



# **AGENDA FOR THE INDEPENDENT HEARING AND ASSESSMENT PANEL MEETING**

**22 January 2018 – 6.00pm**

**Location:**

**Council Chambers  
Cnr Chapel Road and The Mall  
Bankstown**

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## ORDER OF BUSINESS

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- |          |   |           |
|----------|---|-----------|
| <b>1</b> | <b>1570-1580 Canterbury Road, Punchbowl</b><br><br>Demolition of existing structures, consolidate both lots into one, excavate the site for a three level basement car park and construct a five storey mixed use development across two buildings, with three commercial tenancies on the ground floor and 48 residential apartments | <b>3</b>  |
| <b>2</b> | <b>27 Brockman Avenue, Revesby Heights</b><br><br>Demolition of existing structures and the construction of a two storey attached dual occupancy, with Torrens title subdivision  | <b>51</b> |
| <b>3</b> | <b>146 Lambeth Street, Panania</b><br><br>Demolition of existing structures, construction of a mixed use development comprising three commercial tenancies and ten residential units, basement parking and strata subdivision   | <b>75</b> |

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## Independent Hearing and Assessment Panel - 22 January 2018

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<b>ITEM 1</b>	<b>1570-1580 Canterbury Road, Punchbowl</b>
	<b>Demolition of existing structures, consolidate both lots into one, excavate the site for a three level basement car park and construct a five storey mixed use development across two buildings, with three commercial tenancies on the ground floor and 48 residential apartments</b>
<b>FILE</b>	<b>DA-388/2015 – Bankstown Ward</b>
<b>ZONING</b>	<b>B5 Business Development</b>
<b>DATE OF LODGEMENT</b>	<b>28 August 2015</b>
<b>APPLICANT</b>	<b>Talal Elcheikh</b>
<b>OWNERS</b>	<b>Obada Elcheikh and Majida Kheir</b>
<b>ESTIMATED VALUE</b>	<b>\$16,462,545</b>
<b>SITE AREA</b>	<b>2,185.3m<sup>2</sup></b>
<b>AUTHOR</b>	<b>Planning</b>

### REPORT

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This matter is reported to the Independent Hearing and Assessment Panel (IHAP) for determination due to the value of the development exceeding \$10 million and therefore being unable to be determined by Council officers under their delegation of authority.

Development Application 388/2015 as amended by plans submitted on 11 December 2017 proposes to construct a five storey mixed use development, across two buildings, with three commercial tenancies on the ground floor (66.26m<sup>2</sup>, 54.08m<sup>2</sup> and 72.26m<sup>2</sup>) and 48 residential apartments (one x studio, nine x one bedroom, 33 x two bedrooms and five x three bedrooms).

The application has been assessed in accordance with the requirements of Section 79C of the Environmental Planning and Assessment (EP&A) Act 1979 including an assessment against SEPP 55 Remediation of Land and SEPP 65 Design Quality of Residential Apartment Development. The proposal complies with the objectives of the controls.

A numerical departure occurs with regards to side boundary setback but the objectives are satisfied subject to unit 404 located at the fifth storey level being deleted. Also, two three bedroom units located at the third and fourth storey (units 210 and 310) contain a bedroom at a zero front boundary setback, which is contrary to the desired streetscape character. The subject bedroom in each unit needs to be deleted to achieve congruency with the desired streetscape character and approvals previously granted in Weyland Street. These requirements are addressed by conditions of consent and have the effect of reducing the number of units from 48 to 47 and altering the mix of units to one x studio, nine x one bedroom, 35 x two bedrooms and two x three bedrooms.

## **POLICY IMPACT**

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This matter has no direct policy impacts.

## **FINANCIAL IMPACT**

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The matter has no direct financial implication.

## **RECOMMENDATION**

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

## **ATTACHMENTS**

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- A. Section 79C Assessment Report
- B. Conditions of Consent

## **DA-388/2015 ASSESSMENT REPORT**

### **SITE AND LOCALITY DESCRIPTION**

The subject site is legally described as Lot 54 in DP 12280 and Lot 2 in DP 589284 and is known as 1570-1580 Canterbury Road, Punchbowl. The site comprises two frontages, one to Canterbury Road and the other to Weyland Street. The site currently comprises a single storey mechanical repair and tyre and wheel service (Crazy Tyres) fronting Canterbury Road. Another large detached awning exists on the site. All structures are proposed to be demolished as part of this application.



Aerial view of the subject site outlined in red and surrounding properties

An aerial photo of the site and its locale is provided above. The subject site is outlined in red, surrounding properties are identified in corresponding order to the numbered triangles as follows:

1. 1-3 Weyland Street
2. 5-7 Weyland Street
3. 9-11 Weyland Street
4. 13-15 Weyland Street
5. 17-19 Weyland Street
6. 23 Weyland Street
7. 1552-1560 Canterbury Road
8. 1562-1568 Canterbury Road

The site has a total area of 2,185.3m<sup>2</sup>.

The site is zoned B5 Business Development under Canterbury Local Environmental Plan (CLEP) 2012. It is a relatively flat site. The immediate area is generally characterised by single storey dwelling houses on sites where development approvals have been granted for mixed use developments.

A summary of approvals for nearby sites is provided as follows:

<b>Address</b>	<b>DA number</b>	<b>Proposal</b>	<b>Consent authority/ decision date</b>
1552-1560 Canterbury Road	DA-406/2016	Demolition of existing structures and construction of a five storey mixed use development comprising two ground floor tenancies and 66 units over two levels of basement parking	Approved by Land and Environment Court of NSW s34 held 21 August 2017
1562-1568 Canterbury Road	DA-354/2015	Demolition and construction of six storey mixed use development comprising commercial tenancies at ground floor and 74 units over basement parking	10 March 2016
23 Weyland Street	DA-512/2013	Demolition of existing dwellings and other structures, and construction of a six storey mixed use development consisting of 22 residential units, one commercial unit, a three level basement with 37 car spaces and associated landscaping	12 June 2014
17-19 Weyland Street	DA-550/2013/A	Demolition of existing dwellings and other structures, consolidation of both lots and construction of a six storey mixed use development consisting of 29 residential units, two commercial units, a two level basement with 46 car spaces and associated landscaping	12 June 2014
13-15 Weyland Street	DA-263/2015	Demolition of existing dwellings and outbuildings, consolidation of both lots and construction of a six storey mixed use development consisting of 29 residential units, two	15 August 2016

Address	DA number	Proposal	Consent authority/ decision date
		commercial tenancies at ground floor, a two level basement with 44 spaces and associated landscaping	
9-11 Weyland Street	DA-632/2015	Demolition of existing dwellings and outbuildings, consolidation of both lots and construction of a six storey mixed use development consisting of 39 residential units, two commercial tenancies at ground floor, a two level basement with 55 spaces and associated landscaping	Land and Environment Court of NSW Hearing held 24/25 October 2017. Appeal upheld 14 December 2017.
1 Weyland Street	DA-295/2016	Demolition of existing dwellings and outbuildings, consolidation of both lots and construction of a six storey mixed use development consisting of 45 residential units, two commercial tenancies at ground floor, a two level basement with 55 spaces and associated landscaping	Appeal against Council's refusal dismissed by Land and Environment Court of NSW on 21 November 2017

### **PROPOSED DEVELOPMENT**

The applicant is seeking approval to demolish all existing structures at 1570-1580 Canterbury Road, consolidate both lots into one, excavate the site for a three level basement car park for 97 spaces, and construct a five storey mixed use development, across two buildings, with three commercial tenancies on the ground floor (66.26m<sup>2</sup>, 54.08m<sup>2</sup> and 72.26m<sup>2</sup>) and 48 residential apartments (one x studio, nine x one bedroom, 33 x two bedrooms and five x three bedrooms).

No specific use has been designated for the proposed commercial tenancies and separate applications are required if the application is approved. A detailed breakdown of the development level by level is provided as follows:

Basement 03	36 off-street car parking spaces, residential storage, pedestrian lift and stairway, ten bike spaces, deep soil.
Basement 02	34 off-street car parking spaces plus car wash bay (including three disabled spaces), residential storage, pedestrian lift and stairway, ten bike spaces, deep soil.
Basement 01	27 off-street car parking spaces plus one x loading bay (including three disabled spaces and seven commercial spaces), residential storage, pedestrian lift and stairway, ten bike spaces, deep soil.

Ground floor	Three x commercial tenancies (66.26m <sup>2</sup> and 54.08m <sup>2</sup> fronting Canterbury Road and 72.26m <sup>2</sup> fronting Weyland Street) vehicle driveway from Weyland Street. Six residential units (two x one bed, four x two bed), communal open space (706m <sup>2</sup> ), residential and commercial waste, pedestrian lift and stairway.
Level 01	Twelve x residential units (one x studio, two x one bed, nine x two bed).
Level 02	Eleven x residential units (two x one bed, seven x two bed, two x three bed).
Level 03	Eleven x residential units (two x one bed, seven x two bed, two x three bed).
Level 04	Eight x residential units (one x one bed, six x two bed, one x three bed).

### **STATUTORY CONSIDERATIONS**

When determining this application, the relevant matters listed in Section 79C of the Environmental Planning and Assessment Act 1979 must be considered. In this regard, the following environmental planning instruments, development control plans (DCPs), codes and policies are relevant:

- State Environmental Planning Policy (Infrastructure) 2007 (SEPP 2007)
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy 55 – Remediation of Land (SEPP 55)
- State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development (SEPP 65)
- Canterbury Local Environmental Plan 2012 (CLEP 2012)
- Canterbury Development Control Plan 2012 (CDCP 2012)

### **SECTION 79C ASSESSMENT**

The proposed development has been assessed pursuant to section 79(C) of the Environmental Planning and Assessment Act, 1979.

#### **Environmental planning instruments [section 79C(1)(a)(i)]**

#### **State Environmental Planning Policy (Infrastructure) 2007 (SEPP 2007)**

##### **Electricity Infrastructure**

As the site is in proximity to a transmission tower, electrical easement and power lines the proposal was notified to AUSGRID as per Clause 45 of the SEPP, inviting comments about potential safety risks. Ausgrid has given consideration to the compatibility of proposed development with existing Ausgrid infrastructure, particularly in relation to risks of electrocution, fire risks, Electric and Magnetic Fields (EMFs), noise, visual amenity and other matters that may impact on Ausgrid or the development. Conditions have been provided to ensure these risks are satisfactorily managed.



### Vehicle Access

As the site has a frontage to a classified road (i.e. Canterbury Road) Clause 101 of the SEPP is relevant and requires Council to be satisfied that vehicular access to the land is provided by a road other than the classified road where practical. In this instance, the proposal has oriented access from Weyland Street with no other vehicular access from Canterbury Road. The objectives of this clause have been satisfied.

### Noise and Vibration

Given Canterbury Road is identified as a road with an annual average daily traffic volume of more than 40,000 vehicles, Clause 102 of the SEPP is relevant and requires Council to consider whether the development is likely to be adversely affected by road noise/vibration and also requires Council be satisfied that appropriate measures will be taken to ensure that certain noise criteria in decibels, is not exceeded.

An acoustic report prepared by Acoustic Consulting Engineers (reference number 150634-01L-DD, dated 19 June 2015) recommends building construction elements/systems to minimise noise and also recommends that a qualified acoustic consultant be engaged when details of mechanical plant and equipment and noise emission levels are available, to review the potential environmental noise impact from the development.

Council's Environmental Health section assessed the report and advised that if the development were approved, conditions would be necessary requiring a further report by a qualified acoustic consultant demonstrating compliance with the regulations and particularly Clause 102, prior to issue of any Construction Certificate. Council officers are satisfied that appropriate measures can be taken to ensure the noise criteria are not exceeded. The conditions of consent require compliance with the conditions of the acoustic report.

### Traffic Generation

The development does not constitute a traffic generating development as it has less than 75 dwellings.

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

BASIX Certificate No. 649008M\_02 accompanies this application. The Certificate makes a number of energy/resource commitments relating to water, energy and thermal comfort. Certain commitments requiring to be shown on plans in order to satisfy objectives of the SEPP have not been shown. The conditions of consent relate to this Certificate.

### ***State Environmental Planning Policy 55 – Remediation of Land (SEPP 55)***

State Environmental Planning Policy 55 – Remediation of Land aims to promote the remediation of contaminated land for the purposes of reducing risk to human health or any other aspect of the environment. Clause 7 of SEPP 55 states that we must not consent to the carrying out of development unless we have considered whether the land is contaminated. If

the land is contaminated, we must ascertain whether it is suitable in its contaminated state for the proposed use or whether remediation of the land is required.

A Stage 1 Preliminary Site Contamination Assessment has been undertaken by Geo-environmental Engineering, referenced report G15048PUN-R02F.

Combined with the information from the historical land titles, this suggests that the site has consistently been used as a vehicle spare parts supplier and / or recycler.

Based upon the site history it has been identified that the potential contamination of the site relates to Heavy Metals, Total Petroleum Hydrocarbons (TPH), BTEX and Polynuclear Aromatic Hydrocarbons (PAH) exists within the subject site.

A Stage 2 Contamination Assessment has been undertaken by Ground Technologies (Ref: GTE-761) dated 23 February 2016. It stated that the use of the site as a vehicle repair workshop and as a parts supplier and / or recycler could have resulted in “top down” intrusions of oils, fuels and metals during repair works and from spillage of stored products. It also identifies that the concrete pavement across the site would have minimised and migration of contaminants into the ground. It states that past development of the site specifically the potential for contaminated fill constitutes a source of contamination.

The report concludes that, subject to the contaminated material being excavated as a part of the development works, the results of the chemical analyses indicate that the site does not present a risk to human health or the environment.

***State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development (SEPP 65)***

This policy applies to residential apartment development and is required to be considered when assessing this application. Residential apartment development is defined under SEPP 65 as development for the purpose of a residential flat building, shop top housing or mixed use development with a residential accommodation component. The development must consist of the erection of a new building, the conversion of an existing building or the substantial redevelopment or refurbishment of an existing building. The building must also be at least three or more storeys and contain at least four or more dwellings.

SEPP 65 aims to improve the design quality of residential apartment development across NSW and provides an assessment framework, the Apartment Design Guide (ADG), for assessing ‘good design’. Clause 50(1A) of the Environmental Planning and Assessment Regulation 2000 requires the submission of a design verification statement from a qualified designer (registered architect) at lodgement of the development application that addresses nine design quality principles contained in SEPP 65 and demonstrates how the objectives in Parts 3 and 4 of the Apartment Design Guide have been achieved. These principles are discussed as follows:

### Principle 1: Context and Neighbourhood Character

The locality is predominantly occupied by a mixture of single and double storey detached dwellings, with the exception of some industrial and commercial uses. However, this land is zoned B5 Business Development and, as evidenced by the approvals already issued, will ultimately be row of five and six storey developments along Canterbury Road and the northern side of Weyland Street.

Weyland Street is under transition and the proposal is consistent with the desired future character.

### Principle 2: Built Form and Scale

The arrangement of bulk and the scale of the building is similar to other developments on the street and contributes satisfactorily to the future definition of the streetscape and character. The proposal responds appropriately to Canterbury Road and provides satisfactory spatial relief to the building that fronts Weyland Street, resulting in a numerically compliant and useable Communal Open Space. The proposal is highly articulated and the built form is appropriately modulated both horizontally and vertically. Conditions are recommended to increase the front setback of units 210 and 310 from Weyland Street to achieve congruency to approvals granted in Weyland Street. Also, unit 404 constitutes an unreasonable distribution of bulk and scale and must be deleted.

### Principle 3: Density

The density of the proposed development is considered to be satisfactory and a reasonable response to the desired future context and built form.

### Principle 4: Sustainability

A BASIX Certificate has been submitted to Council with this development application, which details the resource, energy and water efficiency measures that will be incorporated into this proposal. The Apartment Design Guide requires that living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of two hours direct sunlight between 9am and 3pm at mid-winter. This proposal achieves a figure of 79% (38 of 48 units) which satisfies this requirement.

In addition, 92% of units within the development satisfy the natural ventilation requirements (minimum 60%) contained within the Apartment Design Guide.

### Principle 5: Landscape

The proposal relocates the on-site detention to offer numerically compliant deep soil provision on the site which will assist in the establishment of trees in the Communal Open Space and generally assist in the infiltration of the water so that landscaping in the vicinity of the Communal Open Space will thrive.

Principle 6: Amenity

The proposed development has been designed to comply with the solar access requirements of the Apartment Design Guide and achieves good cross-flow ventilation. The proposed units will have considerable internal residential amenity. In addition, the proposal does not result in detrimental impacts on the amenity of adjoining properties, attributed to the appropriate siting and scale of the development.

Principle 7: Safety

The applicant has considered Crime Prevention Through Environmental Design (CPTED) principles as outlined in CDCP 2012 in the design of the project. The proposal provides increased activation and passive surveillance of the surrounding streets and private open space areas on the site. Residential entry and lobby areas are to be secured and well lit.

Principle 8: Housing Diversity and Social Interaction

The proposed design incorporates various dwelling sizes and includes adaptable units promoting diversity, affordability and access to housing choice.

Principle 9: Aesthetics

The proposed use of pattern, texture, form and colour produce a design aesthetic that reflects a desirable quality of residential accommodation. The articulation of the external façades reduces the appearance of bulk of the building to a satisfactory degree. These elements contribute to the desired future character of the locality and enhance the existing surrounding streetscape.

**Apartment Design Guide**

Further to the design quality principles discussed above, the proposal has been considered against the various provisions of the Apartment Design Guide in accordance with Clause 28 (2) (c) of SEPP 65.

Section	Design Criteria	Proposed	Complies
<b>Part 3 Siting the Development</b>			
<b>Communal and Public Open Space</b>	Communal open space has a minimum area equal to 25% of the site = 546.55m <sup>2</sup>	706m <sup>2</sup>	Yes
	Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of two hours between 9 am and 3 pm on 21 June (mid-winter).	Achieved	Yes
<b>Deep Soil Zones</b>	Deep soil zones minimum 7% of site (153m <sup>2</sup> ) with minimum dimensions 6m.	9% (200m <sup>2</sup> )	Yes

Section	Design Criteria	Proposed	Complies
<b>Visual Privacy (Building Separation)</b>	<b>Side boundary setbacks</b> Habitable rooms to habitable rooms Up to 4 storeys: 6m to boundary 5 <sup>th</sup> storey: 9m to boundary	<b>Northern building</b> <u>Eastern boundary setback</u> Ground to 4 <sup>th</sup> storey: 3m  5 <sup>th</sup> storey: 4.5m	No – see comment [1]  Yes – by condition
		<b>Southern building</b> <u>Western boundary setback</u> Ground 9m 2 <sup>nd</sup> storey to 4 <sup>th</sup> storey: 6-9m  5 <sup>th</sup> storey: 6-9m	Yes Yes  No – see comment [1]
		<b>Separation between buildings</b> Up to 4 storeys: 12m between buildings  5 <sup>th</sup> storey: 18m between buildings	Yes  Yes – by condition
<b>3J Bicycle and Car Parking</b>	Car parking Residential Studio = 1 space 1 bed = 9 spaces 2 bed = 39.6 spaces 3 bed = 10 spaces Visitor = 10 spaces 1 x car wash bay  Commercial 5 spaces  Total 74.6 spaces rounded to 75	97 spaces plus car wash bay plus loading bay	Yes
<b>Part 4 Designing the Building</b>			
<b>4A Solar and Daylight Access</b>	Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of two hours direct sunlight between 9 am and 3 pm at mid-winter.	79% (38 of 48 units)	Yes
	A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter	14.6% (7 of 48 units)	Yes

Section	Design Criteria	Proposed	Complies											
4B Natural Ventilation	At least 60% of apartments are naturally cross ventilated	92%	Yes											
	Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	<18m	Yes											
4C Ceiling Heights	Measured from finished floor level to finished ceiling level, minimum ceiling heights are:	2.7m residential	Yes											
	<table><tr><th colspan="2">Minimum Ceiling Height for Apartment and Mixed Use Buildings</th></tr><tr><td>Habitable rooms</td><td>2.7m</td></tr><tr><td>If located in mixed used areas</td><td>3.3m for ground and first floor to promote future flexibility of use</td></tr></table>		Minimum Ceiling Height for Apartment and Mixed Use Buildings		Habitable rooms	2.7m	If located in mixed used areas	3.3m for ground and first floor to promote future flexibility of use	3.2m residential ground floor	Yes				
	Minimum Ceiling Height for Apartment and Mixed Use Buildings													
	Habitable rooms	2.7m												
	If located in mixed used areas	3.3m for ground and first floor to promote future flexibility of use												
These minimums do not preclude higher ceilings if desired.		3.2m ground floor mixed use	No – see comment [2]											
4D Apartment Size and Layout	Apartment are required to have the following minimum internal areas:	All units comply	Yes											
	<table><tr><th>Apartment Type</th><th>Minimum Internal Area</th></tr><tr><td>Studio</td><td>35m<sup>2</sup></td></tr><tr><td>1 bedroom</td><td>50m<sup>2</sup></td></tr><tr><td>2 bedroom</td><td>70m<sup>2</sup></td></tr><tr><td>3 bedroom</td><td>90m<sup>2</sup></td></tr></table>		Apartment Type	Minimum Internal Area	Studio	35m <sup>2</sup>	1 bedroom	50m <sup>2</sup>	2 bedroom	70m <sup>2</sup>	3 bedroom	90m <sup>2</sup>		
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	Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.	All units comply	Yes											
	Habitable room depths are limited to a maximum of 2.5 x the ceiling height.	All units comply	Yes											
	In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.	All units comply	Yes											
	Master bedrooms have a minimum area of 10m <sup>2</sup> and other bedrooms 9m <sup>2</sup> (excluding wardrobe space).	All units comply	Yes											
	Bedrooms have a minimum dimension of 3m (excluding wardrobe space).	All units comply	Yes											
Living rooms or combined living/dining rooms have a minimum width of:	All units comply	Yes												
<ul style="list-style-type: none"><li>3.6m for studio and one bedroom apartments</li><li>4m for two and three bedroom apartments</li></ul>														

Section	Design Criteria	Proposed	Complies															
	The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts.	All units comply	Yes															
4E Private Open Space and Balconies	All apartments are required to have primary balconies as follows:	Objectives achieved	Yes – see comment [3]															
	<table><tr><th>Dwelling type</th><th>Minimum Area</th><th>Minimum Depth</th></tr><tr><td>Studio apartments</td><td>4m<sup>2</sup></td><td>-</td></tr><tr><td>1 bedroom apartments</td><td>8m<sup>2</sup></td><td>2m</td></tr><tr><td>2 bedroom apartments</td><td>10m<sup>2</sup></td><td>2m</td></tr><tr><td>3+ bedroom apartments</td><td>12m<sup>2</sup></td><td>2.4m</td></tr></table>			Dwelling type	Minimum Area	Minimum Depth	Studio apartments	4m <sup>2</sup>	-	1 bedroom apartments	8m <sup>2</sup>	2m	2 bedroom apartments	10m <sup>2</sup>	2m	3+ bedroom apartments	12m <sup>2</sup>	2.4m
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3+ bedroom apartments	12m <sup>2</sup>	2.4m																
The minimum balcony depth to be counted as contributing to the balcony area is 1m.																		
For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m <sup>2</sup> and a minimum depth of 3m.																		
4F Common Circulation and Spaces	The maximum number of apartments off a circulation core on a single level is eight.	6	Yes															
4G Storage	In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:	All units comply	Yes															
<table><tr><th>Dwelling type</th><th>Storage size volume</th></tr><tr><td>Studio apartments</td><td>4m<sup>3</sup></td></tr><tr><td>1 bedroom apartments</td><td>6m<sup>3</sup></td></tr><tr><td>2 bedroom apartments</td><td>8m<sup>3</sup></td></tr><tr><td>3+ bedroom apartments</td><td>10m<sup>3</sup></td></tr></table>				Dwelling type	Storage size volume	Studio apartments	4m <sup>3</sup>	1 bedroom apartments	6m <sup>3</sup>	2 bedroom apartments	8m <sup>3</sup>	3+ bedroom apartments	10m <sup>3</sup>					
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At least 50% of the required storage is to be located within the apartment.																		

The proposed development complies with almost all of the ADG criteria. The following matters require further discussion:

[1] Building separation

*Eastern boundary setback*

The current scheme has undergone changes that significantly improve the design response. The number of units has been reduced from six storeys to five storeys and number of units reduced from 68 units to 48.

The original plans had a zero side (eastern) boundary setback for a height of six storeys. This setback has been increased to 3m (ground to fourth storey) and 4.5m setback for the fifth storey.

The Apartment Design Guide clearly defines the objectives for achieving adequate building separation, namely, to ensure that new development is scaled to support the desired future character with appropriate massing and spaces between buildings, to assist in providing residential amenity including visual and acoustic privacy, natural ventilation, sunlight and daylight access and outlook, and to provide suitable areas for communal open spaces, deep soil zones and landscaping.

The proposal achieves these requirements and the massing is appropriate with the exception of unit 404 located at the fifth storey. The numerical non-compliance of the first four storeys does not contravene the objectives of the Apartment Design Guide in that its spatial separation adequately preserves sunlight, privacy, ventilation and outlook to units. However, the numerical non-compliance of the fifth storey (which equates to a 50% departure), is unsatisfactory. The cumulative effect of the departure of the fifth storey and storeys below does not support the desired future character as the massing is excessive and insufficiently separated from the boundary.

For the purposes of achieving the desired future character of the area and adequate spatial separation a condition of consent requires the deletion of unit 404 from the fifth floor. This deletion also results in two additional units within 17-19 Weyland Street receiving a minimum two hours of sunlight to living rooms and private open spaces (that the proposal would otherwise have blocked). This means that 62% of units within 17-19 Weyland Street will achieve the minimum ADG solar access requirement, which is a reduction from the 79% of units that currently achieve the minimum requirement. Given the constraints of the subject site and the appropriate manner in which bulk is distributed, the reduction of solar access to 17-19 Weyland Street to 62% is acceptable. This is discussed in greater detail later in this report.

The communal open space is suitably provided on the western side of the site and meets the minimum numerical requirement.

Units G04, 106, 206 and 306 are two-bedroom units that contain the same layout (above each other) at a setback of 3m from the eastern allotment boundary. A highlight window is proposed for the living room and the east-facing bedroom. The living room contains a south-facing sliding door providing access to a balcony. The dual aspect of the living room means the highlight window is not solely relied upon for the purposes of light and ventilation and the internal residential amenity is satisfactory. The bedrooms, however, are supplied only with the highlight window and the internal amenity is compromised to a point (notwithstanding it may comply with the natural light and ventilation requirements of the Building Code of Australia). It is recommended that another window be incorporated into the northern wall to improve the internal residential amenity of the bedrooms to Units G04, 106, 206 and 306. This requirement appears as a condition of consent.



The proposed setbacks preserve an adequate level of solar access to the west-facing units of the adjoining development (approved but not built) at 1562-1568 Canterbury Road, Punchbowl. A more detailed analysis of the subject proposal's effect on this adjoining development is provided in this report under the sub-heading 'Daylight and sun access'.

#### *Western boundary setback*

The western boundary setback complies with the exception of the fifth storey at unit 406, which is 6m from the boundary. A condition of consent requires this west-facing bedroom window to be a highlight window (which is notated as being provided at the lower levels). As another north-facing window serves this bedroom this requirement does not diminish the amenity of the bedroom.

A balcony wall associated with unit 407 is satisfactory at the fifth storey and every level by virtue of its incorporation of a solid wall and privacy screen. It also aligns with the approved building at 23 Weyland Street.

#### *Separation between buildings on the same site*

The separation between buildings on the subject site is 12m between the ground to fourth storey but in lieu of an 18m separation at the fifth storey, it is 16m to 17.82m. The deletion of unit 404 from the fifth storey increases the setback between buildings on the same site at the fifth storey to 25.93m and complies numerically with the requirement for building separation.

#### Summary

The separation of buildings on the same site as well as setbacks to boundaries (subject to the deletion of unit 404) is satisfactory. The proposal distributes bulk in a manner that protects the amenity of the surrounding properties, exhibits an appropriate bulk/scale relationship, meets important ADG criteria including communal open space and deep soil and responds to the constraints of the site which include site shape, orientation and easement restrictions.

#### [2] Ceiling Heights

A ceiling height for the ground floor level is 3.2m in lieu of 3.3m required by the Apartment Design Guide, which equates to a 3% departure. A 3.5m floor to floor height of this ground floor level is calculated at 3.2m as a 300mm slab is typical. The proposed floor to ceiling height does not compromise the variety of uses the floor may adopt. The proposal is considered satisfactory.

#### [3] Private Open Space and Balconies

The objectives of the ADG are satisfied with respect to the size of balconies, notwithstanding there are minor numerical variations. Units 210 and 310 are three bedroom units with two balconies – the primary balcony is 11.89m<sup>2</sup> as opposed to 12m<sup>2</sup> and there is another balcony serving a bedroom. The ADG seeks that a balcony for a three bedroom apartment has a

minimum depth of 2.4 metres and fits a table and 4-6 chairs. The balcony, although less than 12m<sup>2</sup>, achieves the minimum 2.4m width and chairs and a table can fit in this space.

Units 211 and 311 contain primary balconies serving three bedroom units but the 2.4m width is compromised by a bedroom. The purposes of the balcony are considered to be adequately served by the dimensions provided, particularly given that the areas of the balconies are 15.79m<sup>2</sup>, which equates to 32% above the minimum area.

Balconies serving units 103, 104, 203, 204, 303, 304 are slightly compromised with respect to achieving the minimum 2m width but given the balconies splay and that the numerical departure is compensated by increased depth to approximately 3.6m, there are no adverse effects on compliance with the objectives of the ADG. In addition, the shape of the balconies adds texture, interest and articulation to the proposal.

It is noted that the balconies to units 110, 210 and 310 are located 1m from the western boundary but these balconies approximately align with a zero setback of the adjoining development at 23 Weyland Street. The proposed balconies are fitted with angled louvred privacy screens that prevent direct line of sight to the development at 23 Weyland Street. A condition of consent requires that these privacy screens be fixed in position so as to minimise any potential overlooking at all times.

The minor numerical non-compliances with balconies within the development are considered acceptable and contribute to the articulation and visual interest of the building.

#### *Ground level podium*

The ADG requires that for apartments at ground level a private open space is provided instead of a balcony that has a minimum area of 15m<sup>2</sup> and a minimum depth of 3m. There are six ground floor units with balconies that vary in size from between 10.06m<sup>2</sup> and 10.99m<sup>2</sup>. It is considered that the Communal Open Space provided, as well as the deep soil provision which assists mature plantings to thrive, in combination provides an aesthetic setting and useable space for recreation and relaxation. It is considered that increasing the size of the ground floor balconies would diminish the communal open space without measureable planning benefit. Also, due to the flooding on the site it is preferable that balconies at ground floor level be at the proposed RL as opposed to on-ground.

The objectives of the ADG are satisfied by this proposal.

#### ***Canterbury Local Environmental Plan 2012 (CLEP 2012)***

The subject site is zoned B5 Business Development under the provisions of Canterbury Local Environmental Plan 2012 (CLEP 2012).

The site is identified as a 'key site' which makes mixed use development permissible under Clause 6.7 of CLEP 2012. Mixed use developments, which can include both commercial and residential uses on the ground, is permitted. The following clauses of the CLEP were taken into consideration in the assessment of the application:

Standard	Requirement	Proposal	Complies
Zoning	B5 – Business Development	The proposed development is located on a 'key site'. The proposed development is defined as a 'mixed use development' and is permissible with consent.	Yes
4.3 Height of Buildings	18m	18m	Yes
Part 6 Local Provisions			
6.1 Acid Sulfate soils	Preliminary assessment required if works more than 1 metre below the natural ground surface.	Works are more than 1 metre below the natural ground surface	Yes – see comment [1] below
6.3 Flood planning	Consent authority must be satisfied development is compatible with flood hazard	Flood study received	Yes

**[1] Acid Sulfate Soils**

The site falls within a Class 3 area in the NSW Department of Land and Water Conservation Acid Sulfate Soil Risk Map. Clause 6.1 of Canterbury Local Environmental Plan 2012 states that “works more than 1 metre below the natural ground surface, and works by which the water table is likely to be lowered more than 1 metre below the natural ground surface” will trigger the requirement for an acid sulfate soils management plan unless a preliminary assessment of the proposed works prepared in accordance with the Acid Sulfate Soils Manual indicates that an acid sulfate soils management plan is not required for the works. The Consulting Geotechnical Engineers (Geo-environmental Engineering) in their report dated 14 July 2015 conclude that, having considered field screening and laboratory test results, the natural soil profile and the depth of excavation, the site does not contain actual or potential acid sulfate soils.

***Development Control Plans [section 79C(1)(a)(iii)]***

The proposed development has been compared to the requirements of CDCP 2012 as follows:

Control	Requirement	Proposed	Complies
Height	Floor to ceiling heights Ground Floor: 3.3m	Ground Floor: 3.2m	No – see previous comment [2] under heading 'Apartment Design Guide'
	Residential Floors: 2.7m Basement Carpark: 2.8m	Residential floors: 2.7m Basement Carpark: 2.8m	Yes Yes

Control	Requirement	Proposed	Complies
Depth/footprint	Maximum 18m – residential	7 – 13m	Yes
	10-24m – commercial	10.2m – 13.8m	Yes
Front setback	1- 4 storeys nil setback on street Above 4 storeys 5m setback	<u>Canterbury Road</u> 1- 4 storeys: 3m Fifth storey: 7m	Yes
		<u>Weyland Street</u> 1- 4 storeys: nil setback Fifth storey: 5m	Yes – see comment [1] below
Basement parking	The basement is to protrude a maximum 1m above the existing ground level	Basement protrudes greater than 1m in areas	No – see comment [2] below
	The access driveway is to be a maximum width of 6m	The width of the driveway crossing is 6m	Yes
	Secure bicycle parking is to be provided	Bicycle parking is provided	Yes
	The car park entry is to be recessed from the main building façade	The car park entry is appropriately recessed from main façade	Yes
Daylight and sun access	Living room and principal area of private open space of adjoining buildings to receive at least two hours sunlight daily between 9.00 am and 3.00 pm on 21 June.	Achieved in part	No – see comment [3] below
Design Controls			
Context	Building form and design does not have to mimic traditional features, but should reflect these in a contemporary design.	It is considered that the proposed development demonstrates a contemporary design	Yes
Street address	Entries are to be located where they relate to the existing street, subdivision pattern, street tree planting and pedestrian access network.	Entries to the building are located on the street frontage and clearly identifiable	Yes
	Habitable rooms to face towards the street, private open space, communal space, internal driveway or pedestrian ways in order to promote positive social interaction and community safety.	Habitable rooms face Canterbury Road and Weyland Street as well as the ground level communal open space between the two buildings	Yes
Façade Design	Long spans of blank walls are to be avoided along street frontages. Address the street frontages with façade	Long spans of blank walls along street frontages have been avoided	Yes

Control	Requirement	Proposed	Complies
	treatment with articulation of elevations on corner sites.		
	Contrasting elements are to be incorporated in the façade, using a harmonious range of high quality materials.	Contrasting elements incorporated into the street frontages and a harmonious range of high quality materials used	Yes
	Building layout or structure is to be expressed in the façade, with architectural features such as columns, beams, floor slabs, balconies, wall opening and fenestration, doors, balustrades, roof forms and parapets are elements that can be revealed or concealed and organised into simple or complex patterns.	Building layout is suitably expressed through use of a variety of architectural features, such as recessed balconies, balustrades different window sizes and the roof form.	Yes
Performance controls			
Visual Privacy	Clause 6A of SEPP 65 states that development control plans that have provisions that are inconsistent with the ADG in relation to visual privacy have no effect in the assessment of residential apartment development applications. Section 3.3.1 of the CDCP is therefore not relevant to the assessment of this application and visual privacy matters have been assessed only in relation to part 3F of the ADG.		
Open Space	Clause 6A of SEPP 65 states that development control plans that have provisions that are inconsistent with the ADG in relation to open space and balconies have no effect in the assessment of residential apartment development applications. Section 3.3.3 of CDCP is therefore not relevant to the assessment of this application and open space and balcony matters have been assessed only in relation to part 4E of the ADG.		
Internal Dwelling Space and Design (Including storage)	Clause 6A of SEPP 65 states that development control plans that have provisions that are inconsistent with the ADG in relation to apartment size and layouts have no effect in the assessment of residential apartment development applications. Section 3.3.4 of the CDCP is therefore not relevant to the assessment of this application and matters have been assessed only in relation to part 4D of the ADG.		
Housing choice	Include a mix of unit sizes, such as studio, one, two, three and three plus bedroom apartments	A satisfactory mix of units is provided	Yes

**[1] Front setback**

The proposal has a zero setback for the first four storeys and a 5m setback for the fifth storey. Development along Weyland Street has been approved with a zero front setback at the ground and second storey, 2m setback at the third and fourth storey and a 4m to 5m front setback for storeys above the fourth storey.

Units 210 and 310 are 3 bedroom units located at the third and fourth storey respectively with one of the bedrooms located at a zero setback from the front boundary.

For the purposes of achieving congruency with adjoining approved development and to achieve a positive contribution to the streetscape the bedrooms located at a zero front boundary setback within units 210 and 310 must be deleted. A condition of consent requires this change to be clearly shown on the Construction Certificate plans.

[2] Basement is to protrude a maximum 1m above the existing ground level

The basement in places is located higher than 1m above the existing ground level but this is required as a result of flood constraints. The basement is incorporated into the landscape setting with steps leading from RL6.0 to the communal open space at RL4.0. A condition is imposed that requires the wall to complement the landscape setting and be a natural tone in colour.

[3] Daylight and sun access

*Affectation of the proposal on 1562-1568 Canterbury Road*

The assessment of the adjoining building at 1562-1568 Canterbury Road (DA-354/2015) found that 70% (52 of 74 units) receive a minimum of two hours of sunlight (with no adjoining buildings). When a five storey development was approved to the east at 1552-1560 Canterbury Road (DA-406/2016) this provision was reduced to 64%.

The subject proposal reduces the solar access provision at 1552-1560 Canterbury Road from 64% to 62%, as one unit in the western elevation has its solar access reduced to less than two hours in mid-winter.

The proposal is a reasonable design response for the site where constraints including shape, orientation and easements are satisfactorily addressed and impacts on the adjoining properties are acceptable.

*Affectation of the proposal on 17-19 Weyland Street*

The six storey adjoining building at 17-19 Weyland Street (550/2013/A) achieves a solar access provision of 79% since 23 of the 29 units receive at least two hours of sunlight between 9am and 3pm. The approved development at 1562-1568 Canterbury Road has been accounted for in this calculation.

The subject proposal reduces the solar access to 17-19 Weyland Street to 62% with the deletion of unit 404. Without the deletion of this unit the resultant solar access provision to 17-19 Weyland Street would be 55%. The reduction of solar access to 17-19 Weyland Street such that 62% of units receive a minimum two hours of sunlight between 9am and 3pm in mid-winter is acceptable on the basis that the development is a reasonable design response for the site and successfully accommodates the site constraints which include site shape, orientation and easements.

**Canterbury Development Contributions Plan 2013 (Contributions Plan 2013)**

The proposal for 48 residential apartments (one x studio, nine x one bedroom, 33 x two bedrooms and five x three bedrooms) generates a Section 94 Contribution of \$660,213.37.

The Section 94 is reduced to \$640,569.53 with the removal of a three bedroom unit (unit 404) as discussed in this report.

The Section 94 is further reduced to \$629,806.63 with the amendment of units 210 and 310 from three bedroom units to two bedroom units as discussed in this report.

The conditions of consent stipulate a Section 94 Contribution of **\$629,806.63** taking into account both amendments. If the IHAP is of a mind to alter the recommendation the Section 94 Contribution will require alteration to reflect the change.

**The likely impacts of the development [section 79C(1)(b)]**

Section 79C(1)(b) requires Council to consider the likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality.

A critique of the proposal against SEPP 65 - Design Quality of Residential Apartment Development confirms the proposal exhibits good internal residential amenity for its occupants. This good level of standard has positive implications socially and economically in that it provides quality housing that individuals and families can aspire to live in. Good design and amenity supports a level of pride and enjoyment and invigorates an area.

The proposal contributes to the streetscape on both Canterbury Road and Weyland Street and is arranged in a manner that provides good levels of amenity for future occupants of this and surrounding development.

Contamination assessment concludes that, subject to the contaminated material being excavated as a part of the development works, the results of the chemical analyses indicate that the site does not present a risk to human health or the environment.

**Suitability of the site for the development [section 79C(1)(c)]**

The site is suitable for the development in that the contamination assessment is favourable and there are no easements that prevent the development of the site. The proposal successfully addresses the constraints of the site (shape, orientation and easements) by splitting the development into a north and south built form and arranging units to receive adequate sunlight and ventilation and achieving a useful, inviting communal open space.

Ausgrid has assessed the proposal and finds it acceptable with respect to risks of electrocution, fire risks, Electric and Magnetic Fields (EMFs), noise and visual amenity subject to conditions of consent.



Council Landscape Architect considers the proposal satisfactory subject to conditions.

Council's Development Engineer considers the proposal satisfactory subject to conditions.

With respect to drainage easements, a 1.83m wide "proposed" easement identified "A" on the Survey Plan (Ref: 2254, prepared by Sydney Registered Surveyors, dated 11 December 2014). The applicant's lawyer states that this easement has never been registered and does not exist. A smaller drainage easement does exist at the rear of 19 Weyland Street (not shown on the Survey). The smaller easement would have formed part of the entire easement to drain 17-19 Weyland Street if proposed easement "A" were registered. Council's Development Engineer agrees that the proposed drainage easement "A" does not exist and that there is no impediment to the proposed development traversing the site. The approved development at 17-19 Weyland Street seeks to use the proposed drainage easement "A", however, it does not exist and other arrangements will need to be made.

### **Submissions [section 79C(1)(d)]**

The subject application was both advertised and notified from 10 July to 9 August 2017. No objections were received.

Previously, when the original scheme (six storeys, 68 units) was notified, one objection was received from a consultant planner on behalf of 1562-1568 Canterbury Road, Punchbowl. Concerns relate to the setbacks of the proposed building from the western boundary and reduced amenity for units within the development (now approved) at 1562-1568 Canterbury Road, Punchbowl. The submission seeks that the proposed building separation reciprocates the setback (6.2m) provided at 1562-1568 Canterbury Road, Punchbowl.

### **Comment**

The current scheme has undergone changes that significantly improve the design response. The number of units has been reduced from six storeys to five storeys and number of units reduced from 68 units to 48. The conditions of consent reduce the number of units to 47.

The original plans had a zero side (eastern) boundary setback for a height of six storeys. This setback has been increased to 3m (ground to fourth storey) and 4.5m setback for the fifth storey.

The Apartment Design Guide clearly defines the objectives for achieving adequate building separation; namely, to ensure that new development is scaled to support the desired future character with appropriate massing and spaces between buildings, to assist in providing residential amenity including visual and acoustic privacy, natural ventilation, sunlight and daylight access and outlook, and to provide suitable areas for communal open spaces, deep soil zones and landscaping.

The proposed side boundary setback from eastern boundary supports the desired future character because it affords adequate spatial separation to achieve a satisfactory level of residential amenity to the adjoining properties. However, unit 404 at the fifth storey is set



back 4.5m from the eastern allotment boundary in lieu of the required 9m and is not satisfactory, at this height the departure to the minimum setback requirement is too significant and causes visual impacts, overlooking and shadow impacts to adjoining properties. The conditions of consent require that unit 404 be deleted so as to meet the objectives for building separation. Its deletion improves the solar access to units within 17-19 Weyland Street which accords with the objectives for building separation.

The proposed setbacks preserve an adequate level of solar access to the west-facing units of the adjoining development (approved but not built) at 1562-1568 Canterbury Road, Punchbowl.

Whilst it is noted that the approved development at 1562-1568 Canterbury Road, Punchbowl comprises setbacks of 6m and 9m, the constraints of the subject site (which includes shape, orientation and easements) provide reasonable grounds for numerical departure to the setback requirements of 6m (up to four storeys), its acceptability also relies on the deletion of unit 404. The appropriateness of the design response is evinced by the acceptable privacy, shadow and visual impacts caused to the adjoining development at 1562-1568 Canterbury Road, Punchbowl.

**The public interest [section 79C(1)(e)]**

The public interest is best served by the consistent application of the requirements of the relevant Environmental Planning Instruments and by the consent authority ensuring that any adverse impacts on the surrounding area and environment are avoided. The public interest is considered to have been achieved in so far as the development provides for additional housing choice within the local government area without compromising the amenity of the locality.

**CONCLUSION**

The proposal constitutes reasonable development of the land and satisfies the objectives of the applicable environmental planning instruments and Canterbury Development Control Plan 2012.

The site constraints include site shape, orientation and easements. The proposal responds appropriately to these constraints, demonstrated by its compliance with the objectives of the Apartment Design Guide including solar access, ventilation and communal open space. A good level of residential amenity for occupants is achieved as a result.

The setback of the building from the eastern boundary departs numerically from the requirements of the ADG. The first four storeys are satisfactory at a 3m setback if unit 404 at the fifth storey (which is set back 4.5m in lieu of the required 9m) is deleted. The deletion of unit 404 reduces visual impacts when viewed from surrounding properties and improves solar access to 17-19 Weyland Street to a satisfactory level.

It is also recommended that the bedrooms located at a zero front boundary setback at the third and fourth storey (within units 210 and 310) be deleted. This is sought to achieve

congruency with the development approved on Weyland Street, which all observe a 2m setback at the third and fourth storey.

These requirements are addressed by conditions of consent and have the effect of reducing the number of units from 48 to 47 (one x studio, nine x one bedroom, 35 x two bedrooms and two x three bedrooms).

The proposal does not cause detrimental impacts on adjoining development subject to the above amendments.

Contextually the proposal will be easily absorbed into the existing urban fabric and satisfies the desired future character of the area.

Approval is recommended subject to conditions.

## CONDITIONS OF CONSENT

THAT Development Application DA-388/2015 be **APPROVED** subject to the following conditions.

### PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

1. The following must be submitted to either Council or an Accredited Certifier prior to the issuing of a Construction Certificate:
  - 1.1. Details of:
    - Structural Engineering Plan excavation
    - Building Specifications
    - Fire Safety Schedule
    - Landscape Plan
    - Hydraulic Plan
    - Soil and Waste Management Plan
    - BASIX Certification
    - Ventilation of basement in accordance with AS 1668.2
    - Disability (Access to premises buildings) Standard 2010
  - 1.2. Payment of the Long Service Leave Levy to the Long Service Leave Corporation or to Council.
  - 1.3. Payment to Council of:

Development Contributions	\$629,806.63
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### BEFORE COMMENCING THE DEVELOPMENT

2. 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, 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.cbcity.nsw.gov.au](http://www.cbcity.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.

3. Before the erection of any building in accordance with this Development Consent:
  - 3.1. Detailed plans and specifications of the building must be endorsed with a Construction Certificate by the Council or an Accredited Certifier, and
  - 3.2. You must appoint a Principal Certifying Authority (either Canterbury Bankstown Council, or an Accredited Certifier) and notify the Council of the appointment (see Attachment – Notice of Commencement copy), and
  - 3.3. You must give the Council at least 2 days' notice of your intention to commence erection of the building (see Attachment – Notice of Commencement copy).

#### DEMOLITION

4. Demolition must be carried out in accordance with the following:
  - a) Demolition of the building is to be carried out in accordance with applicable provisions of Australian Standard AS 2601-2001: The Demolition of Structures and the Construction Safety Act Regulations.
  - b) The demolition of a structure or building involving the removal of dangerous or hazardous materials, including asbestos or materials containing asbestos must be carried out in accordance with the requirements of the Workcover Authority of New South Wales.
  - c) Demolition being carried out in accordance with the requirements of the Work Health and Safety Regulation 2011.
  - d) A hoarding or fence must be erected between the building or site of the building and the public place, if the public place or pedestrian or vehicular traffic is likely to be obstructed or rendered inconvenient because of the carrying out of the demolition work.
  - e) Demolition of buildings is only permitted during the following hours:  
7.00 a.m. – 5.00 p.m. Mondays to Fridays  
7.00 a.m. – 12.00 noon Saturdays  
No demolition is to be carried out on Sundays or Public Holidays.
  - f) Burning of demolished building materials is prohibited.
  - g) Adequate care is to be taken during demolition to ensure that no damage is caused to adjoining properties.
  - h) Soil and water management facilities must be installed and maintained during demolition in accordance with Council's Stormwater Management Manual. If

you do not provide adequate erosion and sediment control measures and/or soil or other debris from the site enters Council's street gutter or road you may receive a \$1500 on-the-spot fine.

- i) Council's Soil and Water Management warning sign must be displayed on the most prominent point on the demolition site, visible to both the street and site workers. The sign must be displayed throughout demolition.
- j) The capacity and effectiveness of soil and water management devices must be maintained at all times.
- k) During the demolition or erection of a building, a sign must be provided in a prominent position stating that unauthorised entry to the premises is prohibited and contain all relevant details of the responsible person/company including a contact number outside working hours.
- l) A sign is not required where work is being carried out inside, or where the premises are occupied during the works (both during and outside working hours).
- m) Toilet facilities must be provided to the work site in accordance with WorkCover's NSW "CODE OF PRACTICE" for Amenities for construction work and any relevant requirements of the BCA.
- n) Removal, cleaning and disposal of lead-based paint conforming to the current NSW Environment Protection Authority's guidelines. Demolition of materials incorporating lead being conducted in strict accordance with sections 1.5, 1.6, 1.7, 3.1 and 3.9 of Australian Standard AS2601-2001: Demolition of Structure. Note: For further advice you may wish to contact the Global Lead Advice and Support Service on 9716 0132 or 1800 626 086 (freecall), or at [www.lead.org.au](http://www.lead.org.au).
- o) Hazardous dust not being allowed to escape from the site. The use of fine mesh dust proof screens or other measures are recommended.
- p) Any existing accumulations of dust (eg. ceiling voids and wall cavities) must be removed by the use of an industrial vacuum fitted with a high efficiency particulate air (HEPA) filter. All dusty surfaces and dust created from work is to be suppressed by a fine water spray. Water must not be allowed to enter the street and stormwater systems. Demolition is not to be performed during adverse winds, which may cause dust to spread beyond the site boundaries.

#### SITE SIGNAGE

- 5. A sign shall be erected at all times on your building site in a prominent position stating the following:
  - 5.1. The name, address and telephone number(s) of the principal certifying authority for the work, and
  - 5.2. The name of the person in charge of the work site and a telephone number at which that person may be contacted during and outside working hours, and
  - 5.3. That unauthorised entry to the work site is prohibited.

## GENERAL

6. The development being carried out in accordance with the plans, specifications and details set out in the table below except where amended by the conditions contained in this Notice and the following specific conditions:

Drawing No.	Drawing Title	Revision	Prepared by	Plot dated
A1200	Basement 03, 02	J	Ghazi Al Ali Architects	24/10/17
A1201	Basement 01, Ground floor	L	Ghazi Al Ali Architects	11/12/17
A1202	Level 01, Level 02	J	Ghazi Al Ali Architects	24/10/17
A1203	Level 04, Level 03	K	Ghazi Al Ali Architects	11/12/17
A1204	Roof plan	K	Ghazi Al Ali Architects	11/12/17
A1500	North elevation, east elevation	K	Ghazi Al Ali Architects	11/12/17
A1501	South elevation, west elevation	K	Ghazi Al Ali Architects	11/12/17
A1600	Materials Schedule	B	Ghazi Al Ali Architects	11/01/18
A1700	Section AA	K	Ghazi Al Ali Architects	11/12/17
A1701	Section BB	K	Ghazi Al Ali Architects	11/12/17
Stage 2 Contamination Assessment (Ref: GTE761-Stage 2 rev1)	-	-	Ground Technologies	08/6/17
Flood Study (Ref: 2015.0039-L03 (Rev A))	-	A	S&G Consultants Pty Ltd	08/6/17
SW01 – 07 inclusive (Rev F)	Catchment calculations and sedimentation controls	F	S&G Consultants Pty Ltd	07/12/17
BASIX Certificate 649008M_04	-	-	Gradwell Consulting	12/12/17

## PRIVACY

7. For the purposes of ensuring a satisfactory level of privacy is achieved between buildings the west-facing bedroom window of unit 406 must be a highlight window. This must be shown on the Construction Certificate plans.
8. For the purposes of improving the internal residential amenity of units G04, 106, 206 and 306 an additional window must be introduced in its northern wall (in addition to the east-facing highlight window). This window may be a vertically arranged to achieve additional light and ventilation whilst limiting an outlook to the lift shaft. Details are to be supplied with the Construction Certificate.
9. For the purposes of achieving a satisfactory level of privacy the proposed balconies serving the living rooms of units 110, 210, 310 and 407 must be fitted with fixed louvres that direct line of sight of users in an ENE direction as shown on the approved plans. The Construction Certificate plan must clearly notate this requirement.
10. For the purposes of achieving congruency with adjoining development and a positive contribution to the streetscape the bedrooms located at a zero front boundary setback at the third and fourth storey (units 210 and 310) must be deleted. This must be clearly shown on the Construction Certificate plans.
11. For the purposes of enhancing privacy for occupants of the building and surrounding properties the balustrading must be translucent (clouded). This requirement must be clearly depicted in the Construction Certificate plans.
12. For the purposes of maintaining the proposal's positive contribution to the streetscape any substation or firefighting equipment must not be placed in lieu of or in front of the commercial areas at ground floor level. The applicant must seek approval from Council for any variation to this requirement.

## ACOUSTICS

13. A report prepared by a qualified Acoustic Consultant demonstrating that the development complies with all relevant noise regulations in particular clauses 102 of the State Environmental Planning Policy (SEPP) (Infrastructure) 2007, to be submitted to Council for approval prior to the issuing of the Construction Certificate. Revised plans reflecting the recommendations in the acoustic report (Ref: 150634-01L-DD, dated 19 June 2015 prepared by Acoustic Consulting Engineers) are also to be submitted to Council, prior to the issuing of the Construction Certificate.

## GEOTECHNICAL

14. The recommendations contained in the Geotechnical Report for the site prepared by Geo-environmental Engineering, dated 14 July 2015, must be fully complied with. Attention is drawn to Section 4.1.3.1 of the report that requires a dilapidation report be undertaken on adjoining buildings.



## BUILDING CODE OF AUSTRALIA

15. A Building Code of Australia Compliance Assessment Report must be completed demonstrating full compliance with the requirements of the Building Code of Australia and National Construction Code. Details of any Fire Engineered Solutions and deemed-to-satisfy provisions must be provided in full for approval with the Construction Certificate.
16. Finishes and materials including the treatment of external walls, roofing, balcony balustrades, fences, windows and doors being in accordance with the approved External Finishes.
17. The approved design (including an element or detail of that design) or materials, finish or colours of the building must not be changed so as to affect the external appearance of the building without the approval of Council.
18. The site's boundary fencing is to be retained, or replaced (if damaged during the construction process) at the applicant's expense. Any repairs or replacement must be made before the issue of any occupation certificate. Any damage caused during the works period is to be made good within 24 hours of damage.
19. A Dilapidation Report/photographic survey prepared by an appropriately qualified engineer is to be undertaken of the adjoining properties being 17-19 Weyland and 23 Weyland Street detailing the physical condition of the property, both internally and externally, including such items as walls, ceilings, roof, structural members and other similar items, shall be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate. On completion of the excavation and building works and prior to occupation of the building, a certificate by an appropriately qualified engineer stating to the effect that no damage has resulted to adjoining premises is to be provided to the Principal Certifying Authority. If damage is identified which is considered to require rectification, the damage shall be rectified or a satisfactory agreement for rectification of the damage is to be made with the affected person/s as soon as possible and prior to occupation of the development. All costs incurred in achieving compliance with this condition shall be borne by the person entitled to act on this consent.
20. Ninety-seven (97) off street car parking spaces and courier bay and car wash bay being provided within the two basement levels and the ground floor level of the development. The driveways and car parking areas must be designed in accordance with AS2890.1-1993 (Off-street car parking).
21. A separate consent is required for the use of the commercial tenancies.
22. This condition has been levied on the development in accordance with Section 94 of the Environmental Planning and Assessment Act 1979 and in accordance with Canterbury Development Contributions Plan 2013, after identifying the likelihood that

this development will require or increase the demand on public amenities, public services and public facilities in the area.

The monetary contribution of **\$629,806.63** shall be paid to Council before a Construction Certificate can be issued in relation to the development, the subject of this Consent Notice. The amount payable is based on the following components:

<b>Contribution Element</b>	<b>Contribution</b>
Community Facilities	\$56,966.99
Open Space and Recreation	\$556,809.15
Plan Administration	\$16,030.49

Note: The rates applying to each contribution element are subject to indexing using the Consumer Price Index. The Contributions payable will be adjusted, at the time of payment, to reflect CPI increases which have taken place since the DA was determined.

Canterbury Development Contributions Plan 2013 may be inspected at Council's Administration Centre, 137 Beamish Street, Campsie or from Council's website [www.cbcity.nsw.gov.au](http://www.cbcity.nsw.gov.au). A copy of the Plan may be purchased from Campsie Customer Service Centre, 137 Beamish Street, Campsie during office hours.

23. All materials must be stored wholly within the property boundaries and must not be placed on the footway or roadway.
24. All building operations for the erection or alteration of new buildings must be restricted to the hours of 7.00 a.m. - 5.00 p.m. Monday to Saturday, except that on Saturday no mechanical building equipment can be used after 12.00 noon. No work is allowed on Sundays or Public Holidays. Remediation work shall comply with the requirement of the NSW Industrial Noise Policy and the Environment Protection Authority' Environmental Noise Manual for the control of construction site noise.
25. All building construction work must comply with the National Construction Code.
26. Provide a Surveyor's Certificate to the Principal Certifying Authority prior to walls being erected more than 300mm above adjacent ground surfaces to indicate the exact location of all external walls in relation to allotment boundaries.
27. Provide a Surveyor's Certificate to the Principal Certifying Authority prior to the pouring of concrete at all levels and roof indicating the finished level to a referenced benchmark. These levels must relate to the levels indicated on the approved architectural plans and/or the hydraulic details.
28. Under clause 97A(3) of the Environmental Planning and Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in each relevant BASIX Certificate for the development are fulfilled.

In this condition:

- a) relevant BASIX Certificate means:
  - i) a BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under section 96 of the Act, A BASIX Certificate that is applicable to the development when this development consent is modified); or
  - ii) if a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate; and

BASIX Certificate has the meaning given to that term in the Environmental Planning and Assessment Regulation 2000.

- 29. Council's warning sign for Soil and Water Management must be displayed on the most prominent point on the building site, visible to both the street and site workers. The sign must be displayed throughout construction.
- 30. The capacity and effectiveness of erosion and sediment control devices must be maintained at all times.
- 31. A copy of the Soil and Water Management Plan must be kept on site at all times and made available to Council officers on request.
- 32. Concrete pumping contractors must not allow the discharge of waste concrete to the stormwater system. Waste concrete must be collected and disposed of on-site.
- 33. Materials must not be deposited on Council's roadways as a result of vehicles leaving the building site.
- 34. Drains, gutters, roadways and accessways must be maintained free of soil, clay and sediment. Where required, gutters and roadways must be swept regularly to maintain them free from sediment. Do not hose down.
- 35. A single entry/exit point must be provided to the site which will be constructed of a minimum of 40mm aggregate of blue metal or recycled concrete. The depth of the entry/exit point must be 150mm. The length will be no less than 15m and the width no less than 3m. Water from the area above the entry/exit point shall be diverted to an approved sediment filter or trap by a bund or drain located above.
- 36. The construction certificate plans must show the provision of one master TV antenna, to prevent numerous smaller antennas being installed on the roof or balconies.

## CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

37. The site is to be treated with anti-graffiti paint to deter graffiti offenders targeting the building and its perimeter. This will preserve the building and increase a sense of maintenance and ownership of the site.

## LANDSCAPING

38. The landscaping plan must be amended to reflect the approved architectural plans and must generally accord with landscape plan (drawn by Conzept Landscape Architects, drawing no.LPDA16-30/1issue D, LPDA16- 30/2issue B and LPDA16-30/3issue A submitted to council on the 29th of April 2016) except where amended by the conditions of consent. The landscaping and deep soil areas are to be maintained at all times to the Council's satisfaction. The details shall show how the exposed edge of the basement in the vicinity of the Communal Open Space complements the landscape setting. Details of the wall must be supplied and must be a natural tone in colour.
39. All the tree supply stocks shall comply with the guidance given in the publication *Specifying Trees: a guide to assessment of tree quality* by Ross Clark (NATSPEC, 2003).
40. All scheduled plant stock shall be pre-ordered, prior to issue of Construction Certificate or 3 months prior to the commence of landscape construction works, whichever occurs sooner, for the supply to the site on time for installation. Written confirmation of the order shall be provided to Council's Landscape Architect (Contact no: 9789 9438), prior to issue of any Construction Certificate. The order confirmation shall include name, address and contact details of supplier; and expected supply date.
41. An automatic watering system is to be installed in common areas at the applicant's cost. Details including backflow prevention device, location of irrigation lines and sprinklers, and control details are to be communicated to Council or certifier prior to the issue of the Construction Certificate. The system is to be installed in accordance with the manufacturer's specification and current Sydney Water guidelines.
42. The existing property tree, 1 x Eucalyptus sp., located in the rear yard on Weyland Street may be removed to accommodate construction. This removal is conditional on its replacement with 1 x 75ltr (container size) native Eucalyptus species to be planted as a street tree planting to Weyland Street.
43. The proposed planting to all podium levels is to comply with the following as required in the CDCP 2012 Part 6.6: Landscape:

### Raised planters:

- Use masonry or concrete construction;
- Provide drainage for each planter box, and coordinate drainage details with hydraulics plan; and
- Provide waterproofing to each planter box.

Minimum soil depth:

- 100-300mm for turf
- 300-450mm for groundcovers;
- 500-600mm for small shrubs;
- 600-750mm for medium shrubs;
- 750-900mm for small trees with approximate soil area of 3.5m x 3.5m;
- 1000mm for medium trees with approximate soil area of 6m x 6m; and
- 1300mm depth for large trees with approximate soil area of 10m x10m.

44. All neighbouring trees impacted by the demolition, construction and development of the site must be retained and protected in accordance with all aspects and requirements for the protection of these Trees as stated in the Australian Standard 2009, AS 4970-2009 Protection of Trees on Development Sites and to allow for the healthy ongoing life of these trees. A tree protection barrier is to be erected around the perimeter of the Tree Protection Zone as defined in the Australian Standard 2009, AS 4970-2009 Protection of Trees on Development Sites prior to the commencement of any site works. The barrier is to be well maintained during construction. No building material storage or construction activity shall be allowed to encroach within the Tree Protection Zone.
45. Amended landscape plans to address the following issues are to be submitted to the certifier prior to the issue of the Construction Certificate;
- The Landscape design is to be amended to coordinate with the amended Architectural plans DA A1201 issue K submitted to council on the 6th of December 2017 whilst maintaining the design intent and integrity of the original design including planting densities and sizes
  - The Communal Open Space area to be natural ground level in the deep soil area with the rest at level of maximum RL 6.00 throughout stepping up to RL6.99 at the rear corner of 19 Weyland Street.
  - Provide communal open space that encourages activation and promotes the enjoyment of outdoor living with attractive landscaped spaces and edges and considers solar access and shading. Provide recognisable areas and facilities including seating, barbecues, shaded areas (trees or pergolas), children's play (ie permanent table tennis table and creative play) and gardens to accommodate and generate a variety of spaces for residents to spend time in
  - Provide screen planting along units G05 and G06
  - Provide minimum 4 x Eucalyptus sp. trees with a minimum 10m mature height to the deep soil area and a minimum of 4 x Livistona australis or similar to the on podium communal open space.

#### WASTE MANAGEMENT

46. Unobstructed and unrestricted access to the waste bin storage areas shall be provided for servicing from 5.00am on collection days.
47. Bins must not be presented on the road for collection. Instead, they will be collected and returned to the waste bin storage rooms by Council's waste collection contractor.

48. The waste bin storage areas are to be designed and constructed in accordance with Section 6.9.4.1 and 6.9.4.2 of Canterbury Development Control Plan 2012. A bin holding area must be located at the ground level of the development within 15m of the site frontage, immediately north of the vehicular ramp, and suitably screened in accordance with Section 6.9.4 of the Canterbury Development Control Plan 2012.

#### CONTAMINATION

49. The requirements of Stage 2 Contamination Assessment by Ground Technologies (Ref: GTE-761) dated 23 February 2016 must be strictly adhered to.

#### ENGINEERING

50. All proposed works and excavation under the existing easement shall be carried out after written approval from the easement beneficiary. The PCA must ensure a written approval is obtained prior to the issue of construction certificate.
51. A stormwater drainage design prepared by a qualified practicing Civil Engineer must be provided prior to the issue of a Construction Certificate. The submitted design must be amended to make provision for the following:
- a) The design must be generally in accordance with the plans, specifications and details prepared by SG Consultants Pty Ltd, Drawing number 20150039 SW01-SW06 Rev. F, Dated 07/12/2017.
  - b) Stormwater runoff from all roof and paved areas within the property must be collected in a system of gutters, pits and pipelines and be discharged together with overflow pipelines from any rainwater tank(s) to Council's Trunk Drainage System.
  - c) The design must make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands. The design must include the collection of such waters and discharge to the Council drainage system.
  - d) All surface areas connecting to the onsite detention tanks must be 50mm higher than top of water level for each tank. Alternately bypass the detention system.
52. All redundant Stormwater connections to the channel/ footpath or council stormwater system shall be removed.
53. All downpipes, pits and drainage pipes shall be installed to ensure that stormwater is conveyed from the site and into Council's stormwater system in accordance with AUSSPEC Specification D5 "Stormwater Drainage Design", AS/NZS3500.3 and Part 6.4 of Canterbury Council's DCP 2012.
54. The street alignment levels are to be obtained by payment of the appropriate fee to Council. These levels are to be incorporated into the designs of the internal pavements, carparks, landscaping and stormwater drainage. Evidence must be provided that these levels have been adopted in the design. As a site inspection and

survey by Council is required to obtain the necessary information, payment is required at least 14 days prior to the levels being required.

55. The site is located in a natural overland flow path. The plans must be certified by an appropriately qualified civil engineer that adequate provision has been made for overland flow up to the 100 year Average Recurrence Interval event with regard to floor levels and impact on adjacent properties, and below ground basement protection from inundation.
56. All structural members must be designed to withstand flood impact loads and scouring around structural members, particularly the piers supporting the building.
57. The applicant to arrange with the relevant public utility authority the alteration or removal of any affected services in connection with the development. Any such work being carried out at the applicant's cost.
58. If Groundwater is encountered, it must not be captured by the drainage system of the basement. In this regard the basement must be tanked to at least 1000 mm above measured groundwater levels.
59. That the stormwater system be constructed in general, in accordance with the plans, specifications and details submitted with the Construction Certificate and as amended by the following conditions. Certification from an accredited engineer must be provided to certify that all Stormwater works has been carried out in accordance with the approved plan(s), relevant codes and standards.
60. A Works-as-Executed plan must be submitted to Canterbury Bankstown Council at the completion of the works, the plan must clearly illustrated dimensions and details of the site drainage and the OSD system. The plan shall be prepared by a registered surveyor or an engineer. A construction compliance certification must be provided prior to the issuing of the Occupation Certificate to verify, that the constructed stormwater system and associate works has been carried out in accordance with the approved plan(s), relevant codes and standards. The required certification must be issued by an accredited professional in accordance with the accreditation scheme of the Building Professional Board issued 1st March 2010. An appropriate instrument must be registered on the title of the property, concerning the presence and ongoing operation of the OSD system as specified in Councils DCP 2012.
61. Prior to the issue of an Occupation Certificate, the Principle Certifying Authority must ensure that Operation and Management Plans has been prepared and implemented for the basement pump out facility. The Plan must set out the following at a minimum:
  - a) The proposed maintenance regime, specifying that the system is to be regularly inspected and checked by qualified practitioners.



- b) The proposed method of management of the facility, including procedures, safety protection systems, emergency response plan in the event of mechanical failure, etc.

The Plan must be prepared by a suitably qualified professional and provided to the Principle Certifying Authority prior to the issue of an Occupation Certificate.

- 62. The Operation and Management Plan for the basement pump out facility, approved with the Occupation Certificate, must be implemented and kept in a suitable location on site at all times.
- 63. The submitted Geotechnical Report provides an option that potentially utilises neighbouring properties and the roadway for support. The legal rights of any adjoining properties must be respected including for temporary supports. In this regard the written permission of the affected property owners must be obtained and a copy of the owner's consent for temporary rock anchors or other material in adjacent lands must be lodged Canterbury Bankstown Council prior to the issue of a Construction Certificate.

Temporary rock anchors are rock anchors that will be de-stressed and removed during construction. All other rock anchors are permanent rock anchors for the purposes of this Consent.

Council will not permit permanent rock anchors in adjacent private lands unless they are specifically permitted in a Development Consent. Where temporary anchors are proposed to be used in Canterbury Road and Weyland Street an Application must be made to Canterbury Bankstown Council for approval under Section 138 of the Roads Act 1993, via a Road Works Permit application. The submission would need to be supported by an engineering report prepared by a suitably qualified Structural Engineer, with supporting details addressing the following issues:

- a) Demonstrate that any structures within the road reserve are of adequate depth to ensure no adverse impact on existing or potential future service utilities in the road reserve. All existing services must be shown on a plan and included on cross sectional details where appropriate.
  - b) Demonstrate how the temporary anchors will be removed and replaced by full support from structures within the subject site by completion of the works.
  - c) The report must be supported by suitable geotechnical investigations to demonstrate the efficacy of all design assumptions.
- 64. Where rock anchors or other temporary retaining measures are to encroach on adjoining properties, including the roadway, the Principal Certifying Authority must ensure that the permission of the relevant landowner has been obtained. In this regard a copy of the owner's consent for private property and Section 138 Approval pursuant to the Roads Act for roads must be provided to the Principal Certifying Authority prior to the issue of a Construction Certificate.



65. The vehicular access and parking facilities shall be in accordance with Australian Standard AS 2890.1 "Off-street Parking Part 1 - Carparking Facilities". In this regard, the submitted plans must be amended to address the following issues:
- a) The finished levels within the property must be adjusted to ensure that the levels at the boundary comply with those issued by Council for the full width of the vehicle crossing. The longitudinal profile must comply with the Ground Clearance requirements of AS/NZS 2890.1-2004.
  - b) Tandem parking spaces shall be only accepted if nominated to benefit the same dwelling
  - c) Residential parking spaces shall be separated and secured from commercial parking spaces.
  - d) Parking spaces number 2, 30 and 65 shall be adjusted and/or relocated to create a refuge area in front of the Lift and the stair door opening.
  - e) The driveway grades shall be in accordance with Australian Standard AS 2890.1 "Off-street Parking Part 1 - Carparking Facilities".
  - f) A minimum of 2200mm Headroom must be provided throughout the access and parking facilities. Note that Headroom must be measured to the lowest projection from the ceiling, such as lighting fixtures, and to open garage doors.
  - g) The car parking facilities must be appropriately line marked and signposted in accordance with the requirements of Section 4 of AS/NZS 2890.1-2004.
  - h) The intersection of ramps with parking aisles and other intersection areas have been designed for use by one vehicle at a time. Appropriate traffic management measures, including redesign if needed, is required to prioritise one-way traffic movement at these intersection areas.
  - i) Minimum lines of sight for pedestrian safety must be provided in accordance Figure 3.3 of AS/NZS 2890.1:2004.
  - j) The Engineer must certify that the access and parking complies with current Australian Standards including AS/NZS 2890.1-2004 Parking Facilities - Off-Street Car Parking, AS 2890.2-2002 Parking Facilities - Off-Street commercial vehicles facilities, AS/NZS 2890.6-2009 Off-street parking for people with disabilities and AS 2890.3-1993 Parking Facilities - Bicycle parking facilities.
66. A full width heavy duty vehicular crossing shall be provided at the vehicular entrance to the site, with a maximum width of 5.5 metres at the boundary line. This work to be carried out by Council or an approved contractor, at the applicant's cost. The work is to be carried out in accordance with Council's "Specification for the Construction by

Private Contractors of: a) Vehicle Crossings, b) Concrete Footpath, c) Concrete Kerb & Gutter”.

67. Driveways, parking and service areas are to be constructed or repaired in accordance with the appropriate AUS-SPEC #1 Specifications: C242-Flexible Pavements; C245-Asphaltic Concrete; C247-Mass Concrete Subbase; C248-Plain or Reinforced Concrete Base; C254-Segmental Paving; C255-Bituminous Microsurfacing.
68. All redundant vehicular crossings shall be replaced with kerb and the footpath reserve made good by Council or an approved contractor, at the applicant’s cost. The work is to be carried out in accordance with Council’s “Specification for the Construction by Private Contractors of: a) Vehicle Crossings, b) Concrete Footpath, c) Concrete Kerb & Gutter”.
69. The reconstruction of the kerb along all areas of the site fronting Canterbury Road is required. Work to be carried out by Council or an approved contractor, at the applicant’s cost. The work is to be carried out in accordance with RMS design guidelines and regulations.
70. The reconstruction of the kerb and gutter along all areas of the site fronting Weyland Street is required. Work to be carried out by Council or an approved contractor, at the applicant’s cost. The work is to be carried out in accordance with Council’s “Specification for the Construction by Private Contractors of: a) Vehicle Crossings, b) Concrete Footpath, c) Concrete Kerb & Gutter”.
71. The reconstruction of footpath paving and associated works along all areas of the site fronting Canterbury Road, and Weyland Street is required. Work being carried out by Council or an approved contractor, at the applicant’s cost. The work is to be carried out in accordance with Council’s “Specification for the Construction by Private Contractors of: a) Vehicle Crossings, b) Concrete Footpath, c) Concrete Kerb & Gutter”.
72. The granting of service easements within the properties to the satisfaction of Council or private certifier. Costs associated with preparation and registration of easements to be borne by the developer.
73. All easements required for the subdivision being shown on and registered in conjunction with the subdivision plan.

#### PUBLIC IMPROVEMENTS

74. All redundant vehicular crossings shall be replaced with kerb and the footpath reserve made good by Council or an approved contractor, at the applicant’s cost. The work is to be carried out in accordance with Council’s “Specification for the Construction by Private Contractors of: a) Vehicle Crossings, b) Concrete Footpath, c) Concrete Kerb & Gutter”.

75. The reconstruction of the kerb and gutter along all areas of the site fronting Weyland Street is required. Work to be carried out by Council or an approved contractor, at the applicant's cost. The work is to be carried out in accordance with Council's "Specification for the Construction by Private Contractors of: a) Vehicle Crossings, b) Concrete Footpath, Concrete Kerb & Gutter".
76. The construction of concrete footpath paving and associated works along all areas of the site fronting Weyland Street is required. Work being carried out by Council or an approved contractor, at the applicant's cost. The work is to be carried out in accordance with Council's "Specification for the Construction by Private Contractors of: a) Vehicle Crossings, b) Concrete Footpath, c) Concrete Kerb & Gutter".
77. The granting of service easements within the properties to the satisfaction of Council or private certifier. Costs associated with preparation and registration of easements to be borne by the developer.
78. All easements required for the subdivision being shown on and registered in conjunction with the subdivision plan.

#### SYDNEY WATER REQUIREMENTS

79. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. Application must be made through an authorised Water Servicing Co-ordinator. For help either visit Sydney Water's web site at [www.sydneywater.com.au/BuildingDeveloping/DevelopingYourLand](http://www.sydneywater.com.au/BuildingDeveloping/DevelopingYourLand) , Water Servicing Coordinators, or telephone 13 20 92. Following application, a "Notice of Requirements" will be forwarded detailing water and sewage extensions to be built and charges to be paid. Please make early contact with the Co-ordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design. The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to occupation of the development/release of the final plan of subdivision.

#### AUSGRID REQUIREMENTS

##### Method of Electricity Connection

80. The method of connection will be in line with Ausgrid's Electrical Standard (ES)1 – 'Premise Connection Requirements.

### Supply of Electricity

81. It is recommended for the nominated electrical consultant/contractor to provide a preliminary enquiry to Ausgrid to obtain advice for the connection of the proposed development to the adjacent electricity network infrastructure. An assessment will be carried out based on the enquiry which may include whether or not:
- The existing network can support the expected electrical load of the development
  - A substation may be required on-site, either a pad mount kiosk or chamber style and;
  - Site conditions or other issues that may impact on the method of supply.

You are directed to Ausgrid's website, [www.ausgrid.com.au](http://www.ausgrid.com.au) about how to connect to Ausgrid's network.

### Conduit Installation

82. The need for additional electricity conduits in the footway adjacent to the development will be assessed and documented in Ausgrid's Design Information, used to prepare the connection project design.

### Proximity to Existing Network Assets

#### Overhead Powerlines

83. There are existing overhead electricity network assets in the 132kV transmission line easement that encumbers the property. There are also overhead powerlines in Canterbury Road and Weyland Street. Safework NSW Document – Work Near Overhead Powerlines: Code of Practice, outlines the minimum safety separation requirements between these mains/poles to structures within the development throughout the construction process. It is a statutory requirement that these distances be maintained throughout construction. Special consideration should be given to the positioning and operating of cranes and the location of any scaffolding. The “as constructed” minimum clearances to the mains should also be considered. These distances are outlined in the Ausgrid Network Standard, NS220 Overhead Design Manual. This document can be sourced from Ausgrid's website, [www.ausgrid.com.au](http://www.ausgrid.com.au)

Should the existing overhead mains require relocating due to the minimum safety clearances being compromised in either of the above scenarios, this relocation work is generally at the developers cost.

It is also the responsibility of the developer to ensure that the existing overhead mains have sufficient clearance from all types of vehicles that are expected be entering and leaving the site.

## Underground Cables

84. There are existing underground electricity network assets in 2 Moxon Rd and 1582-1584 Canterbury Road. These are 132kV cables.

Special care should also be taken to ensure that driveways and any other construction activities within the footpath area do not interfere with the existing cables in the footpath. Ausgrid cannot guarantee the depth of cables due to possible changes in ground levels from previous activities after the cables were installed. Hence it is recommended that the developer locate and record the depth of all known underground services prior to any excavation in the area. Should ground anchors be required in the vicinity of the underground cables, the anchors must not be installed within 300mm of any cable, and the anchors must not pass over the top of any cable. Safework Australia – Excavation Code of Practice, and Ausgrid's Network Standard NS156 outlines the minimum requirements for working around Ausgrid's underground cables.

### For Activities Within or Near to the Electricity Easement: Purpose Of Easement

85. This easement was acquired for the 132,000 volt transmission assets currently owned and operated by Ausgrid. The purpose of the easement is to protect the transmission assets and to provide adequate working space along the route of the lines for construction and maintenance work. The easement also assists Ausgrid in controlling works or other activities under or near the transmission lines which could either by accident or otherwise create an unsafe situation for workers or the public, or reduce the security and reliability of Ausgrid's network.
86. The Following Conditions Apply for any Activities Within the Electricity Easement:
- a) All construction works on or near the easement and/or powerlines must adhere to the Safework NSW – Work Near Overhead Powerlines: Code of Practice, 2006
  - b) Ausgrid is not responsible for the reinstatement of any finished surface within the easement site.
  - c) Ausgrid requires 24 hour access along the easement for plant and personnel. For the purpose of exercising its rights under the easement, Ausgrid may cut fences and/or walls and install gates in them. Where the easements on a site do not provide practical access to all of Ausgrid's infrastructure, a suitable right of access at least 5m wide must be provided to each asset.
  - d) No vehicles, plant or equipment having a height exceeding 4.6 metres are to be brought into the easement site without written approval from Ausgrid.
  - e) Vehicles brought into the easement, with a height less than 4.6m but having an extension capable of extending greater than 4.6m above ground, must not have that extension operated at all whilst within the easement.
  - f) All metal work within the easement site including metallic fencing, are to be locally earthed by a qualified electrician via a 50 sq. mm stranded copper, insulated earthwire bonded to a copper-clad earth-stake driven at least 1.6 metres into the ground.

- g) Metallic fencing is generally not permitted to extend away from the easement site unless an insulating section is installed, at least 3 metres wide. This requirement may be relaxed upon assessment of a supplied fencing design.
- h) It is noted that awning adjacent to Canterbury Road will encroach the easement. The stairs down to the proposed lawn area will also encroach the easement. No other buildings/structures or parts thereof constructed may encroach the easement. Refer to point 14.
- i) No obstruction of any type shall be placed within 10 metres of any part of a transmission line structure except where installed to protect transmission structure from vehicle impacts when Ausgrid has approved such structures.
- j) The storage of non-flammable materials is allowable provided access is maintained along the easement and subject to height limitations of 2.5 metres if climbable or 4.6 metres if not climbable. Lifting of materials within the easement area must consider the clearance requirements given in Safework NSW Code of Practice.
- k) The erection of minor structures such as clothes hoists, barbecues, and the like are permitted within the easement site provided they do not exceed a height of 2.5 metres if climbable or 4.6m if not climbable, and the metallic components are earthed. The positioning of such structures should allow a 5m wide vehicular access along the full length of the subject easement area. Ausgrid reserves the right to remove such structures where required for safety, access and maintenance.
- l) The flying of kites, model aircraft etc. is not permitted within the easement site.
- m) Any change to ground levels must be submitted to Ausgrid for approval.
- n) The encroachment of permanent and temporary major structures into the easement is generally not permitted. This includes scaffolding and cranes. Should the developer require access to the easement for the erection of any structure, plans and a methodology of the proposal must be provided to Ausgrid for review. Consent for the slewing of a tower crane jib over the 132kV lines will be considered upon receipt of suitable plans and methodology.
- o) Trees, shrubs, or plants which have a mature height of greater than 3.0m, or climbable portions greater than 2.5m above ground, are not permitted within the easement. The planting of other vegetation is to ensure Ausgrid's access and maintenance requirements are maintained.
- p) Electric power should not be connected to the easement site without permission from Ausgrid.
- q) Ausgrid is to be indemnified from all actions, suits, claims and demands of whatsoever nature, which Ausgrid may incur as a result of the encroachment/s.
- r) Ausgrid reserves the right, by written notice, to require the owner of the property, at the owner's expense, to implement further safety measures, removal or modification of any encroachments not specifically approved by Ausgrid should this be necessary in the future for the safe and continued operation or upgrade of the network asset.

## CONSOLIDATION OF LOTS

87. The site forming all Lot 54 in DP12280 and Lot 2 in DP589284 (inclusive) the subject of this development consent must be consolidated into one allotment. The plan of consolidation being lodged and registered with the Land and Property Information NSW prior to the earlier of the release of the Occupation Certificate or occupation of the building.

## DISABILITY ACCESS

88. Access to the premises must be provided for people with disabilities and in accordance with the recommendations of the Disability Access Report No. 216260 dated 28 July 2015 and compliant with the Disability (Access to Premises-Buildings) Standards 2010. An updated Access Report must be prepared for approval with the Construction Certificate and must relate to the approved architectural drawings and any additional requirements arising from the approved plans must be strictly adhered to.

## CRITICAL INSPECTION

### 89. Class 2, 3 or 4 Buildings

The following critical stage inspections **must be** carried out by the Principal Certifying Authority (either Council or the Accredited Certifier)

- 89.1. prior to covering of waterproofing in any wet areas, for a minimum of 10% of rooms with wet areas within the building, and
- 89.2. prior to covering any stormwater drainage connections, and
- 89.3. after the building work has been completed and prior to any occupation certificate being issued in relation to the building.

### Class 5, 6, 7, 8 or 9 Buildings

- 89.4. prior to covering any stormwater drainage connections, and
  - 89.5. after the building work has been completed and prior to any occupation certificate being issued in relation to the building.
90. Section 81(A) of the EP&A Act 1979 requires that a person having the benefit of a development consent, if not carrying out the work as an owner-builder, **must notify the principal contractor for the building work of any critical stage inspections and other inspections that are to be carried out in respect of the building work**, as nominated in this development consent.

To arrange an inspection by Council please phone 9707 9000 during normal office hours.

**COMPLETION OF DEVELOPMENT**

91. Obtain an Occupation Certificate/Interim Occupation Certificate from the Principal Certifying Authority before partial/entire occupation of the development.

**WE ALSO ADVISE:**

92. This application has been assessed in accordance with the National Construction Code.
93. You should contact Sydney Water prior to carrying out any work to ascertain if infrastructure works need to be carried out as part of your development.
94. Where Council is appointed as the Principal Certifying Authority, you will be required to submit Compliance Certificates in respect of the following:
- Structural engineering work
  - Air handling systems
  - Final fire safety certificate
  - BASIX completion
  - Waterproofing
  - Glazing
  - Section J of the NCC
95. Any works to be carried out by Council at the applicant's cost need to be applied for in advance.
96. 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 from the nearest cross street) for underground utility services information for any excavation areas.
97. In granting this approval, we have considered the statutory requirements, design, materials and architectural features of the building. No variation to the approved design and external appearance of the building (including colour of materials) will be permitted without our approval.
98. Compliance with the National Construction Code does not guarantee protection from prosecution under "The Disability Discrimination Act". Further information is available from the Human Rights and Equal Opportunity Commission on 1800 021 199.
99. The drawings and documentation submitted with this development application do not appear to indicate the location of air conditioning units. You are asked to note that the provision of AC units can be carried out through exempt development, however should you not be able to comply with the exempt development provisions a full development application may be required for the provision of AC units.



100. Our decision was made after consideration of the matters listed under Section 79C of the Environmental Planning and Assessment Act 1979, and matters listed in Council's various Codes and Policies.
101. If you are not satisfied with this determination, you may:
- 101.1. Apply for a review of a determination under Section 82A of the Environmental Planning and Assessment Act 1979. A request for review must be made and determined within 6 months of the date of this Notice of Determination and be accompanied by the relevant fee; or
  - 101.2. Appeal to the Land and Environment Court within 6 months after the date on which you receive this Notice of Determination, under Section 97 of the Environmental Planning and Assessment Act 1979.

-END-



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## Independent Hearing and Assessment Panel - 22 January 2018

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<b>ITEM 2</b>	<b>27 Brockman Avenue, Revesby Heights</b>
	<b>Demolition of existing structures and the construction of a two storey attached dual occupancy, with Torrens title subdivision</b>
<b>FILE</b>	<b>DA-849/2017 - Revesby Ward</b>
<b>ZONING</b>	<b>R2 Low Density Residential</b>
<b>DATE OF LODGEMENT</b>	<b>13 September 2017</b>
<b>APPLICANT</b>	<b>CK Design</b>
<b>OWNERS</b>	<b>Melanie Radieh Coorey and James Michael Coorey</b>
<b>ESTIMATED VALUE</b>	<b>\$687,698</b>
<b>AUTHOR</b>	<b>ERM Australia Pty Ltd (Independent Planner)</b>

### REPORT

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This matter is reported to the Independent Hearing and Assessment Panel as an owner of the subject property is a Council staff member. The Section 79C Assessment Report has been prepared by ERM Australia Pty Ltd.

Development Application DA-849/2017 proposes the demolition of existing structures and construction of a dual occupancy (attached) two storey development with associated car parking, landscaping, front fence and site works, with Torrens title subdivision.

Both units contain four bedrooms with a study and two car spaces; one covered and one stacked. The living areas are located on the ground floor with the first floor containing four bedrooms and study. One unit contains a balcony to the front (primary frontage), located off two bedrooms. The other unit contains a balcony to the front (primary frontage), located off one bedroom.

DA-849/2017 has been assessed against Bankstown Local Environmental Plan 2015 and Bankstown Development Control Plan 2015 (Part B1 – Residential Development, Part B4 – Sustainable Development, Part B5 – Parking, Part B11 – Tree Preservation Order and Part B12 – Flood Risk Management). The application complies with all requirements.

The application was notified for a period of 14 days (commencing 14 September and concluding 27 September 2017). No submissions were received during this period.

## **POLICY IMPACT**

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This matter has no direct policy implications.

## **FINANCIAL IMPACT**

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This matter has no direct financial implications.

## **RECOMMENDATION**

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

## **ATTACHMENTS**

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- A. Section 79C Assessment Report
- B. Conditions of Consent

## **DA-849/2017 ASSESSMENT REPORT**

### **SITE AND LOCALITY DESCRIPTION**

The subject site is known as 27 Brockman Avenue, Revesby Heights NSW 2212 (Lot 1130 DP 31413), located on the eastern side of the road between Rowell Street and Sandakan Road. The site is a regular allotment that is currently zoned R2 Low Density Residential.

The site contains a single storey clad dwelling with associated structures. The site area is 575.4 m<sup>2</sup> and is rectangular in shape. The site has a frontage of 15.24 m and minimum length of 38.1 m.

The surrounding development consists of:

- Detached single and two storey dwellings with interspersed dual occupancy and villa/townhouse development;
- Standard width unpaved nature strips;
- Relatively consistent street tree planting theme; and
- Predominately low scale or no front fencing.

An aerial of the site locality is illustrated below, with 27 Brockman Avenue Revesby Heights shaded yellow.



### **PROPOSED DEVELOPMENT**

The Development Application proposes the demolition of existing structures and construction of a dual occupancy (attached) two storey development. The works include:

- Demolition of existing structures;

- Construction of attached two storey dual occupancy. Each dwelling provides two car spaces (one covered and one stacked). The ground floor consists of living, dining, kitchen and family/study space with one WC. The first floor consists of four bedrooms, one study and two bathrooms;
- A front fence along the primary frontage is proposed at a height of 1 m comprised of galvanized steel handrails with solid brick columns (4x 23 cm width and 2x 80 cm width);
- Associated driveways, landscaping and side works; and
- Torrens title subdivision.

## **SECTION 79C ASSESSMENT**

The proposed development has been assessed pursuant to section 79C of the Environmental Planning and Assessment Act, 1979.

### **Environmental planning instruments [section 79C(1)(a)(i)]**

#### ***Greater Metropolitan Regional Environmental Plan 2 – Georges River Catchment***

The site is located within land identified as being affected by Greater Metropolitan Regional Environmental Plan 2 – Georges River Catchment (GMREP), 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 55 – Remediation of Land (SEPP 55)***

The provisions of Clause 7 of State Environmental Planning Policy 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 and this will not change as part of the development application. 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 development application and therefore satisfies the provisions of SEPP 55.

### ***State Environmental Planning Policy– Building Sustainability Index (BASIX)***

This proposal generally complies with State Environmental Planning (Building Sustainability Index: BASIX) 2004, meeting or exceeding the water, thermal comfort and energy targets.

### ***Bankstown Local Environmental Plan 2015 (BLEP 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 2.6 Subdivision – consent requirements  
 Clause 2.7 Demolition requires development consent  
 Clause 4.1 Minimum subdivision lot size  
 Clause 4.1A Minimum lot sizes and special provisions for dual occupancies  
 Clause 4.3 Height of buildings  
 Clause 4.4 Floor space ratio  
 Clause 4.5 Calculation of floor space ratio and site area  
 Clause 5.6 Architectural Roof Features  
 Clause 5.9 Preservation of trees or vegetation  
 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 2015* (refer to table below).

### ***Draft environmental planning instruments [section 79C(1)(a)(ii)]***

There are no draft EPI's applicable to the proposed development.

### ***Development control plans [section 79C(1)(a)(iii)]***

The following table provides a summary of the development application against the controls contained in Part B1 – Residential Development, Bankstown Development Control Plan 2015.

STANDARD	PROPOSED	BDCP 2015 PART (Part B1 – Residential Development)	
		REQUIRED	COMPLIANCE
Min. Lot Size	<u>Attached</u> 575.4 m <sup>2</sup> 15.24 m	<u>Attached</u> Min 500m <sup>2</sup> and 15m wide at front building line <u>Detached</u> Min 700m <sup>2</sup> and 20m wide at front	Yes

STANDARD	PROPOSED	BDCP 2015 PART (Part B1 – Residential Development)	
		REQUIRED	COMPLIANCE
		building line	
Demolition	All existing dwellings to be demolition	Demolition of all existing dwellings	Yes
Subdivision	Each allotment is 290.3 m <sup>2</sup>	Min area of each lot for <u>Attached</u> is 250m <sup>2</sup> <u>Detached</u> is 350m <sup>2</sup>	Yes
Height [BLEP 2015]	2 storeys 6.5 m. wall height 8.82 m building height	2 storeys 7m wall height 9m building height	Yes
FSR [BLEP 2015]	0.49:1 after subdivision	0.5:1 Also consider FSR after subdivision	Yes
Special Setbacks	N/A	> 30m mean high water mark Georges River > 9m from stable	N/A
Front and Secondary Setbacks	6.2m first storey 6.5m second storey 6.5m garage  No secondary setback	5.5m first storey 6.5m second storey 6m to garage for stacked spaces  3m secondary setback to building wall 5.5m secondary setback to attached garage or carport	Yes
Basement Setback	N/A	Must not project beyond floor perimeter of the dwelling	N/A
Side Setbacks	0.9 m side setback 0.45 m gutter  Satisfactory – AC unit only	Wall height ≤ 7m = 0.9m wall, 0.45m gutter  Wall height > 7m = 1.5m wall, 1m gutter  Setback to be clear of obstacles (hot water, waste bins, sheds etc)	Yes
Open Space	Rear courtyard area of 123.5 m <sup>2</sup> with min width of 6.72 m  Total POS of 140m <sup>2</sup>	Must be behind the front building line Single space of 80m <sup>2</sup> with min width of 5m OR Sum of areas with min width of 5m throughout	Yes
Trees	Refer to comments of Tree Management Planner within provided Tree Assessment Memo	Must not change ground level within 3m of the base of the trunk or within the dripline of trees to be	Yes



STANDARD	PROPOSED	BDCP 2015 PART (Part B1 – Residential Development)	
		REQUIRED	COMPLIANCE
		retained. Applies to trees on adjoining properties	
Fill	Satisfactory	Ground level of an allotment must not exceed 600mm above natural ground level of adjoining properties.	Yes
Streetscape	Asymmetrical design  Front area and window face street  Garage/fence not dominant  N/A	Asymmetrical design or architectural elements  Front porch and at least one window to each dwg face street  Garage, driveway and front fence do not dominate the appearance  <u>Corner Site</u> Each dwelling to face different frontage	Yes
Landscaping - Trees, Shrubs, Ground Cover, Grass Planting	One species taken from Appendix 5 and min 45% achieved  4x 75 L trees proposed	Plan includes species taken from Appendix 4 and 5, and Min 45% of area between the building and primary and secondary frontage be landscaped  One 75L tree in primary setback	Yes
Car Parking	2 car spaces for each Dwelling  1 covered space for each dwelling  Setback of 6.5 m  Satisfactory	1 space for each dwg with 2 or less bedrooms and 2 spaces for each dwg with 3 or more bedrooms  At least 1 covered space per dwelling  Car parking to be behind front building line unless covered space is setback 6m from primary and secondary frontages  Does garage integrate with the architecture? Where more than 2 car spaces face the street: - Bldg. is 2 storeys; - Garage does not project	Yes

STANDARD	PROPOSED	BDCP 2015 PART (Part B1 – Residential Development)	
		REQUIRED	COMPLIANCE
		more than 3m forward of upper storey; - Upper storey includes balcony or rooms above garage	
Visual Privacy	Satisfactory – windows do not directly look into the living area, bedroom or private open space of an existing dwelling  N/A  N/A	If windows overlook adjoining property: Are windows offset or, sill height of 1.5m or, obscure glazing to 1.5m  If rear/side-facing first floor balconies: Not accessible from living area or hallway, no external stair, screening such as recessed into building, width 1.5m max  No roof top balconies or the like	Yes
Roof Pitch	18°	Max roof pitch 35 °	Yes
Lofts	N/A	No more than 2 rooms Dormer does not project above ridgeline Dormer does not exceed 2m in width	N/A
Solar Access	Satisfactory  Satisfactory  N/A	Min 3 hours to 1 living room window of dwelling and adjoining dwellings between 8am-4pm at mid-winter solstice  Min 3 hours to min 50% of required POS for proposed and adjoining dwellings between 9am- 5pm at the Equinox  Avoids overshadowing of existing solar hot water systems or other solar collectors on the site and adjoining site	Yes
Front Fence Primary and Secondary Frontages	Front fence does not exceed 1 m	Solid fence does not exceed height of 1m above natural ground and remaining height is open style	Yes

STANDARD	PROPOSED	BDCP 2015 PART (Part B1 – Residential Development)	
		REQUIRED	COMPLIANCE
	Satisfactory – galvanized street handrails and brick columns rendered and painted	No sheet metal, chain wire or unframed lattice along primary frontage May allow solid fence where facing State or Regional Road	
Acoustic Privacy	N/A	Main road noise and rail noise to comply with Infrastructure SEPP Complies with CI 24 of LEP if in vicinity	N/A

The proposal complies with the requirements of BDCP 2015.

**Planning agreements [section 79C(1)(a)(iia)]**

There are no planning agreements that apply to this application.

**The regulations [section 79C(1)(a)(iv)]**

The proposal does not raise any issues with respect to the Environmental Planning and Assessment Regulation 2000.

**The likely impacts of the development [section 79C(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.

**Suitability of the site [section 79C(1)(c)]**

The proposed dual occupancy is a permissible form of development on the subject site, and represents a built form compatible with existing and desired future character of the locality. The proposed development complies with the site zoning, R2 – Low Density Residential and the Greater Metropolitan Regional Environmental Plan 2.

**Submissions [section 79C(1)(d)]**

The application was advertised/notified for a period of 14 days commencing 14 September and concluding 27 September 2017. No submissions were received during this period.

**The public interest [section 79C(1)(e)]**

With regard to relevant planning considerations, it is concluded that the proposed development is in the public interest. The development provides housing consistent with the area and associated plans for the area. No public submissions were made regarding this proposed development.

**CONCLUSION**

The Development Application has been assessed in accordance with the provisions of Section 79C of the Environmental Planning and Assessment Act 1979, Bankstown Local Environmental Plan 2015 and Bankstown Development Control Plan 2015.

The proposed development meets the requirements of LEP 2015 and DCP 2015. Internal referrals to Council's engineering and tree assessment officers concluded that the development was satisfactory from their perspectives, subject to recommended 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-849/2017, submitted by Mr Chris Khoury, accompanied by Drawing Nos. A3-03, A3-05, A3-06, A3-07, A3-08, A3-09, A3-10, A3-11, A3-17, plans dated July 2017 prepared by CK Design, and Demolition Plan Drawing E1 Revision A prepared by LMW Design Group Pty Ltd dated 25 August 2017, 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 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:*

- 3) 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.
- 4) 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.
- 5) 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.
- 6) 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.

**Tree Removal: Nature Strip**

Approval is granted for the removal of the following tree:

Tree Species	Location
1 x <i>Callistemon salignus</i> (Willow Bottlebrush)	Nature strip forward of 27 Brockman Ave

The tree removal works are subject to the following conditions:

- 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.

- 7) 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.
- 8) 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.

- 9) 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.

- 10) 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.
- 11) 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 \$6,876.98 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.

- 12) 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.
- 13) 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) A medium duty VFC of maximum width of 5.5 metres at the property boundary;
  - b) Drainage connection to Council's system;
  - c) Street Tree replacement to Council's TPO's satisfaction;
  - 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: 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.

- 14) The developer shall engage a suitably qualified Engineer to prepare a final stormwater drainage system plan to be generally in accordance with the concept plan 1284.17, Revision A, dated 25 August 2017, by LMW Design Group P/L, the requirements of the BASIX Certificate and in accordance with the requirements contained in Council's Development Engineering Standards. The Engineer shall certify that the design and

plans comply with Council's Development Engineering Standards and the relevant Australian Standards.

- 15) 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.

- 16) 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.
- 17) 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) Undertake footway, paving, vehicular crossing (driveway), landscaping or stormwater drainage works within a public footway or public road;
- d) Install utilities in, under or over a public road;
- e) Pump water into a public footway or public road from any land adjoining the public road;
- f) Erect a structure or carry out a work in, on or over a public road;
- g) Require a work zone on the public road for the unloading and or loading of vehicles;
- h) Pump concrete from within a public road;



- i) Stand a mobile crane within a public road;
- j) Store waste and recycling containers, skips, bins and/or building materials on any part of the public road;
- k) The work is greater than \$25,000;
- l) Demolition is proposed;
- m) Subdivision 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.

- 18) The sum of the impervious areas associated with the car parking area, driveway and paths must not exceed 55% of the area between the dwellings and the primary frontage.

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

- 19) 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.

- 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.
- 20) 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.
- 21) 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.
- 22) 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.
- 23) 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.
- 24) 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.

- 25) 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.

- 26) 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.

- 27) 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.
- 28) 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.

- 29) 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.

- 30) The demolition of all 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 (i.e. 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.

**CONDITIONS TO BE SATISFIED DURING CONSTRUCTION**

- 31) 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.
- 32) The building work must be carried out in accordance with the requirements of the Building Code of Australia.
- 33) 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.
- 34) 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.
- 35) All excavations and backfilling must be executed safely and in accordance with the relevant Australian Standards.
- 36) 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.
- 37) 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.
- 38) 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.
- 39) 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.

- 40) 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

- 41) The occupation or use of the building must not be commenced unless an occupation certificate has been issued for the building.
- 42) 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.
- 43) 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.

### Tree Planting: Nature Strip

The applicant is to plant the following replacement tree on the nature strip forward of the property. The tree shall have a container size not less than 75 litres, 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, and be planted and maintained in accordance with Council's street tree planting specifications Standard Drawing No. S-202:

Tree Species	Location
1 x <i>Tristaniopsis laurina</i> (Water Gum) OR 1 x <i>Glochidion ferdinandi</i> (Cheese Tree) OR 1 x <i>Photinia robusta</i> (Photinia)	Tree to be planted 2.5 metres from the northern edge of the vehicle footpath crossing.

Investigation to locate underground services shall be the responsibility of the applicant. Should such services be located and there is a reasonable belief that damage may occur to those services by the new plantings, the applicant is to:

- 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 Council.

The tree shall be planted by a qualified landscape contractor with experience in handling advanced sized tree stock, and in accordance with the tree delivery, planting preparation – general, planting, mulching and staking specifications included in Standard Drawing No. S-202.

Once the tree has been planted, a tree protection fence located at a 2.0 metre radius from the trunk of the tree shall be installed to protect the tree during the demolition and construction phases. The fence shall be constructed of chain wire mesh 1.80 metres high supported by steel posts, shall not be removed or altered, and shall remain in place for the duration of the site works.

During the construction phase the tree shall be watered and maintained in accordance with the tree establishment and maintenance requirements included in Standard Drawing No. S-202.

The Applicant shall contact Council to book an inspection by the Tree Management Officer of the completed tree planting once the tree protection fence has been installed, and again once the works have been completed prior to the installation of issue of an occupation certificate. Inspections must be booked at least 5 working days prior to being required.

- 44) 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.
- 45) 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 on the type of subdivision that may occur at a later stage.
- 46) A Copy of the Work Permit Compliance Certificate shall be submitted to the PCA Prior to the issue of the Occupation Certificate.
- 47) 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 drainage 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 drainage system.

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.



- 48) 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.

### **CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE SUBDIVISION CERTIFICATE**

- 49) Prior to the issue of the Subdivision Certificate, the following items are to be complied with:
- a) The developer shall create the following easements, where necessary over the relevant lots, on the plan of subdivision under provisions of the Conveyancing Act. A statement shall be placed on the Section 88B Instrument that nominates Canterbury Bankstown Council as the authority empowered to release, vary or modify the easements created.
    - i. Easements to drain water (for inter-allotment drainage);
    - ii. Easement for services (for utilities);
    - iii. Right of carriageway (for internal driveway, vehicle manoeuvring);
    - iv. Easement for overhang (for eaves and gutters).
  - b) The following information shall be submitted to Council or accredited certifier (where applicable) with an application for a Subdivision Certificate:
    - i. Original plan of subdivision prepared and signed by a qualified surveyor, plus five (5) copies;
    - ii. Copy of the relevant development consent, including all Section 96 Modifications if applicable;
    - iii. Evidence that all conditions of consent relevant to the release of the subdivision certificate have been complied with;
    - iv. A certificate of compliance (Section 73 Certificate) from Sydney Water if required;
    - v. Certification by a registered surveyor that all services such as stormwater, drainage, water, gas, electricity and telephone are contained separately within each lot or within easements created to accommodate such services;
    - vi. A certificate from a Registered Surveyor which demonstrates that the height and location of all floor slabs and external walls complies with the approved plans. In this regard, the certificate from the Registered Surveyor is required to identify the finished floor level of the floor slabs and external walls and the offsets to property boundaries;
    - vii. A Work As Executed Plan prepared by a registered surveyor, together with certification from a qualified professional civil engineer of the constructed on-site drainage and/ or stormwater detention system, shall be obtained prior to release of the linen plans.

The Work As Executed plans shall be shown on a copy of the approved stormwater drainage plan and shall contain all information specified in Council's Development Engineering Standards.

The Work As Executed information shall be shown in red on a copy of the approved plans. The information shall be submitted to the Engineer prior to certification.

A copy of the work as executed information together with the certification shall be submitted to Council for information prior to issue of the linen plan;

- viii. Copy of the Work Permit Compliance Certificate, where required;
  - ix. A copy of the Final Occupation Certificate.
- (c) An application and appropriate fees for the issue of a Subdivision Certificate shall be submitted to Council upon submission of the information referred to in part (b) of this condition.

The subdivision certificate shall not be issued until the requirements of this condition have been complied with.

-END-

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## Independent Hearing and Assessment Panel - 22 January 2018

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<b>ITEM 3</b>	<b>146 Lambeth Street, Panania</b>
	<b>Demolition of existing structures, construction of a mixed use development comprising three commercial tenancies and ten residential units, basement parking and strata subdivision</b>
<b>FILE</b>	<b>DA-838/2016 - Revesby Ward</b>
<b>ZONING</b>	<b>B1 Neighbourhood Centre</b>
<b>DATE OF LODGEMENT</b>	<b>29 August 2016</b>
<b>APPLICANT</b>	<b>CK Design</b>
<b>OWNERS</b>	<b>Melchizedek (Aust) Pty Ltd</b>
<b>ESTIMATED VALUE</b>	<b>\$2.57 Million</b>
<b>AUTHOR</b>	<b>Planning</b>

### REPORT

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This matter is reported to the Independent Hearing and Assessment Panel as the application has received 41 submissions (one of which was a petition with 149 signatures) from 31 separate households/addresses.

Development Application DA-838/2016 proposes the demolition of existing structures, construction of a mixed use development comprising three commercial tenancies and ten residential units, basement parking, and strata subdivision.

The Development Application has been assessed in accordance with the provisions of Section 79C of the *Environmental Planning and Assessment Act, 1979* and the relevant specific environmental planning instruments, including State Environmental Planning Policy 65—Design Quality of Residential Apartment Development (including the Apartment Design Guide), State Environmental Planning Policy 55—Remediation of Land, State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, Greater Metropolitan Regional Environmental Plan 2—Georges River Catchment, Bankstown Local Environmental Plan 2015 (BLEP 2015), as well as Bankstown Development Control Plan 2015 (BDCP 2015).

The application has been assessed as generally compliant with the relevant controls, with variations to Bankstown Development Control Plan 2015 relating to setbacks, lot width and the design of the top floor (proposed as a storey - not an attic). The application meets the objectives of the Apartment Design Code but does not strictly meet the design criteria relating to building separation, deep soil zones and communal open space. The non-compliances are discussed in more detail in this report. Despite the non-compliances, the proposal represents an appropriate built form for the site.

The application was advertised/notified on three separate occasions, as follows:

- 14 September 2016 to 4 October 2016
- 18 August 2017 to 8 September 2017
- 23 October 2017 to 13 November 2017

41 submissions (one of which was a petition with 149 signatures) were received from 31 separate households/addresses, which outlined the following concerns:

- Hours of operation, increase patronage, noise, disruption to adjoining properties of the future commercial premises;
- Noise, heat and radiation from the plant room;
- Potential criminal activity in the back lane and surrounding sites;
- What acoustic, fire resistance levels and vibrational protection/products will be used in the construction of the building;
- One small commercial tenancy is a tokenistic gesture, which, if repeated over several developments, will create a neighbourhood centre that is sterile and lifeless;
- Two large trees being removed – replacement planting;
- The colour scheme is not in keeping with the area;
- Additional pressure of services – water, sewer, electricity and internet;
- Overdevelopment – Lambeth Street is not zoned for high density housing and the scale (height, size, number of storeys and dwellings) is not appropriate for the locality;
- Overshadowing;
- Traffic and parking issues and the potential to introduce timed street parking for residents and a drop off zone within the grounds of the adjacent school;
- Double parking and blocking driveways;
- Increased safety risk with children crossing the road;
- Reduction in property values;
- Privacy;
- The development site does not meet the minimum frontage requirement of 26m;
- Potential damage to adjoining properties and services during the construction process;
- Construction noise, traffic and rubbish;
- Bin collection and bin storage on kerb;
- Demolition and construction disruptive to residents – safety, asbestos, noise and air pollution during construction;
- Acid sulfate soils.

Relevant planning controls have been appropriately responded to and no significant or unresolved matters have been raised in public submissions. The matters raised in the submissions have been adequately addressed and do not warrant refusal of, or further amendments to, the proposed development application.

## **POLICY IMPACT**

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This matter has no direct policy implications.

## **FINANCIAL IMPACT**

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This matter has no direct financial implications.

## **RECCOMENDATION**

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It is recommended that Development Application DA-838/2016 be approved subject to the attached conditions.

## **ATTACHMENTS**

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- A. Section 79C Assessment Report
- B. Conditions of Consent



## **DA-838/2016 ASSESSMENT REPORT**

### **SITE AND LOCALITY DESCRIPTION**

The subject site is currently zoned B1 Neighbourhood Centre and is a corner site with its primary frontage to Lambeth Street and secondary frontage to Irene Street and Morison Lane. The site is formally known as 146 Lambeth Street, Panania and includes three separate lots identified as Lot 5, 6 and 7 in DP 13772. All three lots are of a regular shape (width of 6.096m and depth of 36.635m) with a combined width of 18.29m and area of 668.6m<sup>2</sup>. The site has approximately a 1m fall from front/east on Lambeth Street to the rear/west on Morison Lane.

The site currently contains a single storey shop and rear yard on each of the three lots with rear lane access to Morison Lane to the west. The surrounding area currently consists of predominantly single and two storey detached dwelling houses and dual occupancies.

The adjoining properties to the north (including 138 and 142 Lambeth Street) are also zoned B1 Neighbourhood Centre and immediately to the west (beyond Morison Lane) and south (on the opposite side of Irene Street) the land is zoned R2 Low Density Residential. Panania Public School is located opposite on the eastern side of Lambeth Street and the site is located approximately 1.2km from both Panania and East Hills Train Stations.

There are currently two Eucalyptus trees on the site that are proposed to be removed as part of this application. The trees are not in good health and are not worthy of retention. The application proposes five new street trees along Irene Street, the retention of three existing street trees on Lambeth Street and new landscaped areas on levels one and two.

The context of the site is illustrated in the following aerial photograph.



Source: Nearmap



## **PROPOSED DEVELOPMENT**

Development Application DA-838/2016 proposes the demolition of existing structures, construction of a mixed use development comprising of three commercial tenancies and ten residential units, basement parking and strata subdivision. A detailed description of the development is provided as follows:

Basement level	<ul style="list-style-type: none"> <li>• 18 off-street car parking spaces</li> <li>• Lift and stairways</li> </ul>
Ground floor level	<ul style="list-style-type: none"> <li>• Three commercial tenancies (51m<sup>2</sup>, 58m<sup>2</sup> and 60m<sup>2</sup>)</li> <li>• One x one bedroom residential apartment</li> <li>• Vehicular driveway access to basement level</li> <li>• Lift and stairways</li> <li>• Commercial garbage room</li> <li>• Residential garbage room</li> </ul>
First floor level	<ul style="list-style-type: none"> <li>• Four x two bedroom residential apartments (including lower level of Unit 4)</li> <li>• One x one bedroom + study residential apartment</li> <li>• Communal open space</li> </ul>
Second floor level	<ul style="list-style-type: none"> <li>• Three x two bedroom residential apartments</li> <li>• One x one bedroom + study residential apartment</li> <li>• Upper floor of Unit 4</li> </ul>

A perspective of the proposed development is provided below:



## **SECTION 79C ASSESSMENT**

The proposed development has been assessed pursuant to section 79C(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 79C(1)(a)(i)]*****State Environmental Planning Policy 55 – Remediation of Land (SEPP 55)***

*State Environmental Planning Policy 55 – Remediation of Land* aims to promote the remediation of contaminated land to prevent the risk of harm to human health and the environment. Under the provisions of Clause 7 of SEPP 55, 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.*

In the case where land may be contaminated, Council must be satisfied that the land is suitable for the proposed use. If the land requires remediation to be undertaken to make it suitable for the proposed use, Council must be satisfied that the land will be remediated before the land is used for that purpose.

The development site has long been used for commercial purposes and the subject application proposes to occupy the site as a mixed use development. Given the commercial nature of the site, the application was supported by a preliminary site investigation report.

The report concluded that the site is suitable for the proposed development. The application is therefore considered satisfactory in regards to the requirements of State Environmental Planning Policy 55—Remediation of Land.

***Greater Metropolitan Regional Environmental Plan 2 – Georges River Catchment (Deemed SEPP)***

The site is located on land identified as being affected by *Greater Metropolitan Regional Environmental Plan 2 – Georges River Catchment*, being a deemed SEPP under Clause 120 of Schedule 6 of the *EP&A Act, 1979*. The proposed works are consistent with the relevant planning principles outlined in Clause 8 of the GMREP 2 and the proposal does not include any of the specific development types that have specific planning requirements as listed under the 'planning control table'.

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

A BASIX Certificate has been prepared in support of the application, which details the thermal, energy and water commitments associated with the development. The proposal satisfies the requirements of State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 and is supported in this instance.

***State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development and Apartment Design Guide (ADG)***

In assessing an application that contains four or more self-contained dwellings in a building of at least three storeys in height, Council is required to consider the provisions of State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development (SEPP 65). SEPP 65 aims to improve the design quality of residential flat buildings and provides an assessment framework - the 'Apartment Design Guide' for the assessment of applications under which this is considered. The proposal is consistent with the design quality principles contained within the policy, which promotes development that is of good design, appropriate context, scale and density given the desired future character of the area.

Clause 50(1A) of the EP&A Regulation 2000 requires the submission of a design verification statement from the building designer at lodgement of the development application. This document has been submitted and is considered to satisfy the submission requirement.

The proposed development is consistent with the Design Quality Principles and responds appropriately to the site's context. Moreover, the application generally conforms to the key 'Design Criteria' contained in the Apartment Design Guide, as outlined in the table below.

'DESIGN CRITERIA'	PROPOSED	COMPLIANCE
<p><b>3D-1 Communal open space</b> 25% of the site area is to be communal open space, and 50% of the COS must receive at least two hours direct sunlight between 9am-3pm on 21 June.</p> <ul style="list-style-type: none"> <li>• Co-locate with deep soil zones.</li> <li>• Minimum width of 3m.</li> <li>• Direct, equitable access from common circulation areas, entries and lobbies.</li> </ul>	<p>14% of the site is defined as communal open space (COS), co-located with landscaping.</p> <p>Solar access is achieved to at least 50% of the proposed communal open space area.</p>	<p>No. The development can be amended to achieve COS areas in excess of the minimum requirement of the ADG. In this regard 28% COS can be provided by repeating the COS area already provided on level 1 again on level 2.</p> <p>The repetition of the COS to achieve numerical compliance was not considered to be the best outcome for this particular development for the following reasons:</p> <ul style="list-style-type: none"> <li>• the amenity of the COS on level 1 would be reduced by the lack of sunlight and ventilation.</li> <li>• the landscaped areas within the COS area on level 1 would not be exposed to sunlight and rainwater - reducing the long term viability of the landscaped areas.</li> </ul>

'DESIGN CRITERIA'	PROPOSED	COMPLIANCE
		<ul style="list-style-type: none"> <li>the small scale of the development does not warrant large COS area.</li> <li>there is an opportunity for the future design pattern to be mimicked on the adjoining sites to the north, with COS provided at the centre of the building, providing good amenity to not only the lower level COS areas but to all dwellings within the developments.</li> </ul> <p>It is therefore considered that the best option for this site is to provide only one area of COS totalling 14% rather than a compliant 28%.</p>
<p><b>3E-1 Deep Soil Zones</b> 7% of the site as DSZ is required, however the ADG states that <i>"achieving the design criteria may not be possible on some sites including where:</i></p> <ul style="list-style-type: none"> <li><i>there is 100% site coverage or non-residential uses at the ground floor</i></li> </ul> <p><i>Where a proposal does not achieve deep soil requirements, acceptable stormwater management should be achieved and alternative forms of planting provided such as on structure".</i></p>	<p>8% of the site is landscaped in accordance with planting on structures. Landscaping includes native species from BDCP 2015 - Part B1 Residential.</p>	<p>Although the development does not achieve 7% DSZ, as there is 100% site coverage and non-residential uses at the ground floor, the design incorporates appropriate landscaping in accordance with ADG 4P Planting on structures, acceptable stormwater management and five additional street trees.</p> <p>Given the small scale of the development/site, the business zoning and context the development is considered to be satisfactory with regards to landscaping/deep soil zones.</p>
<p><b>3F-1 Visual Privacy (Building separation)</b></p> <p><b>Up to 12m (4 storey)</b> Habitable: 6m setback Non-habitable: 3m setback</p>	<p><b>North/side boundary</b> Zero setback/blank wall</p>	<p>Yes</p>

'DESIGN CRITERIA'	PROPOSED	COMPLIANCE
No separation is required on blank walls.	<p><b>West/rear Adjoining Morison Lane</b></p> <ul style="list-style-type: none"> <li>• <b>Ground floor:</b> <ul style="list-style-type: none"> <li>- 7m between balcony of Unit 1 and front yard/garage of dwelling at 2 Irene Street.</li> </ul> </li> <li>• <b>First and second floor:</b> <ul style="list-style-type: none"> <li>- 10m between balcony and bedroom window of Unit 2 and 7 and dwelling at 2 Irene Street</li> <li>- 7m between balcony of Unit 3 and 8 and garage of dwelling at 2 Irene Street</li> </ul> </li> </ul>	No – See comment [1]
<p><b>3J-1 Car Parking</b> Minimum car parking requirement as per RMS Guide to traffic generating development for sites within 800m of a railway station or within 400m of land zone B3 or B4 (or equivalent) or for sites outside these areas car parking is to be provided in accordance with Council's Development Control Plan.</p> <p><b>Commercial</b> 1 car space per 40m<sup>2</sup> gross floor area</p> <p><b>Residential spaces</b></p> <ul style="list-style-type: none"> <li>• 1 visitor space per 5 dwellings 1 car space per 1 bedroom dwelling</li> <li>• 1.2 car space per 2 bedroom dwelling</li> <li>• 1.5 car spaces per 3 or more bedroom dwelling</li> </ul> <p><b>Visitors spaces</b> 1 visitor space per 5 dwellings</p>	<p>The subject allotment is not located within 800 metres of a train station and accordingly the RMS parking rate does not apply.</p> <p>In accordance with BDCP 2015 - Part B5 Parking the development requires the following:</p> <p>Required: 17.6 spaces Provided: 18 spaces</p> <p><b>Commercial</b> 169m<sup>2</sup>/40m<sup>2</sup> = 4.2 spaces</p> <p><b>Residential spaces</b></p> <ul style="list-style-type: none"> <li>• 3 (1 bed) x 1 = 3</li> <li>• 7 (2 bed) x 1.2 = 8.4</li> </ul> <p>TOTAL = 11.4 spaces</p> <p><b>Visitors spaces</b> 10 dwellings/5 = 2 spaces</p>	Yes
<p><b>4A-1 Sunlight</b> At least 70% of apartments receive a minimum of two hours direct sunlight to living</p>	7 of 10 (70%) apartments receive a minimum of two hours direct sunlight to a living room	Yes

'DESIGN CRITERIA'	PROPOSED	COMPLIANCE
<p>room and private open space (POS) between 9am – 3pm at midwinter.</p> <p>Maximum 15% of units receive no direct sunlight between 9 am and 3pm</p> <p><b>Design Guidance 3B-2 Overshadowing of neighbouring properties</b></p> <p>Solar access to living rooms, balconies and private open space of neighbours should be considered.</p> <p>Where an adjoining property does not currently receive the required hours of solar access, the proposed building ensures that solar access to neighbouring properties is not reduced by more than 20%</p>	<p>between 9am – 3pm at midwinter.</p> <p>9 of 10 (90%) apartments receive a minimum of two hours direct sunlight to POS between 9am – 3pm at midwinter.</p> <p>1 of 10 units do not receive any direct sunlight (10%)</p> <p>The shadow cast from the proposed development during mid-winter generally falls over Lambeth Street in the afternoon, on Irene Street at mid-day and over Morison Lane and a small portion of the front yard of the dwelling at 2 Irene Street in the morning. The adjoining properties therefore will maintain adequate solar access.</p>	<p></p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
<p><b>4B-3 Natural cross-ventilation</b></p> <p>60% of units to be naturally cross-ventilated.</p> <p>Overall depth of cross-over apartment does not exceed 18m.</p>	<p>9 of 10 (90%) units are naturally cross-ventilated.</p> <p>Max. building depth is 12m.</p>	<p>Yes</p> <p>Yes</p>
<p><b>4C-1 Ceiling heights</b></p> <p>Min. 2.7m for habitable rooms. If variation is sought then satisfactory daylight access must be demonstrated.</p>	<p>Floor-to-ceiling heights are &gt; 2.7m.</p>	<p>Yes</p>
<p><b>4D-1 Unit size</b></p> <p>1 bed – min. 50m<sup>2</sup></p> <p>2 bed – min. 70m<sup>2</sup></p> <p>3 bed – min. 90m<sup>2</sup></p> <p>Add 5m<sup>2</sup> for each additional bathroom/WC</p> <p>Every habitable room must have a window in an external wall</p>	<p>All units meet the minimum requirements.</p> <p>All habitable rooms have a window in an external wall.</p>	<p>Yes</p> <p>Yes</p>

'DESIGN CRITERIA'	PROPOSED	COMPLIANCE
<b>4D-2 Environmental performance</b> In open plan layouts the maximum habitable room depth is 8m from a window	All open plan, maximum depth 8m, to a window	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 dimension of 3m</li> <li>• Living Rooms at least 3.6m wide for 1 bedroom apartments and at least 4m wide for 2 bedroom apartments</li> </ul>	The development achieves the minimum dimensions.	Yes
<b>4D-2 Room Depth</b> <ul style="list-style-type: none"> <li>• Habitable room depth are limited to a maximum of 2.5 x ceiling height</li> <li>• In open plan layouts (where living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window</li> </ul>	The proposed development meets the minimum requirements for room depth.	Yes
<b>4E-1 Private Open Space</b>  <b>1 bed apartments</b> Minimum 10m <sup>2</sup> and 2m depth  <b>2 bed apartments</b> Minimum 10m <sup>2</sup> and 2m depth  <b>Ground level apartments</b> Minimum 15m <sup>2</sup> and 3m depth	All primary balconies, including ground floor units, meet required minimum areas and dimensions.	Yes
<b>4F-1 Internal circulation</b> The maximum number of apartments off a circulation core on a single level is eight.  Note: Where the design criteria (above) cannot be achieved, no more than twelve apartments should be provided off a circulation core on one level.	All ten apartments share one lift from the basement. A maximum of five apartments are accessed off the circulation core/lift at the top level, four at the first floor and one apartment off the ground level.	Yes

'DESIGN CRITERIA'	PROPOSED	COMPLIANCE
<b>4G-1 Storage</b> <ul style="list-style-type: none"> <li>1 bed: 4m<sup>3</sup></li> <li>2 beds: 8m<sup>3</sup></li> </ul>	All units provided with sufficient storage.	Yes

[1] Building Separation

The above table demonstrates that the assessment of the application is satisfactory in regard to the ADG. The development however, does not strictly comply with the design criteria set out in 3F-1 Visual Privacy (Building separation) which recommends a 9m separation between habitable and non-habitable rooms and 12m between habitable rooms.

The rear/west boundary is bounded by a laneway (Morison Lane) which has a width of approximately 6m. Combining the existing side setback of the dwelling at 2 Irene Street (930mm), the laneway (6m), together with the proposed setback on the ground floor to the wall/window of Unit 1 (1.45m), results in an overall building separation of approximately 8.5m between the living room wall of Unit 1 and the existing garage/ 2 Irene Street. The proposed building separation at this point and relationship between Unit 1 and the existing single storey dwelling at 2 Irene Street would not be dissimilar to a typical low density residential context. Above, on the upper two floors (at the corner of Morison Lane and Irene Street), the development proposes a zero setback to balconies of Units 3 and 8 and a 2m setback to the living room windows/wall.

As the corner portion of the proposed building aligns with the front yard and garage of the adjoining property (2 Irene Street), the building separation proposed at this point will not result in any unreasonable adverse impacts on the adjoining properties or locality – particularly in terms of privacy and overshadowing.

While a zero setback is sufficient at the corner, it is considered that the setbacks should gradually increase along Morison Lane - as depicted in the diagram below. The increased setback beyond the corner will ensure that privacy is maintained between the rear yards of the adjoining existing single storey dwellings and both the proposed development and potential future developments of 138 and 142 Lambeth Street.





In this regard, Units 2 and 7 (on the upper two levels of the west elevation) are setback 3m from the boundary - with an overall building separation of approximately 10m to 2 Irene Street. At this point, it is noted that there is one living room window located along the eastern elevation of 2 Irene Street facing the development site. However, there is limited opportunity for direct viewing into the windows and private open space areas of 2 Irene Street from Units 2 and 7 as the view from these units would mostly be of the roof of the dwellings at 2 and 4 Irene Street (which are both single storey).

A condition of consent will require fixed privacy screening to the windows/balcony of units 2 and 7 angled to the south (these windows are not relied upon to meet the minimum solar access requirements under the ADG) to mitigate any potential or perceived opportunities for overlooking from within the proposed development.

The proposed building separation between the existing adjoining dwellings and proposed building is considered to be satisfactory in meeting the objectives of the ADG. In this regard, the proposed separation/setbacks achieve reasonable levels of internal and external visual privacy for the occupants of both the existing adjoining dwellings and of the proposed development.

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

The relevant provisions contained within the Bankstown Local Environmental Plan 2015 have been considered as follows:



Cl. 1.2 Aims of Plan  
Cl. 1.3 Land to which Plan applies  
Cl. 1.4 Definitions  
Cl. 1.7 Maps  
Cl. 1.9A Suspension of covenants, agreements and instruments  
Cl. 2.1 Land use zones  
Cl. 2.2 Zoning of land to which Plan applies  
Cl. 2.3 Zone objectives and Land Use Table  
Cl. 2.6 Subdivision—consent requirements  
Cl. 2.7 Demolition requires development consent  
Cl. 4.1B Minimum lot sizes and special provisions for certain dwellings  
Cl. 4.3 Height of buildings  
Cl. 4.4 Floor space ratio  
Cl. 4.5 Calculation of floor space ratio and site area  
Cl. 5.6 Architectural roof feature  
Cl. 5.9 Preservation of trees or vegetation  
Cl. 6.1 Acid sulfate soils  
Cl. 6.2 Earthworks

A detailed assessment of the development application against a number of specific provisions contained within the Bankstown Local Environmental Plan 2015 is as follows:

#### Clause 2.2 – Zoning of land to which Plan applies

The site is located on land zoned B1 Neighbourhood Centre.

#### Clause 2.3 – Zone objectives and Land Use Table

The Land Use Table sets out which development may be carried out in each zone. This table shows that development for the purposes of a 'shop top housing' is permitted with consent on land zoned B1 Neighbourhood Centre. The proposal is consistent with the objectives of the B1 Neighbourhood Centre, being:

- To provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood.
- To provide for certain residential uses that are compatible with the mix of uses in neighbourhood centres.

#### Clause 4.3 – Height of buildings

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. The Height of Buildings Map prescribes a maximum building height of 11 metres on the subject allotment. The proposal is for a maximum building height of 11 metres and therefore satisfies this requirement.

There is one minor encroachment of approximately 200mm for a clerestory window on the top floor apartment (Unit 7). The clerestory window will not be visible from Irene Street or

from Morison Lane and the window meets the requirements set out in Clause 5.6 of BLEP 2015 'architectural roof feature' which are permitted to extend above the maximum building height.

#### Clause 4.4 – Floor space ratio

The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map. The floor space ratio map shows the maximum permitted floor space ratio as 1.5:1 on the subject site. The development complies with the maximum, by proposing a floor space ratio of 1.5:1

#### Clause 5.6 – Architectural roof features

Although the building complies with the maximum building height of 11m specified under Clause 4.3 of BLEP 2015, the development proposes one clerestory window (above Unit 7) that protrudes beyond the maximum height limit by approximately 200mm. The architectural roof features are considered acceptable and comply with the requirements of Clause 5.6 of BLEP 2015, provided below:

##### **5.6 Architectural roof features**

- (1) The objectives of this clause are as follows:
  - (a) to enable minor roof features to exceed the maximum height for a building,
  - (b) to provide opportunities for architectural roof features that form an integral part of the building's design.
- (2) Development that includes an architectural roof feature that exceeds, or causes a building to exceed, the height limits set by clause 4.3 may be carried out, but only with development consent.
- (3) Development consent must not be granted to any such development unless the consent authority is satisfied that:
  - (a) the architectural roof feature:
    - (i) comprises a decorative element on the uppermost portion of a building, and
    - (ii) is not an advertising structure, and
    - (iii) does not include floor space area and is not reasonably capable of modification to include floor space area, and
    - (iv) will cause minimal overshadowing, and
  - (b) any building identification signage or equipment for servicing the building (such as plant, lift motor rooms, fire stairs and the like) contained in or supported by the roof feature is fully integrated into the design of the roof feature.

As discussed above in Clause 4.3 Height of buildings, the proposed clerestory window is considered to be consistent with 'architectural roof features' and permitted by Clause 5.6 to project above the maximum building height.

Clause 5.9 – Preservation of trees or vegetation

The development application proposes to remove two trees on the site that are not worthy of retention. There are three bottle brush trees located in Council's nature strip at the front of the site on Lambeth Street that are proposed to be retained. To improve the landscape setting, the applicant is proposing to provide five new trees along Irene Street within Council's nature strip.

There are no other significant trees subject to assessment under this clause.

Clause 6.1 – Acid sulfate soils

The development site is affected by Class 5 Acid Sulfate Soils. Further consideration would be required for works on Class 5 affected land within 500 metres of adjacent Class 1, 2, 3, or 4 land that is below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land. As the site and proposal do not fall into this category, an Acid Sulfate Soils Management Plan is therefore not required. The proposed development is satisfactory with regard to Clause 6.1 of the BLEP 2015.

Clause 6.2 - Earthworks

The required excavation for basement car parking is not considered to have a detrimental impact on environmental functions, processes and neighbouring uses of the surrounding land. Clause 6.2 can be satisfied subject to conditions requiring a dilapidation report for the adjoining properties prior to excavation for the basement.

**Draft environmental planning instruments [section 79C(1)(a)(ii)]**

There are no draft environmental planning instruments that are applicable in this instance.

**Development control plans [section 79C(1)(a)(iii)]****Bankstown Development Control Plan 2015**

The development application proposes a mixed use development within Zone B1 Neighbourhood Centre and is therefore subject to assessment under BDCP 2015 – Part B2 Commercial Centres. The proposals compliance with the controls contained within Part B2 of the BDCP 2015 is detailed in the table below.

<b>BDCP 2015 – Part B2 COMMERCIAL CENTRES</b>		<b>PROPOSAL</b>	<b>COMPLIANCE</b>
<b>Clause</b>	<b>Control</b>		
<b>2.2</b>	<b>Minimum primary frontage</b> The minimum primary frontage for shop top housing or a mixed use	Being located on a corner, the site has a 18.28m primary frontage to Lambeth Street and a secondary frontage to Irene Street of 35.11m.	No – See comment [1] below

BDCP 2015 – Part B2 COMMERCIAL CENTRES		PROPOSAL	COMPLIANCE
Clause	Control		
	development containing dwelling is 26m	The site also benefits from a third frontage of 18.28m to Morison Lane at the rear of the site.	
<b>2.4</b>	<b>Height/storey limit</b> <ul style="list-style-type: none"> <li>Maximum building height 11m</li> <li>Two storey plus attic (not including basement)</li> </ul>	<ul style="list-style-type: none"> <li>11m building height proposed (see previous section - BLEP 2015 Clause 4.3 and 5.6)</li> <li>3rd storey is not designed as an attic (not including basement)</li> </ul>	<p>Yes</p> <p>No – See comment [2] below</p>
<b>2.6</b>	<b>Setback to the primary and secondary frontage</b> Zero setback to the primary and secondary frontage permitted	Zero setback proposed to Lambeth Street and Irene Street	Yes
<b>2.10</b>	<b>Setback to side and rear</b> 3m setback to side and rear for building walls with a window or balcony in a commercial development, shop top housing and mixed use development that contains dwellings. Council may allow a setback less than 3m on the ground floor provided it complies with the BCA.	Rear (west) boundary on Morison Lane: <ul style="list-style-type: none"> <li><b>Ground floor:</b> <ul style="list-style-type: none"> <li>Unit 1 has a 1.45m setback to window and ground floor courtyard/balcony is on the boundary.</li> </ul> </li> <li><b>First and second floor:</b> <ul style="list-style-type: none"> <li>Unit 2 and 7 provides 3m setback to both the balcony and the bedroom window</li> <li>Unit 3 and 8 proposes 2m to the kitchen window/wall, 3m to the living room window/walls and a zero setback to the balcony.</li> </ul> </li> </ul>	<p>Yes (a setback of less than 3m is considered acceptable for the ground floor unit as it complies with the BCA and the courtyard and living room windows overlook Morison Lane. Beyond Morison Lane further to the west is a garage and front yard of a residential dwelling (2 Irene Street). No impacts are envisaged as a result of the reduced setback).</p> <p>Yes</p> <p>No. Similar to Unit 1 (on the ground floor), the balconies and living room windows of Units 3 and 8 overlook Morison Lane. Beyond Morison Lane further to the west is the garage and front yard of a residential dwelling (2</p>

BDCP 2015 – Part B2 COMMERCIAL CENTRES		PROPOSAL	COMPLIANCE
Clause	Control		
			<p>Irene Street). No impacts are envisaged as a result of the reduced setback.</p> <p>The proximity of the building to the side boundaries of the site has previously been assessed in detail above under visual privacy and building separation controls contained in the ADG, and have been assessed as satisfactory – meeting the intention of the setback controls contained within Bankstown Development Control Plan 2015.</p>
<b>2.12</b>	<b>Setbacks within an allotment</b> Minimum setbacks between two or more habitable buildings on an allotment is 9m	9.035m provided between habitable walls/windows. Windows have been offset to maximise privacy between dwellings - resulting in the same outcome as habitable to non-habitable walls.	Yes
<b>5.5</b>	<b>Active commercial ground floor/street frontage</b> Restrict ground floor to business, retail or other non-residential uses to maintain business and retail floor space and to maintain active street frontages in the business zones	The development has been amended to increase the commercial floor space on the ground floor. The development now maintains three shops on the ground floor in line with the existing single storey shops. The design of commercial component of the new development is improved from the current arrangement on site - it maximises the use of the secondary frontage along Irene Street. The development maximises the opportunity to provide an	Yes

BDCP 2015 – Part B2 COMMERCIAL CENTRES		PROPOSAL	COMPLIANCE
Clause	Control		
		active commercial ground floor.	
5.12	<b>Adaptable housing</b> At least one adaptable dwelling for development containing 10 or more dwellings (plus 1 per 50 dwellings)	One adaptable dwelling has been provided within the development (Unit 1).	Yes
5.27	<b>Street trees</b> One street tree to be provided per 5m of primary frontage. Council may vary this requirement if a street tree already exists in good condition.	Three existing street trees to be maintained to Lambeth Street and five new street trees are proposed on Irene Street.	Yes
5.28	<b>Main entrance</b> The main entrance or entrances must face the street	Two main entrances are provided - one to Lambeth Street and one to Irene Street.	Yes
5.29	<b>Access</b> Access to dwellings separate to non-residential area	Due to the small scale of the development the residential occupants and commercial tenants have shared access to the basement, lift and to the internal corridors.  Commercial visitors do not have access to the basement, lift or to internal common corridors. Commercial premises are accessed by visitors directly from the street.	Yes
5.38	<b>Land adjoining R2, R3 or R4</b> Consider: <ul style="list-style-type: none"> <li>• compatible height, scale, siting and character</li> <li>• goods, plant, equipment appropriately stored/screened</li> <li>• maintain reasonable solar access</li> </ul>	The proposed development is sensitive to the adjoining existing properties – zoned R2 Low Density Residential. This report has considered the impact on the neighbouring low density zone, in which it has been established that the proposal will not result in adverse impacts relating to	Yes

BDCP 2015 – Part B2 COMMERCIAL CENTRES		PROPOSAL	COMPLIANCE
Clause	Control		
	<ul style="list-style-type: none"> <li>• minimised/insulate noise from fixed sources or motor vehicles.</li> <li>• consider potential impacts of traffic movement, parking, headlight glare, security lighting etc.</li> <li>• visual privacy.</li> </ul>	height/scale, overshadowing, privacy, noise and parking/traffic.	

As the above table demonstrates, the proposal is seeking a variation to the minimum lot width requirements, setbacks (as discussed previously in this report) and to the number of storeys.

#### [1] Lot Width

Clause 2.2 of BDCP 2015 - Part B2 states that a minimum primary frontage of 26m is required for shop top housing or a mixed use development containing dwellings. With the consolidation of all three lots (identified as Lot 5, 6 and 7 in DP 13772 - each with a width of 6.096m) the development site has a combined frontage of 18.29m to Lambeth Street, which fails to comply with the minimum frontage requirement of 26m.

Being located on a corner, the development site also has a secondary frontage to Irene Street of 35.11m (and third frontage of 18.28m to Morison Lane at the rear/west boundary). The combined primary and secondary frontage equates to approximately 53m, a large portion of which is proposed to be occupied by commercial floorspace (three shops) creating an active retail street frontage with one residential unit on Irene Street. In the absence of the rear lane, the primary and secondary streetscape would be burdened or reduced by the provision of vehicular access of approximately 6m.

All sites within this pocket of business zoned land benefit from rear lane access to Morison Lane. This means that all services, plant rooms, garbage areas, vehicular access etc. can be provided from the rear and the entire frontage on the ground floor can be utilised for commercial purposes with an active retail street frontage.

The small pocket of land zoned B1 Neighbourhood Centre (including 138 and 142 together with the subject site 146 Lambeth Street) has a combined area of approximately 1585m<sup>2</sup> with frontage of approximately 43.5m to Lambeth Street - refer to site plan below.





To require the inclusion of the adjoining lot to the north (142 Lambeth Street with a frontage of approximately 12m) to the subject development in order to achieve numerical compliance with this control would result in a development site with a primary frontage of approximately 30m. The remainder of the business zone (138 Lambeth Street) would only have a frontage of approximately 13m. Breaking this business zone into two development sites with a frontage of 30m (the subject site) and 13m (future development site) would meet the frontage control for this development, and leave a future development site with a frontage less than that which is currently provided for the subject proposal (18.29m). This scenario is not considered to result in a better design outcome for this business zone.

The width of the subject development site being 18.29m, leaves both 142 and 138 Lambeth Street to be developed together - with a frontage of 25m and area of approximately 900m<sup>2</sup>. Separating this business zone into these two development sites is considered to be the best option for the locality - unless the remaining lots are developed individually for shop top housing (with one dwelling) or mixed use (that does not contain dwellings) which would currently only require a frontage of 6m under Bankstown Development Control Plan 2015 – Part B2 Commercial Centres.

As the perspective provided earlier in this report demonstrates, the development provides for an appealing presentation to the street. In the absence of any likely impacts resulting from the non-compliant primary frontage, a variation to this control is considered acceptable given the circumstances of this case and context.

## [2] Storey Limit

Clause 2.4 of BDCP 2015 - Part B2 permits a maximum building height of 11m and two storeys plus an attic above. Although the proposed development complies with the maximum 11m building height, the third floor is designed as a 'storey', not as an 'attic'.



An attic style design is not reflective of more recent trends in modern architecture displayed throughout the Canterbury Bankstown area. Attic style designs may be more necessary in cases where there is insufficient separation between properties to allow for adequate solar access and protection of privacy. In this case, there would be no benefit of requiring the third floor to be designed as an attic given the orientation of the site with the majority of the winter shadows falling on the road and non-habitable areas of the residential properties. The design of the dwellings and separation/privacy has been addressed in the previous section of this report, which concluded that there will be no unreasonable impact on the adjoining residential properties in terms of privacy.

The development is a permissible form of development within the zone and is compliant with the maximum height and floor space ratio specified under Bankstown Local Environmental Plan 2015. It is considered that the development is providing for a built form that is consistent with Council's longer term strategic vision for the site and future desired character of the area.

A variation to Clause 2.4 of BDCP 2015 – Part B2 is considered worthy of support in this case, as there are no adverse impacts resulting from the proposed variation and a better development would not result if strict compliance with this Clause is achieved.

**Coastal zone management plan (within the meaning of the Coastal Protection Act 1979) [section 79C(1)(a)(v)]**

The proposal does not contravene the provisions contained within the Georges River Estuary Coastal Zone Management Plan.

**Planning agreements [section 79C(1)(a)(iia)]**

No planning agreement has been entered into under section 93F nor has the applicant offered to enter into a planning agreement.

**The regulations [section 79C(1)(a)(iv)]**

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

**The likely impacts of the development [section 79C(1)(b)]**

The proposed development is not considered likely to result in any significant detrimental environmental, social or economic impacts on the locality. As detailed in this report, where non-compliances with the relevant development controls and/or the 'design criteria' in the ADG occur, these are adequately justified. As such, it is considered the proposed development will not result in any unreasonable impacts on the locality and the development is satisfactory in this regard.

**Suitability of the site [section 79C(1)(c)]**

The site is considered suitable for the proposed development. The proposed development results in an appropriate built form for the site which is consistent with the longer term desired future character illustrated in Council's Development Control Plan and Local Environmental Plan. The proposal is considered to be compatible with the longer term intended character of the area while being considerate to the existing development during the transition.

**Submissions [section 79C(1)(d)]**

The application was advertised/notified on three separate occasions, as follows:

- 14 September 2016 to 4 October 2016
- 18 August 2017 to 8 September 2017
- 23 October 2017 to 13 November 2017

41 submissions (one of which was a petition with 149 signatures) were received from 31 separate households/addresses, which outlined the following concerns:

- ***Hours of operation, increase patronage, noise, disruption to adjoining properties of the future commercial premises***

Each of the three proposed shops will require a future development application for any intended uses. At that point, an assessment will be carried out to determine if the use/proposal meets all relevant legislation and Council's development control plan.

- ***Noise, heat and radiation from the plant room***

Any mechanical equipment associated with the building will be insulated and contained by the external walls. The ongoing operation of the premises will need to be in accordance with the Protection of the Environment Operations Act 1997.

- ***Potential criminal activity in the back lane and surrounding sites***

There is no evidence to suggest that the proposed development would result in any direct increase in crime or anti-social issues in the locality.

- ***What acoustic, fire resistance levels and vibrational protection/products will be used in the construction of the building***

The development will need to meet applicable acoustic and fire rating standards as contained in the Building Code of Australia and the relevant Australian Standards. Such details will need to accompany the Construction Certificate application. There is no evidence to suggest that the development cannot be capable of meeting these requirements.

- ***One small commercial tenancy is a tokenistic gesture, which, if repeated over several developments, will create a neighbourhood centre that is sterile and lifeless.***

The development has been amended to increase the number of commercial tenancies from one to three on the ground floor. The provision of the three commercial tenancies is now in line with the objectives of the business zone, Bankstown Local Environmental Plan and Bankstown Development Control Plan 2015 – Part B2.

- ***Two large trees being removed – replacement planting***

There are currently two Eucalyptus species on the site that are proposed to be removed as part of this application. The trees are not in good health and are not worthy of retention. The application proposes five new street trees along Irene Street, retention of three existing street trees on Lambeth Street and new landscaped areas on levels one and two. It is considered that adequate replacement planting has been provided with this development.

- ***The colour scheme is not in keeping with the area***

The external finishes proposed for this development are representative of more modern forms of architectural throughout the area. Although the finishes do not directly reflect or mimic the style or colour of those of the adjoining properties, it is considered that the development will result in a positive contribution to the streetscape and identity of the business zone.

- ***Additional pressure of services – water, sewer, electricity and internet.***

Following a determination of the application, the developer would have to apply to the relevant authority to establish the additional service needs for the development. In a case where the services are inadequate, the developer will be required to liaise with the relevant authority with regards to the potential upgrading of facilities to cater for the increase in demand generated by the development. Any upgrade works would be required to be carried out prior to occupation of the development.

- ***Overdevelopment – Lambeth Street is not zoned for high density housing and the scale (height, size, number of storeys and dwellings) is not appropriate for the locality***

Under Bankstown Local Environmental Plan 2015, the site is zoned B1 Neighbourhood Centre having a maximum permitted height of 11m and two storey with a loft is permitted under Bankstown Development Control Plan 2015. The proposed development meets the maximum height requirement and the proposed design of the upper floor (not designed as an attic) has been previously addressed in this report.

The question of whether the development is an ‘overdevelopment’ is largely governed by the proposals compliance with the maximum height and floor space ratio, the

retention of the amenity of the adjoining residents and the delivery of a quality built form.

The development meets these standards within Council's policies and is consistent with Council's long term desired character of the area - aiming to provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood and to provide for certain residential uses that are compatible with the mix of uses in neighbourhood centres.

The report identifies that with the exception of several minor variations (relating to setbacks/building separation, lot width, design of the top floor, deep soil zones and communal open space), each of the critical design parameters relating to density of the development are met. As such, it is not considered that the development represents an overdevelopment of the subject site.

- ***Overshadowing***

Shadows cast by the development are largely confined to over Morison Lane, Irene Street and Lambeth Street. While overshadowing of the adjoining site to the west (2 Irene Street) will occur, the extent of the impact is confined to the morning or AM period with the majority of the impact being confined to the front yard of this site. Solar access will be maintained to both the living room windows of the existing adjoining dwellings and rear private open space.

- ***Traffic and parking issues and the potential to introduce timed street parking for residents and a drop off zone within the grounds of the adjacent school***

It is considered that Lambeth and Irene Street and the surrounding street network has sufficient capacity to accommodate any potential additional traffic and car parking that is generated by the proposed development. The development provides an adequate number of carparking spaces to meet the demands of the future occupants of the proposed development - which is specified by Bankstown Development Control Plan 2015 – Part B5 Parking.

Any potential changes to parking restrictions would be outside the scope of this application and would have to be taken up separately with Council Traffic Section.

With regard to the introduction of a drop off zone within the adjacent school, this matter would need to be initiated by the school and agreed with by Council's traffic and development departments. Again, this is an issue that is outside the scope of the subject development application.

- ***Double parking and blocking driveways***

The issue of illegal parking is not an issue that warrants refusal of the application, it is one that is dealt with by Council's parking officers.

- ***Increased safety risk with children crossing the road***

Drivers should take adequate care when approaching a crossing and school zone especially in the morning drop off or afternoon school pick up times. If in the event that drivers are not obeying traffic rules or parking signs (either pre or post development) this is a matter for the police and Council's parking control officers. It is not a sufficient reason to refuse the application on these grounds.

- ***Reduction in property values***

No evidence has been provided substantiating the claim that the development will devalue the adjoining properties.

- ***Privacy***

As discussed earlier in this report, the proposed building separation between the existing adjoining dwellings and proposed building is considered to be satisfactory in meeting the objectives of the Apartment Design Guide. In this regard, the proposed separation/setbacks achieve reasonable levels of internal and external visual privacy for the occupants of both the existing adjoining dwellings and of the proposed development.

- ***The development site does not meet the minimum frontage requirement of 26m***

The issue of the non-compliant frontage has been discussed earlier in this report. The site benefits from three frontages to Lambeth Street, Irene Street and Morison Lane, meaning that all services, plant rooms, garbage areas, vehicular access etc. can be provided from the rear and the entire frontage on the ground floor can be utilised for commercial purposes with an active retail street frontage. Therefore the development provides for an appealing presentation to both Lambeth Street and Irene Street. In the absence of any likely impacts resulting from the non-compliant primary frontage, a variation to this control is considered acceptable given the circumstances of this case and context.

- ***Potential damage to adjoining properties and services during the construction process***

A standard condition of consent will require the preparation of a dilapidation report – condition to read:

“Prior to the commencement of works, a dilapidation report shall be prepared by the developer and a copy provided to the owners of properties directly adjoining the subject site. The report must clearly identify the condition of existing structures on these 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. On the completion of the proposed work, and prior to the issue of the final compliance certificate, a certificate prepared by an appropriately qualified engineer, to the effect that no damage has resulted to the adjoining premises, is to be provided to the Principal Certifying Authority. If damage is identified which is considered to require rectification, the damage shall be rectified or satisfactory agreement for rectification of the damage, is to be made with the affected person/s, as soon as possible and prior to occupation of the development - the rectification of such shall be at full cost to the developer.

Note: Where permission is not granted to access the property and evidence in writing that permission is not granted to enter the property can be provided, the report is not required for that property."

- ***Construction noise, traffic and rubbish***

Potential construction impacts of the development (including noise, traffic and waste) have been addressed in the conditions of consent including restriction on the hours of construction. The applicant will be required to submit a Traffic Management Plan to Council's Traffic Engineer detailing the traffic management measures during construction.

- ***Bin collection and bin storage on kerb***

Both the commercial and residential bins will be stored within the bin room on the ground floor. Council's waste service staff will enter into the building on collection day and take the bins out to the garbage truck and return the bins back to the bin storage room immediately after. The same process will occur for the commercial bins, with the exception that the bins will be collected by a commercial contractor engaged by the future occupants of commercial tenancies.

- ***Demolition and construction disruptive to residents – safety, asbestos, noise and air pollution during construction***

Standard conditions of consent will require that the developer carries out demolition and construction in accordance with the Australian Standards and Work Health and Safety requirements.

The following standard condition is required for all developments proposing demolition:

"Permission is granted for the demolition of all structures currently existing on the property, 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.”

- ***Acid sulfate soils***

The development site is affected by Class 5 Acid Sulfate Soils. Further consideration would be required for works on Class 5 affected land within 500 metres of adjacent Class 1, 2, 3, or 4 land that is below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land. As the site and proposal do not fall into this category, an Acid Sulfate Soils Management Plan is therefore not required. The proposed development is satisfactory with regard to Clause 6.1 of the BLEP 2015.

**The public interest [section 79C(1)(e)]**

The proposed development would not contravene the public interest. The proposed development responds appropriately to the development controls contained in the Bankstown Development Control Plan 2015 and the Bankstown Local Environmental Plan 2015, and the requirements of the SEPP 65 Design Quality of Residential Apartment Development. Matters raised in public submissions have been satisfactorily addressed, and it is not considered that there would be any unreasonable impacts on the locality.

**CONCLUSION**

The Development Application has been assessed in accordance with the provisions of Section 79C of the Environmental Planning and Assessment Act, 1979 and the relevant specific environmental planning instruments, including State Environmental Planning Policy 65—Design Quality of Residential Apartment Development, State Environmental Planning Policy 55—Remediation of Land, State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, Greater Metropolitan Regional Environmental Plan 2—Georges River Catchment, Bankstown Local Environmental Plan 2015 and Bankstown Development Control Plan 2015.

The proposed development results in an appropriate built form for the site which is consistent with the longer term future desired future character illustrated in Council’s Development Control Plan and Local Environmental Plan, while being considerate to the existing surrounding development.

Relevant planning controls have been appropriately responded to and no significant or unresolved matters have been raised in public submissions.

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

## 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 DA-838/2016, submitted by Ck Design, accompanied by Drawings listed in the table below 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.

Drawing Number	Drawing Title	Prepared By	Revision	Dated
A106	Site Plan	CK design	B	13-10-17
A107	Basement	CK design	B	13-10-17
A108	Ground Floor Plan	CK design	B	13-10-17
A109	First Floor Plan	CK design	B	13-10-17
A110	Second Floor Plan	CK design	B	13-10-17
A111	Roof Plan	CK design	A	02-08-17
A112	Elevations	CK design	B	13-10-17
A113	Elevation & Section	CK design	B	13-10-17
A117	Schedule of Finishes	CK design	A	02-08-17
A117-A	Schedule of Finishes	CK design	-	-
L01	RFA landscape architects	RFA landscape architects	B	05-12-17

The development plans shall be amended as follows:

- a) Privacy screening shall be provided on the western elevation of Units 2 & 7 to the bedroom windows and balconies on the first floor and the second floor. The privacy screening shall be fixed and angled to upwards allow sunlight to these areas and to restrict views to the adjoining site.
  - b) The decorative painted render blade walls referred to in the schedule of finishes (plan ref: A117 and A117-A) as 1, 2, 3, 4 and 5 are to be replaced with honed sandstone slabs, as marked in red on the approved plans.
3. No approval is granted or implied for the use of the ground floor commercial tenancies. Separate Development Consent for the use of the commercial floor space is required prior to occupation of the tenancies.

## 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:*

4. 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.
5. Landscaping shall be installed in accordance with the approved landscape plan.
6. 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.
7. Street Tree Protection Measures - The three (3) street trees (bottle brushes) located on the Lambeth Street Frontage must be retained and protected from removal and damage for the duration of the development. The tree protection measures shall comply with Australian Standard AS4970-2009 Protection of trees on development sites, together with the following conditions:
  - a) The tree is to be retained and protected together with their relevant Tree Protection Zone (TPZ) and Structural Root Zone (SRZ) shall be marked on all demolition and construction drawings.
  - b) All contractors and workers on site shall be briefed on the tree protection and management procedures in place as part of their site induction. A written record of the induction process is to be kept on site. The area of Council's nature strip – excluding the concrete footpath – shall be fenced off for a distance of 2.5 metres radius measured from the trunk of each tree located on Lambeth Street prior to the commencement of demolition / construction. The tree protection fencing is to be constructed of chain wire mesh 1.80 metres high, supported by steel posts and shall remain in place throughout the duration of site works.
  - c) The applicant will display in a prominent location on the fencing of each tree protection zone a durable, weather resistant sign of a similar design, layout and type size as per Appendix C, Australian Standard AS4970-2009 Protection of trees on development sites clearly showing:
    - i. The Development Consent number;
    - ii. The purpose of the protection zone;
    - iii. The penalties for disregarding the protection zone;
    - iv. No vehicular access, excavations for construction or installation of services shall be carried out within the fenced off Tree Protection Zone.
  - d) All utility services, pipes, stormwater lines and pits shall be located outside the fenced off Tree Protection Zone.
  - e) Building materials, chemical storage, site sheds, wash out areas, and similar shall not be located within the fenced off Tree Protection Zone.

- f) **The tree protection measures must be installed as outlined in this condition, however minor adjustments to the radius of fencing required to the street trees fronting Lambeth Street, may be considered for the two street trees adjoining the pedestrian crossing. The operation of the crossing must not be altered/hindered as a result of the proposed development works. If a reduction to the fencing is required to ensure the operation of the crossing can be facilitated a plan showing the fencing proposed must be provided and approved by Council prior to the commencement of any demolition or building works.**

The street trees must be shown on all construction certificate plans to be retained. All trees marked for retention must not to be damaged or used to display signage, or as fence or cable supports for any reason.

8. 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.
9. 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<sup>TM</sup>.

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.

10. 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.
11. 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.
12. 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 \$25,735.80 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.

13. 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.
14. 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 heavy duty VFC at the property boundary fronting Morison Lane.
  - b) Drainage connection to Council's system.
  - c) 1.2 metre wide concrete footway paving along the sites entire frontage to Irene Street.
  - d) Concrete kerb and gutter along the sites entire frontage to Morison Lane and beyond across the adjoining properties boundaries until the end of the Laneway (i.e. the entire eastern side of the Laneway). The kerb face shall be set at 500mm away from the property boundaries. Existing layback/vehicular access and any stormwater outlets must be constructed/reconstructed and maintained to all adjoining properties that might be impacted by the civil works associated with the development. The resurfacing of the Laneway must be carried out to the satisfaction of Canterbury Bankstown Council.
  - 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: 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.

15. 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.

16. 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 No. 16MB7193/D01 to D04, issue B dated 5/4/2017 prepared by UNITED CONSULTING ENGINEERS. 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.
17. The ground floor must incorporate shopfront style windows with clear glazing so that pedestrians can see into the premises and vice versa (not obscure glazing). Details are to be included on the plans submitted to the PCA for the Construction Certificate.
18. The applicant shall apply to the Canterbury Bankstown Traffic Committee for the installation of a Works Zone at the site's frontage to Lambeth Street, 8 weeks in advance of when construction is scheduled to begin. If timed or full time No Parking signs are required for sight distance/waste collection, these shall be applied for at the same time and installed when the Works Zone is removed
19. 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.
20. Prior to issue of the Construction Certificate, the applicant shall apply to the traffic committee for the installation of 'No Parking' on waste night and time Loading Zone signage in Irene Street. All costs associated with the signage shall be borne by the developer.
21. 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.
22. 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.
23. 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

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.

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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.

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, 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:

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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.cbcity.nsw.gov.au](http://www.cbcity.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 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 "regional road", with every effort to avoid school zones on public roads. The applicant shall nominate the route for approval by Council prior to commencement of any work on the site. An Agreement to Council's satisfaction, signed by the applicant/owner specifying the approved route and acknowledging responsibility to pay Council for damages to public property adjacent to the site shall be lodged with Council prior to release of any Construction Certificate. All damage must be rectified upon completion of work.
28. Prior to the issue of any Construction 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 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.
29. 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.
30. 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.

31. Sight distance triangle for pedestrians at the exit driveway shall comply with Figure 3.3 of AS2890.1-2004. The sight triangles must be shown on the Construction Certificate drawings and installed prior to the Occupation Certificate.

### CONDITIONS TO BE SATISFIED PRIOR TO CONSTRUCTION

32. The demolition of all 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.
33. 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.
34. Prior to the commencement of works, a dilapidation report shall be prepared by the developer and a copy provided to the owners of properties directly adjoining the subject site, including but not limited to 2 Irene Street and 142 Lambeth Street, Panania. The report must clearly identify the condition of existing structures on these 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. On the completion of the proposed work, and prior to the issue of the final compliance certificate, a certificate prepared by an appropriately qualified

engineer, to the effect that no damage has resulted to the adjoining premises, is to be provided to the Principal Certifying Authority. If damage is identified which is considered to require rectification, the damage shall be rectified or satisfactory agreement for rectification of the damage, is to be made with the affected person/s, as soon as possible and prior to occupation of the development - the rectification of such shall be at full cost to the developer.

Note: Where permission is not granted to access the property and evidence in writing that permission is not granted to enter the property can be provided, the report is not required for that property.

35. 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.
36. 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.
37. 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.
38. 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.
39. 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.

40. 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.



41. 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.
42. 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.
43. 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.

44. 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.



**CONDITIONS TO BE SATISFIED DURING CONSTRUCTION**

45. 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.
46. The building work must be carried out in accordance with the requirements of the Building Code of Australia.
47. 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.
48. 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.
49. All excavations and backfilling must be executed safely and in accordance with the relevant Australian Standards.
50. 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.
51. 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.
52. 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.
53. 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.

54. 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.
55. If acid sulfate soils are encountered during excavation and/or construction works; all work is to cease and Canterbury Bankstown City Council notified immediately. The acid sulfate soil situation is to then be evaluated by an appropriately qualified and experienced environmental consultant who has proven experience in the assessment and management of acid sulfate soils. An appropriate response is to be determined by the applicant, which is agreed to by Council, prior to re-commencement of works.
56. 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**

57. The occupation or use of the building must not be commenced unless an occupation certificate has been issued for the building.
58. 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.
59. 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.

60. 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.
61. Eighteen (18) off-street car spaces being provided in accordance with the submitted plans.
62. The sight distance triangle for pedestrians at the exit driveway in accordance with condition 31 must be installed prior to the Occupation Certificate.
63. 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.
64. 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.
65. 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 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. Flashing, moving or intermittent lights or signs are prohibited. 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.

66. 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.
67. 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.
68. A Copy of the Work Permit Compliance Certificate shall be submitted to the PCA Prior to the issue of the Occupation Certificate.

69. Prior to the issue of an Occupation Certificate, all street signage (including no parking signs and loading zones) shall be installed at the developers cost in accordance with the requirements of Council Traffic Committee.

## USE OF THE SITE

70. There are to be no emissions or discharges from the premises which will give rise to an offence under the *Protection of the Environment Operations Act 1997* and *Regulations*.

In this regard, the operation of the premises and plant and equipment shall not give rise to a sound pressure level at any affected premises that exceeds the background LA90, 15min noise level, measured in the absence of the noise source/s under consideration by 5dB(A). The source noise level shall be assessed as an LAeq, 15min and adjusted in accordance with the NSW Environment Protection Authority's Industrial Noise Policy and Environmental Noise Control Manual (sleep disturbance).

71. All landscaping on the site shall be maintained at all times in accordance with the landscape plan.

## CONDITIONS TO BE SATISFIED PRIOR TO ISSUE OF A SUBDIVISION CERTIFICATE

72. An application and appropriate fees for the issue of a Subdivision Certificate shall be submitted to Council upon all works being completed.
73. A plan of consolidation must be registered prior to or concurrent with the plan of strata subdivision.
74. The following information shall be submitted to Council or accredited certifier (where applicable) with an application for a Subdivision Certificate:
- a) Original plan of subdivision prepared and signed by a qualified surveyor, plus five (5) copies;
  - b) Copy of the relevant development consent, including all Section 96 Modifications if applicable;
  - c) Works as executed engineering plans;
  - d) Evidence that all conditions of consent have been complied with;
  - e) A certificate of compliance (Section 73 Certificate) from Sydney Water if required;
  - f) Final occupation certificate for all works;
  - g) Certification by a registered surveyor that all services such as stormwater, drainage, water, gas, electricity and telephone are contained separately within each lot or within easements created to accommodate such services;
  - h) Copy of the Work Permit Compliance Certificate, where required.
75. The subdivision certificate shall not be issued until the final Occupation Certificate has been issued for the building, site and subdivision works.

-END-