivision work.
- 36) Existing trees within the vicinity of the construction works or paths of travel for construction vehicles accessing the development that are to be retained shall be protected with temporary fencing of a style non injurious to tree roots, placed 2m from the trunk base of the existing tree to prevent damage during construction, and retained in accordance with Council's Tree Preservation Order. There is to be no stockpiling of materials within the 2m fenced zone.
- 37) Suitable erosion and sediment control measures shall be erected in accordance with the plans accompanying the Construction Certificate prior to the commencement of construction works and shall be maintained at all times.



- 38) Council warning sign for Soil and Water Management must be displayed on the most prominent point of the site, visible to both the street and site works. The sign must be displayed throughout the construction period.
- 39) Prior to the commencement of work, the applicant must provide a temporary on-site toilet if access to existing toilets on site is not adequate.
- 40) A section 73 compliance certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation. Make early application for the certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design.

Application must be made through an authorised Water Servicing Coordinator. For help either visit [www.sydneywater.com.au](http://www.sydneywater.com.au) > Building and Developing > Developing your Land > Water Servicing Coordinator or telephone 13 20 92.

- 41) Prior to the commencement of work, a fence must be erected around the area of the works, except where an existing 1.8m high boundary fence is in good condition and is capable of securing the area. Any new fencing shall be temporary (such as cyclone wire) and at least 1.8m high. All fencing is to be maintained for the duration of construction to ensure that the work area is secured.

Where the work is located within 3.6m of a public place then a Type A or Type B hoarding must be constructed appropriate to the works proposed. An application for a Work Permit for such hoarding must be submitted to Council for approval prior to the commencement of work.

- 42) A sign shall be displayed on the site indicating the name of the person responsible for the site and a telephone number of which that person can be contacted during and outside normal working hours or when the site is unattended.
- 43) In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of the Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.
- 44) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:
  - a) in the case of work for which a principal certifying is required to be appointed:
    - i. the name and licence number of the principal contractor, and
    - ii. the name of the insurer by which the work is insured under Part 6 of the Act,
  - b) in the case of work to be done by an owner-builder:
    - i. the name of the owner-builder, and

- ii. If the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

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

- 45) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
- a) showing the name, address and telephone number of the principal certifying authority for the work, and
  - b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
  - c) stating that unauthorised entry to the work site is prohibited.

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

- 46) The demolition of structures currently existing on the property must be undertaken, subject to strict compliance with the following: -
- a) The developer is to notify adjoining residents seven (7) working days prior to demolition. Such notification is to be clearly written on A4 size paper giving the date demolition will commence and be placed in the letterbox of every premises (including every residential flat or unit, if any) either side, immediately at the rear of, and directly opposite the demolition site.
  - b) Written notice is to be given to Canterbury-Bankstown Council for inspection prior to demolition. Such written notice is to include the date when demolition will commence and details of the name, address, business hours and contact telephone number and licence number of the demolisher. The following building inspections shall be undertaken by Canterbury-Bankstown Council:
    - (i) A *precommencement* inspection shall be carried out by Council when all the site works required as part of this consent are installed on the site and prior to demolition commencing.
    - (ii) A *final* inspection shall be carried out by Council when the demolition works have been completed to ensure that the site is left in a satisfactory manner, in accordance with the conditions of this consent.

**NOTE:** Payment of an inspection fee at Council's current rate will be required prior to each inspection. Council requires 24 hours notice to carry out inspections. Arrangements for inspections can be made by phoning **9707 9410, 9707 9412 or 9707 9635.**

- c) Prior to demolition, the applicant must erect a sign at the front of the property with the demolisher's name, license number, contact phone number and site address.
- d) Prior to demolition, the applicant must erect a 2.4m high temporary fence or hoarding between the work site and any public place. Access to the site shall be restricted to Authorised Persons Only and the site shall be secured against unauthorised entry when the building work is not in progress or the site is otherwise unoccupied. Where demolition is to occur within 3m of a public place a Work Permit application for the construction of a Class A or Class B hoarding shall be submitted to Council for approval.
- e) The demolition plans must be submitted to the appropriate Sydney Water Office to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements. If the development complies with Sydney Water's requirements, the demolition plans will be stamped indicating that no further requirements are necessary.
- f) Demolition is to be carried out in accordance with the appropriate provisions of Australian Standard AS2601-2001.
- g) The hours of demolition work shall be limited to between 7.00am and 6.00pm on weekdays, 7.00am and 1.00pm on Saturdays and no work shall be carried out on Sundays and public holidays, and weekends (Saturdays and Sundays) adjacent to public holidays.
- h) Where materials containing asbestos cement are to be removed, demolition is to be carried out by licensed contractors who have current Workcover Accreditation in asbestos removal.
- i) Hazardous or intractable wastes arising from the demolition process shall be removed and disposed of in accordance with the requirements of WorkCover NSW and the NSW EPA 'Environmental Guidelines: Assessment, Classification and Management of Liquid and Non-Liquid Wastes 2004'.
- j) Demolition procedures shall maximise the reuse and recycling of demolished materials in order to reduce the environmental impacts of waste disposal.
- k) During demolition, the public footway and public road shall be clear at all times and shall not be obstructed by any demolished material or vehicles. The public road and footway shall be swept (NOT hosed) clean of any material, including clay, soil and sand. (NOTE: If required, Council will clean the public road/footway at the applicant's expense). On the spot fines may be levied by Council against the demolisher and or owner for failure to comply with this condition.

- l) All vehicles leaving the site with demolition materials shall have their loads covered and vehicles shall not track soil and other material onto the public roads and footways and the footway shall be suitably protected against damage when plant and vehicles access the site. All loading of vehicles with demolished materials shall occur on site.
  - m) The burning of any demolished material on site is not permitted and offenders will be prosecuted.
  - n) Care shall be taken during demolition to ensure that existing services on the site (ie. sewer, electricity, gas, phone) are not damaged. Any damage caused to existing services shall be repaired by the relevant authority at the applicant's expense.
  - o) Suitable erosion and sediment control measures shall be erected prior to the commencement of demolition works and shall be maintained at all times.
  - p) Prior to the demolition of any building constructed before 1970, a Work Plan shall be prepared and submitted to Council in accordance with Australian Standard AS2601-2001 by a person with suitable expertise and experience. The Work Plan shall outline the identification of any hazardous materials, including surfaces coated with lead paint, method of demolition, the precautions to be employed to minimise any dust nuisance and the disposal methods for hazardous materials.
- 47) Prior to the commencement of works, a dilapidation report shall be prepared by a suitably qualified consultant and a copy provided to directly adjoining property owners of the subject site at full cost to the developer. The report must clearly identify the condition of existing structures on adjoining properties prior to the commencement of works. All care shall be taken during the construction process to ensure adjoining structures are protected, and should any change in condition occur from that recorded in the dilapidation report, the rectification of such shall be at full cost to the developer of the subject site.

## **CONDITIONS TO BE SATISFIED DURING CONSTRUCTION**

- 48) The hours of site works shall be limited to between 7.00am and 6.00pm on weekdays and 7.00am and 1.00pm on Saturdays. No work shall be carried out on Sundays and public holidays, and weekends (Saturdays and Sundays) adjacent to public holidays.
- 49) The building work must be carried out in accordance with the requirements of the Building Code of Australia.
- 50) Prior to the ground floor slab being poured, an identification report by a Registered Surveyor must be submitted to the principal certifying authority verifying that the proposed buildings finished ground floor level and siting to the property boundaries conforms to the approved plans.

- 51) All Civil and Hydraulic engineering works on site must be carried out in accordance with Council's Development Engineering Standards. All Civil and Hydraulic engineering works associated with Council's assets and infrastructure must be carried out in accordance with Council's Work Permit requirements and to Council's satisfaction.
- 52) All excavations and backfilling must be executed safely and in accordance with the relevant Australian Standards.
- 53) If soil conditions require it, retaining walls or other approved methods of preventing movement of the soil must be provided, and adequate provisions must be made for drainage. Separate approval may be required for retaining walls should they be required.
- 54) If the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
  - a) protect and support the adjoining premises from possible damage from the excavation, and
  - b) where necessary, underpin the adjoining premises to prevent any such damage.
- 55) All boundary fencing behind the building line shall be replaced by a 1.8m high lapped and capped timber or sheet metal fence, or as stipulated in a flood study prepared for the site, or as determined in consultation with the adjoining property owners at the developer's expense. Fencing forward of the building line shall be no higher than 1m unless otherwise approved by Council.
- 56) The stormwater drainage system shall be constructed in accordance with Council's Development Engineering Standards and the engineering plans and details approved by the Principal Certifying Authority (PCA). Should the developer encounter any existing, live, underground stormwater drainage pipes, which carry flow from upstream properties, the developer must maintain the stormwater flow and re-route the stormwater pipes around the subject building or structures at the developer's expense.
- 57) A suitably qualified Professional Civil or Structural Engineer shall be engaged by the developer to carry out inspections relating to construction of internal driveways and parking areas. The work shall be carried out in accordance with the approved plans and specifications and certification from the Civil or Structural Engineer is to be provided upon completion.
- 58) The wastewater from the car wash bay shall be collected and disposed of, in accordance with the requirements contained in Council's Development Engineering Standards.
- 59) Prior to the commencement of work, the builder shall prepare a photographic record of the road reserve which clearly shows its condition prior to works occurring on site. For the entirety of demolition, subdivision or construction works, there shall be no

stockpiling of building spoil, materials, or storage of equipment on the public road, including the footway and the road reserve shall be maintained in a safe condition at all times. No work shall be carried out on the public road, including the footway, unless a Work Permit authorised by Council has been obtained.

## **CONDITIONS TO BE SATISFIED PRIOR TO OCCUPATION**

- 60) The occupation or use of the building must not be commenced unless an occupation certificate has been issued for the building.
- 61) A final Occupation Certificate shall not be issued until all conditions relating to demolition, construction and site works of this development consent are satisfied and Council has issued a Work Permit Compliance Certificate.
- 62) Seventy-one (71) off street car spaces being provided in accordance with the submitted plans. This shall comprise:

Sixty-two (62) residential spaces

Nine (9) residential visitor spaces

Six (6) of the above car parking spaces are to be provided for people with mobility impairment in accordance with AS 2890.1. All car parking spaces shall be allocated and marked according to these requirements.

- 63) Prior to the issue of an occupation certificate, a dilapidation report shall be prepared by a suitably qualified consultant and a copy provided to directly adjoining property owners of the subject site at full cost to the developer. The report must clearly identify the condition of the structures on adjoining properties after the completion of all construction works. Any change in condition that occurs between this report and the report prepared prior to construction is to be rectified at full cost to the developer of the subject site.
- 64) Landscaping is to be installed in accordance with the approved landscape plan. All works and methods nominated and materials and plants specified on the approved landscape plan are to be completed prior to the issue of an occupation certificate. The landscaping shall be maintained for the life of the development.
- 65) A suitably qualified Professional Civil Engineer shall certify that the driveways, parking bays, and service areas have been constructed in accordance with the approved plans and specifications. Such Certification shall be submitted prior to the issue of the Occupation Certificate or occupation of the site.
- 66) Lighting must be provided to the entries of the dwellings, driveways and parking areas to promote a high level of safety and security at night and during periods of low light. Lighting provided should be hooded, shielded or directed away from neighbouring dwellings to minimise glare and associated nuisances to residents.
- 67) The premises must be readily identified from the street with the allocated house numbers. Numbering of the development without Council's written approval is not

permitted. An official "house numbering" letter will be sent to the applicant indicating the proposed house numbers of the new development. Note: The house numbers of the development are subject to change depending of the type on subdivision that may occur at a later stage.

- 68) Prior to the issue of any Occupation Certificate a design verification from a qualified designer shall be submitted to the Principal Certifying Authority. The design verification is a statement in which the qualified designer verifies that the development has been constructed as shown in the plans and specifications in respect of which the Construction Certificate was issued, having regard to the design quality principles set out in Schedule 1 of SEPP No. 65.
- 69) A Copy of the Work Permit Compliance Certificate shall be submitted to the PCA Prior to the issue of the Occupation Certificate.
- 70) A registered surveyor shall prepare a Work As Executed Plan, and a suitably qualified Hydraulic Engineer shall provide certification of the constructed on-site stormwater detention system.

The Work As Executed information shall be shown in red on a copy of the approved stormwater plan and shall include all information specified in Council's Development Engineering Standards. The Work As Executed plan shall be submitted to the Hydraulic Engineer prior to certification of the on-site stormwater detention system.

The engineer's certification of the on-site stormwater detention system should be carried out similar to Council's standard form "On-Site Stormwater Detention System - Certificate of Compliance", contained in Council's Development Engineering Standards.

A copy of the Work As Executed Plan and Hydraulic Engineer's Certification shall be submitted to Council for information prior to issue of the final occupation certificate.

- 71) The developer shall register, on the title of the subject property, a Restriction on the Use of Land and Positive Covenant, in accordance with the standard terms for "Registration of OSD on title", as outlined in Council's Development Engineering Standards and in accordance with the appropriate provisions of the Conveyancing Act.

Note: The location of the "On-Site Stormwater Detention System" shall be shown on the plan of subdivision where subdivision is proposed. Where subdivision is not proposed the location of the "On-Site Stormwater Detention System" shall be included on an A4 size site plan attached to the Section 88E Instrument and registered on the title prior to the issue of the final occupation certificate.

The developer shall submit to Council evidence of the final registration of the Restriction and Positive Covenant on the title of the property.



- 72) The Section 73 compliance certificate under the Sydney Water Act 1994 must be submitted to the principal certifying authority before occupation of the development / release of the plan of subdivision.
- 73) Consolidation of the existing allotments must be registered by NSW Land Registry Services prior to the issue of an occupation certificate.
- 74) Prior to the issue of any Occupation Certificate, verification from a qualified acoustic engineer shall be submitted to the Principal Certifying Authority to verify that the development complies with the requirements of Condition 3 of this development consent, and that any measures required to be installed to comply with the requirements of that condition, have been installed.

## USE OF THE SITE

- 75) The implementation of this development shall not adversely affect the amenity of the neighbourhood or interfere unreasonably with the comfort or repose of a person who is outside the premises by reason of the emission or discharge of noise, fumes, vapour, odour, steam, soot, ash, dust, waste water, waste products, grit, oil or other harmful products.
- 76) Any activity carried out in accordance with this approval shall not give rise to offensive odour, offensive noise or pollution of air, land or water as defined in the *Protection of the Environment Operations Act 1997* and Regulations.
- 77) Any lighting of the premises shall be installed in accordance with AS 4282: *Control of the obtrusive effects of outdoor lighting* so as to avoid annoyance to the occupants of adjoining premises or glare to motorists on nearby roads. The intensity, colour or hours of illumination of the lights shall be varied at Council's discretion if Council considers there to be adverse effects on the amenity of the area.
- 78) Waste bins will be collected from the bin storage areas as a 'collect and return' service from Marshall Street and Hoskins Avenue. Unobstructed and unrestricted access must be provided to the bin storage areas on collection days.

## SCHEDULE A: ADVICE TO APPLICANTS

Inspection of building works shall be undertaken as determined by the PCA. If Bankstown Council has been nominated as the PCA then details of inspection type and number required will be determined prior to the issue of a construction certificate.

Where a combined development consent is issued for demolition of buildings and construction of new work, a Construction Certificate must be obtained for the work, including demolition.

Also, before you dig, call "Dial before you Dig" on 1100 (listen to the prompts) or facsimile 1300 652 077 (with your street no./name, side of street and distance to nearest cross street) for underground utility services information for any excavation areas.

For further information regarding this notice please contact Will Hodgkinson in Development Services on 9707 9653.

-END-



### **ITEM 3                      Planning Proposal - 167 Hume Highway Greenacre (The Palms Hotel)**

**AUTHOR                      Planning**

### **PURPOSE AND BACKGROUND**

---

Council is in receipt of an application to prepare a planning proposal for the site at 167 Hume Highway Greenacre, which forms part of the Hume Highway Enterprise Corridor. The application seeks to increase the maximum floor space ratio from 1:1 to 1.5:1, increase the maximum building height from 14 metres (four storeys) to 17 metres (five storeys), and reduce the minimum highway setback for dwellings from 20 metres to 10 metres.

Council's assessment indicates the proposal has strategic merit subject to implementing the recommendations of an urban design peer review. It is noted that the proposal to reduce the minimum highway setback for dwellings should similarly apply to the adjoining sites at 165 and 185 Hume Highway, which also form part of the enterprise corridor.

The assessment also identifies the need for additional information as part of the Gateway process to manage the likely effects of the proposal, namely a Social Impact and Community Needs Assessment, Air Quality and Noise Impact Study, and consultation with the Roads & Maritime Services.

### **ISSUE**

---

In accordance with the Local Planning Panel's Direction, the Panel is requested to recommend whether a planning proposal for the sites at 165, 167 and 185 Hume Highway Greenacre should proceed to Gateway.

### **RECOMMENDATION    That -**

---

1. The application to amend Bankstown Local Environmental Plan 2015 for the site at 167 Hume Highway Greenacre should proceed to Gateway subject to the following provisions:
  - (a) Permit a maximum 1.25:1 FSR for the site. Within the 1.25:1 FSR envelope, apply a maximum 0.75:1 FSR for the purposes of residential development.
  - (b) Permit a maximum building height of 17 metres (five storeys) to the north of the site, 14 metres (four storeys) in the centre of the site, and 11 metres (three storeys) along the southern boundary, as shown in Figure 11 of this report.
  - (c) Reduce the depth of the 11 metre building height control along the Hume Highway from 20 metres to 12 metres.

- (d) For consistency, the change recommended in (c) should also apply to the adjoining sites at 165 and 185 Hume Highway in Greenacre.
- 2. The Gateway process should require the following additional information:
  - (a) Social Impact and Community Needs Assessment
  - (b) Air Quality and Noise Impact Study
  - (c) Consultation with the Roads & Maritime Services.
- 3. Council should seek authority from the Greater Sydney Commission to exercise the delegation in relation to the plan making functions under section 3.36(2) of the Environmental Planning & Assessment Act 1979.
- 4. Council prepare a site specific DCP Amendment.

## **ATTACHMENTS**

---

- A. Assessment Findings

## **POLICY IMPACT**

---

This matter has no policy implications for Council.

## **FINANCIAL IMPACT**

---

At this stage, this matter has no financial implications for Council.

## **COMMUNITY IMPACT**

---

The recommendations of this report are considered to appropriately manage amenity impacts such as overshadowing, noise and air quality impacts. A Social Impact and Community Needs Assessment is also recommended to investigate social infrastructure needs arising from the proposal.

## DETAILED INFORMATION

---

### SITE DESCRIPTION

The site at 167 Hume Highway Greenacre forms part of the Hume Highway Enterprise Corridor as shown in Figures 1 and 2.

Property Description	Site Area	Current Zone
Lot 402, DP 631754	11,750m <sup>2</sup>	Zone B6 Enterprise Corridor

The site is within Zone B6 Enterprise Corridor under Bankstown Local Environmental Plan 2015. The zone permits highway related land uses such as hotel or motel accommodation, business and office premises and light industries subject to consent. The zone also permits certain residential uses (residential flat buildings, seniors housing and multi dwelling housing) only if the uses form part of a mixed use development.

The site is currently occupied by the Palms Hotel and three other associated buildings used for accommodation, storage and a separate restaurant. The site is constrained by noise and air quality due to its interface to the Hume Highway. A small section of the site sits within the medium stormwater flood risk precinct. The site falls by approximately 5 metres from north to south.

The site adjoins a single storey commercial building to the north, low density residential development to the south, and Peter Reserve (Zone RE1 Public Recreation) to the east.

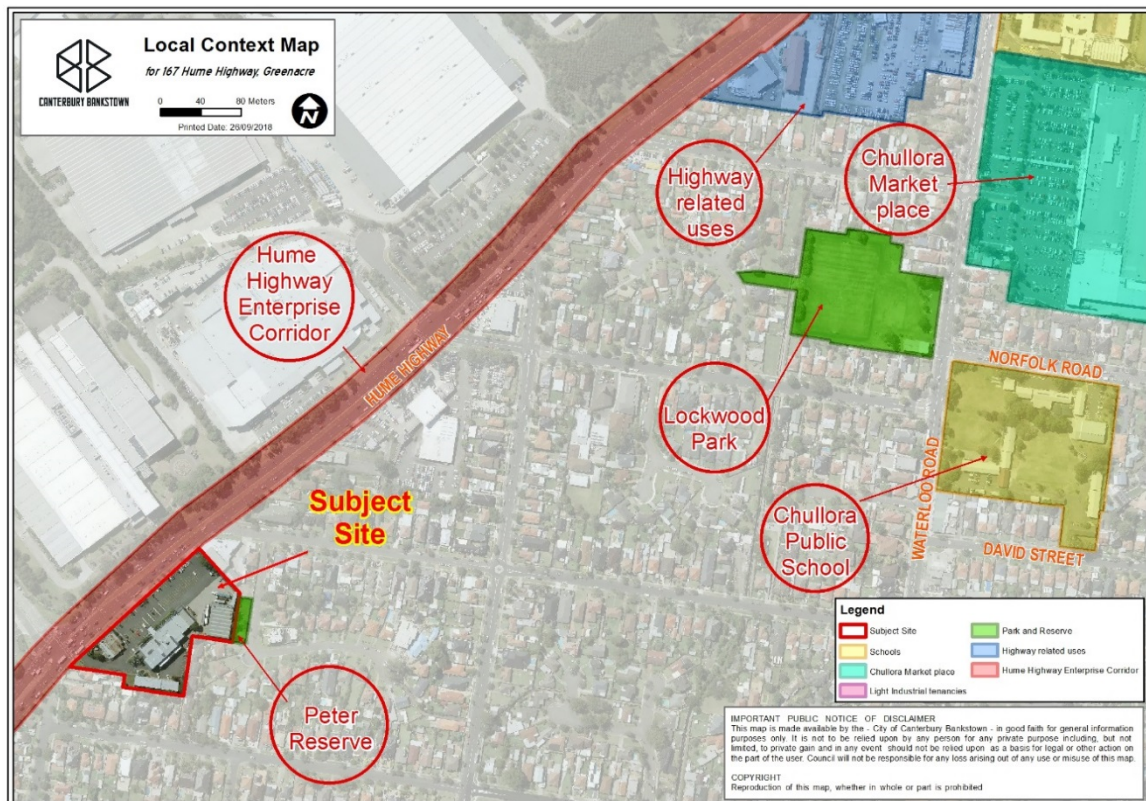
In relation to local context, the site forms part of the Hume Highway Enterprise Corridor, which generally consists of industrial development on the northern side of the Hume Highway. The southern side of the Hume Highway consists of a mix of highway related businesses and low density residential development, predominantly houses. The nearest shopping centre is Chullora Marketplace (1.2km) to the north-east. Public transport is limited to bus services along the Hume Highway.



Figure 1: Site Map

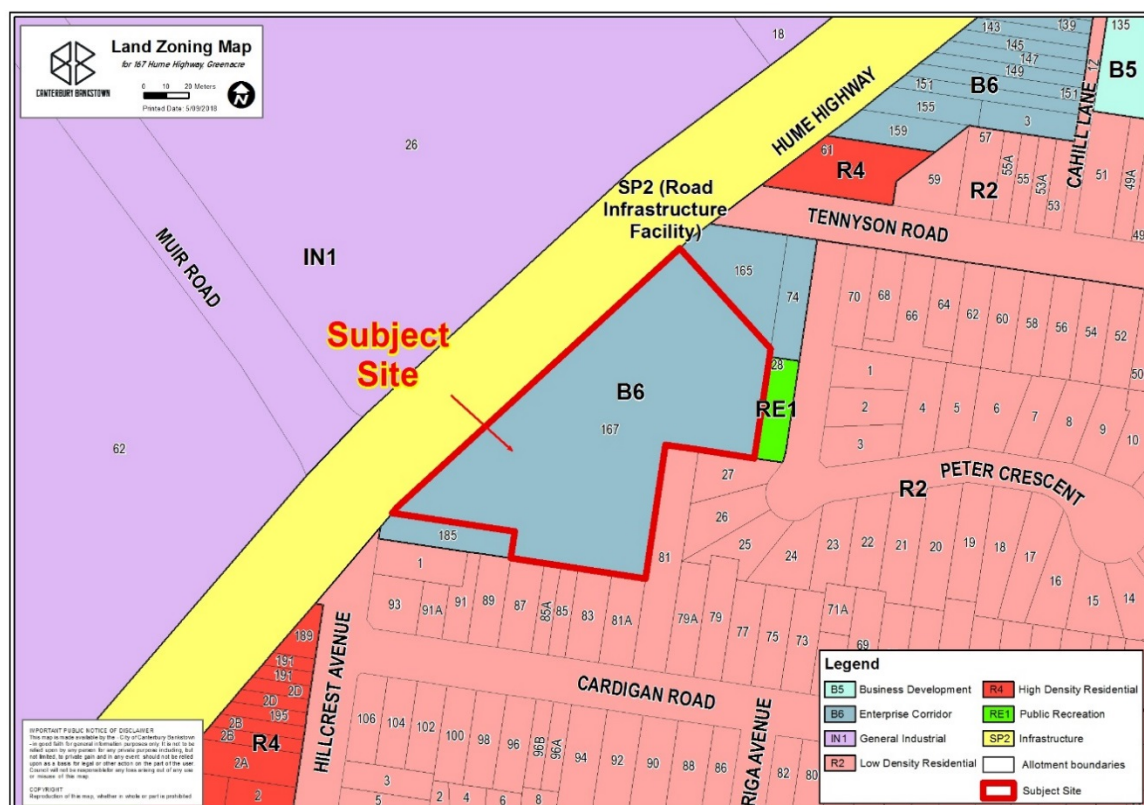


Figure 2: Locality Map





**Figure 3: Existing Zoning Map**



## BACKGROUND

### North East Local Area Plan

At the Extraordinary Meeting of 11 May 2016, the former Bankstown City Council adopted the North East Local Area Plan.

The intended outcomes of the North East Local Area Plan are to set out the vision and spatial context for the local area, specify the best ways to accommodate residential and employment growth to 2031 and outline the delivery of supporting infrastructure, facilities and open space.

### Desired character

Action L5 identifies the site as forming part of the Hume Highway Enterprise Corridor. It outlines the desired character for the Hume Highway Enterprise Corridor as follows:

*The Hume Highway Enterprise Corridor is a national and historical landmark that will continue to function as a significant economic asset for the City of Bankstown. The section of the corridor which runs through the North East Local Area will promote the image of the City of Bankstown by reinforcing the Remembrance Driveway landscape corridor.*

*Supporting housing (in the form of mixed use development) will be limited to selected sites that are compatible with the primary enterprise role of the corridor, can provide residents with good amenity (in terms of noise and air quality), and can provide an appropriate built form transition to the surrounding suburban neighbourhood. The built*

*form will supplement the landscape corridor, with low-rise enterprise activities facing the highway and low and medium-rise housing at the rear.*

### Review findings

To achieve the desired character, Council's review of the Hume Highway Enterprise Corridor identified the potential for some sites to accommodate some dwelling growth as part of mixed use development. This is due to these sites being significantly large in area, in single ownership or within property groupings where consolidation for development purposes is preferred. The sites included 165–185 Hume Highway in Greenacre.

As part of the review process, Council commissioned a FSR Review Report (JBA 2015). The report provided a high level review of the development potential of the above sites. It recommended it may be possible to increase the building envelope up to 1.5:1 FSR. The report also recommended a review of the current setback to the Hume Highway (from 20 metres to 10 metres) and a standardisation of current setbacks to neighbouring properties.

Action L5 incorporated the recommendations of the FSR Review Report provided:

- The proposed changes are consistent with the zone objectives and do not compromise employment activities on the site.
- There is appropriate amenity (noise and air quality) protection for future residents.
- There is appropriate amenity to neighbouring properties.

In relation to next steps, the planning proposal process to implement the North East Local Area Plan would have carried out a further review of the proposed changes.

### **North East Planning Proposal**

At the Ordinary Meeting of 24 July 2018, Council resolved not to proceed with a planning proposal to implement the North East Local Area Plan. In October 2018, the Department of Planning & Environment confirmed the planning proposal would not proceed.

### **PROPOSAL**

In response to Council's decision of 24 July 2018, the Iris Capital (proponent) submitted an application to increase the building envelope on the site at 167 Hume Highway in Greenacre, generally consistent with the recommendations of the North East Local Area Plan as follows:

<b>167 Hume Highway</b>	<b>Current controls</b>	<b>Proposed controls</b>
Zone	B6 Enterprise Corridor	No change
Maximum FSR	1:1	1.5:1
Maximum building height	11–14 metres (3–4 storeys)	14–17 metres (4–5 storeys)
Minimum highway setback for dwellings	20 metres	10 metres

The application includes a Planning Proposal Report (July 2018) with associated studies. These documents have been provided to the Local Planning Panel. The application seeks:

- *To facilitate redevelopment of an ageing hotel into a high-quality mixed use development;*
- *To facilitate urban renewal that aligns with local and State strategic planning objectives;*
- *To provide additional housing within 30-minutes by public transport to the strategic centre of Bankstown;*
- *To provide for high-amenity residential accommodation that improves housing choice and affordability and caters to the needs of the community; and*
- *To enable redevelopment with high-quality architectural design that responds to site constraints and is compatible with surrounding development (Planning Proposal Report, Mecone, page 9).*

The application proposes a concept design for a mixed use development consisting of a commercial building (Block A) and three residential flat buildings (Block B, C, and D) to accommodate approximately 167 dwellings (refer to Figures 4 and 5). The concept design also includes 413 basement parking spaces (comprising 84 commercial spaces, 294 residential spaces, and 35 visitor spaces). A landscape strategy includes a 5–7 metre landscape buffer along the Hume Highway and principal areas of communal open space.

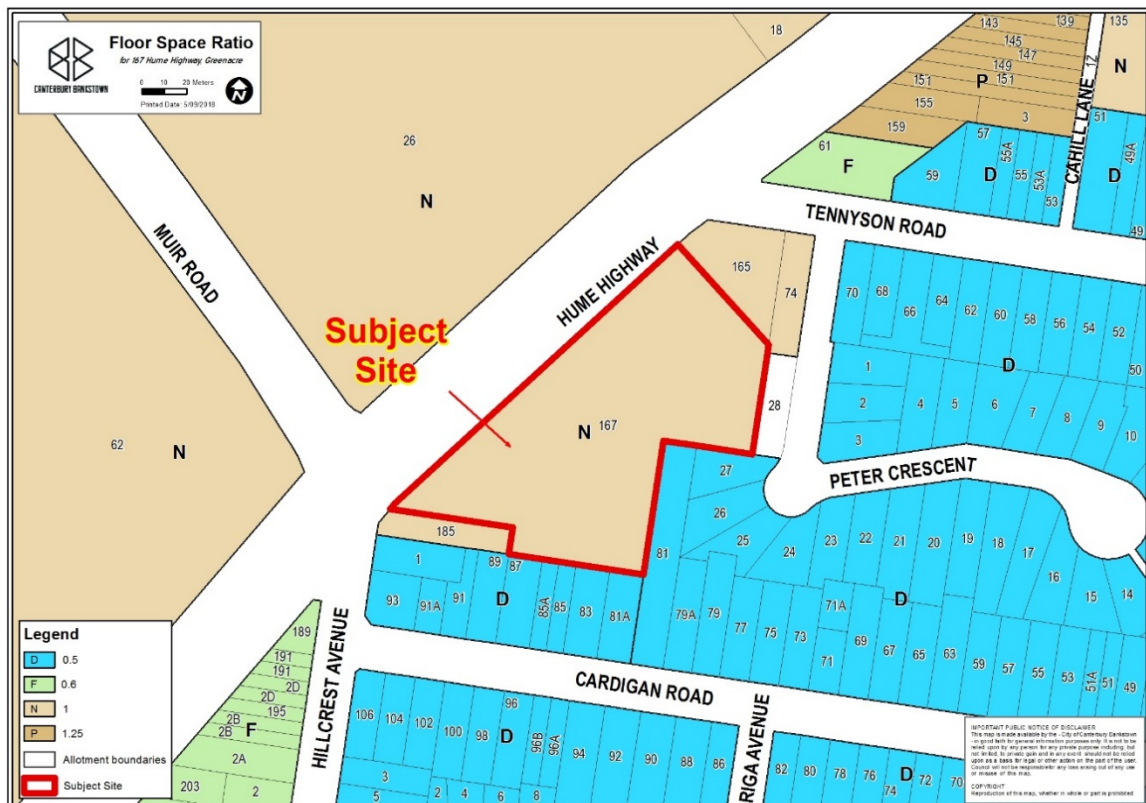
**Figure 4: Application's proposed concept design (Urban Design Report, Squillace, June 2018)**



**Figure 5: Application's proposed built form viewed from the Hume Highway (Urban Design Report, Squillace, June 2018)**

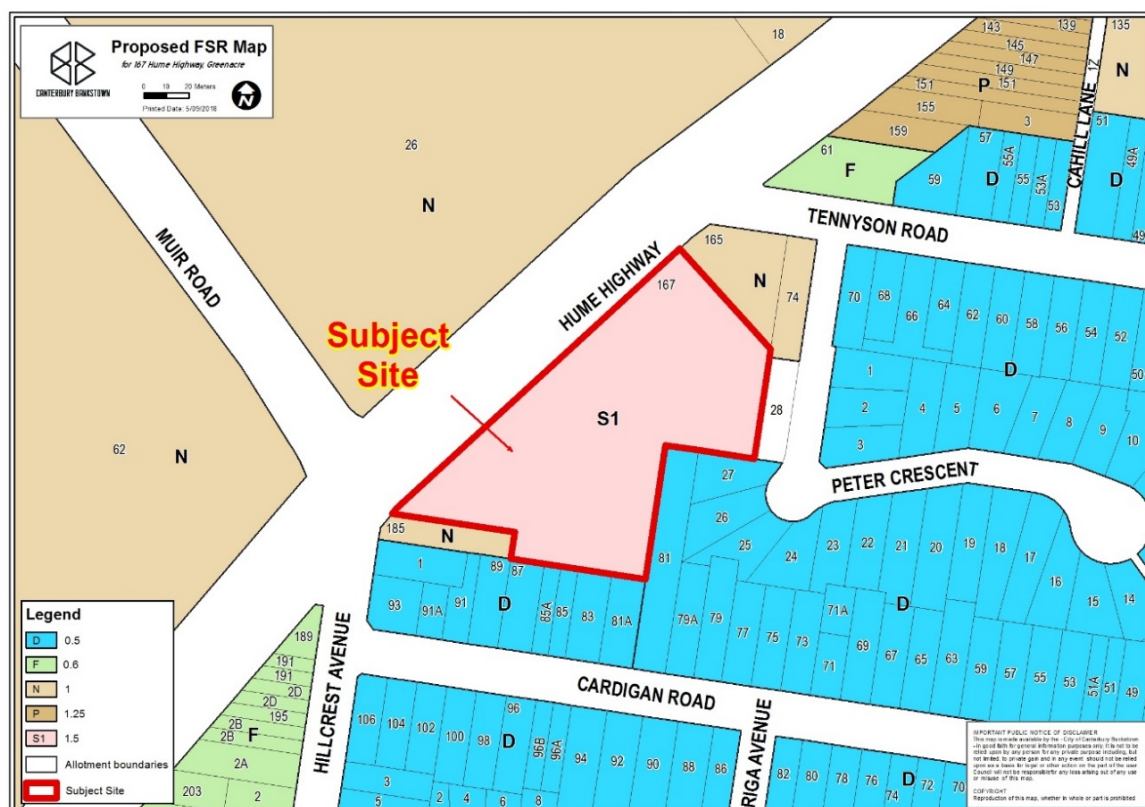


**Figure 6: Existing Floor Space Ratio (1:1)**

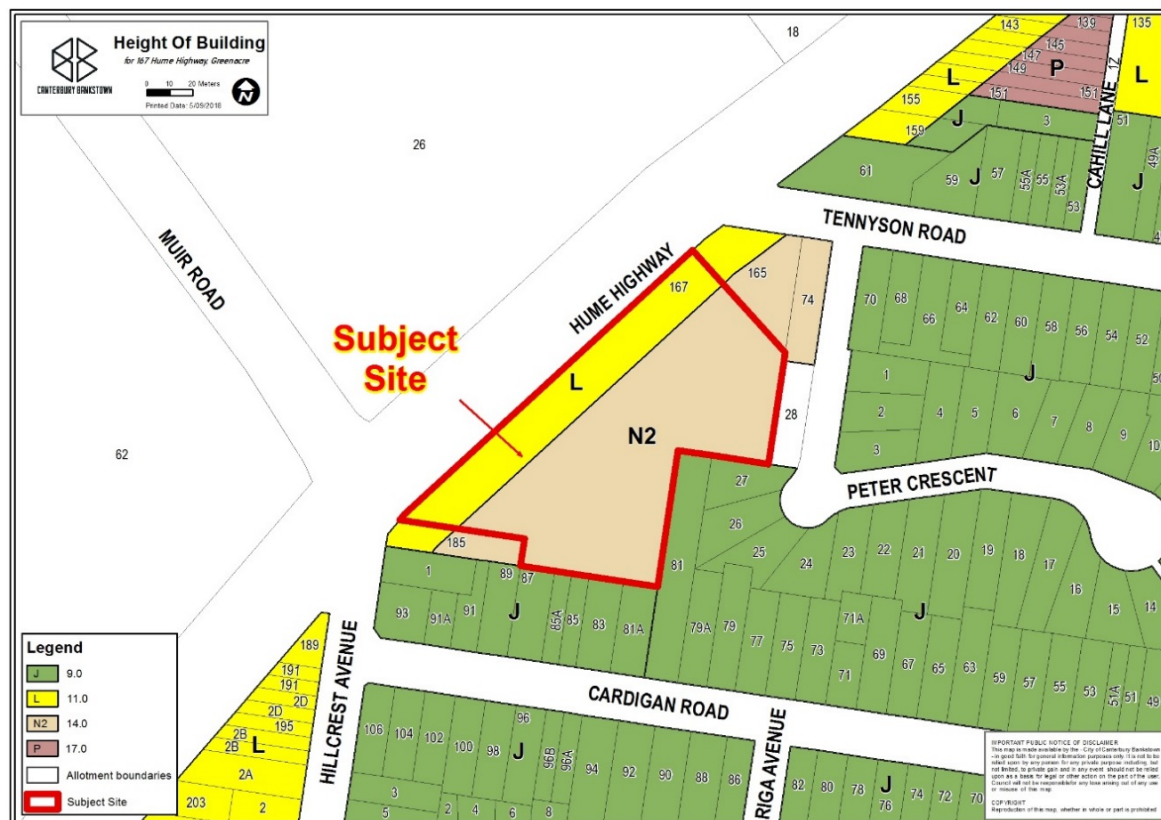




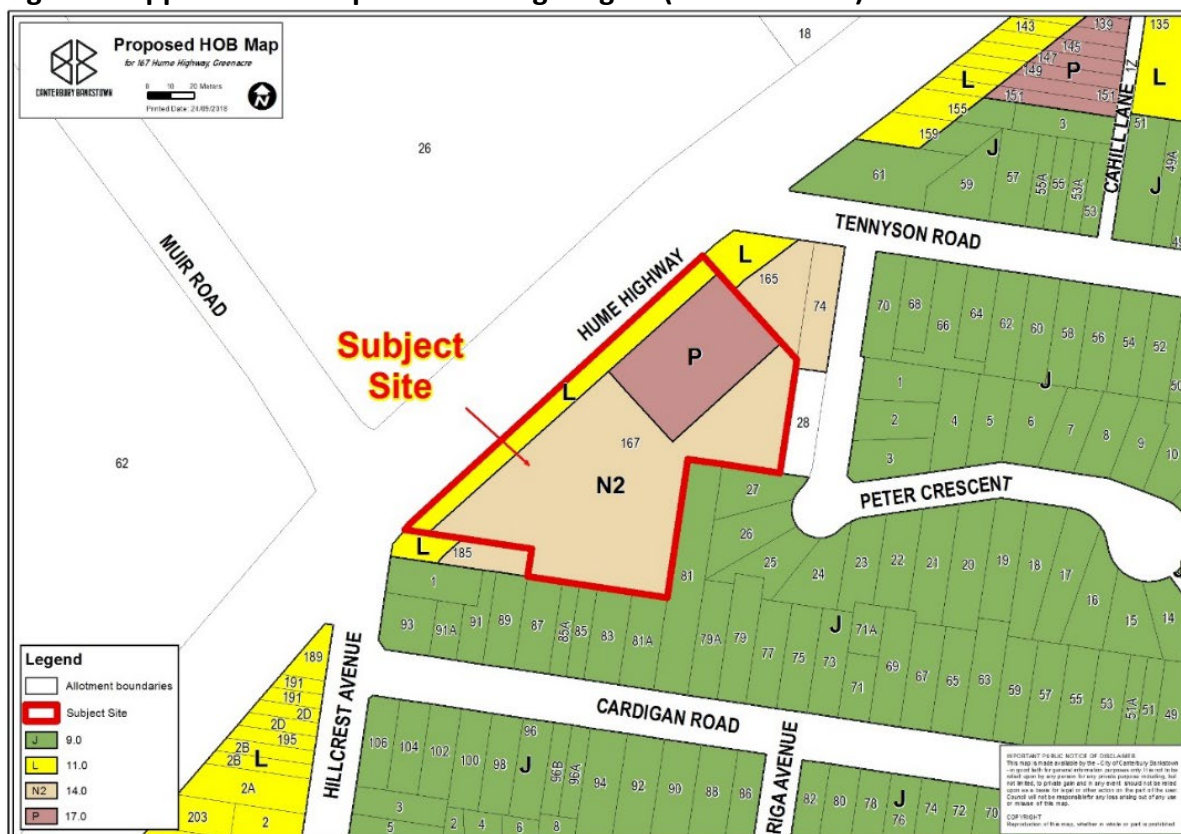
**Figure 7: Application's Proposed Floor Space Ratio (1.5:1)**



**Figure 8: Existing Building Heights (11–14 metres)**



**Figure 9: Application's Proposed Building Heights (11–17 metres)**



## CONSIDERATIONS

Based on the Environmental Planning & Assessment Act 1979 and the Department of Planning & Environment's guidelines, the following key policies are relevant to Council's assessment of the application:

- Greater Sydney Region Plan
- South District Plan
- Council's North East Local Area Plan
- Department of Planning and Environment's publications: *A Guide to Preparing Local Environmental Plans* and *A Guide to Preparing Planning Proposals*.

State Environmental Planning Policy No. 65 (Design Quality of Residential Apartment Development), Apartment Design Guide, NSW Government Architect's Better Placed Policy and the Ministerial Directions also require the proposal to be of good design.

On this basis, Council commissioned an independent specialist to undertake an urban design peer review consistent with the above state policies, and to recommend an appropriate building envelope for the site. It is noted the urban design peer review provides a more detailed analysis and testing of the site compared to the high level review commissioned by Council (FSR Review Report, JBA 2015) to inform the North East Local Area Plan.

## SUMMARY

Council's assessment indicates the proposal has strategic merit subject to implementing the recommendations of the urban design peer review as follows (refer to Figures 10 and 11):

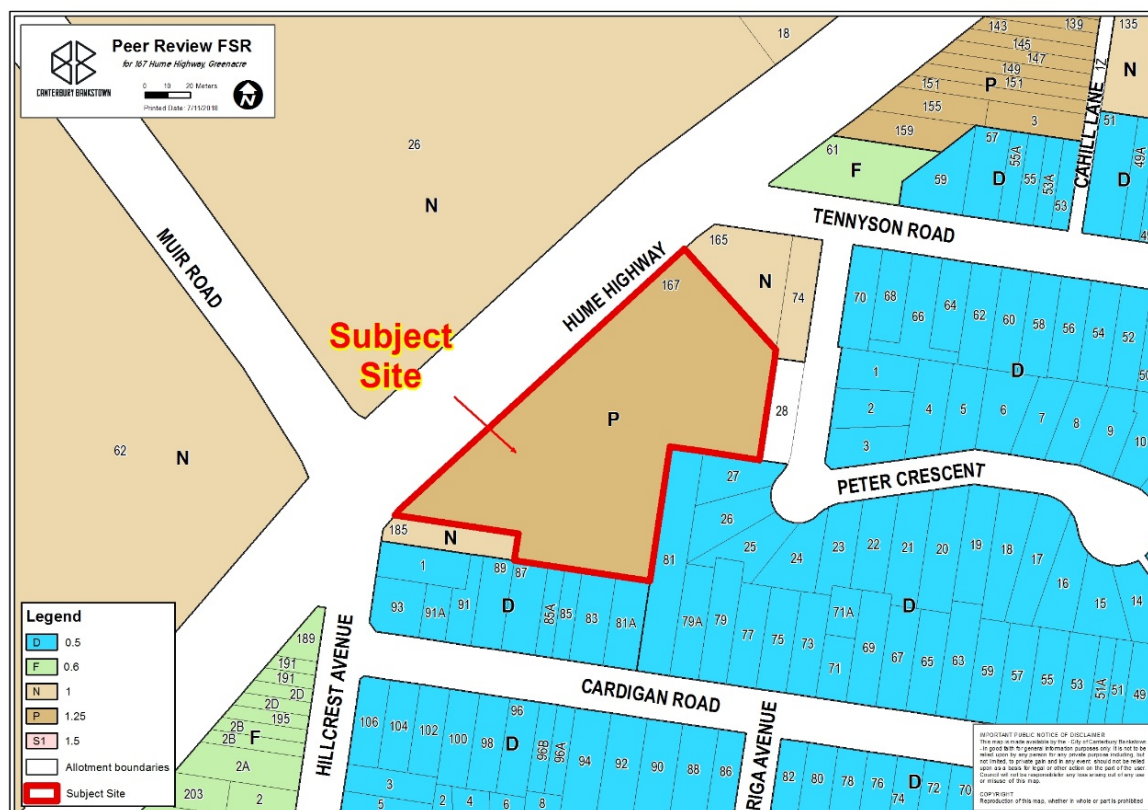


167 Hume Highway	Current controls	Recommended controls (urban design peer review)
Zone	B6 Enterprise Corridor	No change
Maximum FSR	1:1	1.25:1, including a maximum floor space ratio of 0.75:1 for the purposes of residential development
Maximum building height	11–14 metres (3–4 storeys)	11, 14 and 17 metres (3, 4 and 5 storeys)
Minimum highway setback for dwellings	20 metres	12 metres (subject to Air Quality and Noise Impact Study and consultation with RMS)

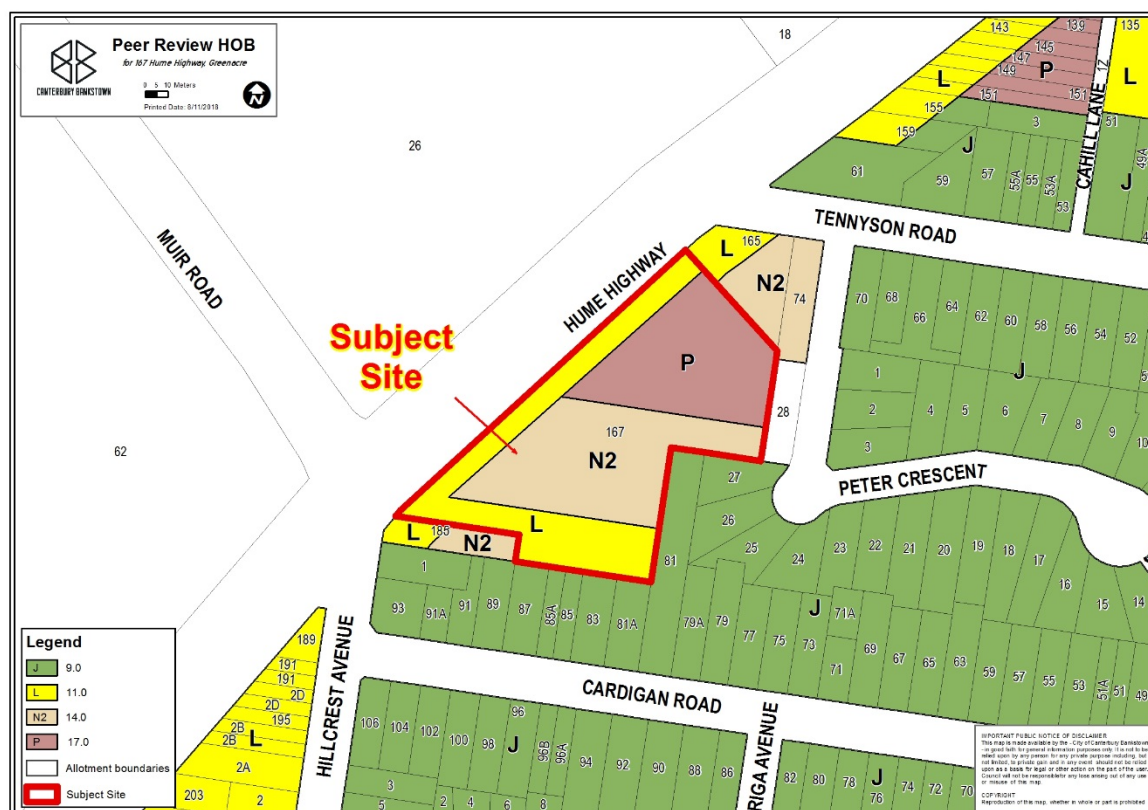
It is noted that the proposal to reduce the minimum highway setback for dwellings should similarly apply to the adjoining sites at 165 and 185 Hume Highway, which also form part of the Hume Highway Enterprise Corridor.

The Assessment Findings are shown in Attachment A and the urban design peer review is shown in Attachment B.

**Figure 10: Recommended Floor Space Ratio Map (1.25:1, including a maximum floor space ratio of 0.75:1 for the purposes of residential development)**



**Figure 11: Recommended Height of Buildings Map**



## ASSESSMENT

### Urban Design Peer Review

The key findings of the urban design peer review are:

Enforcing the mixed use objective of Zone B6 Enterprise Corridor and providing a built form that is compatible with the surrounding context

The objectives of Zone B6 Enterprise Corridor are:

- To promote businesses along main roads and to encourage a mix of compatible uses.
- To provide a range of employment uses (including business, office, retail and light industrial uses).
- To maintain the economic strength of centres by limiting retailing activity.
- To provide for residential uses, but only as part of a mixed use development.

The application is considered to be inconsistent with the objectives of Zone B6 Enterprise Corridor as the proposal is predominantly residential in nature. The application seeks to increase the FSR from 1:1 to 1.5:1 with the following approximate floor areas: 13,600m<sup>2</sup> of residential use (equivalent to 1.16:1 FSR) and 4,040m<sup>2</sup> of commercial use (equivalent to 0.34:1 FSR).

Based on the urban design peer review, the residential uses would dominate the proposed built form and would result in amenity impacts such as overshadowing and privacy loss to

adjoining low density residential development. Further, the proposed built form does not provide sufficient deep soil zones.

To ensure that the residential uses do not dominate the site, the urban design peer review tested the built form and recommends a maximum 1.25 FSR for the site. The recommended 1.25:1 FSR for the site allows 0.25:1 FSR more than the existing 1:1 FSR but less than the application's proposed 1.5:1 FSR.

Within the 1.25:1 FSR envelope, the urban design peer review also recommends setting a maximum 0.75:1 FSR for the purposes of residential development. This would result in the following approximate floor areas: 8,812m<sup>2</sup> of residential use (0.75:1 FSR) and at least 5,875m<sup>2</sup> of commercial use (0.5:1 FSR).

Limiting the maximum FSR for the purposes of residential development is considered a reasonable approach to ensure consistency with the Zone B6 objectives and to support business uses along the Hume Highway. The recommended floor space ratio also results in an improved overall built form by:

- Providing an 11 metre building height buffer along the southern boundary to minimise overshadowing and privacy loss to adjoining low density residential development.
- Providing opportunities for deep soil zones.

#### Protecting future residential amenity

Bankstown Local Environmental Plan 2015 currently requires dwellings on the site to be setback a minimum 20 metres from the Hume Highway. The intended outcome is to provide appropriate amenity (noise and air quality) protection for future residents. The application proposes to reduce this setback to 10 metres.

Whilst the urban design peer review supports a possible reduction of this setback to 12 metres, this is subject to:

- The preparation of an Air Quality and Noise Impact Study to consider any amenity impacts associated with the proposed 12 metre setback to the Hume Highway.
- Consultation with the Roads & Maritime Services under the State Environmental Planning Policy (Infrastructure) 2007. An objective of the SEPP is to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads (i.e. Hume Highway).

It is noted that the proposal to reduce the minimum highway setback for dwellings should similarly apply to the adjoining sites at 165 and 185 Hume Highway, which also form part of the Hume Highway Enterprise Corridor.

#### **Other Considerations**

##### Previous FSR Review as part of the local area planning process

As part of the local area planning process, Council commissioned a FSR Review Report (JBA 2015). The report provided a high level review of the development potential of the above sites. It recommended it may be possible to increase the building envelope up to 1.5:1 FSR.

The report also recommended a review of the current setback to the Hume Highway (from 20 metres to 10 metres) and a standardisation of current setbacks to neighbouring properties.

The North East Local Area Plan (Action L5) incorporated the recommendations of the FSR Review Report provided:

- The proposed changes are consistent with the zone objectives and do not compromise employment activities on the site.
- There is appropriate amenity (noise and air quality) protection for future residents.
- There is appropriate amenity to neighbouring properties.

For the purposes of the current application, Council commissioned an independent specialist to undertake an urban design peer review to address the above recommendations. The urban design peer review provides a more detailed analysis and testing of the site compared to the high level review commissioned by Council (FSR Review Report, JBA 2015) to inform the North East Local Area Plan.

Based on the analysis, and to ensure there is appropriate amenity to future residents and neighbouring properties, the preferred recommendation is to apply a maximum 1.25:1 FSR to the site. Within the 1.25:1 FSR envelope, it is also recommended to set a maximum 0.75:1 FSR for the purposes of residential development.

#### Peter Reserve and community needs

The site adjoins Peter Reserve, which is Council owned land (classified community) at 28 Peter Crescent in Greenacre. The reserve is within Zone RE1 Public Recreation and is 650m<sup>2</sup> in area.

Council's Open Space Strategic Plan and North East Local Area Plan recommended the divestment of the reserve to fund the acquisition of new neighbourhood parks in areas where there is open space shortage. The reserve is not considered to be in a strategic location, is difficult to access for the wider community, and is identified as having limited recreational, social or environmental value.

In light of the above, the urban design peer review investigated a possible scenario to expand Peter Reserve into the site to make it more user-friendly. However, it was decided not to proceed with this scenario as it is unlikely to achieve the required minimum size for a neighbourhood park (i.e. 3,500m<sup>2</sup>). This scenario would require the dedication of approximately 3,000m<sup>2</sup> from the site (one quarter of the site area), which would unreasonably impact on the feasibility of the site. The recommendation to divest Peter Reserve may be processed through Council's new LEP by reclassifying and rezoning the reserve.

In addition, the assessment identifies the need for a Social Impact and Community Needs Assessment to investigate social infrastructure needs arising from the proposal. In this regard, an appropriate mechanism is required to realise these infrastructure works in a timely manner. This may involve a planning agreement to legally capture the public benefits. The application does not include a planning agreement.



## ATTACHMENT A–Assessment Findings

Attachment A outlines the assessment findings and is based on the justification matters as set out by the Department of Planning & Environment.

### 1. Strategic Merit Test

Section 1 assesses the proposal based on the Department of Planning & Environment's Strategic Merit Test as outlined in the Department's publication *A Guide to Preparing Local Environmental Plans*. The intended outcome is to determine whether a proposal demonstrates strategic and site specific merit to proceed to the Gateway. A proposal that seeks to amend controls that are less than 5 years old will only be considered where it clearly meets the Strategic Merit Test.

#### 1.1 Is the proposal consistent with the relevant district plan within the Greater Sydney Region, or corridor / precinct plans applying to the site, including any draft regional, district or corridor / precinct plans released for public comment?

##### 1.1.1 Greater Sydney Region Plan (*A Metropolis of Three Cities*)

	Consistent
<p><b>Proponent's Submission:</b> The Greater Sydney Region Plan forms Sydney's overarching metropolitan strategic plan, which builds on the three cities vision introduced by <i>Towards our Greater Sydney 2056</i> (2017). The planning proposal is consistent with the following objectives:</p> <p><i>Objective 4 - Infrastructure use is optimised: The proposal facilitates additional residential development in a location close to jobs (e.g., in Bankstown strategic centre) accessible by public transport.</i></p> <p><i>Objective 10 - Greater housing supply: The proposal enables approximately 167 additional dwellings, which will help meet Canterbury-Bankstown LGA's target of 13,250 additional dwellings by 2021.</i></p> <p><i>Objective 11 - Housing is more diverse and affordable: The proposal's increase in housing supply would exert downward pressure on housing prices.</i></p> <p><i>Objective 12 - Great places that bring people together: The proposal facilitates redevelopment of the existing ageing development into a well-designed mixed use development, including residential communal areas that will encourage interaction between residents.</i></p> <p><i>Objective 21 - Internationally competitive health, education, research and innovation precincts: The planning proposal enables additional residential development in close proximity to the identified health and education precinct of Bankstown, which will support the competitiveness and success of the precinct by providing suitable housing for workers in the precinct.</i></p>	<p>Yes, subject to implementing the recommendations of the urban design peer review.</p>

*Objective 30 - urban tree canopy cover is increased: The planning proposal facilitates redevelopment of the existing site, which is largely hardstand area, into a mixed use precinct with increased landscaping and deep soil areas for large canopy trees.*

*Objective 31 - Public open space is accessible, protected and enhanced- As demonstrated by the concept design in the Urban Design Report, the planning proposal facilitates development that addresses and provides pedestrian access to the adjoining Peter Reserve.*

**Council's Assessment:** The proposal is generally consistent with the Greater Sydney Region Plan.

Objective 10 to provide ongoing housing supply close to jobs

According to Objective 10, the ongoing housing supply and a range of housing types in the right location will create more liveable neighbourhoods. The objective requires Council to consider local amenity constraints while undertaking strategic planning to link delivery of new housing with appropriate level of infrastructure.

Council's North East Local Area Plan identifies the site as a local opportunity to provide housing diversity along the Hume Highway Enterprise Corridor. This is subject to the dwellings forming part of a mixed use development to be compatible with the primary enterprise role of the corridor. This is also subject to ensuring the built form provides residents with good amenity (in terms of noise and air quality), provides an appropriate transition to the surrounding suburban neighbourhood, and supplements the Remembrance Driveway landscape corridor.

To ensure good design and amenity, Council commissioned an urban design peer review of the proposal. The review recommends the following changes to Council's built form controls applying to the site:

167 Hume Highway	Current controls	Recommended controls (urban design peer review)
Zone	B6 Enterprise Corridor	No change
Maximum FSR	1:1	1.25:1, including a maximum floor space ratio of 0.75:1 for the purposes of residential development
Maximum building height	11–14 metres (3–4 storeys)	11, 14 and 17 metres (3, 4 and 5 storeys)
Minimum highway setback for dwellings	20 metres	12 metres (subject to Air Quality and Noise Impact Study and consultation with RMS)



It is noted that the proposal to reduce the minimum highway setback for dwellings should similarly apply to the adjoining sites at 165 and 185 Hume Highway, which also form part of the Hume Highway Enterprise Corridor.

### 1.1.2 South District Plan

		Consistent
<b>Proponent’s Submission:</b> The South District Plan supports the Region Plan and sets out a 20-year vision to guide the growth of the District within the context of Greater Sydney’s three cities. Key relevant priorities of the district plan are:		Yes, subject to implementing the recommendations of the urban design peer review.
<b>Priority</b>	<b>Consistency</b>	
<i>C1. Planning for a city supported by infrastructure</i>	<i>The planning proposal would allow for more intense development within walking distance of public transport (bus).</i>	
<i>C5. Providing housing supply, choice and affordability, with access to jobs and services</i>	<i>The planning proposal would allow for approximately 167 dwellings in close proximity to the strategic centre of Bankstown.</i>	
<i>C6. Creating and renewing great places and local centres, and respecting the District’s heritage</i>	<i>The planning proposal would redevelop an aging hotel into a well-designed mixed use development along Hume Highway.</i>	
<i>C9. Delivering integrated land use and transport planning and a 30-minute city</i>	<i>The planning proposal would support delivery of a 30- minute city by placing workers and residents within 30 minutes by public transport of Bankstown strategic centre.</i>	
<i>C16. Increasing urban tree canopy cover and delivering Green Grid connections</i>	<i>The planning proposal would facilitate redevelopment of the existing site into a mixed use precinct with increased landscaping and deep soil areas for large canopy trees.</i>	
<b>Council’s Assessment:</b> The proposal is generally consistent with the South District Plan.		
<u>Planning Priority S5 - Providing housing supply, choice and affordability, with access to jobs and service</u>		
According to Planning Priority S5, accommodating homes must be linked to good design outcomes and appropriate provisions for local infrastructures. Council is required to consider local amenity constraints while undertaking strategic planning to link delivery of new housing with appropriate level of infrastructures.		

Council's North East Local Area Plan identifies the site as a local opportunity to provide housing diversity along the Hume Highway Enterprise Corridor. This is subject to the dwellings forming part of a mixed use development to be compatible with the primary enterprise role of the corridor. This is also subject to ensuring the built form provides residents with good amenity (in terms of noise and air quality resulting from Hume Highway), provides an appropriate transition to the surrounding suburban neighbourhood, and supplements the Remembrance Driveway landscape corridor.

To ensure good design and amenity, Council commissioned an urban design peer review of the proposal. The review recommends the following changes to Council's built form controls applying to the site:

167 Hume Highway	Current controls	Recommended controls (urban design peer review)
Zone	B6 Enterprise Corridor	No change
Maximum FSR	1:1	1.25:1, including a maximum floor space ratio of 0.75:1 for the purposes of residential development
Maximum building height	11–14 metres (3–4 storeys)	11, 14 and 17 metres (3, 4 and 5 storeys)
Minimum highway setback for dwellings	20 metres	12 metres (subject to Air Quality and Noise Impact Study and consultation with RMS)

It is noted that the proposal to reduce the minimum highway setback for dwellings should similarly apply to the adjoining sites at 165 and 185 Hume Highway, which also form part of the Hume Highway Enterprise Corridor.

## 1.2 Is the proposal consistent with a relevant local strategy that has been endorsed by the Department?

### 1.2.1 North East Local Area Plan

	Consistent
<p><b>Proponent's Submission:</b> Yes. The North East Local Area Plan (LAP) identifies the site as a key site suitable for residential development with increased density and height. Consistency with the LAP is shown below:</p> <p><b>Direction L5: Plan for additional dwelling growth in the Enterprise</b></p>	<p>Yes, subject to implementing the recommendations of the urban design peer review.</p>

**Corridors**

<b>Action</b>	<b>Consistency</b>
<i>Action A3: Within Zone B6 Enterprise Corridor, a review indicates it may be possible to increase the building envelope to 1.5:1 FSR to better match the current building height limits for the certain key development sites.</i>	<i>The planning proposal proposes a maximum 1.5:1 FSR for the site in accordance with this action.</i>
<i>Action A4: Avoid wide horizontal buildings (of similar height) that increase the perception of bulk and scale when viewed from the Hume Highway. For buildings facing the highway, allow the north-east corner to incorporate an architectural corner feature to add visual interest.</i>	<i>This planning proposal incorporates increased heights at the north east portion of the site generally in accordance with this action.</i>
<i>Action A5: A review indicates it may be possible to reduce the minimum highway setback for dwellings on large sites, from 20 metres to 10 metres provided there is appropriate amenity (noise and air quality) protection for future residents. Otherwise a 20 metre setback will apply.</i>	<i>The planning proposal provides for a 10m setback for residential dwellings from Hume Highway in accordance with this action.</i>
<i>Action A7: Maintain the landscaping requirement to enhance the Remembrance Driveway landscape corridor.</i>	<i>The concept design prepared as part of this planning proposal includes the minimum 5m landscape buffer from the Hume Highway boundary in accordance with this action.</i>

**Direction L7: Lead the way with better standards of building design**

<b>Action</b>	<b>Consistency</b>
<i>A review of design excellence provisions, and to apply SEPP 65 to serviced apartments and boarding houses.</i>	<i>The concept design prepared as part of this planning proposal demonstrates a high standard of design. All apartments, both residential and serviced, have been designed to comply with ADG design criteria.</i>

**Council's Assessment** At the Extraordinary Meeting of 11 May 2016, the former Bankstown City Council adopted the North East Local Area Plan.

The intended outcomes of the North East Local Area Plan are to set out the vision and spatial context for the local area, specify the best ways to

accommodate residential and employment growth to 2031 and outline the delivery of supporting infrastructure, facilities and open space.

#### Desired character

Action L5 identifies the site as forming part of the Hume Highway Enterprise Corridor. It outlines the desired character for the Hume Highway Enterprise Corridor as follows:

*The Hume Highway Enterprise Corridor is a national and historical landmark that will continue to function as a significant economic asset for the City of Bankstown. The section of the corridor which runs through the North East Local Area will promote the image of the City of Bankstown by reinforcing the Remembrance Driveway landscape corridor.*

*Supporting housing (in the form of mixed use development) will be limited to selected sites that are compatible with the primary enterprise role of the corridor, can provide residents with good amenity (in terms of noise and air quality), and can provide an appropriate built form transition to the surrounding suburban neighbourhood. The built form will supplement the landscape corridor, with low-rise enterprise activities facing the highway and low and medium-rise housing at the rear.*

#### Review findings

To achieve the desired character, Council's review of the Hume Highway Enterprise Corridor identified the potential for some sites to accommodate some dwelling growth as part of mixed use development. This is due to these sites being significantly large in area, in single ownership or within property groupings where consolidation for development purposes is preferred. The sites included 165–185 Hume Highway in Greenacre.

As part of the review process, Council commissioned a FSR Review Report (JBA 2015). The report provided a high level review of the development potential of the above sites. It recommended it may be possible to increase the building envelope up to 1.5:1 FSR. The report also recommended a review of the current setback to the Hume Highway (from 20 metres to 10 metres) and a standardisation of current setbacks to neighbouring properties.

Action L5 incorporated the recommendations of the FSR Review Report provided:

- The proposed changes are consistent with the zone objectives and do not compromise employment activities on the site.
- There is appropriate amenity (noise and air quality) protection for future residents.
- There is appropriate amenity to neighbouring properties.

Urban design peer review

State Environmental Planning Policy No. 65 (Design Quality of Residential Apartment Development), Apartment Design Guide, NSW Government Architect's Better Placed Policy and the Ministerial Directions also require the proposal to be of good design.

On this basis, Council commissioned Architectus to undertake an urban design peer review consistent with the above state policies, and to recommend an appropriate building envelope for the site. It is noted the urban design peer review provides a more detailed analysis and testing of the site compared to the high level review commissioned by Council (FSR Review Report, JBA 2015) to inform the North East Local Area Plan.

The review recommends the following changes to Council's built form controls applying to the site:

167 Hume Highway	Current controls	Recommended controls (urban design peer review)
Zone	B6 Enterprise Corridor	No change
Maximum FSR	1:1	1.25:1, including a maximum floor space ratio of 0.75:1 for the purposes of residential development
Maximum building height	11–14 metres (3–4 storeys)	11, 14 and 17 metres (3, 4 and 5 storeys)
Minimum highway setback for dwellings	20 metres	12 metres (subject to Air Quality and Noise Impact Study and consultation with RMS)

It is noted that the proposal to reduce the minimum highway setback for dwellings should similarly apply to the adjoining sites at 165 and 185 Hume Highway, which also form part of the Hume Highway Enterprise Corridor.

**1.3 Is the proposal responding to a change in circumstances, such as the investment in new infrastructure or changing demographic trends that have not been recognised by existing planning controls?**

	Complies
<b>Proponent's Submission:</b> No comments.	No
<b>Council's Assessment:</b> The proposal does not respond to a change in circumstances.	

#### 1.4 Does the proposal have regard to the natural environment (including known significant environmental values, resources or hazards)?

	Complies
<p><b>Proponent's Submission:</b> No comments.</p> <p><b>Council's Assessment:</b> Bankstown Local Environmental Plan 2015 currently requires dwellings on the site to be setback a minimum 20 metres from the Hume Highway. The intended outcome is to provide appropriate amenity (noise and air quality) protection for future residents. The application proposes to reduce this setback to 10 metres.</p> <p>Whilst the urban design peer review supports a possible reduction of this setback to 12 metres, this is subject to:</p> <ul style="list-style-type: none"> <li>• The preparation of an Air Quality and Noise Impact Study to consider any amenity impacts associated with the proposed 12 metre setback to the Hume Highway.</li> <li>• Consultation with the Roads &amp; Maritime Services under the State Environmental Planning Policy (Infrastructure) 2007. An objective of the SEPP is to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads (i.e. Hume Highway).</li> </ul>	<p>Yes, subject to Air Quality and Noise Impact Study and consultation with the Roads &amp; Maritime Services.</p>

#### 1.5 Does the proposal have regard to the existing uses, approved uses and likely future uses of land in the vicinity of the land subject to a proposal?

	Complies
<p><b>Proponent's Submission:</b> Council's current vision for the precinct requires amalgamation of all properties which are currently under three ownerships. The proposal shows an attempt to amalgamate all enterprise zone properties within the precinct to ensure future development potential of neighbouring properties are not jeopardised. Property at 185 Hume Highway currently contains a dwelling house and the sites at 165 Hume Highway and 74 Tennyson Road (under single ownership) are of redeveloping for the purposes of shop top housing.</p> <p><b>Council's Assessment:</b> Based on the urban design peer review, the residential uses would dominate the proposed built form and would result in amenity impacts such as overshadowing and privacy loss to adjoining low density residential development. Further, the proposed built form does not provide sufficient deep soil zones.</p> <p>To address this issue, the urban design peer review tested the built form and recommends a maximum 1.25 FSR for the site. Within the 1.25:1 FSR envelope, the urban design peer review also recommends setting a maximum 0.75:1 FSR for the purposes of residential development.</p> <p>Limiting the maximum FSR for the purposes of residential development is</p>	<p>Yes, subject to implementing the recommendations of the urban design peer review.</p>

considered a reasonable approach to ensure consistency with the Zone B6 objectives and to support business uses along the Hume Highway. The recommended floor space ratio also results in an improved overall built form by:

- Providing an 11 metre building height buffer along the southern boundary to minimise overshadowing and privacy loss to adjoining low density residential development.
- Providing opportunities for deep soil zones.

### 1.6 Does the proposal have regard to the services and infrastructure that are or will be available to meet the demands arising from the proposal and any proposed financial arrangements for infrastructure provision?

	Complies
<p><b>Proponent's Submission:</b> A traffic report from McLaren Traffic Engineers, dated July 2018 was submitted to support the proposal. According to the traffic report, the proposal will generate 91 two-way trips in the morning peak hour and 106 two-way trips in the evening peak hour. Majority of this traffic will rely on one (1) residential entry/exit point directly on Hume Highway. The second entry/exit point is intended for service delivery and hotel occupants.</p> <p><b>Council's Assessment:</b> The assessment identifies the need for a Social Impact and Community Needs Assessment to investigate social infrastructure needs arising from the proposal. In this regard, an appropriate mechanism is required to realise these infrastructure works in a timely manner. This may involve a planning agreement to legally capture the public benefits. The application does not include a planning agreement.</p>	Yes, subject to Social Impact and Community Needs Assessment.

## 2. Planning Proposals–Justification Matters

Section 2 assesses the proposal based on the justification matters as outlined in the Department of Planning & Environment's publication *A Guide to Preparing Planning Proposals*. The intended outcome is to demonstrate whether there is justification for a proposal to proceed to the Gateway.

### 2.1 Is the planning proposal a result of any strategic study or report?

	Complies
<p><b>Proponent's Submission:</b> This planning proposal implements key actions in Council's North East Local Area Plan (LAP), which identifies the site as suitable for redevelopment for residential purposes. The proposal's consistency with the LAP is discussed in further detail in Section 1.2 of this assessment.</p> <p><b>Council's Assessment:</b> The proposal is based on the recommendations of</p>	Yes, subject to implementing the recommendations of the urban design peer review.

the North East Local Area Plan, as discussed in Section 1.2 of this assessment.	
---	--

## 2.2 Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

	Complies
<p><b>Proponent's Submission:</b> This planning proposal is the most appropriate method of achieving the intended outcomes for the site, given that Council has decided not to proceed with the North East Local Area Plan.</p> <p><b>Council's Assessment:</b> The intended outcome of the proposal is to increase the building envelope controls for the site. The proposal to amend the Local Environmental Plan via the planning proposal is the most appropriate method for achieving the intended outcome.</p>	Yes

## 2.3 Is the planning proposal consistent with the objectives and actions of the applicable regional, subregional or district plan or strategy (including any exhibited draft plans or strategies)?

### 2.3.1 Greater Sydney Region Plan (*A Metropolis of Three Cities*)

	Consistent
<p><b>Proponent's Submission:</b> Refer to Section 1.1 of this assessment.</p> <p><b>Council's Assessment:</b> The proposal is consistent with the Greater Sydney Region Plan for the reasons outlined in Section 1.1 of this assessment.</p>	Yes, subject to implementing the recommendations of the urban design peer review.

### 2.3.2 South District Plan

	Consistent
<p><b>Proponent's Submission:</b> Refer to Section 1.1 of this attachment.</p> <p><b>Council's Assessment:</b> The proposal is consistent with the South District Plan for the reasons outlined in Section 1.1 of this assessment.</p>	Yes, subject to implementing the recommendations of the urban design peer review.

## 2.4 Is the planning proposal consistent with a council's local strategy or other local strategic plan?



### 2.4.1 CBCity 2028

			Consistent
<p><b>Proponent’s Submission:</b> No comment.</p> <p><b>Council’s Assessment:</b> The vision of Council’s Community Plan ‘CBCity 2028’ is to build a city that is <i>‘thriving, dynamic and real’</i>. The ‘Liveable &amp; Distinctive’ Direction will achieve this by promoting a well–designed city that offers housing diversity. ‘Prosperous &amp; Innovative’ direction intends to achieve the vision by providing opportunities for economic and employment growth.</p> <p>To ensure good design and amenity, Council commissioned an urban design peer review of the proposal. The review recommends the following changes to Council’s built form controls applying to the site:</p>			<p>Yes, subject to implementing the recommendations of the urban design peer review.</p>
<b>167 Hume Highway</b>	<b>Current controls</b>	<b>Recommended controls (urban design peer review)</b>	
Zone	B6 Enterprise Corridor	No change	
Maximum FSR	1:1	1.25:1, including a maximum floor space ratio of 0.75:1 for the purposes of residential development	
Maximum building height	11–14 metres (3–4 storeys)	11, 14 and 17 metres (3, 4 and 5 storeys)	
Minimum highway setback for dwellings	20 metres	12 metres (subject to Air Quality and Noise Impact Study and consultation with RMS)	
<p>It is noted that the proposal to reduce the minimum highway setback for dwellings should similarly apply to the adjoining sites at 165 and 185 Hume Highway, which also form part of the Hume Highway Enterprise Corridor.</p>			

### 2.4.2 North East Local Area Plan

		Consistent
<p><b>Proponent's Submission:</b> Refer to Section 1.2 of this assessment.</p> <p><b>Council's Assessment:</b> The proposal is consistent with the North East Local Area Plan for the reasons outlined in Section 1.2 of this assessment.</p>		Yes, subject to implementing the recommendations of the urban design peer review.

## 2.5 Is the planning proposal consistent with applicable State Environmental Planning Policies?

	Consistent															
<p><b>State Environment Planning Policy No. 65-Design Quality of Residential Apartment Development</b></p> <p><b>Proponent’s Submission:</b> The planning proposal is consistent with SEPP 65 design principles and key ADG design criteria:</p> <ul style="list-style-type: none"><li>• 72% of total apartments (residential and serviced) achieve at least two hours of sunlight between the hours of 9am and 3pm at the winter solstice to their living room windows and private open space areas (minimum requirement is 70%);</li><li>• 67% of total apartments (residential and serviced) are naturally cross ventilated, (minimum requirement is 60%);</li><li>• The required building separation is provided between the buildings the site boundary; and</li><li>• 29% of communal open space (3,000sqm) is provide minimum requirement is 25%). Half of the principal usable area of the communal open space receives at least two hours of sunlight between the 9am and 3pm at the winter solstice.</li></ul> <p><b>Council’s Assessment:</b> State Environmental Planning Policy No. 65 (Design Quality of Residential Apartment Development), Apartment Design Guide, NSW Government Architect’s Better Placed Policy and the Ministerial Directions require the proposal to be of good design.</p> <p>On this basis, Council commissioned Architectus to undertake an urban design peer review consistent with the above state policies, and to recommend an appropriate building envelope for the site. It is noted the urban design peer review provides a more detailed analysis and testing of the site compared to the high level review commissioned by Council (FSR Review Report, JBA 2015) to inform the North East Local Area Plan.</p> <p>The review recommends the following changes to Council’s built form controls applying to the site:</p>	<p>Yes, subject to implementing the recommendations of the urban design peer review.</p>															
<table><tr><th>167 Hume Highway</th><th>Current controls</th><th>Recommended controls (urban design peer review)</th></tr><tr><td>Zone</td><td>B6 Enterprise Corridor</td><td>No change</td></tr><tr><td>Maximum FSR</td><td>1:1</td><td>1.25:1, including a maximum floor space ratio of 0.75:1 for the purposes of residential development</td></tr><tr><td>Maximum building height</td><td>11–14 metres (3–4 storeys)</td><td>11, 14 and 17 metres (3, 4 and 5 storeys)</td></tr><tr><td>Minimum highway</td><td>20 metres</td><td>12 metres (subject to</td></tr></table>	167 Hume Highway	Current controls	Recommended controls (urban design peer review)	Zone	B6 Enterprise Corridor	No change	Maximum FSR	1:1	1.25:1, including a maximum floor space ratio of 0.75:1 for the purposes of residential development	Maximum building height	11–14 metres (3–4 storeys)	11, 14 and 17 metres (3, 4 and 5 storeys)	Minimum highway	20 metres	12 metres (subject to	
167 Hume Highway	Current controls	Recommended controls (urban design peer review)														
Zone	B6 Enterprise Corridor	No change														
Maximum FSR	1:1	1.25:1, including a maximum floor space ratio of 0.75:1 for the purposes of residential development														
Maximum building height	11–14 metres (3–4 storeys)	11, 14 and 17 metres (3, 4 and 5 storeys)														
Minimum highway	20 metres	12 metres (subject to														

setback for dwellings		Air Quality and Noise Impact Study and consultation with RMS)	
<p>It is noted that the proposal to reduce the minimum highway setback for dwellings should similarly apply to the adjoining sites at 165 and 185 Hume Highway, which also form part of the Hume Highway Enterprise Corridor.</p>			
<p><b>State Environment Planning Policy (Infrastructure) 2007</b></p> <p><b>Proponent's Submission:</b> Yes. This proposal considers the relevant guidelines for land adjacent to road corridors. The SEPP would be considered in detail during the development application stage.</p> <p><b>Council's Assessment:</b> Bankstown Local Environmental Plan 2015 currently requires dwellings on the site to be setback a minimum 20 metres from the Hume Highway. The intended outcome is to provide appropriate amenity (noise and air quality) protection for future residents. The application proposes to reduce this setback to 10 metres.</p> <p>Whilst the urban design peer review supports a possible reduction of this setback to 12 metres, this is subject to:</p> <ul style="list-style-type: none"> <li>• The preparation of an Air Quality and Noise Impact Study to consider any amenity impacts associated with the proposed 12 metre setback to the Hume Highway.</li> <li>• Consultation with the Roads &amp; Maritime Services under the State Environment Planning Policy (Infrastructure) 2007. An objective of the SEPP is to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads (i.e. Hume Highway).</li> </ul>			Yes, subject to consultation with Roads and Maritime Services and Air Quality and Noise Impact Study.

## 2.6 Is the planning proposal consistent with applicable Ministerial Directions?

	Consistent
<p><b>Direction 1.1–Business and Industrial Zones</b></p> <p><b>Proponent's Submission:</b> <i>Yes. The proposal retains the site's business zoning and does not reduce the total potential floor space for employment uses.</i></p> <p><b>Council's Assessment:</b> The objectives of this direction are to encourage employment growth in suitable locations, and to protect employment land in business and industrial zones. The proposal is consistent with this direction as it retains the existing business zone, and does not reduce the total potential floor space area for business zones.</p>	Yes
<p><b>Direction 3.1–Residential Zones</b></p> <p><b>Proponent's Submission:</b> No comment.</p>	No, subject to implementing the recommendations of the urban design

**Council's Assessment:** The objectives of this directions are to make efficient use of existing infrastructure and services ensuring new housing has appropriate access to infrastructure and services and to minimise the impact of residential development on the environment and resource lands.

Clause 4(d) of the direction requires proposals to demonstrate the proposed housing are of good design. On this basis, Council commissioned Architectus to undertake an urban design peer review consistent with the Ministerial Direction, and to recommend an appropriate building envelope for the site. The review recommends the following changes to Council's built form controls applying to the site:

167 Hume Highway	Current controls	Recommended controls (urban design peer review)
Zone	B6 Enterprise Corridor	No change
Maximum FSR	1:1	1.25:1, including a maximum floor space ratio of 0.75:1 for the purposes of residential development
Maximum building height	11–14 metres (3–4 storeys)	11, 14 and 17 metres (3, 4 and 5 storeys)
Minimum highway setback for dwellings	20 metres	12 metres (subject to Air Quality and Noise Impact Study and consultation with RMS)

It is noted that the proposal to reduce the minimum highway setback for dwellings should similarly apply to the adjoining sites at 165 and 185 Hume Highway, which also form part of the Hume Highway Enterprise Corridor.

Should Council implement the recommendations of the urban design peer review, the implication is the proposal may be inconsistent with clause 5(d). This clause discourages planning proposals to reduce the permissible residential density of the land.

However, the inclusion of a maximum 0.75:1 FSR for the purposes of residential development is justified under clause 6 to ensure consistency with the Zone B6 objectives and to support business uses along the Hume Highway. The recommended floor space ratio also results in an improved overall built form by:

- Providing an 11 metre building height buffer along the southern boundary to minimise overshadowing and privacy loss to adjoining low density residential development.
- Providing opportunities for deep soil zones.

**Direction 3.4–Integrating Land Use and Transport**

peer review.

Yes

<p><b>Proponent's Submission:</b> The proposal is consistent with this direction in that it increases density for potential residential and commercial uses in a location close to public transport (bus).</p> <p><b>Council's Assessment:</b> As part of the North East Local Area Plan, Council's review of the Hume Highway Enterprise Corridor identified the potential for some sites to accommodate some dwelling growth as part of mixed use development. This is due to these sites being significantly large in area, in single ownership or within property groupings where consolidation for development purposes is preferred. The sites included 165–185 Hume Highway in Greenacre.</p>	
<p><b>Direction 4.3–Flood Prone Land</b></p> <p><b>Proponent's Submission:</b> Not applicable.</p> <p><b>Council's Assessment:</b> The objective of this direction is to ensure that the development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005.</p> <p>A small section of the site at the south east corner is situated in the medium stormwater flood risk precinct. Due to its minor nature, the resulting flooding affectation can be satisfactorily addressed by applying the provisions of Bankstown Development Control Plan 2015 – Part B12 (Flood Risk Management) as part of the development application process.</p>	Yes

<p><b>Direction 7.1–Implementation of A Plan for Growing Sydney</b></p> <p><b>Proponent's Submission:</b> <i>The planning proposal is consistent with the planning principles, directions and priorities for subregions, strategic centres and transport gateways in the Greater Sydney Region Plan, which has replaced A Plan for Growing Sydney as Sydney's overarching metropolitan strategy.</i></p> <p><b>Council's Assessment:</b> The proposal is consistent with the directions of the Metropolitan Plan, 'A Plan for Growing Sydney', namely Direction 2.1 to accelerate housing supply across Sydney. The proposal supports the growth of new housing near jobs and services.</p>	Yes
---	-----

**2.7 Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?**

	Consistent
<p><b>Proponent's Submission:</b> There are no critical habitat or threatened species, populations or ecological communities, or their habitats on or around the site that would be affected by this planning proposal.</p> <p><b>Council's Assessment:</b> The proposal does not adversely affect any critical</p>	Yes

habitat or threatened species, populations or ecological communities, or their habitats.	
--	--

**2.8 Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?**

	Consistent
<p><b>Proponent's Submission:</b> Yes, the proposal intends to achieve a scale, bulk, height and layout consistent with the desired future character for the site.</p> <ul style="list-style-type: none"> <li><i><u>Residential amenity (traffic noise and pollution):</u> The 10m setback, combined with adequate glazing and design measures will ensure adequate residential amenity in terms of noise and pollution.</i></li> <li><i><u>Overshadowing:</u> The proposed 9m setback (minimum requirement 6m) will minimise the impact of overshadowing to surrounding properties.</i></li> <li><i><u>Parking and traffic:</u> The net increase on the surrounding road network is 79 vehicle trips in the morning and 59 vehicles trips in the evening. The performance of the road network would remain unaltered, and the existing level of service at surrounding intersections would be retained with minimal delay.</i></li> </ul> <p><b>Council's Assessment:</b> Bankstown Local Environmental Plan 2015 currently requires dwellings on the site to be setback a minimum 20 metres from the Hume Highway. The intended outcome is to provide appropriate amenity (noise and air quality) protection for future residents. The application proposes to reduce this setback to 10 metres.</p> <p>Whilst the urban design peer review supports a possible reduction of this setback to 12 metres, this is subject to:</p> <ul style="list-style-type: none"> <li>The preparation of an Air Quality and Noise Impact Study to consider any amenity impacts associated with the proposed 12 metre setback to the Hume Highway.</li> <li>Consultation with the Roads &amp; Maritime Services under the State Environmental Planning Policy (Infrastructure) 2007. An objective of the SEPP is to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads (i.e. Hume Highway).</li> </ul>	<p>Yes, subject to consultation with Roads and Maritime Services and Air Quality and Noise Impact Study.</p>

**2.9 Has the planning proposal adequately addressed any social and economic effects?**

	Consistent
<p><b>Proponent's Submission:</b> The planning proposal will rejuvenate the site with additional employment opportunities for the community. A high-quality mixed-use development will contribute to the built environment. The proposal will improve housing diversity in the local area and a range of dwelling types will make it more affordable for the community.</p> <p><b>Council's Assessment:</b> In relation to social and economic effects, the proposal is generally consistent with the Greater Sydney Region Plan and</p>	<p>Yes, subject to Social Impact and Community Needs Assessment.</p>

the South District Plan, as discussed in Sections 1.1–1.2 of this assessment.

In addition, the assessment identifies the need for a Social Impact and Community Needs Assessment to investigate social infrastructure needs arising from the proposal. In this regard, an appropriate mechanism is required to realise these infrastructure works in a timely manner. This may involve a planning agreement to legally capture the public benefits. The application does not include a planning agreement.

## 2.10 Is there adequate public infrastructure for the planning proposal?

	Consistent
<p><b>Proponent's Submission:</b> The site is currently serviced by all essential services and infrastructure. Certain infrastructure may be required to be upgraded to service future development. This would be determined at the future development application stage in consultation with the relevant utility authorities.</p> <p><b>Council's Assessment:</b> The site adjoins Peter Reserve, which is Council owned land (classified community) at 28 Peter Crescent in Greenacre. The reserve is within Zone RE1 Public Recreation and is 650m<sup>2</sup> in area.</p> <p>Council's Open Space Strategic Plan and North East Local Area Plan recommended the divestment of the reserve to fund the acquisition of new neighbourhood parks in areas where there is open space shortage. The reserve is not considered to be in a strategic location, is difficult to access for the wider community, and is identified as having limited recreational, social or environmental value.</p> <p>In light of the above, the urban design peer review investigated a possible scenario to expand Peter Reserve into the site to make it more user-friendly. However, it was decided not to proceed with this scenario as it is unlikely to achieve the required minimum size for a neighbourhood park (i.e. 3,500m<sup>2</sup>). This scenario would require the dedication of approximately 3,000m<sup>2</sup> from the site (one quarter of the site area), which would unreasonably impact on the feasibility of the site. The recommendation to divest Peter Reserve may be processed through Council's new LEP by reclassifying and rezoning the reserve.</p> <p>In addition, the assessment identifies the need for a Social Impact and Community Needs Assessment to investigate social infrastructure needs arising from the proposal. In this regard, an appropriate mechanism is required to realise these infrastructure works in a timely manner. This may involve a planning agreement to legally capture the public benefits. The application does not include a planning agreement.</p>	<p>Yes, subject to Social Impact and Community Needs Assessment.</p>

**2.11 What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination?**

	Complies
<p><b>Proponent's Submission:</b> At this stage, the views of appropriate State and Commonwealth public authorities have not been obtained. This would occur following Gateway determination.</p> <p><b>Council's Assessment:</b> The proposal has not been the subject of formal consultation with State and Commonwealth public authorities. This would be undertaken, should Council decide to proceed with a planning proposal.</p>	Yes

-END-



---

## Canterbury Bankstown Local Planning Panel - 19 November 2018

---

<b>ITEM 4</b>	<b>15 Kitchener Parade, Bankstown</b>
<b>FILE</b>	<b>Demolition of existing structures and construction of a ten storey mixed-use residential/commercial building comprising eleven residential apartments, three levels of college classrooms, a cafe and three levels of basement car parking DA-1235/2016 - Bankstown</b>
<b>ZONING</b>	<b>Zone B4 Mixed Use</b>
<b>DATE OF LODGEMENT</b>	<b>19 December 2016</b>
<b>APPLICANT</b>	<b>Legge &amp; Legge Architects Pty Ltd</b>
<b>OWNERS</b>	<b>Yasser Ibrahim, Ahmed Ibrahim and Anne Taher</b>
<b>ESTIMATED VALUE</b>	<b>\$7,300,514</b>
<b>AUTHOR</b>	<b>Development Services</b>

### REPORT

---

This matter is reported to the Canterbury Bankstown Local Planning Panel as the application type is subject to the provisions of State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development and the proposed building is at least four storeys in height.

Development Application No. DA-1235/2016 proposes the demolition of existing structures and the construction of a ten storey mixed-use residential/commercial building comprising of eleven residential units, three levels of college classrooms, a cafe and three levels of basement car parking for a total of 20 vehicles.

The proposal has been assessed against the relevant provisions of State Environmental Planning Policy No. 55 (Remediation of Land), State Environmental Planning Policy No 65— Design Quality of Residential Apartment Development and the associated Apartment Design Guide, State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, Greater Metropolitan Regional Environmental Plan No 2—Georges River Catchment (a deemed SEPP), Bankstown Local Environmental Plan 2015 and Bankstown Development Control Plan 2015.

The proposal generally complies with the relevant legislation except for a variation to visual privacy (separation) and communal open space. The variations are considered worthy of support, as set out in this report.

The application was neighbour notified and advertised for a period of 21 days between 18 January 2017 and 7 February 2017 and one objection was received during this period. The objection expressed concerns about the impact of the proposed development on solar access, privacy, traffic, safety and property values.

## **POLICY IMPACT**

---

The recommendation of this report is that the Development Application be approved. Such a determination would not have any direct policy implications, as it would uphold the relevant planning and development controls.

## **FINANCIAL IMPACT**

---

This matter has no direct financial implications.

## **RECOMMENDATION**

---

It is recommended that the application be approved subject to the attached conditions.

## **ATTACHMENTS**

---

- A. Section 4.15 Assessment Report
- B. Conditions of Consent

## **DA-1235/2016 ASSESSMENT REPORT**

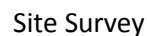
### **SITE & LOCALITY DESCRIPTION**

The subject site is known as 15 Kitchener Parade, Bankstown and is located within the B4 Mixed Use Zone. It is a regular allotment with an area of 397.10m<sup>2</sup> and a primary frontage of 18.29 metres to Kitchener Parade. There is a fall of approximately 0.50m from the rear north-eastern corner to the front south-western corner. The site is currently occupied by a two storey commercial building used by the Bankstown Community Resource Group.

The site is located on the eastern side of Kitchener Parade, bordered to the north by No. 17 Kitchener Parade which is occupied by a seven storey mixed use residential/commercial development constructed in 2013. To the south is No. 374 and 374A Chapel Road which consists of a single storey building known as the Bankstown Gospel Hall. To the east, the site is predominately bordered by No. 378A Chapel Road, being a private laneway accessing the rear of properties fronting Chapel Road and No. 376 Chapel Road, being a single storey commercial building. To the western side of Kitchener Parade, opposite the site, is the Bankstown RSL, whilst Paul Keating Park and Bankstown Train Station are located approximately 130 metres east and 220 metres south west of the site.



Aerial Image – Site and Surrounding Locality



Development Application No. DA-1235/2016 proposes the demolition of existing structures and the construction of a ten storey mixed-use residential/commercial building comprising eleven residential units, three levels of college classrooms, a cafe and three levels of basement car parking for a total of 20 vehicles.

The commercial components of the development are located at the ground floor, mezzanine floor and levels 1 and 2. The ground floor incorporates a café and associated outdoor public seating, lifts providing access to each floor of the development and vehicular access down to the basement levels. The mezzanine floor level is recessed back from the street, creating a void above the outdoor public seating.

The mezzanine level and levels 1 and 2 include a total of five classrooms for the educational establishment, five offices and a reception. Levels 1 and 2 also incorporate outdoor terraces along the northern side of each floor. The central feature of the mezzanine, Level 1 and Level 2 is a void towards the middle of the building incorporating a stairwell from the ground floor.

Levels 3 – 7 each contain two x two bedroom units for a total of ten units with Level 8 consisting of one x three bedroom unit. The rooftop is for the exclusive use of the occupants of the three bedroom unit and incorporates a swimming pool, spa, timber deck, toilet and change rooms.

The three basement levels provide a total of twenty 20 car spaces. Basement Level 1 includes one accessible space, two residential visitor car spaces and one educational establishment car space. Basement Level 2 provides five car spaces for the educational establishment and basement Level 3 incorporates eleven residential car spaces, eight of which are provided across two car stackers.

### **EXTERNAL REFERRAL**

The site is located within an area identified with an obstacle limitation surface building height maximum of 15.24 metres under the provisions of The Civil Aviation (Buildings Control) Regulation 1988 (Schedule 5). The proposed development reaches a maximum building height of 35 metres. As such, a referral has been undertaken to Sydney Metro Airports. Should the application be determined for approval, this would be issued on a deferred commencement basis, with the consent becoming operational if concurrence is provided by Sydney Metro Airports. Any conditions provided by Sydney Metro Airports would form part of the operational development consent.

### **SECTION 4.15 ASSESSMENT**

The proposed development has been assessed pursuant to section 4.15 of the *Environmental Planning and Assessment Act, 1979*.

#### **Environmental planning instruments [section 4,15(1)(a)(i)]**

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

#### ***State Environmental Planning Policy No. 55 – Remediation of Land***

The provisions of Clause 7 of *State Environmental Planning Policy No. 55 – Remediation of Land* specifies that 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 site has previous approvals for use as a medical/radiology practice in 2004 and as a massage clinic in 2010. It is presently used by the Bankstown Community Resource Group. These are not land uses identified in Table 1 of the Managing Land Contamination Guidelines as activities that may cause contamination and there is no evidence to suggest that the site is contaminated. On that basis, it is not considered necessary for any further investigation to be undertaken with regard to potential site contamination. The subject site

***State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (SEPP 65), and the Apartment Design Guide (ADG)***

The proposed development is considered to be consistent with the objectives and Design Quality Principles contained in the SEPP and ADG, and responds appropriately to the site's context. Moreover, the application generally conforms with the key 'design criteria' contained in the Apartment Design Guide, as illustrated in the table below, with the exception of visual privacy (separation) and communal open space.

'DESIGN CRITERIA'	PROPOSED	COMPLIES?
<p><b>3D-1 Communal open space</b></p> <p>25% of the site area is to be communal open space (99.275m<sup>2</sup>), and 50% of the COS must receive at least 2 hours direct sunlight between 9am-3pm on 21 June.</p>	<p>The development does not provide communal open space</p>	<p>No – see below</p>
<p><b>3F-1 Visual Privacy (Building separation)</b></p> <p>6m setback up to 4 storeys (3m to non-habitable rooms).</p> <p>9m setback storeys 5 - 8 (4.5m to non-habitable rooms).</p> <p>12m setback 9 storeys and above (6m to non-habitable rooms).</p> <p>0m to blank walls</p>	<p><u><b>North (Side)</b></u></p> <p>Up to 4 Storeys (GF, Mezzanine, Levels 1 – 2), 0m setback to blank walls and 6.30 metres to the outdoor seating area at the GF</p> <p>Storeys 5 - 8 (Levels 3 – 6), 4.40m setback to blank wall and 5m – 6.2m to balconies</p> <p>9<sup>th</sup> Storey (Level 7), 4.40m setback to blank wall and 5m – 6.2m to balconies</p> <p>10<sup>th</sup> Storey (Level 8), 4.6m – 6m to balconies</p> <p><u><b>South (Side)</b></u></p> <p>Up to 4 Storeys (GF, Mezzanine, Levels 1 – 2), 0m setback to blank walls</p>	<p>Yes</p> <p>No – see below</p> <p>No – see below</p> <p>No – see below</p> <p>Yes</p>



	<p>Storeys 5 - 8 (Levels 3 – 6), 0m setback to blank walls and 3m to windows</p> <p>Storeys 9 - 10 (Levels 7 - 8), 0m setback to blank walls and 3m to windows</p> <p><b><u>East (Rear)</u></b></p> <p>Up to 4 Storeys (GF, Mezzanine, Levels 1 - 2), 0m setback to blank walls and 0.75m to frosted glass (classrooms) and terrace aluminium louvres</p> <p>Storeys 5 - 8 (Levels 3 – 6), 0m setback to blank walls and 1.1m to windows and balconies</p> <p>Storeys 9 - 10 (Levels 7 - 8), 0m setback to blank walls and 1.1m to windows and balconies</p>	<p>No – see below</p> <p>No – see below</p> <p>No – see below</p> <p>No – see below</p> <p>No – see below</p>
<p><b>3J-1 Car Parking</b></p> <p>Minimum car parking requirement must be provided on site</p>	<p>13 residential car spaces (including two visitor spaces) are required under Part B5 of BDCP 2015 and 16 residential car spaces (including two visitor spaces) are required pursuant to Roads and Maritime Services (previously Roads and Transport Authority) Guide to Traffic Generating Developments. The ADG applies the lesser requirement.</p> <p>Six Educational Establishment spaces are required under Part B5 of BDCP 2015.</p> <p>No car spaces are required for the café as it has &lt;100m<sup>2</sup> dining area.</p>	<p>Yes, the proposal includes 13 residential car spaces (including two visitor car spaces), six educational establishment car spaces and one accessible car space, thereby complying with Part B5 of BDCP 2015.</p>
<p><b>4A-1 Solar access</b></p> <p>70% of units should receive 2hrs solar access between 9am – 3pm midwinter.</p>	<p>9 of 11 (82%) units receive 2hrs direct solar access between 9am – 3pm midwinter.</p>	<p>Yes</p>
<p><b>4A-3 Solar access</b></p> <p>A maximum 15% of apartments receive no direct sunlight between 9am and 3pm mid- winter</p>	<p>0 of 11 (0%) units receive no direct sunlight at the relevant time</p>	<p>Yes</p>

<b>4B-3 Natural cross-ventilation</b>  60% of units to be naturally cross-ventilated.  Overall depth cross-over or cross-through apartment does not exceed 18m, when measured glass line to glass line	11 of 11 (100%) of the units are naturally cross-ventilated.  All cross through apartments less than 18m	Yes  Yes
<b>4C-1 Ceiling heights</b>  Min. 2.7m for habitable rooms.  3.3m for commercial ground and first floor	2.90m to all residential floors.  5.50m for commercial component of ground floor (due to double height void)	Yes  Yes
<b>4D-1 Unit size</b>  1 bed – min. 50m <sup>2</sup> 2 bed – min. 70m <sup>2</sup> 3 bed – min. 90m <sup>2</sup> Add 5m <sup>2</sup> for each additional bathroom/WC  Every habitable room must have a window in an external wall	2-bed, 1 bath – min 70m <sup>2</sup> 3-bed, 2 bath – min. 112.75m <sup>2</sup>  All habitable rooms have a window in an external wall	Yes  Yes
<b>4D-2 Unit Performance maximised</b>  Habitable room depths are limited to a maximum of 6.75m.  In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window	Compliance is achieved for all rooms within the development.	Yes
<b>4D-3 Apartment layouts</b>  <ul style="list-style-type: none"> <li>• Master Beds: 10m<sup>2</sup> min</li> <li>• Other beds: 9m<sup>2</sup> min</li> <li>• Bedrooms min</li> </ul>	Compliance is achieved for all rooms within the development.	Yes

dimension of 3m • Living room minimum width 4m for 2 and 3 bedroom apartments		
<b>4E-1 Private Open Space</b>  1 bed: Min 8m <sup>2</sup> , 2m depth 2 bed: Min. 10m <sup>2</sup> , 2m depth 3 bed: Min 12m <sup>2</sup> , 2.4m depth to primary balconies. Ground level units: Min 15m <sup>2</sup> , 3m depth	All units meet required minimum areas and dimensions	Yes
<b>4F-1 Internal circulation</b>  Max. 8 units accessed from a single corridor.	A maximum of four units are accessed from a single corridor.	Yes
<b>4G-1 Storage</b>  1 beds: 6m <sup>3</sup> , 2 beds: 8m <sup>3</sup> , 3 beds: 10m <sup>3</sup> (At least half to be provided within the unit)	All units are provided with sufficient storage, and at least half is provided within the unit. Unit 601 is capable of complying despite storage within the unit not being nominated on the plans.	Yes

#### Visual Privacy (Building Separation)

The site is bordered to the side (northern) boundary by No. 17 Kitchener Parade, being a seven storey mixed commercial/residential development completed in 2013. The neighbouring building adopts a minimum balcony setback to the southern boundary (facing the development site) of approximately 3.80 metres. To the rear (eastern) boundary, the site is bordered predominately by No. 378A Chapel Road, being a private laneway accessing the rear of properties fronting Chapel Road and No. 376 Chapel Road, being a single storey commercial building built to its western boundary adjoining the site. To the side (southern) boundary is No. 374 & 374A Chapel Road which runs through to Kitchener Parade and is occupied by a single storey building known as Bankstown Gospel Hall, built to its northern boundary facing the site.

#### *Storeys 1 – 4*

Objective 3F-1 requires a separation of 6 metres from the commercial uses located on the 1<sup>st</sup> storey (GF) to the 4<sup>th</sup> storey (Level 2) to the side and rear boundaries. The proposal generally complies with this requirement, with blank walls (permitted to have a nil setback) provided along the side (northern and southern) boundaries.

To the rear (eastern) boundary a nil setback is provided to blank walls with a 0.75m setback adopted at the 2<sup>nd</sup> to the 4<sup>th</sup> storey (Mezzanine, Levels 1 and 2) to glass walls. These are to be fixed closed and frosted, thereby effectively acting as blank walls, which are permitted to have a nil setback. The 3<sup>rd</sup> and 4<sup>th</sup> storey terraces also adopt a 0.75 metre setback from the rear (eastern) boundary. They are screened by floor to ceiling louvres, limiting the potential for overlooking towards neighbouring properties and thereby satisfying the intention of the building separation requirements, despite the non-compliance with Objective 3F-1.

#### *Storeys 5 – 8*

A separation of 9 metres from habitable rooms and balconies is required to the side and rear boundaries between the 5<sup>th</sup> and 8<sup>th</sup> storeys (Level 3 – Level 6). To the side (northern) boundary, a minimum setback of 5 metres has been provided to the balconies of the eastern units, with a setback of 7.10 metres to the building wall for the entirety of the elevation. A setback of 6.10 metres is achieved to the balconies of the western units.

The eastern units rely on the subject north facing balconies to achieve the private open space required under the ADG. The balconies are confined to this location, with an alternative location facing the rear (eastern) boundary considered unsuitable due to the minimal setback that could be achieved to that boundary.

The balconies have been provided with moveable privacy screens and there is an expectation that the occupants will seek a reasonable level of privacy and therefore operate those screens to achieve their intended effect. As shown on the architectural plans, they screen the majority of each balcony, thereby achieving the intent of Objective 3F-1 which is to maintain visual privacy, despite the reduced separation.

In relation to the northern balconies of the western units, it is noted that these only have a depth of 1 metre, with the primary balconies of those units being west facing. The purpose of the north facing balconies are only to provide access to the privacy screens, rather than being an area where people would congregate. Similarly to the balconies of the eastern units, the privacy screens can be operated to screen the north facing living windows. Therefore, despite the reduced separation, the intent of Objective 3F-1 which is to maintain visual privacy is still achieved.

The context of the development site must be given consideration when determining appropriate building separation. The proposal is an infill development within a CBD setting. Enforcing setbacks that strictly comply with the requirements of the ADG would greatly compromise the internal amenity of the proposed units, such that any residential development of the site would be unlikely.

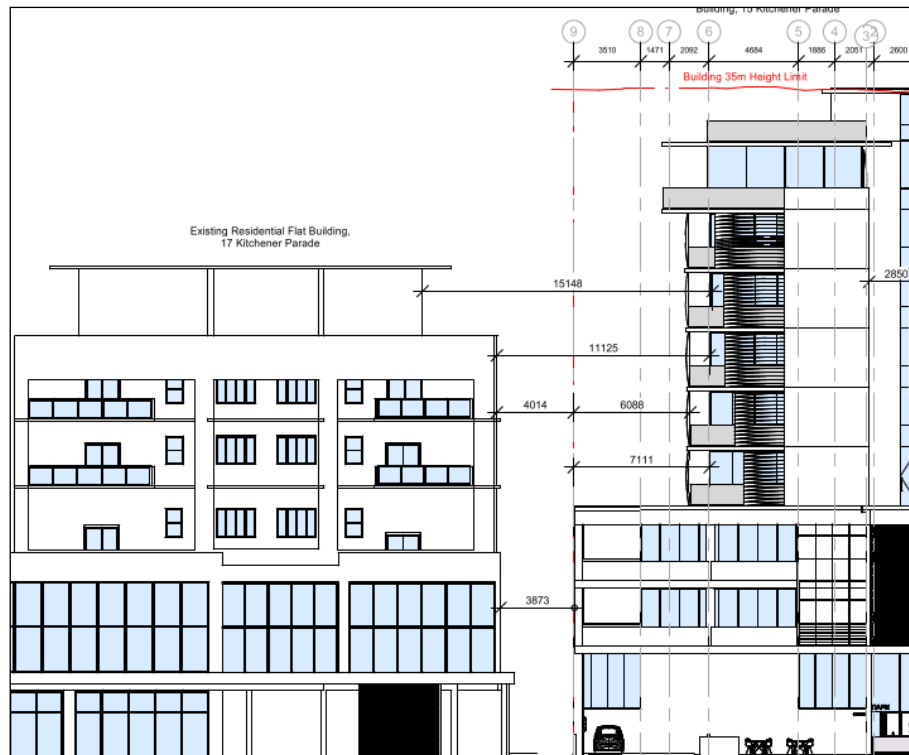
Consideration must also be given to the setbacks of neighbouring buildings when assessing building separation to the side (northern) boundary. The proposed balconies of the western units achieve a separation from the balconies of No. 17 Kitchener Parade of 8.80 metres, being 5 metres to the boundary and a further 3.80 metres to the balconies within the neighbouring site. In addition to the matters discussed above, it is noted that the burden of achieving visual privacy should be shared between the properties and the side setback to the subject boundary of the proposed development already exceeds that of the neighbouring property by 1.20 metres at the closest point. Additionally, the original proposal included functional north facing balconies for the western units, which have since been removed to increase separation along the northern elevation. It would be unreasonable to enforce an even greater setback on the proposed development, particularly given that visual privacy can be achieved using the design features previously mentioned.

To the side (southern) boundary and the rear (eastern) boundary, a setback of 0m has been provided to blank walls with a 3 metre setback provided to habitable room windows. The habitable room windows incorporate a 2.1m high bottom sill. This will mitigate any impacts of the non-compliance and is considered a suitable design solution, thereby also achieving visual privacy as per Objective 3F-1.

#### *Storeys 9 – 10*

A separation of 12 metres from habitable rooms and balconies is required to the side and rear boundaries from the 9<sup>th</sup> and 10<sup>th</sup> storeys (Level 7 – Level 8). To the side (northern) boundary at the 9<sup>th</sup> storey (Level 7), the setback follows those provided for the levels below, with the same extent of privacy screening. For the reasons previously discussed, despite the non-compliance, this is considered a suitable outcome with regards to Objective 3F-1.

For the 10<sup>th</sup> storey (Level 8) a minimum setback of 4.6 metres has been provided to the balcony and 6 metres to the building wall from the northern boundary. The 10<sup>th</sup> storey (Level 8) contains a 3 bedroom unit that occupies the entirety of that floor. With a finished floor level at RL 56.63, the top floor of the development sits significantly higher (9.28 metres) than the top floor of the neighbouring building at No. 17 Kitchener Parade, which has a finished floor level of RL 47.35. The opportunity for direct visual privacy impacts is therefore significantly reduced. A condition of consent is to be imposed requiring the balustrade of the balcony to incorporate frosted glazing to further reduce the potential for overlooking. When considering these design solutions and the matters previously discussed regarding the context of the site, the proposal is suitable with regards to Objective 3F-1.



Western Elevation showing Separation to No. 17 Kitchener Parade

To the side (southern) boundary and the rear (eastern) boundary at both the 9<sup>th</sup> and 10<sup>th</sup> storey (levels 7 and 8), the same setbacks and design solutions have been adopted as for the storeys below. For the reasons previously discussed, this is considered a suitable outcome with regards to Objective 3F-1.

#### *Communal Open Space*

Objective 3D-1 requires that a communal open space area be provided that is equivalent to a minimum of 25% of the site area, being 99.725m<sup>2</sup>. The development does not provide communal open space.

The ADG acknowledges that developments on small lots, within business zones or located in a dense urban area may not be able to provide communal open space. The site falls into all three of those categories. The development will rely on its close proximity (approximately 340m walking distance) to Paul Keating Park, which is a large park to the north-east which will provide extensive outdoor recreation opportunities for the residents. This is considered a suitable solution given the sites context.

#### ***State Environmental Planning Policy (Building and Sustainability Index: BASIX) 2004***

A valid BASIX Certificate accompanied the Development Application. The Certificate details the required thermal comfort, energy and water commitments which are also illustrated on the submitted architectural plans. The proposal satisfies the requirements of State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 in this instance.



### ***Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment***

The site is located within land identified as being affected by *Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment*, being a deemed SEPP under Clause 120 of Schedule 6 of the *EP&A Act, 1979*. The GMREP 2 contains a series of general and specific planning principles which are to be taken into consideration in the determination of development applications. An assessment of the proposal indicates that the development is generally consistent with the aims and objectives of the plan, as well as the planning principles as set out in Clause 8 of the GMREP 2.

### ***Bankstown Local Environmental Plan 2015***

The following clauses of the Bankstown Local Environmental Plan 2015 were taken into consideration:

- Aims of Plan
- Maps
- 1.9A Suspension of covenants, agreements and instruments
- 2.1 Land use zones
- 2.2 Zoning of land to which Plan applies
- 2.3 Zone objectives and Land Use Table
- 2.7 Demolition requires development consent
- Zone B4 Mixed Use
- 4.3 Height of buildings
- 4.4 Floor space ratio
- 4.4A Additional gross floor area for more sustainable development in Bankstown CBD commercial core
- 4.5 Calculation of floor space ratio and site area
- 6.2 Earthworks
- 6.9 Restrictions on development in Zone B4 Mixed Use

The following table provides a summary of the development application against the primary numerical controls contained within BLEP 2015.

STANDARD	PERMITTED	PROPOSED	COMPLIANCE
Height of Buildings	Max 35m	35m	Yes
Floor space ratio	Max. 3:1 Max 3.5:1 with application of Clause 4.4A of BLEP 2015)	3.5:1 (complies with application of Clause 4.4A of BLEP 2015)	Yes

Clause 4.4A provides the opportunity for additional gross floor area for more sustainable development in the Bankstown CBD commercial core. The clause applies as the development is on land within Zone B4 Mixed Use, the site has a width of at least 18 metres at the front building line, the maximum floor space ratio under Clause 4.4 is 3:1 and it is a mixed use development. As such, the development is afforded an additional FSR of 0.5:1, provided the energy and water consumption targets under the clause can be met and the building does not adversely impact on any neighbouring land in terms of visual bulk or overshadowing.

The proposed development satisfies the relevant requirements of the ADG with regards to overshadowing and is of a visual bulk that is appropriate for its CBD context. This is supported by the development maintaining compliance with the maximum building height limit of 35 metres under Clause 4.3 of BLEP 2015.

The applicant has provided a report to the satisfaction of Council that addresses the requirements of this clause with regards to energy and water consumption targets. The additional FSR of 0.5:1 has therefore been applied.

Clause 6.9 of BLEP 2015 stipulates that the ground and first floor level of the development is to be used for the purposes of commercial premises or other non-residential purposes. This is intended to reinforce the status of Bankstown CBD as the major centre for Bankstown and a place for employment, to encourage economic growth with commercial floor space and to promote an active street front. The proposal satisfies this requirement with provision of a café and outdoor seating area at the ground floor, situated under a double height void, and three levels of educational establishment classrooms at the mezzanine level, Level 1 and Level 2.

**Development control plans [section 4.15(1)(a)(iii)]**

The following table provides a summary of the development application against the primary numerical controls contained within Part A1 of BDCP 2015.

STANDARD	PROPOSED	BDCP 2015 PART A1	
		REQUIRED	COMPLIANCE
Front Setback	Nil (minimum)	Nil (minimum)	Yes
Ground Finished Floor Level	RL 28.13	Consistent with footpath level	Yes

**Planning agreements [section 4.15(1)(a)(iiia)]**

There are no planning agreements applicable to the proposed development.

**The regulations [section 4.15(1)(a)(iv)]**

The proposed development is not inconsistent with the relevant provisions of the Environmental Planning and Assessment Regulation, 2000.

**The likely impacts of the development [section 4.15(1)(b)]**

It is considered the proposal adopts an appropriate design for its context, being located within a dense urban environment. The likely impacts of the proposal have been managed through the design of the development which is compliant with Council's planning controls, with the exception of the variations which have been addressed previously within this report.

**Suitability of the site [section 4.15(1)(c)]**

The proposed development is permissible with consent on the subject site, and represents a built form that is compatible with the existing and desired future character of the locality, as set out in this report.

**Submissions [section 4.15(1)(d)]**

The application was neighbour notified and advertised for a period of twenty-one (21) days between 18 January 2017 and 7 February 2017 and one (1) objection was received during this period. The objection expressed concerns regarding impact of the proposed development on solar access, privacy, traffic, safety and property values.

*Objection: It will have adverse impacts on natural lights, view and privacy of my property, in that my property is located at level 1 and this proposed new building is a 10 storey building.*

**Comment:** The proposed development satisfies the solar access requirements to neighbouring properties of the ADG. Matters regarding visual privacy and building separation have been previously addressed in detail within this report.

It is not considered that the proposal will interrupt any existing significant views.

*Objection: It is not in the public interest for the development to proceed, in that (The development will occur issues of noise, privacy, busy traffic and open space). The development by Legge & Legge Architects Pty Ltd is to make profit. It is not in the public interest to proceed this development at all.*

**Comment:** An acoustic report was submitted with the application that considered noise emissions from the proposed development. The Acoustic Report was reviewed by Council's Environmental Health Unit who found the impacts to be within accepted levels, subject to the recommendations contained within the report. The recommendations within the acoustic report form part of the development consent.

Matters regarding visual privacy and building separation have been previously addressed in detail within this report.

A Traffic and Parking Impact Assessment was submitted with the application that found the additional vehicle trips associated with the proposed development could be accommodated by the surrounding road network and nearby intersections. This was reviewed by Council's Traffic and Transport Unit who raised no objection to the proposal on those grounds.

The proposed development satisfies the minimum parking requirements. This is set out previously within this report.

With regards to open space, it is considered that the open space within the vicinity of the site at Paul Keating Park can accommodate the additional uses associated with the proposed development.

*Objection: It will have a negative impact on the value of the adjoining property. We're all Australian Citizen, is it fair that the developer makes lots of profit building this new 10 storey building while other adjoining property owners devalue their properties?*

*Comment: Evidence has not been submitted that demonstrates there will be any impacts on the value of adjoining properties. This is also not a relevant assessment consideration.*

*Objection: High buildings are an emergency concern within high density areas. In a fire emergency situation a 10 storey building takes considerably longer to evacuate than a 3-5 storey building.*

*Comment: The application was referred to Council's Building Unit who are satisfied that the proposal is consistent with the requirements of the Building Code of Australia in relation to exits and evacuation.*

*Objection: Council needs to advise the developer to change the building height and that there is no need for this 10 storey building.*

*Comment: The proposed development is subject to a 35 metre building height limit under the Bankstown Local Environmental Plan 2015. The proposal complies with the height limit.*

**The public interest [section 4.15(1)(e)]**

Approval of the proposed development is not considered to contravene the public interest.

**CONCLUSION**

The Development Application has been assessed in accordance with the provisions of Section 4.15 of the Environmental Planning and Assessment Act 1979 requiring amongst other things, an assessment against the Bankstown Local Environmental Plan 2015 and Bankstown Development Control Plan 2015. The proposal generally complies with the relevant legislation except for a variation to visual privacy (separation) and communal open space. The variations are considered worthy of support, for the reasons set out in this report. As such, the following recommendation is made.

**RECOMMENDATION**

It is recommended that the application be approved subject to the attached conditions.



## **DEFERRED COMMENCEMENT REQUIREMENTS (Schedule A)**

**The following deferred commencement condition must be complied with to the satisfaction of Council within 1 year of the date of this deferred commencement consent, prior to the issue of an operational development consent:**

1. Concurrence for the development is to be provided to Council from Sydney Metro Airports in accordance with The Civil Aviation (Buildings Control) Regulation 1988 (Schedule 5).

## **FORESHADOWED CONDITIONS OF APPROVAL (Schedule B)**

**The following conditions of consent including any other conditions that may arise from resolution of matters listed in Schedule A, will be included in an operational development consent that will be issued by Council after the applicant provides information sufficient to satisfy Council in relation to the condition of the deferred commencement consent:**

These conditions are imposed taking into account the matters for consideration in determining a Development Application pursuant to Section 4.15 of the Environmental Planning & Assessment Act, 1979 and other relevant Acts and Regulations.

### **Notes:**

1. This Determination Notice does not constitute permission to begin works associated with the development. A Construction Certificate (where applicable) must be obtained prior to the commencement of any development works.
2. This Determination Notice operates or becomes effective from the endorsed date of Consent.
3. If you are dissatisfied with this decision, you may apply for a review of determination pursuant to Division 8.2 of the Environmental Planning and Assessment Act, 1979 or appeal to the Land and Environment Court pursuant to Sections 8.7 and 8.10 of the Environmental Planning and Assessment Act, 1979. Any application for a review of determination pursuant to Division 8.2 must be received, assessed and determined by Council within 6 months after the date of receipt of this Notice.
4. Sections 9.37 and 9.50 of the Environmental Planning and Assessment Act, 1979 confers the authority to direct any person to comply with the terms and conditions of any Consent and any person failing to comply with such a direction shall be guilty of an offence under that Act.
5. This consent will lapse 5 years from the endorsed date of consent unless the use has commenced, or any building works have physically commenced.
6. The applicant or any other person entitled to act on this Consent may apply to modify the Development Consent in accordance with Section 4.55 of the Environmental Planning and Assessment Act, 1979.



7. Failure to comply with a condition contained within this Development Consent may result in a fine or prosecution by Council.
8. The proposed swimming pool cannot be filled until Sydney Water has issued an appropriate permit.

## CONDITIONS OF CONSENT

- 1) The proposal shall comply with the conditions of Development Consent. A Construction Certificate shall not be issued until the plans and specifications meet the required technical standards and the conditions of this Development Consent are satisfied.
- 2) Development shall take place in accordance with Development Application No.DA-1235/2016, submitted by Legge & Legge Architects, accompanied by Drawing No. DA101, DA102, DA105-DA108, DA108a, DA109 - DA-118, DA200, DA201 and DA300-303, Revision J, dated 15 August 2018, prepared by Legge & Legge Architects and affixed with Council's approval stamp, except where otherwise altered by the specific amendments listed hereunder and/or except where amended by the conditions contained in this approval.

The development plans shall be amended as follows:

- a) The balustrades along the northern elevation of the balcony on Level 8 are to be provided with obscure glazing.
- b) The balustrades to all sides of the accessible roof top area, including to the external sides of the swimming pool, are to be provided with obscure glazing.
- 3) The Deferred Commencement Requirements and any associated conditions provided by Sydney Metro Airports (or its representative) form part of this Development Consent.
- 4) The Ecologically Sustainable Design (ESD) – Energy and Water Assessment Report prepared by Cardno (Reference 80817184) dated 13 December 2016 and the recommended energy and water saving measures contained within the report form part of this Development Consent. Prior to the issue of an Occupation Certificate, a suitably qualified consultant must certify that the energy and water saving measures as required by that report and implemented within the development satisfy the requirements of Clause 4.4A of the Bankstown Local Environmental Plan 2015.
- 5) No approval is granted or implied for the use of the ground floor commercial premises. Separate Development Consent for the use of the ground floor commercial space is required prior to occupation.

- 6) The premises must be designed, constructed and operated in accordance with the requirements of:
  - a) The Building Code of Australia;
  - b) The *Protection of the Environment Operations Act 1997 and Regulations*;
  - c) Australian Standard 1668 Part 1, The use of ventilation and air conditioning in buildings - Mechanical ventilation in buildings;
  - d) Australian Standard 1668 Part 2, The use of ventilation and air conditioning in buildings - Fire and smoke control in multi-compartment buildings; and
  - e) Sydney Water requirements.
- 7) The acoustic assessment submitted in support of this development application, prepared by Wilkinson and Murray titled, '*15 Kitchener Parade, Bankstown, Development Application Acoustical Assessment*', report number 16311, dated 12 December 2016 and the noise attenuation recommendations stated in Section 5 of the assessment, forms part of the development consent.
- 8) To ensure that adequate provision is made for ventilation of the building, mechanical and /or natural ventilation shall be provided. These systems shall be designed in accordance with the provisions of:-
  - a) The Building Code of Australia;
  - b) Australian Standard 1668 Part 1;
  - c) Australian Standard 1668 Part 2;
  - d) *The Public Health Act 2010*;
  - e) *The Public Health Regulation 2012*;
  - f) Australian Standard 3666 Part 1;
  - g) Australian Standard 3666 Part 2; and
  - h) Australian Standard 3666 Part 3.

## **CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE**

*Prior to the release of a Construction Certificate the following conditions MUST be satisfied and nominated fees/contributions/bonds paid:*

- 9) The Certifying Authority must ensure that any certified plans forming part of the Construction Certificate are not inconsistent with this Development Consent and accompanying plans.
- 10) A detailed landscape plan prepared by a qualified landscape architect or designer is to be approved prior to the issue of a Construction Certificate. The landscape plan is to be prepared in accordance with the relevant DCP and is to show all features, built structures including retaining walls, irrigation, mulch and natural features such as significant gardens, landscaping, trees, natural drainage lines and rock outcrops that occur within 3 metres of the site boundary. The landscape plan shall consider any stormwater, hydraulic or overland flow design issues where relevant.

- 11) The landscape plan shall include the provision for the replacement of all boundary fencing (where necessary). A new 1.8m fence is to be erected along all side and rear boundaries of the subject allotment at full cost to the developer. The colour of the fence is to complement the development and the fence is to be constructed of lapped and capped timber paling, sheet metal or other suitable material unless the type of material is stipulated in any flood study prepared for the site. The selection of materials and colours of the fence is to be determined in consultation with the adjoining property owners. Fencing forward of the building line shall be no higher than 1m unless otherwise approved by Council.
- 12) Approval in accordance with Council's Tree Preservation Order (TPO) is granted to lop or remove only the trees identified to be lopped or removed on the approved plans. Separate approval shall be obtained to prune or remove trees on adjoining properties or other trees located on the site. Failure to comply with Council's TPO may result in a fine of up to \$100,000.
- 13) The trees located on the nature strip forward of the site are approved for removal in accordance with the following:
  - All tree removal works must be carried out by a qualified arborist - minimum qualification Australian Qualification Framework (AQF) Level 3 or equivalent;
  - The tree removal contractor must hold a Public Liability Insurance Certificate of Currency with a minimum indemnity of \$20 million, together with a NSW Workers Compensation Insurance Certificate of Currency;
  - The tree removal work must comply with the Amenity Tree Industry – Code of Practice, 1998 (Workcover, NSW);
  - The tree stump is to be ground to 300mm below ground level.
  - Investigation to locate underground services shall be the responsibility of the applicant.
  - All tree material shall be removed from site, and the nature strip shall be backfilled, compacted and restored to the original level.
  - The site must be maintained in a safe condition at all times;
  - Appropriate hazard signage to be in place at all times during the tree works.
  - All other street vegetation not specifically identified above is to be retained and protected from construction damage and pruning.
- 14) A soil erosion and sediment control plan must be prepared by a suitably qualified professional, in accordance with the Bankstown Demolition and Construction Guidelines and Council's Development Engineering Standards, and submitted to the certifying authority for approval prior to the issue of a construction certificate.

- 15) The Council Approved building plans, including demolition plans, must be submitted to Sydney Water for assessment. This will determine if the proposed structure(s) would affect any Sydney Water infrastructure or if there are additional requirements. Building plan approvals can be submitted online via Sydney Water Tap in™.

Please refer to [www.sydneywater.com.au/tapin](http://www.sydneywater.com.au/tapin)

For Sydney Water's Guidelines for building over or next to assets, visit [www.sydneywater.com.au](http://www.sydneywater.com.au) 'Plumbing, building & developing' then 'Building Plan Approvals' or call 13000 TAPIN.

Prior to release of a construction certificate Sydney Water must issue either a Building Plan Assessment letter which states that your application is approved, or the appropriate plans must be stamped by a Water Servicing Coordinator.

- 16) A Construction Certificate shall not be issued until written proof that all bonds, fees and/or contributions as required by this consent have been paid to the applicable authority.
- 17) A long service levy payment which is 0.35% of the total cost of the work is to be paid to the Building and Construction Industry Long Service Payments Corporation.
- 18) Pursuant to section 80A(1) of the Environmental Planning and Assessment Act 1979, and the Bankstown City Council Section 94A Development Contributions Plan 2009 (Section 94A Plan) , a contribution of \$73,005.14 shall be paid to Council.

The amount to be paid is to be adjusted at the time of actual payment, in accordance with the provisions of the Section 94A plan. The contribution is to be paid before the issue of the construction certificate.

**Note:** The Section 94A Contributions Plans may be inspected at Council's Customer Service Centre, located at Upper Ground Floor, Civic Tower, 66-72 Rickard Road, Bankstown, between the hours of 8.30am-5.00pm Monday to Friday.

- 19) Finished surface levels of all internal works and at the street boundary, including driveways, landscaping and drainage structures, must be as shown on the approved plans. The levels at the street boundary must be consistent with the Street Boundary Alignment Levels issued by Council.
- 20) The developer shall apply for a Work Permit and obtain approval from Council, for the following engineering works in front of the site, at the applicant's expense:
- a) An Extra Heavy Duty VFC of maximum width of 6.0 metres at the property boundary.
  - b) Drainage connection to Council's system. The discharge pipe must be a special design and construct to ensure the pipe avoids any tree root and must be redirected to run along the footway, near the boundary, to the south and past

- the Telstra pit and must be connected to the kerb in the location near the existing kerb outlet.
- c) Full width Council Standard Type 4 footway paving along the sites entire frontage to Kitchener Parade.
- d) Street Tree replacement to Council's Tree Preservation Officer's Satisfaction.
- e) Removal of all driveway surfaces, reinstatement of laybacks to kerb and gutter and reshaping of the footway, all associated with redundant VFCs.
- f) Repair of any damage to the public road including the footway occurring during development works.
- g) Reinstatement of the footway reserve and adjustment or relocation of existing public utility services to match the footway design levels as proposed on the approved Work Permit. Adjustment or relocation to any public utility services shall be carried out to the requirements of the public utility authority.

Note: Council is required to prepare a site survey and design in order to determine the necessary information. The developer should make application and payment for the Work Permit at least twenty one (21) days prior to the information being required and prior to the issue of the Construction Certificate. The Work Permit must be approved prior to any works commencing within the Council Road Reserve or on Council's assets.

- 21) Where Council approved cut or fill exceeds 200mm and stable batter of 1 vertical to 3 horizontal maximum grade cannot be achieved, then a masonry or other proprietary material retaining wall, intended and suitable for that purpose, shall be constructed within the development site. Note, filling of the site needs specific approval from Council.

The retaining wall shall be located so that it will not impede or obstruct the natural flow of stormwater. Retaining walls exceeding 600mm in height shall be designed by a qualified professional Civil/Structural Engineer. Plans and details prepared and signed by the Engineer are to be submitted to the Principal Certifying Authority (PCA) prior to the issue of the Construction Certificate.

All works associated with the construction of the wall, including backfilling and drainage, is to be located wholly within the allotment boundaries.

- 22) An all weather pavement shall be designed to withstand the anticipated wheel loads for all areas subjected to vehicular movements. Internal pavements specification prepared and certified by all qualified professional Civil Engineer to comply with the relevant Australian Standards, shall be submitted to the Principal Certifying Authority (PCA) for approval prior to the issue of a construction certificate.
- 23) The development is to be carried out in accordance with the commitments shown on the BASIX Certificate. The BASIX commitments approved with this Development Application are to be reflected in the Construction Certificate plans and specifications. Any proposed changes to the BASIX commitments after the Construction Certificate has been issued will require an updated BASIX Certificate and a new Construction Certificate.

- 24) A Construction Certificate shall not be issued until design verification from a qualified designer has been received. The design verification is a statement in which the qualified designer verifies that the plans and specifications achieve or improve the design quality of the development of which Development Consent was granted, having regard to the design quality principles set out in Schedule 1 of SEPP No. 65.
- 25) The Construction Certificate plans shall include details of the garbage receptacle area. The garbage receptacle area shall not be visible from the street. The garbage receptacle area shall be located within the building or screened from the street by dense landscaping.
- 26) Prior to the issue of any Construction Certificate for this development, the applicant must obtain approval from Council's Traffic Section for a Site, Pedestrian and Traffic Management Plan (SPTMP). This Plan must address the measures that will be implemented for pedestrian safety and traffic management as specified below.

**A PRIVATE CERTIFIER CANNOT APPROVE YOUR SITE, PEDESTRIAN & TRAFFIC MANAGEMENT PLAN**

This plan shall include details of the following:

- a) Proposed ingress and egress points for vehicles to and from the construction site;
- b) Proposed protection of pedestrians, adjacent to the constructions site;
- c) Proposed pedestrian management whilst vehicles are entering/exiting the construction site;
- d) Proposed method of loading and unloading excavation machines, building material, construction materials and waste containers during the construction period;
- e) Proposed traffic control measures such as advanced warning signs, barricades, warning lights, after hours contact numbers etc. are required to be displayed and shall be in accordance with Council's and the NSW Roads and Maritime Services requirements and AS1742.3.
- f) Proposed route for transportation of bulk and excavation materials to and from the development site.

The route for transportation to and from the development site of bulk and excavation materials shall generally be by the shortest possible route to the nearest "State Road" via "Regional Roads", with every effort to avoid school zones on public roads. Alternate longer routes will only be considered in order to bypass school zones during school zone hours. If school zones cannot be avoided **no heavy construction vehicle movements are to arrive or depart the site during signposted school zone periods 8:00am - 9:30am and 2:30pm - 4:00pm on school days.**

An Agreement to Council's satisfaction, signed by the applicant/owner specifying the approved route and acknowledging responsibility to pay Council to rectify damages to public property adjacent to the site as a consequence of

building works shall be lodged with Council prior to release of any Construction Certificate. Damage will be rectified as required by Council to remove unsafe conditions. All damage must be rectified upon completion of work to the satisfaction of Council.

The approved Site, Pedestrian and Traffic Management Plan is to be implemented prior to the commencement of any works on the construction site.

In addition a RMS Approval / Road Occupancy Licence will be required for works on Regional or State Roads or within 100m of a traffic facility including roundabouts and traffic signals. Refer to Council's Development Engineering Standards for a list of Regional and State Roads.

- 27) Prior to the issue of any Construction Certificate for this development, the Principal Certifying Authority must approve a Site Operations Management Plan (SOMP). This Plan must address the measures that will be implemented for the ongoing management of operations on and around the construction site, the protection of adjoining properties, and other requirements as specified below.

This plan shall include details of the following:

- a) Proposed hoardings, scaffolding and/or fencing to secure the construction site;
- b) Proposed measures to be implemented, under the separately approved Works Permit issued by Council, for the protection of all public roads and footway areas surrounding the construction site from building activities, crossings by heavy equipment, plant and materials delivery and static load from cranes, concrete pumps and the like;
- c) Proposed method of support of any excavation, adjacent to adjoining buildings or the public road. The proposed method of support is to be certified by a Civil Engineer with National Professional Engineering Registration (NPER) in the construction of civil works.
- d) Proposed measures to be implemented in order to ensure that no soil/excavated material is transported on wheels or tracks of vehicles or plant and deposited on the public road.
- e) Proposed measures for protection of the environment, according to the relevant provisions of the Protection of Environment Operations (POEO) Act, 1997 including procedures to control environmental impacts of work e.g. sediment control, proper removal, disposal or recycling of waste materials, protection of vegetation and control/prevention of pollution i.e. water, air noise, land pollution.

A number of the above matters may require separate approval from Council, particularly those relating to works on or adjacent to Council property. These may be covered by separate conditions of consent contained in this Determination Notice. Appropriate approvals will need to be obtained prior to the approval of this plan.



The approved Site Operations Management Plan is to be implemented prior to the commencement of any works on the site, and an approved copy provided to Council for information. Ongoing compliance with the matters detailed in the SOMP shall be monitored by the appointed Principal Certifying Authority.

- 28) As any works within, or use of, the footway or public road for construction purposes requires separate Council approval under Section 138 of the Roads Act 1993 and/or Section 68 of the Local Government Act 1993, Council requires the developer to obtain a Works Permit and or a Roadway/Footpath Building Occupation Permit prior to issue of any Construction Certificate for this development being issued where one or more of the following will occur, within, on or over the public footway or public road:

A PRIVATE CERTIFIER CANNOT ISSUE THESE PERMITS

WORKS REQUIRING A 'WORKS PERMIT'

- a) Dig up, disturb, or clear the surface of a public footway or public road,
- b) Remove or interfere with a structure or tree (or any other vegetation) on a public footway or public road,
- c) Connect a road (whether public or private) to a classified road,
- d) Undertake footway, paving, vehicular crossing (driveway), landscaping or stormwater drainage works within a public footway or public road,
- e) Install utilities in, under or over a public road,
- f) Pump water into a public footway or public road from any land adjoining the public road,
- g) Erect a structure or carry out a work in, on or over a public road
- h) Require a work zone on the public road for the unloading and or loading of vehicles
- i) Pump concrete from within a public road,
- j) Stand a mobile crane within a public road
- k) Store waste and recycling containers, skips, bins and/or building materials on any part of the public road.
- l) The work is greater than \$25,000.
- m) Demolition is proposed.

The developer shall construct all proposed works within the public road and footway under the supervision and to the satisfaction of Council. The developer shall arrange for necessary inspections by Council whilst the work is in progress.

The developer shall ensure the person or company carrying out the work will carry public liability insurance to a minimum value of twenty million dollars. The developer shall provide proof of the policy, to Council, prior to commencing any work approved by the Work Permit including the Road Opening Permit. The policy must remain valid for the duration of the works.

- 29) The pump out drainage system for the Driveway and private open space area shall be provided in accordance with Council's Development Engineering Standards. The Engineer must design the Pump out drainage system to be in accordance with the Australian Standards AS 3500. Engineering details and manufacturers specifications for the pumps, switching system and sump pit shall be submitted to the Principal Certifying Authority (PCA) for approval prior to issue of any Construction Certificate. The Engineer must certify that the Hydraulic design complies with the above relevant standards.
- 30) For this development, Council requires that the stormwater runoff from within the development site shall be collected and controlled by means of an on-site stormwater detention system, in accordance with Council's Development Engineering Standards. The developer shall engage a suitably qualified Engineer to prepare a final stormwater drainage and on site detention system plan to be generally in accordance with the concept plan UMB160417, Revision C, dated 15 December 2016, prepared by Building Services Engineers, and in accordance with the requirements contained in Council's Development Engineering Standards. The Engineer shall amend the design to ensure that plans reflect the approved architectural building design. The Engineer shall certify that the design and plans comply with Council's Development Engineering Standards and the relevant Australian Standards.
- 31) The basement of the development is located adjacent to a Council Public Road Reserve. Separate approval and Work Permit is to be obtained from Council for any temporary or permanent anchoring works under Council's Public Road.
- 32) The developer must engage a suitably qualified Traffic Engineer, experienced in the design of stop-n-go traffic signals, to design a system of traffic signals for the top and bottom of each circular ramp, which will allow for the safe ingress and egress to each level of the basement parking facilities. The Engineer must certify the design is in accordance with any relevant standard for this type of design, prior to the issue of the Construction Certificate for the basement works.
- 33) The developer must engage a suitably qualified Architect / Engineer to design the basement access ramps such that the inside curve (smallest radius curve) complies with AS2890.1 with regard to gradients and grade changes, prior to the issue of the Construction Certificate. The Architect / Engineer must certify in writing that the above design complies with the relevant sections of AS 2890.1 prior to the issue of the Construction Certificate for the basement works.
- 34) The developer must engage a suitably qualified structural engineer to design the basement walls and support system such that they will be able to fit within the 0.450mm dimension as nominated on the Architectural Plans. The Engineer must certify that the design complies with the above requirement prior to the issue of the Construction Certificate for the basement works.

**CONDITIONS TO BE SATISFIED PRIOR TO CONSTRUCTION**

- 35) The building / subdivision work in accordance with the development consent must not be commenced until:
- a. a construction certificate for the building / subdivision work has been issued by the council or an accredited certifier, and
  - b. the person having benefit of the development consent has:
    - i. appointed a principal certifying authority for the building / subdivision work, and
    - ii. notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
  - c. the person having the benefit of the development consent, if not carrying out the building work as an owner-builder, has:
    - i. appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential building work is involved, and
    - ii. notified the principal certifying authority of any such appointment, and
    - iii. unless the person is the principal contractor, notified the principal contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
  - d. the person having the benefit of the development consent has given at least 2 days' notice to the council of the person's intention to commence the building / subdivision work.
- 36) Existing trees within the vicinity of the construction works or paths of travel for construction vehicles accessing the development that are to be retained shall be protected with temporary fencing of a style non injurious to tree roots, placed 2m from the trunk base of the existing tree to prevent damage during construction, and retained in accordance with Council's Tree Preservation Order. There is to be no stockpiling of materials within the 2m fenced zone.
- 37) Suitable erosion and sediment control measures shall be erected in accordance with the plans accompanying the Construction Certificate prior to the commencement of construction works and shall be maintained at all times.
- 38) Council warning sign for Soil and Water Management must be displayed on the most prominent point of the site, visible to both the street and site works. The sign must be displayed throughout the construction period.
- 39) Prior to the commencement of work, the applicant must provide a temporary on-site toilet if access to existing toilets on site is not adequate.

- 40) A section 73 compliance certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation. Make early application for the certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design.

Application must be made through an authorised Water Servicing Coordinator. For help either visit [www.sydneywater.com.au](http://www.sydneywater.com.au) > Building and Developing > Developing your Land > Water Servicing Coordinator or telephone 13 20 92.

- 41) Prior to the commencement of work, a fence must be erected around the area of the works, except where an existing 1.8m high boundary fence is in good condition and is capable of securing the area. Any new fencing shall be temporary (such as cyclone wire) and at least 1.8m high. All fencing is to be maintained for the duration of construction to ensure that the work area is secured.

Where the work is located within 3.6m of a public place then a Type A or Type B hoarding must be constructed appropriate to the works proposed. An application for a Work Permit for such hoarding must be submitted to Council for approval prior to the commencement of work.

- 42) A sign shall be displayed on the site indicating the name of the person responsible for the site and a telephone number of which that person can be contacted during and outside normal working hours or when the site is unattended.
- 43) In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of the Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.
- 44) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:
- a. in the case of work for which a principal certifying is required to be appointed:
    - i. the name and licence number of the principal contractor, and
    - ii. the name of the insurer by which the work is insured under Part 6 of the Act,
  - b. in the case of work to be done by an owner-builder:
    - i. the name of the owner-builder, and
    - ii. If the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified becomes out of date, further work must not be carried out unless the principal certifying authority for the development to

which the work relates (not being the council) has given the council written notice of the updated information.

- 45) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
- a. showing the name, address and telephone number of the principal certifying authority for the work, and
  - b. showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
  - c. stating that unauthorised entry to the work site is prohibited.

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

- 46) The demolition of structures currently existing on the property must be undertaken, subject to strict compliance with the following: -
- a) The developer is to notify adjoining residents seven (7) working days prior to demolition. Such notification is to be clearly written on A4 size paper giving the date demolition will commence and be placed in the letterbox of every premises (including every residential flat or unit, if any) either side, immediately at the rear of, and directly opposite the demolition site.
  - b) Written notice is to be given to Canterbury-Bankstown Council for inspection prior to demolition. Such written notice is to include the date when demolition will commence and details of the name, address, business hours and contact telephone number and licence number of the demolisher. The following building inspections shall be undertaken by Canterbury-Bankstown Council:
    - (i) A *precommencement* inspection shall be carried out by Council when all the site works required as part of this consent are installed on the site and prior to demolition commencing.
    - (ii) A *final* inspection shall be carried out by Council when the demolition works have been completed to ensure that the site is left in a satisfactory manner, in accordance with the conditions of this consent.

**NOTE:** Payment of an inspection fee at Council's current rate will be required prior to each inspection. Council requires 24 hours notice to carry out inspections. Arrangements for inspections can be made by phoning **9707 9410, 9707 9412 or 9707 9635.**

- c) Prior to demolition, the applicant must erect a sign at the front of the property with the demolisher's name, license number, contact phone number and site address.
- d) Prior to demolition, the applicant must erect a 2.4m high temporary fence or hoarding between the work site and any public place. Access to the site shall be restricted to Authorised Persons Only and the site shall be secured against unauthorised entry when the building work is not in progress or the site is otherwise unoccupied. Where demolition is to occur within 3m of a public place a Work Permit application for the construction of a Class A or Class B hoarding shall be submitted to Council for approval.
- e) The demolition plans must be submitted to the appropriate Sydney Water Office to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements. If the development complies with Sydney Water's requirements, the demolition plans will be stamped indicating that no further requirements are necessary.
- f) Demolition is to be carried out in accordance with the appropriate provisions of Australian Standard AS2601-2001.
- g) The hours of demolition work shall be limited to between 7.00am and 6.00pm on weekdays, 7.00am and 1.00pm on Saturdays and no work shall be carried out on Sundays and public holidays, and weekends (Saturdays and Sundays) adjacent to public holidays.
- h) Where materials containing asbestos cement are to be removed, demolition is to be carried out by licensed contractors who have current Workcover Accreditation in asbestos removal.
- i) Hazardous or intractable wastes arising from the demolition process shall be removed and disposed of in accordance with the requirements of WorkCover NSW and the NSW EPA 'Environmental Guidelines: Assessment, Classification and Management of Liquid and Non-Liquid Wastes 2004'.
- j) Demolition procedures shall maximise the reuse and recycling of demolished materials in order to reduce the environmental impacts of waste disposal.
- k) During demolition, the public footway and public road shall be clear at all times and shall not be obstructed by any demolished material or vehicles. The public road and footway shall be swept (NOT hosed) clean of any material, including clay, soil and sand. (NOTE: If required, Council will clean the public road/footway at the applicant's expense). On the spot fines may be levied by Council against the demolisher and or owner for failure to comply with this condition.
- l) All vehicles leaving the site with demolition materials shall have their loads covered and vehicles shall not track soil and other material onto the public roads

and footways and the footway shall be suitably protected against damage when plant and vehicles access the site. All loading of vehicles with demolished materials shall occur on site.

- m) The burning of any demolished material on site is not permitted and offenders will be prosecuted.
  - n) Care shall be taken during demolition to ensure that existing services on the site (ie. sewer, electricity, gas, phone) are not damaged. Any damage caused to existing services shall be repaired by the relevant authority at the applicant's expense.
  - o) Suitable erosion and sediment control measures shall be erected prior to the commencement of demolition works and shall be maintained at all times.
  - p) Prior to the demolition of any building constructed before 1970, a Work Plan shall be prepared and submitted to Council in accordance with Australian Standard AS2601-2001 by a person with suitable expertise and experience. The Work Plan shall outline the identification of any hazardous materials, including surfaces coated with lead paint, method of demolition, the precautions to be employed to minimise any dust nuisance and the disposal methods for hazardous materials.
- 47) Prior to the commencement of works, a dilapidation report shall be prepared by a suitably qualified consultant and a copy provided to directly adjoining property owners of the subject site at full cost to the developer. The report must clearly identify the condition of existing structures on adjoining properties prior to the commencement of works. All care shall be taken during the construction process to ensure adjoining structures are protected, and should any change in condition occur from that recorded in the dilapidation report, the rectification of such shall be at full cost to the developer of the subject site.

## **CONDITIONS TO BE SATISFIED DURING CONSTRUCTION**

- 48) The hours of site works shall be limited to between 7.00am and 6.00pm on weekdays and 7.00am and 1.00pm on Saturdays. No work shall be carried out on Sundays and public holidays, and weekends (Saturdays and Sundays) adjacent to public holidays.
- 49) The building work must be carried out in accordance with the requirements of the Building Code of Australia.
- 50) Prior to the ground floor slab being poured, an identification report by a Registered Surveyor must be submitted to the principal certifying authority verifying that the proposed buildings finished ground floor level and siting to the property boundaries conforms to the approved plans.



- 51) All Civil and Hydraulic engineering works on site must be carried out in accordance with Council's Development Engineering Standards. All Civil and Hydraulic engineering works associated with Council's assets and infrastructure must be carried out in accordance with Council's Work Permit requirements and to Council's satisfaction.
- 52) All excavations and backfilling must be executed safely and in accordance with the relevant Australian Standards.
- 53) If soil conditions require it, retaining walls or other approved methods of preventing movement of the soil must be provided, and adequate provisions must be made for drainage. Separate approval may be required for retaining walls should they be required.
- 54) If the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
- a. protect and support the adjoining premises from possible damage from the excavation, and
  - b. where necessary, underpin the adjoining premises to prevent any such damage.
- 55) All boundary fencing behind the building line shall be replaced (where necessary) by a 1.8m high lapped and capped timber or sheet metal fence, or as stipulated in a flood study prepared for the site, or as determined in consultation with the adjoining property owners at the developer's expense. Fencing forward of the building line shall be no higher than 1m unless otherwise approved by Council.
- 56) The swimming pool is to be enclosed by a child resistant barrier comprising fences and gates designed, constructed, installed and maintained in accordance with Australian Standard 1926-2012 - Swimming Pool Safety Part 1: Safety barriers for swimming pools.
- A notice containing the words "Young Children Should be Supervised When Using this Swimming Pool" and "Pool Gates Must Be Kept Closed At All Times" and "Keep Articles, Objects and Structures At Least 900 Millimetres Clear Of The Pool Fence At All Times" together with a simple flow sequence containing details of resuscitation techniques must be displayed in a prominent position in the immediate vicinity of the pool.
- Overflow and discharge pipes from the pool and filtration unit must be connected to the sewer.
- 57) Access to a spa must be restricted by means of a lockable child-safe cover.
- 58) The proposed use of the pool / spa filter equipment must not give rise to offensive noise as defined in the Protection of the Environment Operations Act 1997 and Protection of the Environment Operations (Noise Control) Regulation 2000. All noise

emitting equipment must be housed in an insulated enclosure or appropriately positioned so as to cause no nuisance to neighbours.

- 59) The stormwater drainage system shall be constructed in accordance with Council's Development Engineering Standards and the engineering plans and details approved by the Principal Certifying Authority (PCA). Should the developer encounter any existing, live, underground stormwater drainage pipes, which carry flow from upstream properties, the developer must maintain the stormwater flow and re-route the stormwater pipes around the subject building or structures at the developer's expense.
- 60) A suitably qualified Professional Civil or Structural Engineer shall be engaged by the developer to carry out inspections relating to construction of internal driveways and parking areas. The work shall be carried out in accordance with the approved plans and specifications and certification from the Civil or Structural Engineer is to be provided upon completion.
- 61) The wastewater from the car wash bay shall be collected and disposed of, in accordance with the requirements contained in Council's Development Engineering Standards.
- 62) Prior to the commencement of work, the builder shall prepare a photographic record of the road reserve which clearly shows its condition prior to works occurring on site. For the entirety of demolition, subdivision or construction works, there shall be no stockpiling of building spoil, materials, or storage of equipment on the public road, including the footway and the road reserve shall be maintained in a safe condition at all times. No work shall be carried out on the public road, including the footway, unless a Work Permit authorised by Council has been obtained.
- 63) The waste storage room must be provided with smooth and impervious walls and floors and coved at the intersection of the floor and walls. Floor areas must be graded and drained to a floor waste gully connected to the sewer. Waste storage rooms must be well ventilated and proofed against pests. The area or room must be provided with water service hose connectors to enable easy cleaning.

Open waste storage areas must be appropriately covered and bunded. The ground shall be paved with impervious material and shall be graded and drained to a waste water disposal system according to Sydney Water's requirements. A hose tap connected to a water supply shall be provided.

## **CONDITIONS TO BE SATISFIED PRIOR TO OCCUPATION**

- 64) The occupation or use of the building must not be commenced unless an occupation certificate has been issued for the building.
- 65) A final Occupation Certificate shall not be issued until all conditions relating to demolition, construction and site works of this development consent are satisfied and Council has issued a Work Permit Compliance Certificate.

- 66) The swimming pool / spa shall not be used until Council or the PCA has issued a final Compliance Certificate.
- 67) Twenty (20) off street car spaces being provided in accordance with the submitted plans. This shall comprise:
- Eleven (11) residential spaces  
Two (2) residential visitor spaces  
Six (6) business / commercial spaces  
One (1) car parking space for people with mobility impairment in accordance with AS 2890.1. All car parking spaces shall be allocated and marked according to these requirements.
- 68) Landscaping is to be installed in accordance with the approved landscape plan. All works and methods nominated and materials and plants specified on the approved landscape plan are to be completed prior to the issue of an occupation certificate. The landscaping shall be maintained for the life of the development.
- 69) The following replacement trees are to be planted on the nature strip forward of the property prior to the issue of an Occupation Certificate.
- i. 2 x 400L specimens to Council's S-207 standard detail to be planted no closer than 2.5 metres from the edge of the vehicle footpath crossing
- a) The tree/s shall have a minimum container size of 75 litres.
  - b) The tree/s shall comply with NATSPEC Specifying Trees: a guide to assessment of tree quality (2003) or Australian Standard AS 2303 – 2015 Tree stock for landscape use.
  - c) The tree is to be planted and maintained in accordance with Council's street tree planting specifications Standard Drawing No. S-202.
  - d) All new plantings shall be located so future growth will not be in conflict with electricity wires. All overhead electrical wires between the power pole and approved structures are to be located outside the crowns of existing trees, with sufficient space for the canopy to grow and in accordance with the clearances specified by the energy authority.
  - e) Consideration should be given to the location of new electricity poles and wires so that sufficient space is provided.
  - f) Investigation to locate underground services shall be the responsibility of the developer. Should such services exist and it is reasonable that damage may occur to those services by the new plantings, the following is to occur:
    - Carry out engineering works to protect those services from damage; or
    - Relocate the plantings to a more suitable location following written approval from Canterbury Bankstown Council; or

- Substitute the approved tree species with an alternative species following written approval from Canterbury Bankstown City Council.
- g) The tree/s shall be planted by a qualified landscape contractor and to the satisfaction of Councils Tree Management Officer.
- h) Compliance with this condition is to be confirmed with Councils Tree Management Officer. An inspection must be booked with Council after the replacement tree has been planted. Inspections must be booked at least 5 working days prior to being required.
- 70) A suitably qualified Professional Civil Engineer shall certify that the driveways, parking bays, and service areas have been constructed in accordance with the approved plans and specifications. Such Certification shall be submitted prior to the issue of the Occupation Certificate or occupation of the site.
- 71) Lighting must be provided to the entries of the dwellings, driveways and parking areas to promote a high level of safety and security at night and during periods of low light. Lighting provided should be hooded, shielded or directed away from neighbouring dwellings to minimise glare and associated nuisances to residents.
- Any lighting of the premises shall be installed in accordance with Australian Standard 4282, Control of the obtrusive effects of outdoor lighting so as to avoid annoyance to the occupants of adjoining premises or glare to motorists on nearby roads. The intensity, colour or hours of illumination of the lights shall be varied at Council's discretion if Council considers there to be adverse effects on the amenity of the area.
- 72) The premises must be readily identified from the street with the allocated house numbers. Numbering of the development without Council's written approval is not permitted. An official "house numbering" letter will be sent to the applicant indicating the proposed house numbers of the new development. Note: The house numbers of the development are subject to change depending of the type on subdivision that may occur at a later stage.
- 73) Prior to the issue of any Occupation Certificate a design verification from a qualified designer shall be submitted to the Principal Certifying Authority. The design verification is a statement in which the qualified designer verifies that the development has been constructed as shown in the plans and specifications in respect of which the Construction Certificate was issued, having regard to the design quality principles set out in Schedule 1 of SEPP No. 65.
- 74) A Copy of the Work Permit Compliance Certificate shall be submitted to the PCA Prior to the issue of the Occupation Certificate.
- 75) A registered surveyor shall prepare a Work As Executed Plan, and a suitably qualified Hydraulic Engineer shall provide certification of the constructed on-site stormwater detention system.

The Work As Executed information shall be shown in red on a copy of the approved stormwater plan and shall include all information specified in Council's Development Engineering Standards. The Work As Executed plan shall be submitted to the Hydraulic Engineer prior to certification of the on-site stormwater detention system.

The engineer's certification of the on-site stormwater detention system should be carried out similar to Council's standard form "On-Site Stormwater Detention System - Certificate of Compliance", contained in Council's Development Engineering Standards.

A copy of the Work As Executed Plan and Hydraulic Engineer's Certification shall be submitted to Council for information prior to issue of the final occupation certificate.

- 76) The developer shall register, on the title of the subject property, a Restriction on the Use of Land and Positive Covenant, in accordance with the standard terms for "Registration of OSD on title", as outlined in Council's Development Engineering Standards and in accordance with the appropriate provisions of the Conveyancing Act. Where subdivision is not proposed, the surveyor shall show the location of the "On-Site Stormwater Detention System" on an A4 size site plan attached to the Section 88E Instrument to be registered, on the title of the subject property, prior to the issue of the Final Occupation Certificate. The developer shall submit evidence of the final registration of the Restriction and Positive Covenant on the title of the property, to Council.
- 77) For this development, Council requires that the stormwater runoff from within the development site shall be collected and controlled by means of an **on-site stormwater detention system**, in accordance with Council's Development Engineering Standards. The developer shall engage a suitably qualified Engineer to prepare a final stormwater drainage and on site detention system plan to be generally in accordance with the concept plan UMB160417, Revision C, dated 15 December 2016, prepared by Building Services Engineers, and in accordance with the requirements contained in Council's Development Engineering Standards. **The Engineer shall amend the design to ensure that plans reflect the approved architectural building design.** The Engineer shall certify that the design and plans comply with Council's Development Engineering Standards and the relevant Australian Standards.
- 78) The Section 73 compliance certificate under the Sydney Water Act 1994 must be submitted to the principal certifying authority before occupation of the development / release of the plan of subdivision.
- 79) Prior to the issue of an occupation certificate, a dilapidation report shall be prepared by a suitably qualified consultant and a copy provided to directly adjoining property owners of the subject site at full cost to the developer. The report must clearly identify the condition of the structures on adjoining properties after the completion of all construction works. Any change in condition that occurs between this report and the report prepared prior to construction is to be rectified at full cost to the developer of the subject site.

- 80) Prior to the issue of an Occupation Certificate, a suitably qualified consultant must certify that the energy and water saving measures as required by that report and implemented within the development satisfy the requirements of Clause 4.4A of the Bankstown Local Environmental Plan 2015.
- 81) Prior to the issue of any Occupation Certificate or the occupation or use of the premises, certification from a suitably qualified professional engineer shall be submitted to the Principal Certifying Authority verifying that the exhaust system in the premises is installed and constructed in accordance with the below mentioned. All mechanical exhaust ventilation systems shall be serviced regularly in accordance with the manufacturers and/or installers specifications. A record of all maintenance activities to the exhaust extraction equipment shall be maintained at the premises and provided to Council upon request.
- a) The Building Code of Australia;
  - b) Australian Standard 1668 Part 1;
  - c) Australian Standard 1668 Part 2;
  - d) *The Public Health Act 2010*;
  - e) *The Public Health Regulation 2012*;
  - f) Australian Standard 3666 Part 1;
  - g) Australian Standard 3666 Part 2; and
  - h) Australian Standard 3666 Part 3.
- 82) CCTV cameras are to be installed at entrance/exit points, covering the letterboxes, within the café and public seating area and within the basement levels, including storage areas, with footage to be retained for a minimum of 30 days.

## USE OF THE SITE

- 83) Car parking spaces for twenty (20) vehicles shall be provided in marked spaces in the manner generally shown on the approved site plan. The car parking spaces, driveways and manoeuvring areas are to be used for employees and visitors vehicles only and not for the storage of new or used materials, finished goods or commercial vehicles.
- 84) The hours of operation of the educational establishment shall be limited to between 7:00am and 10:00pm Monday to Saturday and between 8:00am and 10:00pm on Sunday.
- 85) All loading and unloading of goods shall take place within the site in a manner that does not interfere with parking areas, driveways or landscaping.
- 86) There shall be no emissions of noise, smoke, smell, vibration, gases, vapours, odours, dust, particulate matter, or other impurities which are injurious or dangerous to health, or the exposure to view of any unsightly matter or otherwise.
- 87) The premises shall be operated so as to avoid unreasonable noise or vibration and cause no interference to adjoining or nearby occupants. In the event of Council receiving complaints and if it is considered by Council that excessive noise is

emanating from the premises, the person(s) in control of the premises shall, at their own cost arrange, for an acoustic investigation to be carried out (by an accredited acoustic consultant) and submit a report to Council specifying the proposed methods for the control of excessive noise emanating from the premises. The measures shall be approved by Council prior to implementation and shall be at full cost to the applicant.

- 88) All waste materials associated with the use shall be stored in containers located either within the building or behind screen walls in accordance with the approved plans.

All waste generated on the site is to be stored, handled and disposed of in such a manner as to not create offensive odour, offensive noise or pollution of land and/or water as defined under the *Protection of the Environment Operations Act 1997*. All waste generated shall be removed and disposed of by an authorised waste removal contractor. A copy of the waste removal agreement and receipts shall be made available to Council on request.

- 89) The use of the premises shall not contravene the *Protection of the Environment Operations Act 1997*. The operation of the premise shall be carried out in accordance with the requirement of the NSW EPA, where relevant.
- 90) Any activity carried out in accordance with this approval shall not give rise to offensive odour, offensive noise or pollution of air, land or water as defined in the *Protection of the Environment Operations Act 1997* and Regulations.
- 91) The implementation of this development shall not adversely affect the amenity of the neighbourhood or interfere unreasonably with the comfort or repose of a person who is outside the premises by reason of the emission or discharge of noise, fumes, vapour, odour, steam, soot, ash, dust, waste water, waste products, grit, oil or other harmful products.
- 92) Identification number/s are to be conspicuously displayed at the front of the premises.
- 93) Instructions concerning procedures to be adopted in the event of an emergency are to be clearly displayed on the premises for both public and staff information at all times.
- 94) No external signage is approved under this development consent. External signage details must be submitted to Council for approval prior to installation unless the signage is 'exempt development' under the relevant legislation.
- 95) Any lighting on the site shall be designed so as not to cause nuisance to other residences in the area or to motorists on nearby public roads and to ensure no adverse impact on the amenity of the surrounding area by light overspill. All lighting shall comply with the Interim Australian Standard AS 4282-1997 The Control of the Obtrusive Effects of Outdoor Lighting.



96) The applicant shall enter into a commercial contract for the collection of wastes and recycling. A copy of the commercial waste and recycling contract shall be lodged with Council and invoices should be available for inspection at any time.

97) This development will be allocated the following bins:

- 6 x 240L garbage bins (collected weekly)
- 6 x 240L recycling bins (collected weekly)
- 2 x 240L organics bins (collected fortnightly)

No compaction equipment is to be used on the bins.

All bins are to be presented kerbside for collection in single file with a 30cm gap between bins, within the site's allocated frontage, not in the driveway and not in front of neighbouring lots.

The kerbside collection point is to have a separation distance of 2m from street trees, bus stops, street furniture and road infrastructure such as round-a-bouts and have a height clearance of 4.2m from overhanging tree branches, powerlines and other obstructions.

If required, Council may, at its discretion, impose parking restrictions at the kerbside collection point on collection days to ensure unobstructed access to bins for collection

98) The waste chute system is to be designed and constructed in accordance with Council's Waste Management Guide for New Developments (Section 3.66) and be used for the transfer of garbage only.

99) Access to the residential bin storage and bulky waste areas is to be restricted to residential tenants only. Access to the commercial bin storage area(s) are to be restricted to commercial tenants only.

## **SCHEDULE A: ADVICE TO APPLICANTS**

Inspection of building works shall be undertaken as determined by the PCA. If Bankstown Council has been nominated as the PCA then details of inspection type and number required will be determined prior to the issue of a construction certificate.

Where a combined development consent is issued for demolition of buildings and construction of new work, a Construction Certificate must be obtained for the work, including demolition.

Also, before you dig, call "Dial before you Dig" on 1100 (listen to the prompts) or facsimile 1300 652 077 (with your street no./name, side of street and distance to nearest cross street) for underground utility services information for any excavation areas.

For further information regarding this notice please contact Will Hodgkinson in Development Services on 9707 9653

-END-

---

## Canterbury Bankstown Local Planning Panel - 19 November 2018

---

<b>ITEM 5</b>	<b>17 Lascelles Avenue, Greenacre</b>
	<b>Conversion of an existing unauthorised outbuilding to a secondary dwelling</b>
<b>FILE</b>	<b>DA-730/2018 – Bankstown Ward</b>
<b>ZONING</b>	<b>R2 Low Density Residential</b>
<b>DATE OF LODGEMENT</b>	<b>24 September 2018</b>
<b>APPLICANT</b>	<b>McRae Pty Ltd</b>
<b>OWNERS</b>	<b>Trung Hieu Nguyen and Xuan Thien Nhu Hoang</b>
<b>ESTIMATED VALUE</b>	<b>\$86,000.00</b>
<b>AUTHOR</b>	<b>Development Services</b>

### REPORT

---

This matter is reported to the Canterbury Bankstown Local Planning Panel as the application seeks to vary a development standard by more than 10%. The development standard that the applicant seeks to vary relates to the maximum permissible wall height as contained in Clause 4.3(2B)(a) of the Bankstown Local Environmental Plan 2015. The applicant proposes a maximum wall height of 3.67metres, resulting in a 22% variation to the development standard.

Development Application No. DA-730/2018 proposes the conversion of an existing unauthorised outbuilding to a secondary dwelling. The building in question is located to the east of the principal dwelling, at the rear of the site. The proposal incorporates a living area, kitchen, bedrooms and bathroom.

DA-730/2018 has been assessed against, amongst other things, *State Environmental Planning Policy (Affordable Rental Housing) 2009*, *State Environmental Planning Policy 55 – Remediation of Land*, *State Environmental Planning Policy (Building and Sustainability Index: BASIX) 2004*, *Bankstown Local Environmental Plan 2015* and *Bankstown Development Control Plan 2015*.

The application fails to comply in regards to the Bankstown Local Environmental Plan 2015 and the Bankstown Development Control Plan 2015. Non-compliances include (but are not limited to): height of buildings and minimum flood protection levels.

The application was notified to the adjoining properties for a period of 14 days from 25 September 2018 to 8 October 2018 during which time no submissions were received.

The application is recommended for refusal for the reasons outlined in Attachment B.

## **POLICY IMPACT**

---

The recommendation of this report is that the development application be refused. Such a determination would not have any direct policy implications, as it would uphold the relevant planning and development controls.

## **FINANCIAL IMPACT**

---

This matter has no direct financial implications.

## **RECOMMENDATION**

---

It is recommended that Development Application DA-730/2018 be refused for the reasons outlined in Attachment B.

## **ATTACHMENTS**

---

- A. Section 4.15 Assessment Report
- B. Reasons for Refusal

## **DA-730/2018 ASSESSMENT REPORT**

### **SITE & LOCALITY DESCRIPTION**

The subject site is legally described as Lot 2 in Deposited Plan 844383 however is more commonly referred to as 17 Lascelles Avenue, Greenacre. The site is a regular allotment and is zoned R2 Low Density Residential under the Bankstown Local Environmental Plan 2015. The site contains a single storey dwelling and an unauthorised outbuilding that is currently being used, without consent, as a secondary dwelling. The existing outbuilding is situated to the rear of the principal dwelling and has maintained its built form since its unauthorised construction in late 2017.

The site generally slopes to the rear with a total land area of 836m<sup>2</sup>, with an allotment width of 15.24m and is affected by an overland flowpath (floodway) according to the Punchbowl Catchment Study. The surrounding developments consist predominately of low density residential dwellings of varying age and condition with the exception of a multi dwelling development owned by NSW Land and Housing Corporation, situated to the north west of the site, on the opposite side of the street.

The context of the site is illustrated in the aerial photo below.



### **PROPOSED DEVELOPMENT**

DA-730/2018 proposes the conversion of an existing unauthorised outbuilding to a secondary dwelling.

The proposal incorporates the authorisation of the outbuilding's use as a secondary dwelling and the installation of a stormwater management system. Under this development application, the internal and external layout of the outbuilding structure is not proposed to change from what was originally constructed.

### **SECTION 4.15(1) ASSESSMENT**

The proposed development has been assessed pursuant to section 4.15(1) of the *Environmental Planning and Assessment Act, 1979*. In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the proposed development.

#### **Environmental planning instruments [section 4.15(1)(a)(i)]**

##### ***State Environmental Planning Policy (Affordable Rental Housing) 2009***

The provisions of Clause 22(3) of *State Environmental Planning Policy (Affordable Rental Housing) 2009* specifies that a consent authority must not consent to the carrying out of development for the purposes of a secondary dwelling unless:

- (a) *the total floor area of the principal dwelling and the secondary dwelling is no more than the maximum floor area allowed for a dwelling house on the land under another environmental planning instrument, and*
- (b) *the total floor area of the secondary dwelling is no more than 60 square metres or, if a greater floor area is permitted in respect of a secondary dwelling on the land under another environmental planning instrument, that greater floor area.*

The SEPP also specifies that a consent authority must not refuse consent to development to which this Division applies on either of the following grounds:

- (a) **site area** if:
  - a. *the secondary dwelling is located within, or is attached to, the principal dwelling, or*
  - b. *the site area is at least 450 square metres,*
- (b) **parking** - *if no additional parking is to be provided on the site.*

The table below is provided to demonstrate the assessment undertaken in regard to the numerical controls as set out in the Clause 22 of *State Environmental Planning Policy (Affordable Rental Housing) 2009*.

STANDARD	PERMITTED	PROPOSED	COMPLIANCE
Number of dwellings	Two	Two	Yes
Total Floor Area	418m <sup>2</sup> (836m <sup>2</sup> /2)	136.2m <sup>2</sup> (91.2m <sup>2</sup> + 45m <sup>2</sup> )	Yes
Floor Area of Secondary Dwelling	Max. 60m <sup>2</sup>	45m <sup>2</sup>	Yes

Site Area	Min. 450m <sup>2</sup>	836m <sup>2</sup>	Yes
Car Parking	No additional parking required	No additional parking provided	Yes

### ***State Environmental Planning Policy No. 55 – Remediation of Land***

The provisions of Clause 7(1) of *State Environmental Planning Policy No. 55 – Remediation of Land* specifies that 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 subject site previously had an outbuilding type structure at the rear of the site which was demolished without approval in late 2017. No information or details have been provided as to what this outbuilding was constructed of and whether, within this structure, any chemicals were stored or activities occurred that would necessitate further investigation with respect to possible land contamination. The applicant has not addressed the relevant provisions of *State Environmental Planning Policy No.55 – Remediation of Land* and as a result, Council is not able to consent to be satisfied that the site is suitable for the proposed development.

### ***State Environmental Planning Policy (Building and Sustainability Index: BASIX) 2004***

A valid BASIX Certificate accompanied the Development Application. The Certificate details the thermal, energy and water commitments. The proposal fails to provide the location and specifications of the hot water system as required by the submitted certificate. The proposal fails to meet the requirements of *State Environmental Planning Policy (Building and Sustainability Index: BASIX) 2004*.

### ***Bankstown Local Environmental Plan 2015***

The following clauses of the Bankstown Local Environmental Plan 2015 were taken into consideration:

- Clause 1.2 – Aims of Plan
- Clause 2.1 – Land use zones
- Clause 2.2 – Zoning of land to which Plan applies
- Clause 2.3 – Zone objectives and Land Use Table
- Clause 4.1B – Minimum lot sizes and special provisions
- Clause 4.3 – Height of buildings
- Clause 4.4 – Floor space ratio



Clause 4.5 – Calculation of floor space ratio and site area

Clause 4.6 – Exceptions to development standards

Clause 5.4 – Controls relating to miscellaneous permissible uses

Clause 6.3 – Flood Planning

An assessment of the Development Application revealed that the proposal fails to comply with a number of the provisions contained in the *Bankstown Local Environmental Plan 2015* namely to Clause 1.2 Aims of Plan, Clause 4.3 Height of buildings, Clause 4.6 Exceptions to development standards, Clause 5.4 Controls relating to miscellaneous permissible uses and Clause 6.3 Flood Planning.

The table below is provided to demonstrate the proposals compliance with the numerical controls as set out in the BLEP 2015.

STANDARD	PERMITTED	PROPOSED	COMPLIANCE
Height of Buildings	Max 3m - wall Max 6m - building	Max. of 3.67m (wall height) Max. of 3.77m (building height)	No – see comments below Yes
Floor space ratio	Max. 0.50:1	A GFA of 136.2m <sup>2</sup> is proposed resulting in a FSR of 0.16:1.	Yes
Floor area of secondary dwelling	Max 60m <sup>2</sup>	45m <sup>2</sup>	Yes

#### *Clause 1.2 – Aims of the Plan*

Council's assessment of the subject application has identified that the proposed development is inconsistent with the following relevant aim contained in Clause 1.2(2) of BLEP 2015:

*(d) to provide development opportunities that are compatible with the prevailing suburban character and amenity of residential areas of Bankstown,*

The prevailing suburban character of the residential areas in Bankstown are set and shaped by the relevant development standards, one of which, in the case of a secondary dwelling is a 3m maximum wall height standard. The proposed non-compliance with this development standard results in a secondary dwelling which is larger and more imposing than other similar development in the area. The non-compliance therefore results in a development which is not compatible with the prevailing suburban character and amenity of the residential areas of Bankstown. Supporting a variation would undermine the aims of the Bankstown Local Environmental Plan 2015, the adopted legislation for controlling the character and amenity of the area.

### *Clause 4.3 – Height of Buildings*

Clause 4.3(2B)(a) – Height of buildings of the BLEP 2015 refers to the maximum permitted height of buildings for secondary dwelling developments in the R2 Low Density Residential Zone as having a maximum building height of 6m and a maximum wall height of 3m. It reads as follows:

#### *4.3 Height of buildings*

*(1) The objectives of this clause are as follows:*

- (a) to ensure that the height of development is compatible with the character, amenity and landform of the area in which the development will be located,*
- (b) to maintain the prevailing suburban character and amenity by limiting the height of development to a maximum of two storeys in Zone R2 Low Density Residential,*
- (c) to provide appropriate height transitions between development, particularly at zone boundaries,*
- (d) to define focal points by way of nominating greater building heights in certain locations.*

*(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.*

*(2A) ...*

*(2B) Despite subclause (2), the following restrictions apply to development on land in Zone R2 Low Density Residential:*

- a) for a secondary dwelling that is separate from the principal dwelling—the maximum building height is 6 metres and the maximum wall height is 3 metres,*
- b) for a dwelling house or a dual occupancy—the maximum wall height is 7 metres,*
- c) for multi dwelling housing and boarding houses:*
  - i) the maximum building height for a dwelling facing a road is 9 metres and the maximum wall height is 7 metres, and*
  - ii) the maximum building height for all other dwellings at the rear of the lot is 6 metres and the maximum wall height is 3 metres.*

The proposal seeks to vary Clause 4.3(2B)(a) of the *Bankstown Local Environmental Plan 2015*. The maximum wall height for the dwelling is measured at 3.67m (0.67m variation – 22%).

It is also of note that the applicant has not acknowledged this departure from the height of buildings development standard contained in the Bankstown Local Environmental Plan 2015.

*Clause 4.6 – Exceptions to development standards*

*(1) The objectives of this clause are as follows:*

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

*(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*

Clause 4.3(2B)(a) prescribes the maximum permissible wall and building heights for secondary dwelling developments on the subject site.

*(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.*

No Clause 4.6 Variation request has been submitted as part of this Development Application. In the absence of a Clause 4.6 variation request, a departure from the abovementioned development standard cannot be considered for this application.

*Clause 6.3 – Flood Planning*

*(1) The objectives of this clause are as follows:*

- (a) to minimise the flood risk to life and property associated with the use of land,*
- (b) to allow development on land that is compatible with the land's flood hazard, taking into account projected changes as a result of climate change,*
- (c) to avoid significant adverse impacts on flood behaviour and the environment.*

*(2) This clause applies to land at or below the flood planning level.*

(3) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:*

- (a) is compatible with the flood hazard of the land, and*
- (b) will not significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and*
- (c) incorporates appropriate measures to manage risk to life from flood, and*
- (d) will not significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and*
- (e) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.*

The development site is affected by an overland flowpath (floodway) as identified in the Punchbowl Catchment Study. As a result of this affectation, a Stormwater System Report (SSR) is required to be obtained from Council and submitted along with the development application. The applicant submitted an SSR with the application which requires habitable floor levels to be 500mm above the 100 year Average Recurrence Interval (ARI) flood level at the site adjacent to the proposed buildings. This sets the minimum habitable floor level at RL 32.20 AHD.

The unauthorised outbuilding has been constructed to RL 32.05 according to the submitted survey plan.

This results in a development which does not achieve the objectives of Clause 6.3 of the Bankstown Local Environmental Plan 2015 as the development has not been constructed so as to minimise the risk of life and property associated with the use of the structure.

**Draft environmental planning instruments [section 4.15C(1)(a)(ii)]**

There are no applicable draft environmental planning instruments.

**Development control plans [section 4.15C(1)(a)(iii)]**

*Bankstown Development Control Plan 2015 – Part B1 Residential Development*

Section 3 of Part B1 of the BDCP 2015 contains the following objectives:

- (a) To ensure secondary dwellings are established in conjunction with the principal dwelling on the same allotment.*
- (b) To ensure the building form and building design of secondary dwellings are compatible with the prevailing suburban character of the residential areas.*
- (c) To ensure the building form and building design of secondary dwellings provide appropriate amenity to residents in terms of private open space, access to sunlight and privacy.*

- (d) *To ensure the building form and building design of secondary dwellings do not adversely impact on the amenity of neighbouring properties in terms of visual bulk, access to sunlight and privacy.*
- (e) *To ensure the building form of secondary dwellings in the foreshore protection area preserves the existing topography, land and rock formations, and the unique ecology of natural bushland and mangrove areas.*

The following table provides a summary of the development application against the primary development controls contained within Part B1, Section 3 of the BDCP 2015.

STANDARD	BDCP 2015 PART B1	
	REQUIRED	COMPLIANCE
<b>Clause 3.1 Subdivision</b>	The subdivision of secondary dwellings is prohibited.	No subdivision is proposed as part of this Development Application however an informal subdivision has occurred with the erection of a fence separating the principal and secondary dwellings.  <b>Complies</b>
<b>Clause 3.2 Floor Area</b>	Council must not consent to development for the purpose of secondary dwellings unless: (a) the total floor area of the principal dwelling and the secondary dwelling is no more than the maximum floor area allowed for a dwelling house on the land under an environmental planning instrument; and (b) the total floor area of the secondary dwelling is no more than 60m <sup>2</sup> or, if a greater floor area is permitted in respect of a secondary dwelling on the land under an environmental planning instrument, that greater floor area.	The total floor area of the principal dwelling and secondary dwelling is considered to comply with this provision of this clause. The following calculations are provided:  Maximum allowable Floor Area = 418m <sup>2</sup> (836/2) Total Floor Area (as built) 136.2m <sup>2</sup> (91.2m <sup>2</sup> + 45m <sup>2</sup> ) The total floor area of the secondary dwelling is measured at 45m <sup>2</sup> , deemed compliant with this clause.  <b>Complies</b>
<b>Clause 3.4 Height</b>	The storey limit for detached secondary dwellings is single storey and the maximum wall height is 3 metres.	The proposed secondary dwelling is single storey. However, the wall height exceeds the maximum height of 3m, measuring at 3.67m (22% variation).  <b>Non-compliance</b>
<b>Clause 3.5 Siting of structure</b>	The siting of secondary dwellings and landscaping works must be compatible with the existing slope and contours of the allotment and any adjoining property. Council does not allow any development that involves elevated platforms on columns; or excessive or unnecessary terracing, rock excavation, retaining walls or reclamation.	The proposal is considered to demonstrate compliance with this clause as it compatible with the existing slope, with minimal fill presented as well as no elevated platforms or excessive excavation.  <b>Complies</b>
<b>Clause 3.6 Fill</b>	Any reconstituted ground level on the allotment must not exceed a height of 600mm above the ground level (existing) of an adjoining property except where:	The proposal demonstrates compliance with this Clause with 350mm of fill above the NGL.

STANDARD	BDCP 2015 PART B1	
	REQUIRED	COMPLIANCE
	<p>(a) the secondary dwelling is required to be raised to achieve a suitable freeboard in accordance with Part B12 of this DCP; or</p> <p>(b) the fill is contained within the ground floor perimeter of the secondary dwelling to a height no greater than 1 metre above the ground level (existing) of the allotment.</p>	<b>Complies</b>
<b>Clause 3.8 Setbacks</b>	<p>The minimum setback for a building wall to the primary road frontage is:</p> <p>(a) 5.5 metres for the first storey (i.e. the ground floor); and</p> <p>(b) 6.5 metres for the second storey.</p>	<p>33.6m</p> <p>N/A</p> <p><b>Complies</b></p>
<b>Clause 3.10 Setbacks</b>	For the portion of the building wall that has a wall height less than or equal to 7 metres, the minimum setback to the side and rear boundaries of the allotment is 0.9 metre.	<p>The existing setback from the side boundary to the compliant wall is 0.95m</p> <p><b>Complies</b></p>
<b>Clause 3.12 Private Open Space</b>	Secondary dwellings must not result in the principal dwelling on the allotment having less than the required landscaped area and private open space.	<p>The total private open space for the site is measured at 472m<sup>2</sup> which therefore complies with Clause 2.12, Part B1 of the BDCP 2015 in accordance with the minimum requirements for private open space for the principal dwelling.</p> <p><b>Complies</b></p>
<b>Clause 3.13 Solar Access</b>	At least one living area must receive a minimum 3 hours of sunlight between 8.00am and 4.00pm at the mid-winter solstice. Council may allow light wells and skylights to supplement this access to sunlight provided these building elements are not the primary source of sunlight to the living areas.	<p>The existing outbuilding receives 3 hours of solar access to the living room.</p> <p><b>Complies</b></p>
<b>Clause 3.16 Visual Privacy</b>	<p>Where development proposes a window that directly looks into the living area or bedroom window of an existing dwelling, the development must:</p> <p>(a) offset the windows between dwellings to minimise overlooking; or</p> <p>(b) provide the window with a minimum sill height of 1.5 metres above floor level; or</p> <p>(c) ensure the window cannot open and has obscure glazing to a minimum height of 1.5 metres above floor level; or</p> <p>(d) use another form of screening to the satisfaction of Council.</p>	<p>Compliance with this Clause is achieved as there are no dwellings within the vicinity for overlooking to occur.</p> <p><b>Complies</b></p>
<b>Clause 3.17</b>	Where development proposes a window	It is considered that compliance is

STANDARD	BDCP 2015 PART B1	
	REQUIRED	COMPLIANCE
<b>Visual Privacy</b>	that directly looks into the private open space of an existing dwelling, the window does not require screening where: (a) the window is to a bedroom, bathroom, toilet, laundry, storage room, or other non-habitable room; or (b) the window has a minimum sill height of 1.5 metres above floor level; or (c) the window has translucent glazing to a minimum height of 1.5 metres above floor level; or (d) the window is designed to prevent overlooking of more than 50% of the private open space of a lower-level or adjoining dwelling.	demonstrated with this Clause as the windows to the northern elevation are to bedrooms - Clause 3.17(a).  <b>Complies</b>
<b>Clause 3.23 Roof Pitch</b>	The maximum roof pitch for detached secondary dwellings is 25 degrees. An attic or basement is not permitted as part of the dwelling.	The roof pitch of the existing unauthorised outbuilding measures at 5 degrees, demonstrating compliance with this clause.  <b>Complies</b>
<b>Clause 3.25 BCA Compliance</b>	The change of use of outbuildings to secondary dwellings must comply with the Building Code of Australia.	The proposal is not for the change of use of an outbuilding to a secondary dwelling, rather seeking approval for unauthorised works.  N/A
<b>Clause 3.26 Car Parking</b>	Secondary dwellings must not result in the principal dwelling on the allotment having less than the required car parking spaces.	The development does not result in the loss of any existing car parking on the site.  <b>Complies</b>

As demonstrated in the table above, an assessment of the Development Application has revealed that the proposal fails to comply with Clause 3.4 of the Bankstown Development Control Plan 2015 – Part B1 which relates to wall height. The control aims to minimise the impact of a development on the adjoining properties by limiting the height of walls to what has been deemed an acceptable height. The non-compliance with this clause results in a reduced level of amenity for the adjoining properties and a development which does not fit in with the character of other secondary dwellings or outbuildings in the Bankstown area. Accordingly, the proposed development is considered to be contrary to the desired objectives contained in BDCP 2015 – Part B1 Section 3.

#### *Bankstown Development Control Plan 2015 – Part B12 Flood Risk Management*

Due to the flooding affectation on the site, the proposal must be assessed against Part B12 of the BDCP2015. The objectives of this Clause provide as follows:

- (a) *To reduce the risk to human life and damage to property caused by flooding through controlling development on land affected by potential floods.*



- (b) *To apply a “merit-based approach” to all development decisions which takes account of social, economic and environmental as well as flooding considerations in accordance with the principles contained in the NSW Floodplain Development Manual (FDM).*
- (c) *To control development and other activity within each of the individual floodplains within the City of Bankstown having regard to the characteristics and level of information available for each of the floodplains.*
- (d) *To assess applications for development on land that could be flood affected in accordance with the principles included in the FDM, issued by the State Government.*

Part B12 of the BDCP2015 requires the development be designed and constructed in a way which minimises the risk to people and property during a flood. This section requires that the minimum habitable floor levels be 500mm above the 100 year ARI flood level. The outbuilding, as constructed, is 150mm below the minimum level required by Part B12 of the BDCP2015 and the stormwater system report.

This places the future inhabitants of the structure at an inherent risk during a flood event, in turn not achieving the objectives of Part B12 of the Bankstown Development Control Plan 2015, as the risk to human life and property damage has not been mitigated through the design of the development. As such, the development does not comply with the relevant provisions of the Bankstown Development Control Plan 2015 – Part B12.

**Planning agreements [section 4.15C(1)(a)(iia)]**

There are no planning agreements that apply to this application.

**The regulations [section 4.15C(1)(a)(iv)]**

The subject application is inconsistent with Clause 50 of the *Environmental Planning and Assessment Regulation, 2000* as the development application plans contain a variety of inaccurate information which includes but is not limited to:

- Incorrect footings of the structure.
- Incorrect levels.
- Elevations not to scale.
- Height of the structure.
- Height of the site trees.
- Location of internal fencing.
- Alfresco finished floor level.
- Roof design.
- Missing alfresco walls.
- Kitchen incorrectly labelled.
- North inaccurately labelled on floor plan.

**The likely impacts of the development [section 4.15C(1)(b)]**

Council's assessment of the application has identified several fundamental issues with the proposed development, which have been detailed in this report. The likely impacts of the proposal have not been appropriately managed through the design of the development.

**Suitability of the site [section 4.15C(1)(c)]**

The development, as proposed, is not considered to be an appropriate form of development on the subject site, and represents a built form that is not compatible with the existing and desired future character of the locality as set by the relevant planning controls in the Bankstown Local Environmental Plan 2015 and the Bankstown Development Control Plan 2015.

The development proposes a variation to the maximum permissible wall height and it is considered that the built form proposed is unsympathetic to the site and locality. Further to this, the development's habitable floor level is less than 500mm above the 100 year ARI flood level which places the development and its future inhabitants at risk of being inundated by flood waters. The proposal is not considered to be an acceptable form of development based on the applicable controls and objectives, and the site is therefore not considered to be suitable for the development that has been proposed.

**Submissions [section 4.15C(1)(d)]**

No submissions were received for or against the development.

**The public interest [section 4.15C(1)(e)]**

With regard to the relevant planning considerations, it is concluded that the proposed development would contravene the public interest. The public interest is best served by the consistent application of the requirements of the relevant environmental planning instruments and development controls, by the consent authority, in order to ensure that any adverse impacts associated with the development are suitably addressed. The application undermines the integrity of the controls contained in this report.

**CONCLUSION**

The Development Application has been assessed in accordance with the provisions of Section 4.15(1) of the *Environmental Planning and Assessment Act 1979*, and the relevant planning controls.

The proposed development is not considered to be satisfactory in accordance with the applicable environmental planning instruments and development controls. The issues are also of a nature that would require substantial amendments to the application, with substantial demolition works required to the existing unauthorised structure.

It is recommended that the proposed development be refused in light of the justifications presented in this report.

**RECOMMENDATION**

It is recommended that the development application DA-730/2018 be refused, for the reasons contained in Attachment B.



Reasons for Refusal

1. The submitted plans do not demonstrate compliance with the submitted BASIX Certificate (No.962172S) having regards to the provisions of *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*. [Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning & Assessment Act, 1979*];
2. The development fails to comply with Clause 4.3(2B)(a) of the Bankstown Local Environmental Plan 2015 in relation to wall height [Pursuant to *Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979*];
3. The development fails to comply with Clause 6.3 of the Bankstown Local Environmental Plan 2015 in relation to flood planning [Pursuant to *Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979*];
4. The development fails to comply with Schedule 5 of the Bankstown Development Control Plan 2015 – Part B12 in relation to minimum habitable floor levels for a flood affected site [Pursuant to *Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979*];
5. The development application fails to comply with the Environmental Planning & Assessment Regulation, 2000 Section 54 in regards to inaccurate information being submitted to Council [Pursuant to *Section 4.15(1)(a)(iv) of the Environmental Planning and Assessment Act, 1979*];
6. The development application does not demonstrate a suitable level of impact to the locality [Pursuant to *Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979*];
7. The site is considered unsuitable for the proposed development [Pursuant to *Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979*];
8. The development is not considered to be in the public interest [Pursuant to *Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979*].

-END-



---

## Canterbury Bankstown Local Planning Panel - 19 November 2018

---

<b>ITEM 6</b>	<b>22 Prairie Vale Road, Bankstown</b>
	<b>Demolition of Existing Site Structures</b>
<b>FILE</b>	<b>DA-799/2018 – Bankstown</b>
<b>ZONING</b>	<b>RE1 Public Recreation</b>
<b>DATE OF LODGEMENT</b>	<b>16 October 2018</b>
<b>APPLICANT</b>	<b>Canterbury Bankstown City Council</b>
<b>OWNERS</b>	<b>Bankstown City Council</b>
<b>ESTIMATED VALUE</b>	<b>\$35,000.00</b>
<b>AUTHOR</b>	<b>Development Services</b>

### REPORT

---

This matter is reported to Local Planning Panel due to direction from the Minister for Planning in regards to development applications that pose a conflict of interest, where the applicant or land owner is Council, and where the proposed development is not listed as a prescribed exemption to this conflict of interest. The applicant of this development application, and the owner of the site subject to this application, is the City of Canterbury Bankstown (listed as Bankstown City Council on record).

Development Application No. DA-799/2018 proposes the demolition of all existing structures, and removal of all vegetation on 22 Prairie Vale Road, Bankstown. The structures on site are limited to a freestanding single dwelling, comprised of fibre cement, and weatherboard cladding (containing asbestos and lead paint), two outbuildings (also containing asbestos and lead paint), a free-standing tent, and a wooden fence.

DA-799/2018 has been assessed against Bankstown Local Environmental Plan (BLEP) 2015 and Bankstown Development Control Plan (BDGP) 2015 Part B13 Waste Management and Minimisation) and the application complies with all relevant development standards, objectives and controls.

The application was not advertised/notified.



## **POLICY IMPACT**

---

This matter has no direct policy implications.

## **FINANCIAL IMPACT**

---

This matter has no direct financial implications.

## **RECOMMENDATION**

---

It is recommended that the application be approved subject to the attached conditions.

## **ATTACHMENTS**

---

- A. Section 4.15 Assessment
- B. Conditions of Consent

## **DA-799/2018 ASSESSMENT REPORT**

### **SITE & LOCALITY DESCRIPTION**

The subject site is known as 22 Prairie Vale Road, Bankstown. The site is a regular, rectangular allotment (though the existing boundary fence deviates from the lot boundaries, particularly at the northern and eastern boundaries) that is currently zoned RE1 Public Recreation. The site contains a single, free-standing dwelling house, two small outbuildings, a garden shed, a free-standing tent, and a wooden fence. The site generally slopes from northwest to southeast towards a private, open drainage easement, which eventually connects with Salt Pan Creek. Vegetation on site is limited to small trees and shrubs, all of which are under 5.0m in height. A tree situated closer than 1.0m to the property boundary with the subject site, in 20 Prairie Vale Road is greater than 5.0m in height. The subject site is bounded to the northern and eastern borders by Council-owned reserve land known as Prairie Vale Reserve, to the western boundary by residential land known as 20 Prairie Vale Road, and to the southern boundary by Prairie Vale Road.

The surrounding development consists of free-standing single dwellings, many with outbuildings, villa developments and Council owned reserve land.

Aerial of 22 Prairie Vale Road, Bankstown NSW



### **PROPOSED DEVELOPMENT**

The Development Application proposes the demolition of all structures and removal of all vegetation on site.

**SECTION 4.15 ASSESSMENT**

The proposed development has been assessed pursuant to section 4.15 of the Environmental Planning and Assessment Act, 1979. In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the proposed development.

**Environmental planning instruments [section 4.15(1)(a)(i)]*****Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment***

The site is located within land identified as being affected by *Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment*, being a deemed SEPP under Clause 120 of Schedule 6 of the *EP&A Act, 1979*. The GMREP contains a series of general and specific planning principles which are to be taken into consideration in the determination of development applications. An assessment of the proposal indicates that the development is generally consistent with the aims and objectives of the plan, as well as the planning principles as set out in Clause 8 of the GMREP.

***State Environmental Planning Policy No. 55 – Remediation of Land***

The provisions of Clause 7 of *State Environmental Planning Policy No. 55 – Remediation of Land* specifies that 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 subject site has long been used for residential purposes. The building contains asbestos and lead paint, with a Hazardous Building Materials Register having been carried out on site. The selected contractor is to provide an asbestos and hazardous materials removal plan and submit the plan to Council prior to the demolition works commencing. A clearance certificate is to be handed to Council upon completion of the works by the contractor.

There is no evidence to suggest that the site is contaminated, nor is it considered necessary for any further investigation to be undertaken with regard to potential site contamination. The subject site is considered suitable for the proposed development and therefore the development application satisfies the provisions of SEPP No. 55.

***Bankstown Local Environmental Plan 2015***

The following clauses of the Bankstown Local Environmental Plan 2015 were taken into consideration:

Clause 1.2 – Aims of Plan

Clause 2.1 – Land use zones

Clause 2.2 – Zoning of land to which Plan applies

Clause 2.3 – Zone objectives and Land Use Table

Clause 2.7 – Demolition requires development consent

Clause 5.1A – Development on land intended to be acquired for public purpose

Clause 6.1 – Acid sulfate soils

Clause 6.2 – Earthworks

An assessment of the Development Application revealed that the proposal complies with the matters raised in each of the above clauses of *Bankstown Local Environmental Plan (BLEP) 2015*.

***Draft environmental planning instruments [section 4.15(1)(a)(ii)]***

There are no applicable draft environmental planning instruments.

***Development control plans [section 4.15(1)(a)(iii)]***

The following table provides a summary of the development application against the controls contained in Part B13 of *Bankstown Development Control Plan 2015*.

STANDARD	PROPOSED	BDCP 2015 PART B13	
		REQUIRED	COMPLIANCE
Waste Management Plan	The proposal was submitted with a Waste Management Plan	All proposals are to be accompanied by a Waste Management Plan prepared in accordance with the Waste Management Guide for New Developments and the Bankstown Demolition and Construction Guidelines.	Yes

***Planning agreements [section 4.15(1)(a)(iiia)]***

There are no planning agreements that apply to this application.

***The regulations [section 4.15(1)(a)(iv)]***

The proposal does not raise any issues with respect to the Regulations.

**The likely impacts of the development [section 4.15(1)(b)]**

The proposal does not raise any likely impacts on neighbouring properties, or on the area as a whole.

**Suitability of the site [section 4.15(1)(c)]**

The site is considered suitable for the proposed development.

**Submissions [section 4.15(1)(d)]**

No submissions have been received.

**The public interest [section 4.15(1)(e)]**

It is concluded that the proposed development would not contravene the public interest.

**CONCLUSION**

The Development Application has been assessed in accordance with the provisions of Section 4.15 of the Environmental Planning and Assessment Act, 1979, and the relevant planning controls.

The proposed development complies with all applicable planning controls. Therefore, approval of the development application is recommended.

## CONDITIONS OF CONSENT

- 1) The proposal shall comply with the conditions of this Development Consent.
- 2) Development shall take place in accordance with Development Application No. 799/2018, submitted by Stuart Dutton, accompanied by Drawing Nos. 1 & 2 of 2, prepared by the City of Canterbury Bankstown, dated 13.08.2018 and affixed with Council's approval stamp, except where otherwise altered by the specific amendments listed hereunder and/or except where amended by the conditions contained in this approval.

## CONDITIONS TO BE SATISFIED PRIOR TO DEMOLITION

- 3) Existing trees within the vicinity of the construction works or paths of travel for construction vehicles accessing the development that are to be retained shall be protected with temporary fencing of a style non injurious to tree roots, placed 2m from the trunk base of the existing tree to prevent damage during construction, and retained in accordance with Council's Tree Preservation Order. There is to be no stockpiling of materials within the 2m fenced zone.
- 4) Council warning sign for Soil and Water Management must be displayed on the most prominent point of the site, visible to both the street and site works. The sign must be displayed throughout the construction period.
- 5) Prior to the commencement of work, the applicant must provide a temporary on-site toilet if access to existing toilets on site is not adequate.
- 6) A sign shall be displayed on the site indicating the name of the person responsible for the site and a telephone number of which that person can be contacted during and outside normal working hours or when the site is unattended.
- 7) A sign must be erected in a prominent position on any site on which demolition work is being carried out:
  - a) showing the name of the principal contractor (if any) for any demolition work and a telephone number on which that person may be contacted outside working hours, and
  - b) stating that unauthorised entry to the work site is prohibited.

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

- 8) The developer is to notify adjoining residents seven working days prior to demolition. Such notification is to be clearly written on A4 size paper giving the date demolition will commence and be placed in the letterbox of every premises (including every



residential flat or unit, if any) either side, immediately at the rear of, and directly opposite the demolition site.

- 9) Written notice is to be given to Canterbury-Bankstown Council for inspection prior to demolition. Such written notice is to include the date when demolition will commence and details of the name, address, business hours and contact telephone number and licence number of the demolisher. The following building inspections shall be undertaken by Canterbury-Bankstown Council:
  - a) A *precommencement* inspection shall be carried out by Council when all the site works required as part of this consent are installed on the site and prior to demolition commencing.
- 10) Prior to demolition, the applicant must erect a sign at the front of the property with the demolisher's name, license number, contact phone number and site address.
- 11) Prior to demolition, the applicant must erect a 2.4m high temporary fence or hoarding between the work site and any public place. Access to the site shall be restricted to Authorised Persons Only and the site shall be secured against unauthorised entry when the building work is not in progress or the site is otherwise unoccupied. Where demolition is to occur within 3m of a public place a Work Permit application for the construction of a Class A or Class B hoarding shall be submitted to Council for approval.
- 12) Suitable erosion and sediment control measures shall be erected prior to the commencement of demolition works and shall be maintained at all times.
- 13) Prior to the demolition of any building constructed before 1970, a Work Plan shall be prepared and submitted to Council in accordance with Australian Standard AS2601-2001 by a person with suitable expertise and experience. The Work Plan shall outline the identification of any hazardous materials, including surfaces coated with lead paint, method of demolition, the precautions to be employed to minimise any dust nuisance and the disposal methods for hazardous materials.
- 14) The demolition plans must be submitted to the appropriate Sydney Water Office to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements. If the development complies with Sydney Water's requirements, the demolition plans will be stamped indicating that no further requirements are necessary.

## **CONDITIONS TO BE SATISFIED DURING DEMOLITION**

- 15) Demolition is to be carried out in accordance with the appropriate provisions of Australian Standard AS2601-2001.
- 16) The hours of demolition work shall be limited to between 7.00am and 6.00pm on weekdays, 7.00am and 1.00pm on Saturdays and no work shall be carried out on



Sundays and public holidays, and weekends (Saturdays and Sundays) adjacent to public holidays.

- 17) Where materials containing asbestos cement are to be removed, demolition is to be carried out by licensed contractors who have current Workcover Accreditation in asbestos removal.
- 18) Hazardous or intractable wastes arising from the demolition process shall be removed and disposed of in accordance with the requirements of WorkCover NSW and the NSW EPA 'Environmental Guidelines: Assessment, Classification and Management of Liquid and Non-Liquid Wastes 2004'.
- 19) Demolition procedures shall maximise the reuse and recycling of demolished materials in order to reduce the environmental impacts of waste disposal.
- 20) During demolition, the public footway and public road shall be clear at all times and shall not be obstructed by any demolished material or vehicles. The public road and footway shall be swept (NOT hosed) clean of any material, including clay, soil and sand. (NOTE: If required, Council will clean the public road/footway at the applicant's expense). On the spot fines may be levied by Council against the demolisher and or owner for failure to comply with this condition.
- 21) All vehicles leaving the site with demolition materials shall have their loads covered and vehicles shall not track soil and other material onto the public roads and footways and the footway shall be suitably protected against damage when plant and vehicles access the site. All loading of vehicles with demolished materials shall occur on site.
- 22) The burning of any demolished material on site is not permitted and offenders will be prosecuted.
- 23) Care shall be taken during demolition to ensure that existing services on the site (ie. sewer, electricity, gas, phone) are not damaged. Any damage caused to existing services shall be repaired by the relevant authority at the applicant's expense.
- 24) All excavations and backfilling must be executed safely and in accordance with the relevant Australian Standards.
- 25) If soil conditions require it, retaining walls or other approved methods of preventing movement of the soil must be provided, and adequate provisions must be made for drainage. Separate approval may be required for retaining walls should they be required.
- 26) If the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

- a) protect and support the adjoining premises from possible damage from the excavation, and
  - b) where necessary, underpin the adjoining premises to prevent any such damage.
- 27) Prior to the commencement of work, the builder shall prepare a photographic record of the road reserve which clearly shows its condition prior to works occurring on site. For the entirety of demolition, subdivision or construction works, there shall be no stockpiling of building spoil, materials, or storage of equipment on the public road, including the footway and the road reserve shall be maintained in a safe condition at all times. No work shall be carried out on the public road, including the footway, unless a Work Permit authorised by Council has been obtained.
- 28) A *final* inspection shall be carried out by Council when the demolition works have been completed to ensure that the site is left in a satisfactory manner, in accordance with the conditions of this consent. A clearance certificate from a suitably qualified individual shall be provided prior to all final inspection certifications issued.

**NOTE:** Payment of an inspection fee at Council's current rate will be required prior to each inspection. Council requires 24 hours notice to carry out inspections. Arrangements for inspections can be made by phoning **9707 9410** or **9707 9635**.

-END-

---

## Canterbury Bankstown Local Planning Panel - 19 November 2018

---

### ITEM 7                      Planning Proposal - 353-355 Waterloo Road Greenacre (Chullora Marketplace)

**AUTHOR**                      Planning

### **PURPOSE AND BACKGROUND**

---

Council is in receipt of an application to prepare a planning proposal for the site at 353–355 Waterloo Road Greenacre, known as the Chullora Marketplace. The application seeks to increase the maximum building height from 11 metres (three storeys) to 14–20 metres (four–six storeys), and to rezone the site at 353 Waterloo Road to Zone B2 Local Centre.

Council’s assessment indicates the proposal has strategic merit subject to implementing the recommendations of an urban design peer review. The assessment also identifies the need for additional information as part of the Gateway process to manage the likely effects of the proposal, namely a Social Impact and Community Needs Assessment, revised Traffic Study for the purposes of consultation with the Roads & Maritime Services, Heritage Study and Economic Impact Study.

### **ISSUE**

---

In accordance with the Local Planning Panel’s Direction, the Panel is requested to recommend whether a planning proposal for the site at 353–355 Waterloo Road Greenacre should proceed to Gateway.

### **RECOMMENDATION** That -

---

1. The application to amend Bankstown Local Environmental Plan 2015 should proceed to Gateway subject to the following:
  - (a) For the site at 353 Waterloo Road Greenacre:
    - (i) Rezone the site to Zone R2 Low Density Residential.
    - (ii) Permit a maximum 1:1 FSR for the site. Within the 1:1 FSR envelope, apply a maximum 0.65:1 FSR for the purposes of residential development.
    - (iii) Permit a maximum building height of 14 metres (four storeys).
    - (iv) Do not apply the Lot Size Map as the Lot Size Map does not apply to Zone B2 Local Centre.
  - (b) For site at 355 Waterloo Road Greenacre:
    - (i) Apply a maximum 0.65:1 FSR for the purposes of residential development, while retaining the existing 1:1 FSR for the site.
    - (ii) Permit a maximum height of 11 metres (three storeys) along the southern

boundary, 14 metres (four storeys) along the eastern and western boundaries, and 20 metres (six storeys) for the remainder of the site, as shown in Figure 11 of this report.

2. The Gateway process should require the following additional information:
  - (a) Social Impact and Community Needs Assessment
  - (b) Heritage Study for the site at 355 Waterloo Road Greenacre
  - (c) Revised Traffic Study for the purposes of consultation with the Roads & Maritime Services
  - (d) Economic Impact Study to analyse potential impacts on the Greenacre Small Village Centre as a result of the proposal.
3. Council should seek authority from the Greater Sydney Commission to exercise the delegation in relation to the plan making functions under section 3.36(2) of the Environmental Planning & Assessment Act 1979.
4. Council prepare a site specific DCP Amendment.

## **ATTACHMENTS**

---

- A. Assessment Findings

## **POLICY IMPACT**

---

This matter has no policy implications for Council.

## **FINANCIAL IMPACT**

---

At this stage, this matter has no financial implications for Council.

## **COMMUNITY IMPACT**

---

The application indicates possible public domain improvements to be undertaken by the proponent, including the upgrade of the playground at Norfolk Reserve and a pedestrian crossing on the northern side of the Norfolk Road / Waterloo Road intersection.

This report identifies the need for a Social Impact and Community Needs Assessment prior to finalising an assessment of the public benefits. Council may need a mechanism with the proponent to deliver the public benefits in a timely manner. This may involve a planning agreement to legally capture the public benefits. If a planning agreement is required, it would be separately reported to Council.

## DETAILED INFORMATION

---

### SITE DESCRIPTION

The site at 353–355 Waterloo Road Greenacre comprises the Chullora Marketplace shopping centre as shown in Figures 1 and 2.

Property Address	Property Description	Current Zone	Site area
353 Waterloo Road	Lot 9, DP 10945	Zone R2 Low Density Residential	696m <sup>2</sup>
355 Waterloo Road	Lot 41, DP 1037863	Zone B2 Local Centre	56,304m <sup>2</sup>

The Chullora Marketplace shopping centre at 355 Waterloo Road is within Zone B2 Local Centre under Bankstown Local Environmental Plan 2015. The shopping centre is single storey (24,600m<sup>2</sup> floor area) with on-site parking for approximately 860 cars (at-grade and basement car parks). The site at 353 Waterloo Road contains a dwelling house.

The shopping centre is a local heritage item of archaeological significance. Certain parts of the site are located within the medium stormwater flood risk precinct.

The site adjoins the Malik Fayed Islamic School to the north, low density residential development to the south, and Norfolk Reserve to the east. According to Council's Community Land Generic Plan of Management, Norfolk Reserve contains endangered ecological communities. The southern edge of the reserve contains a playground and allows for informal pedestrian access to the shopping centre from the surrounding residential streets.

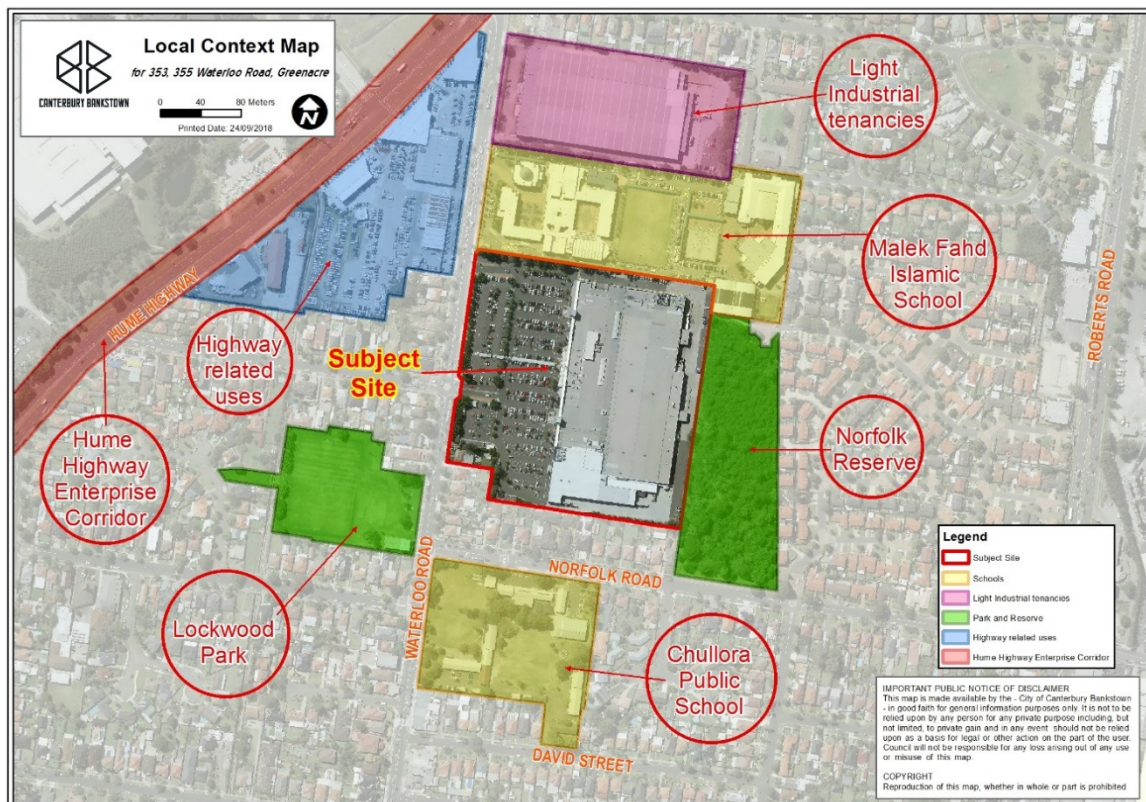
In relation to local context, the nearby Greenacre Small Village Centre is located approximately 2km south of the site. The site is serviced by bus services, with connections to Bankstown and Liverpool.



Figure 1: Site Map

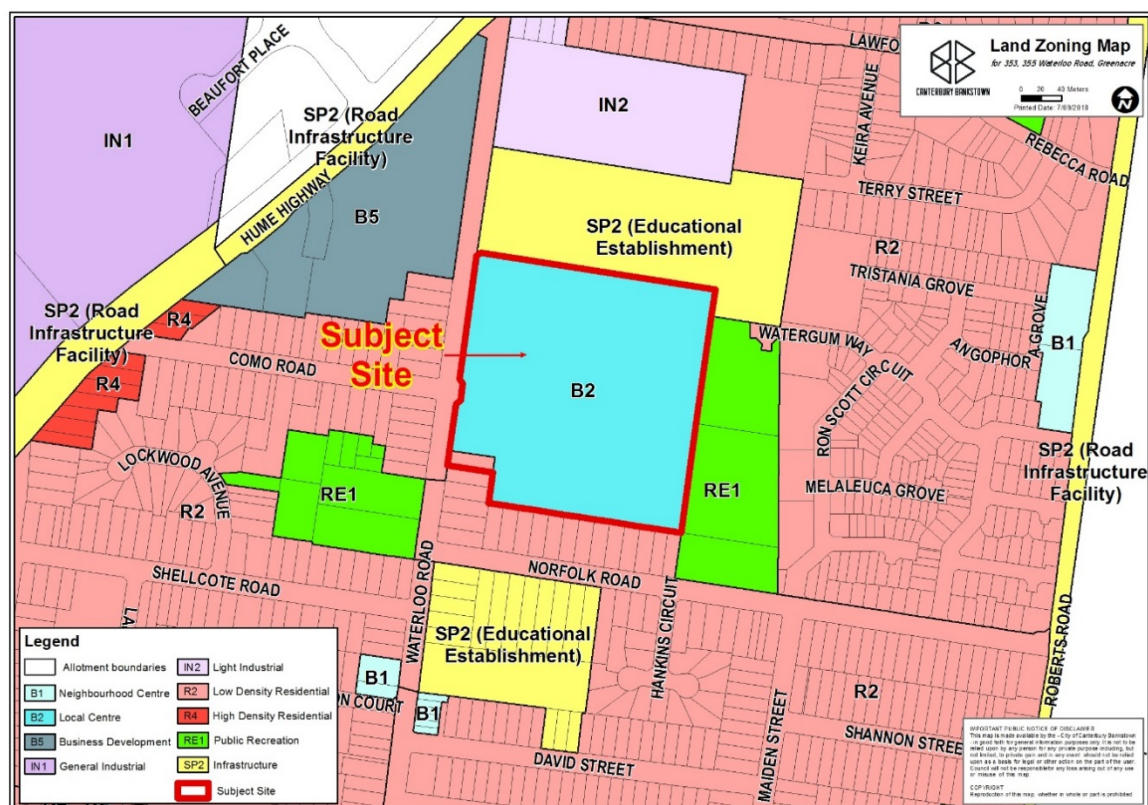


Figure 2: Locality Map





**Figure 3: Existing Zoning Map**



## PROPOSAL

In May 2018, Council received an application from Henroth Pty Limited (proponent) to amend Bankstown Local Environmental Plan 2015 as follows:

353 Waterloo Road	Current controls	Proposed controls
Zone	R2 Low Density Residential	B2 Local Centre
Maximum FSR	0.5:1	1:1
Maximum building height	9 metres (2 storeys)	14 metres (4 storeys)
Minimum subdivision lot size	450m <sup>2</sup>	Do not apply the Lot Size Map as the Lot Size Map does not apply to Zone B2 Local Centre
355 Waterloo Road	Current controls	Proposed controls
Maximum building height	11 metres (3 storeys)	14–20 metres (4–6 storeys)

The application includes a planning proposal report, urban design report and traffic review study. These documents have been provided to the Local Planning Panel.

The concept plan proposes mixed use development (3–6 storeys), with shop top housing and associated parking (1,294 spaces) within podium levels (refer to Figures 4 and 5). The key feature is a central piazza with active frontages to enhance a ‘sense of place’ and provide community space.

The intended outcome of the concept plan states: *the vision for the proposal is to transform the existing stand-alone, inwardly oriented shopping precinct into a true, and integrated*

*local centre which provides a well-balanced scale and mix of development with an active, attractive and publicly accessible plaza at the primary frontage.*

**Figure 4—Concept plan and new central piazza viewed from Waterloo Road**



**Figure 5—Revised concept plan (GMU, August 2018)**

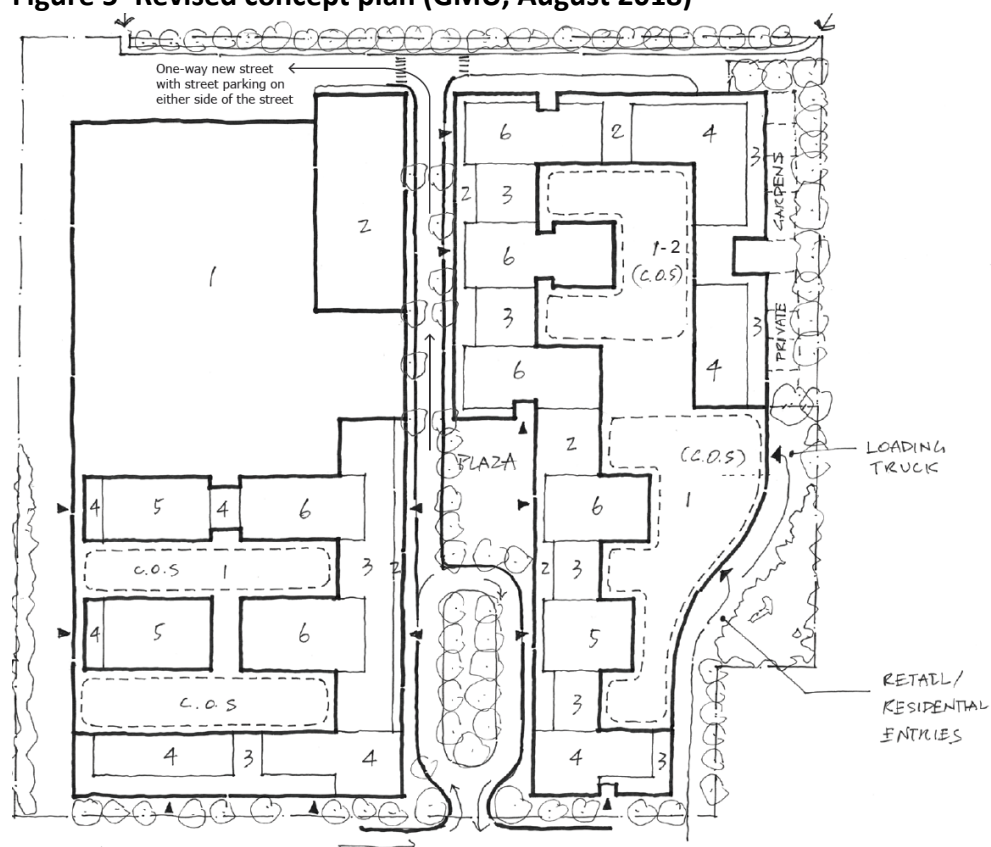




Figure 6: Existing Floor Space Ratio

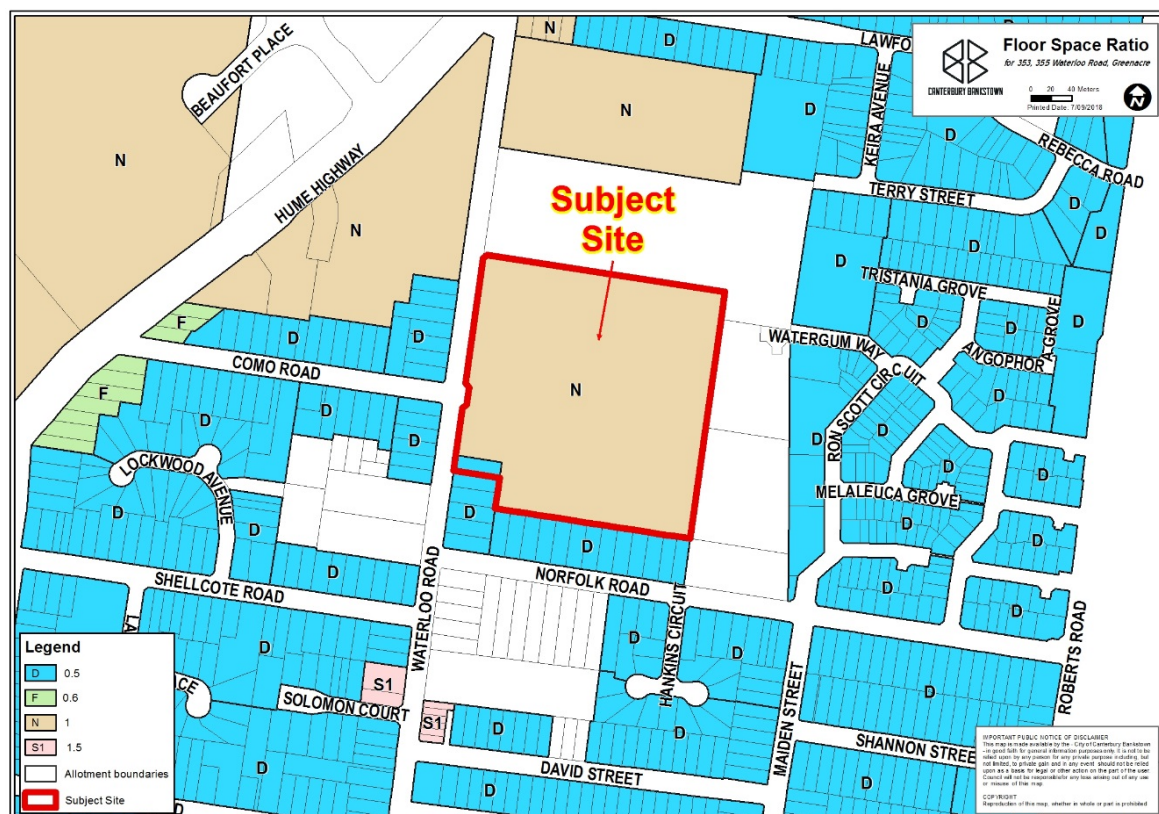


Figure 7: Application's Proposed Floor Space Ratio

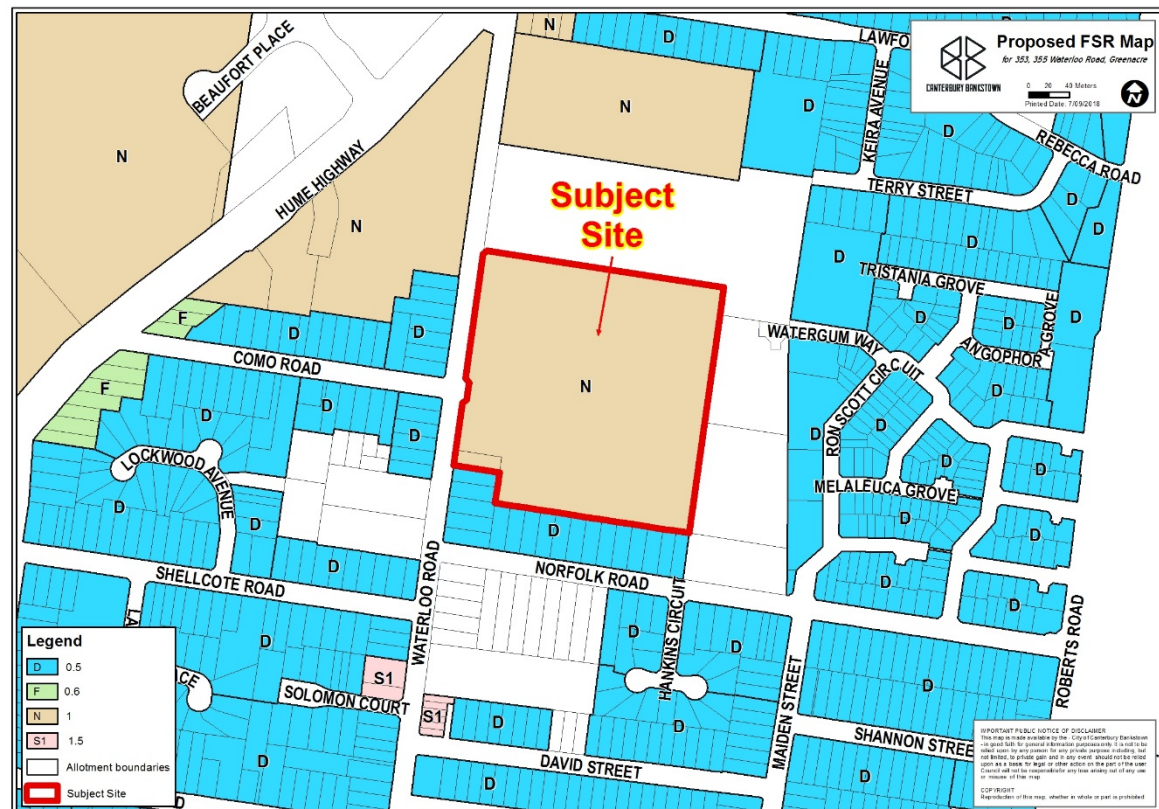




Figure 8: Existing Building Heights

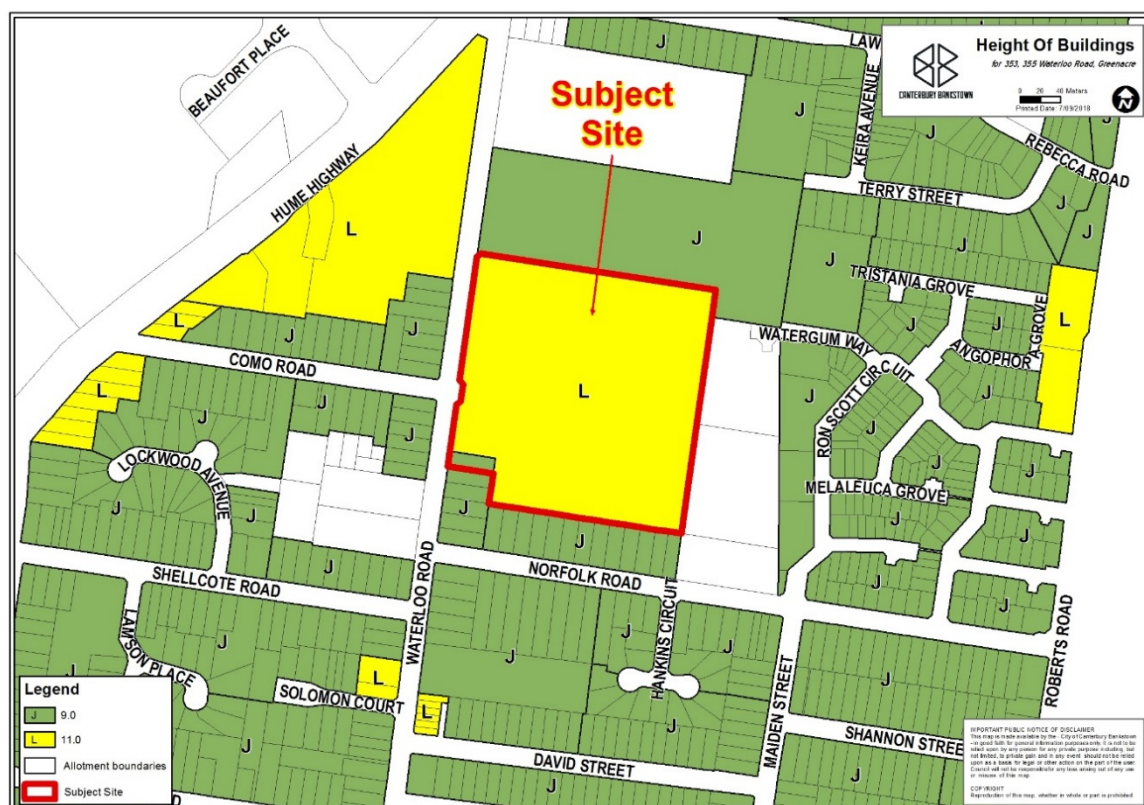
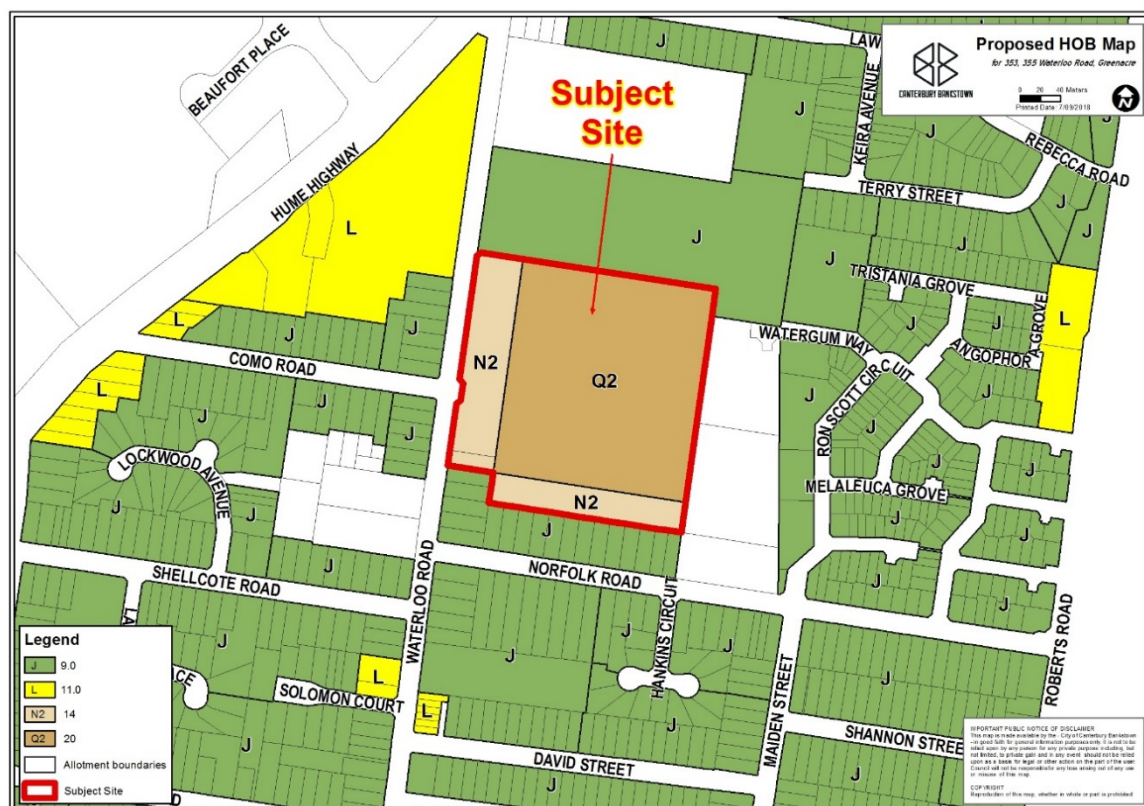


Figure 9: Application's Proposed Building Heights



## CONSIDERATIONS

Based on the Environmental Planning & Assessment Act 1979 and the Department of Planning & Environment's guidelines, the following key policies are relevant to Council's assessment of the application:

- Greater Sydney Region Plan
- South District Plan
- Council's North East Local Area Plan
- Department of Planning and Environment's publications: *A Guide to Preparing Local Environmental Plans* and *A Guide to Preparing Planning Proposals*.

State Environmental Planning Policy No. 65 (Design Quality of Residential Apartment Development), Apartment Design Guide, NSW Government Architect's Better Placed Policy and the Ministerial Directions also require the proposal to be of good design. On this basis, Council commissioned an independent specialist to undertake an urban design peer review consistent with the above state policies, and to recommend an appropriate building envelope for the site.

## SUMMARY

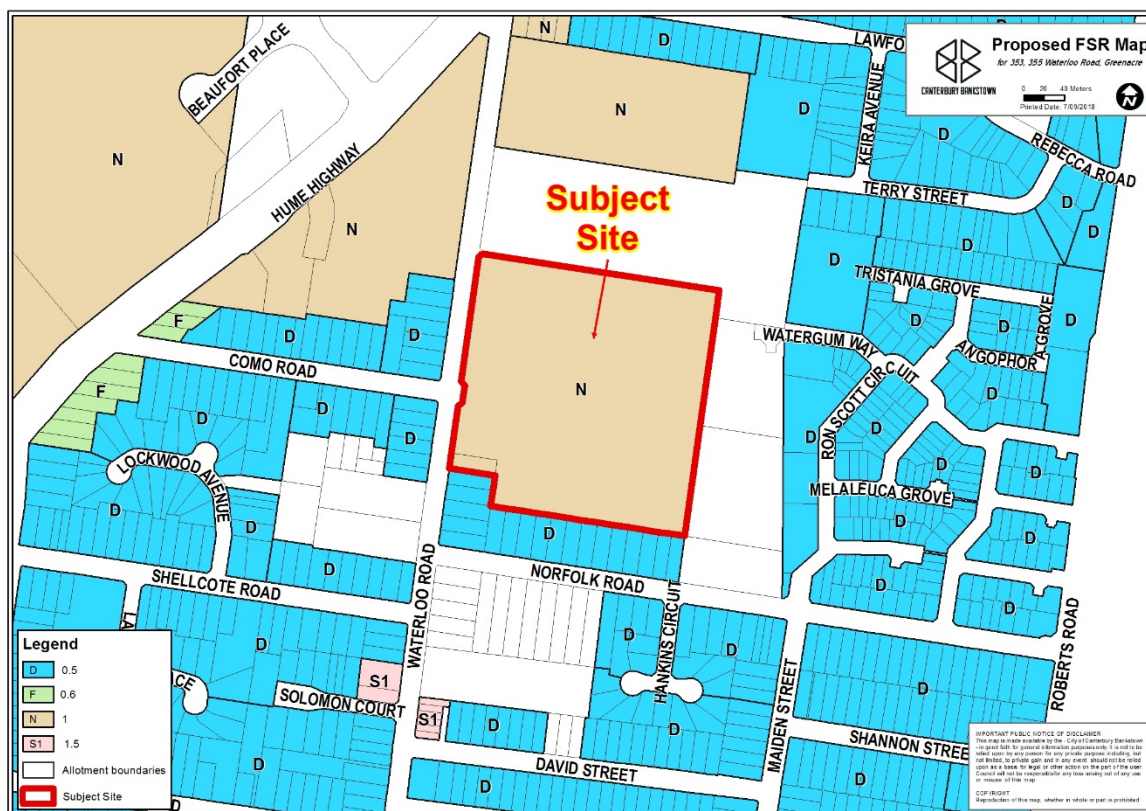
Council's assessment considers the proposal has strategic merit subject to implementing the recommendations of the urban design peer review as follows (refer to Figures 10 and 11):

<b>353 Waterloo Road</b>	<b>Current controls</b>	<b>Recommended controls (urban design peer review)</b>
Zone	R2 Low Density Residential	B2 Local Centre
Maximum FSR	0.5:1	1:1, including a maximum floor space ratio of 0.65:1 for the purposes of residential development
Maximum building height	9 metres (2 storeys)	14 metres (4 storeys)
Minimum subdivision lot size	450m <sup>2</sup>	Do not apply the Lot Size Map as the Lot Size Map does not apply to Zone B2 Local Centre
<b>355 Waterloo Road</b>	<b>Current controls</b>	<b>Recommended controls (urban design peer review)</b>
Maximum building height	11 metres (3 storeys)	11–20 metres (3–6 storeys)
Maximum FSR	1:1	1:1, including a maximum floor space ratio of 0.65:1 for the purposes of residential development

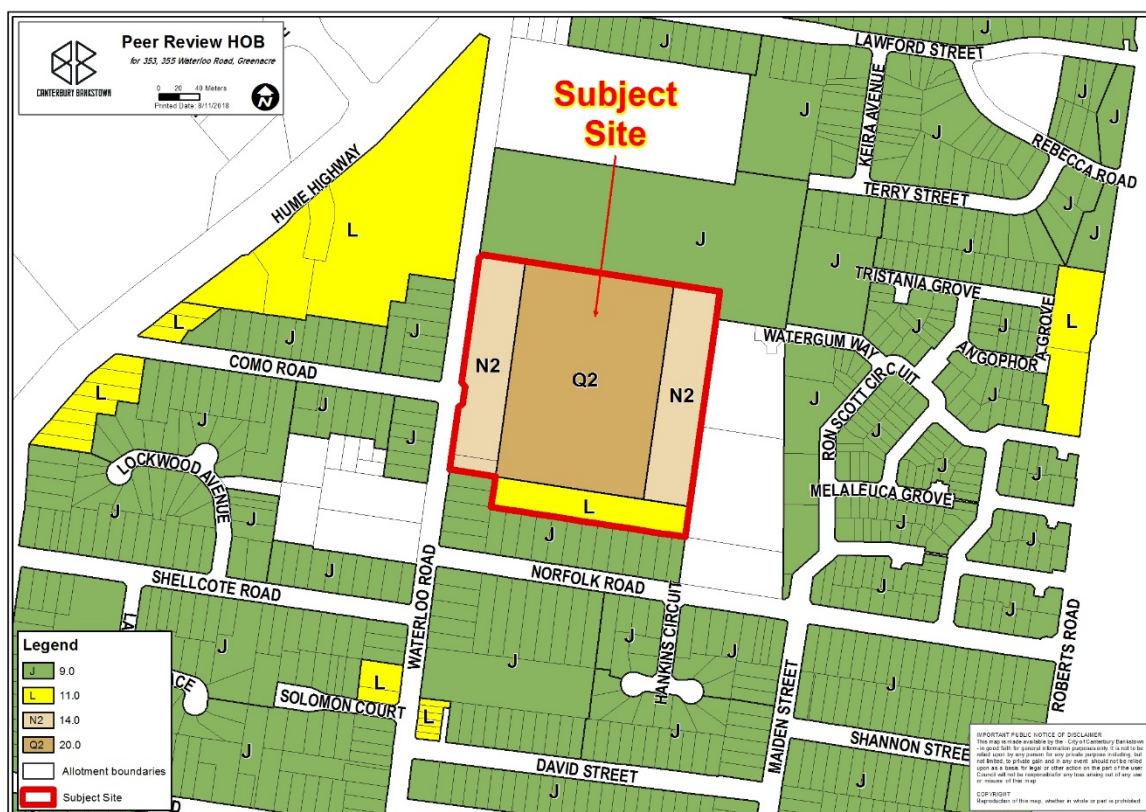
The Assessment Findings are shown in Attachment A and the urban design peer review is shown in Attachment B.



**Figure 10–Recommended Floor Space Ratio Map (1:1, including a maximum floor space ratio of 0.65:1 for the purposes of residential development)**



**Figure 11–Recommended Height of Buildings Map**



## ASSESSMENT

### Urban Design Peer Review

The key findings of the urban design peer review are:

#### Providing a built form that is compatible with the surrounding context

The concept plan proposes 3–4 storeys along the southern boundary. The urban design peer review identifies the potential for the proposed building height to result in overshadowing and privacy impacts to the low density residential development along the southern boundary. The proposed building height may also result in overshadowing of the Norfolk Reserve, which contains ecologically endangered species.

The urban design peer review recommends maintaining the current 11 metre building height (three storeys) along the southern boundary to minimise the potential amenity impacts on the low density residential development to the south. The urban design peer review also recommends a 14 metre building height (four storeys) along the eastern and western boundaries to protect sensitive land uses. The remainder of the site may achieve a building height of 20 metres (six storeys).

The urban design peer review tested the proposed building envelope and considers that it would achieve a similar floor area as the application's revised concept plan.

#### Enforcing the commercial function of the local centre

The South District Plan identifies Chullora as a local centre based on the centre's primary role to provide employment, goods and services.

The application is considered to be inconsistent with the objectives of the local centre as the proposal is predominantly residential in nature, and seeks the following scenario:

- Residential uses = 37,000m<sup>2</sup> (equivalent to 0.65:1 FSR)
- Commercial uses = 18,000m<sup>2</sup> (equivalent to 0.35:1 FSR)

Based on the urban design peer review, the residential uses would dominate the proposed built form and may result in amenity impacts such as overshadowing and privacy loss to adjoining low density residential development.

To ensure that the residential uses do not dominate the site, the urban design peer review tested the built form. Within the 1:1 FSR envelope, the urban design peer review recommends setting a maximum floor space ratio of 0.65:1 for the purposes of residential development. This would result in the following approximate floor areas: 34,000m<sup>2</sup> of residential use (0.6:1 FSR) and at least 23,000m<sup>2</sup> of commercial use (0.4:1 FSR).

The proposed FSR changes would result in a similar yield to the application's revised concept plan and would provide an assurance that the site would not be dominated by residential uses in the future. This is important to fulfil the strategic vision of the Chullora Marketplace site as a local centre.



## Other Considerations

### Archaeological significance of the site

Bankstown Local Environmental Plan 2015 lists the site at 355 Waterloo Road in Greenacre as an archaeological site. The statement of heritage significance states:

*The former Liebenritt Pottery site is historically significant as the location of one of metropolitan Sydney's foremost and influential potteries producing clay products for the building industry.*

*Historically the site is of state significance for this reason. Part of the site was the location of one of Sydney's first drive in theatres, which opened in December 1956. The site is associated with the Liebenritt family, significant pottery manufacturers from the middle of the nineteenth century through to the second half of the twentieth century. The site is almost certain to contain relics and evidence from the time of Liebenritt's pottery making activities. It is considered to be relatively rare in terms of its archaeological potential and is considered to have been representative of pottery manufacturing sites during the second half of the nineteenth century and into the twentieth century.*

The assessment indicates the need for a heritage study to assess the potential impacts of the proposal on the heritage significance of the site, consistent with the Ministerial Directions.

### Public benefits analysis

The application indicates possible public domain improvements to be undertaken by the proponent, including the upgrade of the playground at Norfolk Reserve and a pedestrian crossing on the northern side of the Norfolk Road / Waterloo Road intersection.

Prior to finalising an assessment of the public benefits, the assessment identifies the need for:

- A Social Impact and Community Needs Assessment to investigate social infrastructure needs arising from the proposal.
- A revised traffic study for the purposes of consultation with the Roads & Maritime Services, consistent with the State Environmental Planning Policy (Infrastructure) 2007. The traffic study may identify additional infrastructure improvements based on the anticipated traffic to be generated by the development on the site.

Subject to the findings of the Social Impact and Community Needs Assessment and revised traffic study, Council may need a mechanism with the proponent to deliver the public benefits in a timely manner. This may involve a planning agreement to legally capture the public benefits. If a planning agreement is required, it would be separately reported to Council.

### Economic impact analysis

The North East Local Area Plan identifies the Greenacre Small Village Centre as the primary centre serving the North East Local Area. On this basis, the assessment identifies the need for an economic impact study to ensure the proposal does not impact on the role of the Greenacre Small Village Centre within the centres hierarchy.

## ATTACHMENT A–Assessment Findings

Attachment A outlines the assessment findings and is based on the justification matters as set out by the Department of Planning & Environment.

### 1. Strategic Merit Test

Section 1 assesses the proposal based on the Department of Planning & Environment's Strategic Merit Test as outlined in the Department's publication *A Guide to Preparing Local Environmental Plans*. The intended outcome is to determine whether a proposal demonstrates strategic and site specific merit to proceed to the Gateway. A proposal that seeks to amend controls that are less than 5 years old will only be considered where it clearly meets the Strategic Merit Test.

#### 1.1 Is the proposal consistent with the relevant district plan within the Greater Sydney Region, or corridor / precinct plans applying to the site, including any draft regional, district or corridor / precinct plans released for public comment?

##### 1.1.1 Greater Sydney Region Plan (*A Metropolis of Three Cities*)

	Consistent
<p><b>Proponent's Submission:</b> The Greater Sydney Region Plan - <i>A Metropolis of Three Cities</i> was released in March 2018 and is the first Region Plan prepared by the Greater Sydney Commission.</p> <p>Consistency with the Greater Sydney Region Plan (the Region Plan) is outlined below:</p> <p><b>A City for People:</b> <i>The PP will facilitate the proposed concept which will importantly provide a communal gathering space within the civic plaza. This part of the concept proposal will assist in achieving objectives 6, 7 and 8. It will provide a meeting place for the local community to feel socially connected and a clear physical space to create a true "sense of place" for the town centre. The plaza will also provide an opportunity for the rich and diverse surrounding neighbourhoods to be celebrated through public art etc. This can be explored further in detailed design. This is not achievable under current height controls.</i></p> <ul style="list-style-type: none"> <li>• <i>Objective 6: Services and infrastructure meet communities' changing needs;</i></li> <li>• <i>Objective 7: Communities are healthy, resilient and socially connected;</i></li> <li>• <i>Objective 8: Greater Sydney's communities are culturally rich with diverse neighbourhoods.</i></li> </ul> <p><b>Housing the City:</b> <i>The PP will facilitate the proposed concept which proposes a mix of uses including residential accommodation to support objective 10, which is to provide a greater housing supply.</i></p>	<p>Yes, subject to implementing the recommendations of the urban design peer review, and Heritage Study.</p>

**A City of Great Places:** The PP will facilitate the proposed concept which includes dwellings within the B2 local centre, consistent with the metrics of this direction. The proposed concept also includes the public plaza which has the ability to provide a place within the local centre that "brings people together".

**A Well-Connected City:** The site is well connected to the road network and bus services.

**Jobs and Skills for the City:** The PP will facilitate the proposed concept which will strengthen and consolidate existing employment opportunities from the site. Furthermore, the concept will provide housing on the site which is located within close proximity to a number of nearby employment hubs, thereby improving opportunities to reduce travel time to work.

**A City in its Landscape:** The PP will facilitate the proposed concept and seeks to enhance the quality of landscaping on the site and particularly, within the proposed public plaza. The proposed concept also seeks to improve the interface of the development with the adjacent reserve, which will support objective 31 of this Direction.

*Objective 31: Public open space is accessible, protected and enhanced.*

**Council's Assessment:** The proposal is generally consistent with the Greater Sydney Region Plan.

Objective 10—Provide ongoing housing supply close to jobs

According to Objective 10, the ongoing housing supply and a range of housing types in the right location will create more liveable neighbourhoods. The objective requires the delivery of new housing in the right location with local infrastructure.

The Region Plan identifies Chullora as a local centre which is well connected to the road network and bus services. Council's investigations identify that the site's potential on bringing homes close to jobs must be realised through good design and supporting infrastructure for the future population.

Whilst managing the future demands of the communities, the Region Plan also requires local centres to protect the commercial floor space to retain the centre's primary role to provide employment, goods and services.

To ensure that the residential uses do not dominate the site, the urban design peer review tested the built form. Within the 1:1 FSR envelope, the urban design peer review recommends setting a maximum floor space ratio of 0.65:1 for the purposes of residential development. This would result in the following approximate floor areas: 34,000m<sup>2</sup> of residential use (0.6:1 FSR) and at least 23,000m<sup>2</sup> of commercial use (0.4:1 FSR).

The proposed FSR changes would result in a similar yield to the

application's revised concept plan and would provide an assurance that the site would not be dominated by residential uses in the future. This is important to fulfil the strategic vision of the Chullora Marketplace site as a local centre.

Objective 13–Environmental heritage is identified, conserved and enhanced

Bankstown Local Environmental Plan 2015 lists the site at 355 Waterloo Road in Greenacre as an archaeological site. The assessment indicates the need for a heritage study to assess the potential impacts of the proposal on the heritage significance of the site, consistent with this objective.

### 1.1.2 South District Plan

	Consistent
<p><b>Proponent's Submission:</b> The South District Plan identifies Chullora as a <i>Local Centre</i>. The Plan supports that place- based planning for centres should include a focus on open space and public realm, provision of residential development within walking distance of the centre, and expansion of employment opportunities.</p> <p>Consistency with the Plan is shown below:</p> <ul style="list-style-type: none"> <li>• <u>PP S4 - fostering healthy, creative, culturally rich and socially connected communities:</u> The PP will facilitate a civic plaza to draw the community into the local centre and to promote opportunities for street activation.</li> <li>• <u>PP S5 - providing housing supply, choice and affordability, with access to jobs, services and public transport:</u> The PP will facilitate additional housing and the mix in the local town centre with easy access to jobs.</li> <li>• <u>PP S6 - creating and renewing great places and local centres and respecting the District's heritage:</u> The PP will facilitate a well-designed built environment with publicly accessible plaza which will assist in the success of the site. The heritage significance of the site can be assessed and adequately addressed in any future development of the site.</li> <li>• <u>PP S9 - growing investment, business opportunities and jobs in strategic centres:</u> The PP will support co-location of residential and employment opportunities. The inclusion of plaza will provide a safe, vibrant quality public space within a private development.</li> <li>• <u>PP S17 - Reducing carbon emissions and managing energy, water and waste efficiently:</u> Future development will incorporate Ecologically Sustainable Development (ESD) principles to maximise solar orientation, natural ventilation and on-site stormwater detention.</li> </ul> <p><b>Council's Assessment:</b> The proposal is generally consistent with the following planning priorities and actions of South District Plan.</p>	<p>Yes, subject to implementing the recommendations of the urban design peer review, and Heritage Study.</p>

Planning Priority S5—Providing housing supply, choice and affordability, with access to jobs and service

According to Planning Priority S5, housing supply and choice in right location will create more liveable neighbourhoods. The above planning priority requires housing supply to be linked to local infrastructure and jobs.

The District Plan identifies Chullora as a local centre which is well connected to the road network and bus services. Council's investigations identify that the site's potential on bringing *homes close to jobs* must be realised through good design and infrastructure provisions for the future communities.

Whilst managing the future demands of the communities, the District Plan also requires local centres to protect/expand commercial floor space to enhance the centre's primary role to provide employment, goods and services.

Council commissioned an urban design peer review of the proposal. The review recommended the following changes to Council's built form controls applying to the site:

<b>353 Waterloo Road</b>	<b>Current controls</b>	<b>Recommended controls (urban design peer review)</b>
Zone	R2 Low Density Residential	B2 Local Centre
Maximum FSR	0.5:1	1:1, including a maximum floor space ratio of 0.65:1 for the purposes of residential development
Maximum building height	9 metres (2 storeys)	14 metres (4 storeys)
Minimum subdivision lot size	450m <sup>2</sup>	Do not apply the Lot Size Map as the Lot Size Map does not apply to Zone B2 Local Centre
<b>355 Waterloo Road</b>	<b>Current controls</b>	<b>Recommended controls (urban design peer review)</b>
Maximum building height	11 metres (3 storeys)	11–20 metres (3–6 storeys)
Maximum FSR	1:1	1:1, including a maximum floor space ratio of 0.65:1 for the purposes of residential development

Planning Priority S6—Creating and renewing great places and respecting the District's heritage

Bankstown Local Environmental Plan 2015 lists the site at 355 Waterloo Road in Greenacre as an archaeological site. The assessment indicates the need for a heritage study to assess the potential impacts of the proposal on the heritage significance of the site, consistent with this planning priority.

## 1.2 Is the proposal consistent with a relevant local strategy that has been endorsed by the Department?

### 1.2.1 North East Local Area Plan

	Consistent
<p><b>Proponent's Submission:</b> Consistency with the North East Local Area Plan is shown below.</p> <p><u>L3 Maintain the Neighbourhood Character of the Chullora Marketplace Precinct</u></p> <p>The subject PP does not seek to change the primary zoning of the land (exception for a small residential lot which forms part of the site). Whilst the overall height proposed under the subject PP is greater than the mentioned three storeys, the concept developed demonstrates a well-balanced built form which does not adversely impact the surrounding neighbourhood and provides a material public benefit in the provision of a plaza at the primary frontage of the site.</p> <p>Specifically, we note that the lower buildings are to be located along the southern interface of the development with the highest parts (which are still modest at 5/6 storeys) are centrally located within the site and not highly visible from surrounding areas. (City Plan , p33)</p> <p><u>L7 Lead the Way with Better Standards of Building Design</u></p> <p>Fundamental to the success of the subject local centre and Precinct is the creation of an active street frontage along Waterloo Road. The proposed public plaza and varied built forms on the site will achieve this outcome.</p> <p><b>Council's Assessment:</b> The proposal is inconsistent with the North East Local Area Plan (Action L3), which seeks to maintain the neighbourhood character of the Chullora Marketplace site.</p> <p>According to Action L3, the site has a small-scale commercial atmosphere which is compatible with the surrounding low density neighbourhood area. It is recommended to maintain the low density character (3 storey limit) to maintain the prevailing suburban neighbourhood character in keeping with the amenity and infrastructure capacity of this site. The Local</p>	No



<p>Area Plan identifies Greenacre and Punchbowl as the local centres supporting the local area.</p> <p>Whilst the proposal is inconsistent with the North East Local Area Plan, it is noted the Greater Sydney Region Plan and South District Plan have resulted in a change of circumstances by identifying the site as a local centre. This change provides the opportunity to apply a place-based planning approach to the future development of the site provided it meets the key aspects of good design and the delivery of enabling infrastructure.</p>	
--	--

**1.3 Is the proposal responding to a change in circumstances, such as the investment in new infrastructure or changing demographic trends that have not been recognised by existing planning controls?**

	Complies
<p><b>Proponent's Submission:</b> The change in circumstance in this particular instance relates to the desire by the landowner to achieve a better planning outcome for the site, through inclusion of the plaza. This may only be viably achieved through a redistribution of the existing maximum GFA across the site. In addition, the viability of the local centre as a traditional retail-only centre including a large discount department store and 'sea' of at grade car parking, is declining. This PP facilitates a mixed use local centre within an active and open landscaped setting and is therefore more consistent with contemporary trends in place making.</p> <p><b>Council's Assessment:</b> The Greater Sydney Region Plan and the South District Plan identify Chullora as a local centre, which is a change in circumstances. This change provides the opportunity to apply a place-based planning approach to the future development of the site provided it meets the key aspects of good design and the delivery of enabling infrastructure.</p>	Yes

**1.4 Does the proposal have regard to the natural environment (including known significant environmental values, resources or hazards)?**

	Complies
<p><b>Proponent's Submission:</b> The site is not known to contain any significant environmental values, resources or hazards. The site is adjacent to a public reserve which is heavily treed (Sydney Turpentine Ironbark Forest). Any DA for future works will address the potential impact of any development on this adjacent land and its natural environment. This is also the case with regard to the archaeological significance of the site. Future DA(s) will be accompanied by the required archaeological assessment(s) to ensure that any future works on the site do not result in any adverse impact on any archaeological heritage on the site.</p> <p><b>Council's Assessment:</b> The site adjoins the Norfolk Reserve to the east. According to Council's Community Land Generic Plan of Management,</p>	Yes, subject to implementing the recommendations of the urban design peer review.

Norfolk Reserve contains endangered ecological communities. The urban design peer review recommends a 14 metre building height (four storeys) along the eastern boundary to protect this sensitive area.

**1.5 Does the proposal have regard to the existing uses, approved uses and likely future uses of land in the vicinity of the land subject to a proposal?**

	Complies
<p><b>Proponent's Submission:</b> The PP has taken into consideration its surrounding context. It will not adversely impact any surrounding development (existing or proposed).</p> <p>The proposal presents a rare opportunity to redevelop a substantially sized site, in single ownership which comprises an entire local centre pursuant to the BLEP. Given the single ownership and size, there is an opportunity to incorporate a publicly accessible, private space in the form of a plaza at the primary street/centre frontage. Again, given the size of the site and scale of the development, there is an opportunity to carefully and better distribute GFA to achieve this outcome, without impacting on the surrounding uses.</p> <p><b>Council's Assessment:</b> The urban design peer review recommends maintaining the current 11 metre building height (three storeys) along the southern boundary to minimise the potential amenity impacts on the low density residential development to the south. The urban design peer review also recommends a 14 metre building height (four storeys) along the eastern and western boundaries to protect neighbouring sensitive land uses.</p>	<p>Yes, subject to implementing the recommendations of the urban design peer review.</p>

**1.6 Does the proposal have regard to the services and infrastructure that are or will be available to meet the demands arising from the proposal and any proposed financial arrangements for infrastructure provision?**

	Complies
<p><b>Proponent's Submission:</b> As no material increase in yield is proposed in this PP, we do not envisage there will be any unreasonable demand placed on services and infrastructure, beyond those already envisaged by the current zoning/permitted yield.</p> <p><b>Council's Assessment:</b> The application indicates possible public domain improvements to be undertaken by the proponent, including the upgrade of the playground at Norfolk Reserve and a pedestrian crossing on the northern side of the Norfolk Road / Waterloo Road intersection.</p> <p>Prior to finalising an assessment of the public benefits, the assessment identifies the need for:</p> <ul style="list-style-type: none"> <li>• A Social Impact and Community Needs Assessment to investigate social</li> </ul>	<p>Yes, subject to Social Impact and Community Needs Assessment and revised traffic study for the purposes of consultation with the Roads &amp; Maritime Services.</p>

<p>infrastructure needs arising from the proposal.</p> <ul style="list-style-type: none"> <li>• A revised traffic study for the purposes of consultation with the Roads &amp; Maritime Services, consistent with the State Environmental Planning Policy (Infrastructure) 2007. The traffic study may identify additional infrastructure improvements based on the anticipated traffic to be generated by the development on the site.</li> </ul> <p>Subject to the findings of the Social Impact and Community Needs Assessment and revised traffic study, Council may need a mechanism with the proponent to deliver the public benefits in a timely manner. This may involve a planning agreement to legally capture the public benefits. If a planning agreement is required, it would be separately reported to Council.</p>	
---	--

## 2. Planning Proposals–Justification Matters

Section 2 assesses the proposal based on the justification matters as outlined in the Department of Planning & Environment's publication *A Guide to Preparing Planning Proposals*. The intended outcome is to demonstrate whether there is justification for a proposal to proceed to the Gateway.

### 2.1 Is the planning proposal a result of any strategic study or report?

	Complies
<p><b>Proponent's Submission:</b> This PP is not as a direct result of a strategic study or report. The site is located within a local centre and a precinct clearly identified at a State and Local level as being of strategic importance.</p> <p><b>Council's Assessment:</b> The proposal is not the result of any strategic study or report.</p>	No

### 2.2 Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

	Complies
<p><b>Proponent's Submission:</b> If lodged as a development application under the current LEP building height standard, the redistribution of GFA across the site results in variations to the height standard that we consider may not satisfy the preconditions of Clause 4.6 of the BLEP.</p> <p><b>Council's Assessment:</b> The intended outcome of the proposal is to increase the building height for the site. The proposal to amend the Local Environmental Plan via the planning proposal is the most appropriate method for achieving the intended outcome.</p>	Yes

## 2.3 Is the planning proposal consistent with the objectives and actions of the applicable regional, subregional or district plan or strategy (including any exhibited draft plans or strategies)?

### 2.3.1 Greater Sydney Region Plan (*A Metropolis of Three Cities*)

	Consistent
<p><b>Proponent's Submission:</b> Refer to section 1.1 of this assessment.</p> <p><b>Council's Assessment:</b> The proposal is consistent with the Greater Sydney Region Plan for the reasons outlined in section 1.1 of this assessment.</p>	Yes, subject to implementing the recommendations of the urban design peer review.

### 2.3.2 South District Plan

	Consistent
<p><b>Proponent's Submission:</b> Refer to section 1.1 of this assessment.</p> <p><b>Council's Assessment:</b> The proposal is consistent with the South District Plan for the reasons outlined in section 1.1 of this assessment.</p>	Yes, subject to implementing the recommendations of the urban design peer review.

## 2.4 Is the planning proposal consistent with a council's local strategy or other local strategic plan?

### 2.4.1 CBCity 2028

			Consistent
<p><b>Proponent’s Submission:</b> No comment.</p> <p><b>Council’s Assessment:</b> The vision of Council’s Community Plan ‘CBCity 2028’ is to build a city that is ‘<i>thriving, dynamic and real</i>’. The ‘Liveable &amp; Distinctive’ Direction will achieve this by promoting a well–designed city that offers housing diversity and preserves the identity and character of local villages. ‘Prosperous &amp; Innovative’ Direction will achieve the vision by providing opportunities for economic and employment growth.</p> <p>To ensure good design and amenity, Council commissioned an urban design peer review of the proposal. The review recommends the following changes to Council’s built form controls applying to the site:</p>			Yes, subject to implementing the recommendations of the urban design peer review.
353 Waterloo Road	Current controls	Recommended controls (urban design peer review)	

Zone	R2 Low Density Residential	B2 Local Centre	
Maximum FSR	0.5:1	1:1, including a maximum floor space ratio of 0.65:1 for the purposes of residential development	
Maximum building height	9 metres (2 storeys)	14 metres (4 storeys)	
Minimum subdivision lot size	450m <sup>2</sup>	Do not apply the Lot Size Map as the Lot Size Map does not apply to Zone B2 Local Centre	
<b>355 Waterloo Road</b>	<b>Current controls</b>	<b>Recommended controls (urban design peer review)</b>	
Maximum building height	11 metres (3 storeys)	11–20 metres (3–6 storeys)	
Maximum FSR	1:1	1:1, including a maximum floor space ratio of 0.65:1 for the purposes of residential development	

#### 2.4.2 North East Local Area Plan

	<b>Consistent</b>
<b>Proponent's Submission:</b> Refer to section 1.2 of this assessment.  <b>Council's Assessment:</b> The proposal is inconsistent with the North East Local Area Plan for the reasons outlined in section 1.2 of this assessment.	No

#### 2.5 Is the planning proposal consistent with applicable State Environmental Planning Policies?

	<b>Consistent</b>
<b>State Environment Planning Policy No. 65–Design Quality of Residential Apartment Development</b>  <b>Proponent's Submission:</b> The accompanying Urban Design Report by GMU incorporates Urban Design Guidelines that demonstrate how the design quality principles of SEPP 65 and key guidelines of the Apartment Design Guide may be readily achieved by future development under the proposed controls in this PP.  <b>Council's Assessment:</b> State Environmental Planning Policy No. 65 (Design Quality of Residential Apartment Development), Apartment Design Guide,	Yes, subject to implementing the recommendations of the urban design peer review.

NSW Government Architect's Better Placed Policy and the Ministerial Directions require the proposal to be of good design.

On this basis, Council commissioned Architectus to undertake an urban design peer review consistent with the above state policies, and to recommend an appropriate building envelope for the site.

The review recommends the following changes to Council's built form controls applying to the site:

The review recommends the following changes to Council's built form controls applying to the site:

<b>353 Waterloo Road</b>	<b>Current controls</b>	<b>Recommended controls (urban design peer review)</b>
Zone	R2 Low Density Residential	B2 Local Centre
Maximum FSR	0.5:1	1:1, including a maximum floor space ratio of 0.65:1 for the purposes of residential development
Maximum building height	9 metres (2 storeys)	14 metres (4 storeys)
Minimum subdivision lot size	450m <sup>2</sup>	Do not apply the Lot Size Map as the Lot Size Map does not apply to Zone B2 Local Centre
<b>355 Waterloo Road</b>	<b>Current controls</b>	<b>Recommended controls (urban design peer review)</b>
Maximum building height	11 metres (3 storeys)	11–20 metres (3–6 storeys)
Maximum FSR	1:1	1:1, including a maximum floor space ratio of 0.65:1 for the purposes of residential development

**State Environment Planning Policy (Infrastructure) 2007**

**Proponent's Submission:** Not applicable.

**Council's Assessment:** The application indicates possible public domain improvements to be undertaken by the proponent, including the upgrade of the playground at Norfolk Reserve and a pedestrian crossing on the northern side of the Norfolk Road / Waterloo Road intersection.

Yes, subject to Social Impact and Community Needs Assessment and revised traffic study for the purposes of consultation with the Roads &

<p>Prior to finalising an assessment of the public benefits, the assessment identifies the need for:</p> <ul style="list-style-type: none"> <li>• A Social Impact and Community Needs Assessment to investigate social infrastructure needs arising from the proposal.</li> <li>• A revised traffic study for the purposes of consultation with the Roads &amp; Maritime Services, consistent with the State Environmental Planning Policy (Infrastructure) 2007. The traffic study may identify additional infrastructure improvements based on the anticipated traffic to be generated by the development on the site.</li> </ul> <p>Subject to the findings of the Social Impact and Community Needs Assessment and revised traffic study, Council may need a mechanism with the proponent to deliver the public benefits in a timely manner. This may involve a planning agreement to legally capture the public benefits. If a planning agreement is required, it would be separately reported to Council.</p>	Maritime Services.
---	--------------------

## 2.6 Is the planning proposal consistent with applicable Ministerial Directions?

	Consistent
<p><b>Direction 1.1 Business and Industrial Zones</b></p> <p><b>Proponent's Submission:</b> The land is located in a local centre zone. The subject PP does not reduce or change the B2 zoned area or undermine the objectives of the zone. The accompanying concept provides a mix of development which will retain and strengthen employment and provide housing, to assist in supporting the success of the local centre.</p> <p><b>Council's Assessment:</b> The objectives of this direction are to encourage employment growth in suitable locations, and to protect employment land in business and industrial zones. The proposal is consistent with this direction as it retains the existing business zone, and does not reduce the total potential floor space area for business zones.</p>	Yes

<p><b>Direction 2.3 Heritage Conservation</b></p> <p><b>Proponent's Submission:</b> The site is identified under the Bankstown LEP 2015 as a place of local archaeological significance. Any future development of the site will include an archaeological assessment to assess the relevant matters for consideration under Clause 5.10 of the BLEP.</p> <p><b>Council's Assessment:</b> Bankstown Local Environmental Plan 2015 lists the site at 355 Waterloo Road in Greenacre as an archaeological site. The assessment indicates the need for a heritage study to assess the potential impacts of the proposal on the heritage significance of the site, consistent with this Ministerial Direction.</p>	Yes, subject to Heritage Study.
--	---------------------------------



**Direction 3.1 Residential Zones**

**Proponent's Submission:** The objectives of this direction focus on providing a variety and choice of housing types and minimising impact of residential development on the environment.

**Council's Assessment:** The objectives of this directions are to make efficient use of existing infrastructure and services ensuring new housing has appropriate access to infrastructure and services and to minimise the impact of residential development on the environment and resource lands.

Clause 4(d) of the direction requires proposals to demonstrate the proposed housing are of good design. On this basis, Council commissioned Architectus to undertake an urban design peer review consistent with the Ministerial Direction, and to recommend an appropriate building envelope for the site. The review recommends the following changes to Council's built form controls applying to the site:

<b>353 Waterloo Road</b>	<b>Current controls</b>	<b>Recommended controls (urban design peer review)</b>
Zone	R2 Low Density Residential	B2 Local Centre
Maximum FSR	0.5:1	1:1, including a maximum floor space ratio of 0.65:1 for the purposes of residential development
Maximum building height	9 metres (2 storeys)	14 metres (4 storeys)
Minimum subdivision lot size	450m <sup>2</sup>	Do not apply the Lot Size Map as the Lot Size Map does not apply to Zone B2 Local Centre
<b>355 Waterloo Road</b>	<b>Current controls</b>	<b>Recommended controls (urban design peer review)</b>
Maximum building height	11 metres (3 storeys)	11–20 metres (3–6 storeys)
Maximum FSR	1:1	1:1, including a maximum floor space ratio of 0.65:1 for the purposes of residential development

No, subject to implementing the recommendations of the urban design peer review.

<p>Should Council implement the recommendations of the urban design peer review, the implication is the proposal may be inconsistent with clause 5(d). This clause discourages planning proposals to reduce the permissible residential density of the land.</p> <p>However, the inclusion of a maximum 0.65:1 FSR for the purposes of residential development is justified under clause 6 to ensure consistency with the Zone B2 objectives and to support business uses in the local centre. The proposed FSR changes would result in a similar yield to the application's revised concept plan and would provide an assurance that the site would not be dominated by residential uses in the future. This is important to fulfil the strategic vision of the Chullora Marketplace site as a local centre.</p>	
<p><b>Direction 3.4 Integrating Land Use and Transport</b></p> <p><b>Proponent's Submission:</b> This PP is consistent with this direction in providing a mix of uses in a location that is well served by public transport.</p> <p><b>Council's Assessment:</b> The objective of this direction is to ensure that land use locations improve access to jobs and services by walking, cycling and public transport. The South District Plan identifies Chullora as a 'local centre'.</p>	Yes
<p><b>Direction 4.3 Flood Prone Land</b></p> <p><b>Proponent's Submission:</b> Very small pockets within the north-eastern and south-western parts of the site are identified by Council's online mapping as being potentially flood prone. As the subject PP does not seek to create, remove or alter a zone or provision that affects flood prone land, this direction does not strictly apply.</p> <p><b>Council's Assessment:</b> The objective of this direction is to ensure that the development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005.</p> <p>The proposal is consistent with this direction as it does not propose to intensify the landuse. The site is situated in the medium stormwater flood risk precinct towards the north eastern and south western sections of the site. The resulting flooding affectation can be addressed by applying the provisions of Bankstown Development Control Plan 2015–Part B12 (Flood Risk Management) as part of the development application process.</p>	Yes
<p><b>Direction 7.1–Implementation of A Plan for Growing Sydney</b></p> <p><b>Proponent's Submission:</b> No comments</p> <p><b>Council's Assessment:</b> The proposal is consistent with the directions of the Metropolitan Plan, 'A Plan for Growing Sydney', namely Direction 2.1 to accelerate housing supply across Sydney. The proposal supports the growth of new housing near jobs and services.</p>	Yes

**2.7 Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?**

	Consistent
<p><b>Proponent's Submission:</b> The site has been highly modified as a result of previous development. There is therefore limited vegetation on the site, with the exception of some trees which we understand are of no ecological significance. The site is however located adjacent to a public reserve which is heavily treed. Any future DA(s) for the site will address any potential impact of the development on this adjacent land.</p> <p><b>Council's Assessment:</b> The site adjoins the Norfolk Reserve to the east. According to Council's Community Land Generic Plan of Management, Norfolk Reserve contains endangered ecological communities. The urban design peer review recommends a 14 metre building height (four storeys) along the eastern boundary to protect this sensitive area.</p>	<p>Yes, subject to implementing the recommendations of the urban design peer review.</p>

**2.8 Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?**

	Consistent
<p><b>Proponent's Submission:</b> The proposal is unlikely to result in any detrimental environmental effects as discussed below:</p> <ul style="list-style-type: none"> <li>• Visual Impact: The tallest components of the development are focused towards the centre of the site.</li> <li>• Overshadowing: There will be minimal overshadowing to the residential lots to the south.</li> <li>• Traffic: It is envisaged that traffic generation will be no greater than that currently envisaged under the BLEP for the site.</li> <li>• Noise: As a part of any future DA, consideration of the acoustic impacts on the development on surrounding land will be undertaken in a noise impact assessment.</li> </ul> <p><b>Council's Assessment:</b> At this point, there are no other likely environmental effects as a result of the proposal.</p>	<p>Yes</p>

**2.9 Has the planning proposal adequately addressed any social and economic effects?**

	Consistent
<p><b>Proponent's Submission:</b> The planning proposal provides an opportunity to revitalise and strengthen the centre, provides additional housing with a civic plaza and improvements to the existing public domain. The proposed plaza at the primary frontage of the site incorporates ground level retail to activate the street level and provides a good balance between the natural and built environment.</p>	<p>Yes, subject to Economic Impact Study.</p>

**Council's Assessment:** The North East Local Area Plan identifies the Greenacre Small Village Centre as the primary centre serving the North East Local Area. On this basis, the assessment identifies the need for an economic impact study to ensure the proposal does not impact on the role of the Greenacre Small Village Centre within the centres hierarchy.

## 2.10 Is there adequate public infrastructure for the planning proposal?

	Consistent
<p><b>Proponent's Submission:</b> The site is well serviced by public transport, providing connections to the surrounding strategic centres. As the proposal does not seek to increase the anticipated yield of development on the site, it is unlikely to result in any impact on the surrounding traffic network. The area is generally well-served with Police, Ambulance, Fire and other emergency services. The existing utility services will be upgraded or augmented where required in future.</p> <p><b>Council's Assessment:</b> The application indicates possible public domain improvements to be undertaken by the proponent, including the upgrade of the playground at Norfolk Reserve and a pedestrian crossing on the northern side of the Norfolk Road / Waterloo Road intersection.</p> <p>Prior to finalising an assessment of the public benefits, the assessment identifies the need for:</p> <ul style="list-style-type: none"> <li>• A Social Impact and Community Needs Assessment to investigate social infrastructure needs arising from the proposal.</li> <li>• A revised traffic study for the purposes of consultation with the Roads &amp; Maritime Services, consistent with the State Environmental Planning Policy (Infrastructure) 2007. The traffic study may identify additional infrastructure improvements based on the anticipated traffic to be generated by the development on the site.</li> </ul> <p>Subject to the findings of the Social Impact and Community Needs Assessment and revised traffic study, Council may need a mechanism with the proponent to deliver the public benefits in a timely manner. This may involve a planning agreement to legally capture the public benefits. If a planning agreement is required, it would be separately reported to Council.</p>	<p>Yes, subject to Social Impact and Community Needs Assessment and revised traffic study for the purposes of consultation with the Roads &amp; Maritime Services.</p>

## 2.11 What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination?

	Complies
<p><b>Proponent's Submission:</b> State and Commonwealth public authorities have not yet been identified or consulted. It is anticipated that this will occur as a condition of Gateway Determination.</p>	<p>Yes</p>

<p><b>Council's Assessment:</b> The proposal has not been the subject of formal consultation with State and Commonwealth public authorities. This would be undertaken, should Council decide to proceed with a planning proposal.</p>	
---	--

-END-