



AGENDA FOR THE CANTERBURY BANKSTOWN LOCAL PLANNING PANEL MEETING

2 March 2020 - 6.00pm

Location:

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

ORDER OF BUSINESS

APOLOGIES AND DECLARATIONS

CONFIRMATION OF MINUTES OF PREVIOUS MEETING

BANKSTOWN WARD

1 5 French Avenue, Bankstown

Demolition of existing site structures and construction of an eleven storey mixed residential/commercial flat building comprising of eighty-one residential units and basement carparking.

Section 4.55(2) Modification: Minor extensions to Level 01 retail area 3

CANTERBURY WARD

2 67-69 Balmoral Ave, Croydon Park

Demolition of existing structures and construction of an in-fill affordable housing development containing nine dwellings over a basement car park pursuant to State Environmental Planning Policy (Affordable Rental Housing) 2009 29

Canterbury Bankstown Local Planning Panel - 02 March 2020

ITEM 1	5 French Avenue, Bankstown Demolition of existing site structures and construction of an eleven storey mixed residential/commercial flat building comprising of eighty-one residential units and basement carparking Section 4.55(2) Modification: Minor extensions to Level 01 retail area
FILE	DA-738/2015/C - Bankstown
ZONING	R4 High Density Residential and B4 Mixed Use
DATE OF LODGEMENT	19 November 2019
APPLICANT	Statewide Planning Pty Ltd
OWNERS	French Apartments Pty Limited
AUTHOR	Planning

REPORT

The application is reported to Council's Local Planning Panel for determination as the applicant seeks to modify, through the provisions of Section 4.55(2) of the EP&A Act 1979, a development application previously determined by elected Council.

In February 2016, Council approved DA-738/2015 on a deferred commencement basis, for the demolition of all structures on the subject site and the construction of an eleven storey mixed residential/commercial flat building comprising of 81 residential units, a ground floor retail premises and basement car parking. An operative consent was issued on 12 September 2016.

On 9 July 2018, Council's Local Planning Panel approved a S4.55(2) application (referred to as DA-738/2015/1) to amend the original application by way of increasing the height of the building (being an increase to the height of the lift overrun by 500mm). Additional works associated with this modification included the addition of a lobby area to the roof top communal open space, reallocation of areas within the roof top to private open space for unit 1103, the addition of bi-fold doors to the commercial tenancy, rearranging of the ground floor waste areas and the addition of a toilet facility, the installation of louvers to the façade, a new awning proposed to the French Avenue frontage, and the installation of an electricity substation fronting Conway Road.

On 5 August 2019, Council's Local Planning Panel refused DA-738/2015/A being a S4.55(2) application to extend the approved retail tenancy by an additional 38sqm. The modification was refused as it resulted in a development that would contravene the Floor Space Ratio development standard. Further, the development as modified was considered to have a negative impact on the streetscape and result in a reduction in the legibility of the development from the street and the residential component.

The reasons for refusal were as follows:

1. *The entry to the 81 units is further compromised by the proposed modification as it results in an access way without a clearly visible lobby entrance to the residential units.*
2. *The development fails to comply with the provisions of Clause 4.4 and 4.4A of Bankstown Local Environmental Plan 2015 (Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979).*
3. *The site is not suitable for the development as proposed (Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979).*
4. *The development is not in the public interest (Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979).*

On 19 November 2019, a further S4.55(2) application was lodged with Council (being the subject modification application and referenced as DA-738/2015/C), seeking again approval for an extension of the ground floor retail area. The modification application lodged is the same as the previous modification refused by Council's Local Planning Panel (DA-738/2015/A). The applicant has relodged the modification with the same plans and has provided additional information within a Statement of Environmental Effects.

In respect of DA-738/2015/C, it is considered that the modification should be refused for the same reasons as provided for in the determination of DA-738/2015/A. This modification seeks approval for an additional 38sqm to the previously approved retail premises. The modified development causes a contravention of the Floor Space Ratio development standard. Further, the development as modified is considered to have a negative impact on the streetscape and results in a reduction in the legibility of the development from the street and the residential component.

The proposed modification has been assessed in accordance with the provisions contained in section 4.15 and section 4.55(2) of the *Environmental Planning and Assessment Act 1979*, requiring, amongst other things, an assessment against *State Environmental Planning Policy No. 55- Remediation of Land*, *State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development* and the associated Apartment Design Guide, *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*, *Greater Metropolitan Regional Environmental Plan No 2—Georges River Catchment (a deemed SEPP)*, *Bankstown Local Environmental Plan 2015* and *Bankstown Development Control Plan 2015*.

The application was advertised and notified for a period of 21 days. One submission was received.

Attachment A provides for the assessment report of DA-738/2015/A as furnished to Councils

POLICY IMPACT

The matter has no direct policy implications.

FINANCIAL IMPACT

The matter has no direct financial implications.

RECOMMENDATION

It is recommended that the application be refused, for the following reasons:

1. The entry to the 81 units is further compromised by the proposed modification as it results in an access way without a clearly visible lobby entrance to the residential units.
2. The development fails to comply with the provisions of Clause 4.4 and 4.4A of Bankstown Local Environmental Plan 2015 (Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979).
3. The site is not suitable for the development as proposed (Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979).
4. The development is not in the public interest (Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979).

ATTACHMENTS

- A. Assessment Report
- B. Decision - CBLPP 5 August 2019

DA-738/2015/C Section 4.55 Assessment

On 19 November 2019, a further S4.55(2) application was lodged with Council (being the subject modification application and referenced as DA-738/2015/C), seeking again approval for an extension of the ground floor retail area. The modification application lodged is the same as the previous modification refused by Councils Local Planning Panel (DA-738/2015/A). The applicant has relodged the modification with the same plans and has provided additional information within a Statement of Environmental Effects.

In respect of DA-738/2015/C, it is considered that the modification should be refused for the same reasons as provided for in the determination of DA-738/2015/A. This modification seeks approval for an additional 38sqm to the previously approved retail premises. The modified development causes a contravention of the Floor Space Ratio development standard. Further, the development as modified is considered to have a negative impact on the streetscape and results in a reduction in the legibility of the development from the street and the residential component.

The proposed modification has been assessed in accordance with the provisions contained in section 4.15 and section 4.55(2) of the *Environmental Planning and Assessment Act 1979*, requiring, amongst other things, an assessment *against State Environmental Planning Policy No. 55- Remediation of Land, State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development* and the associated Apartment Design Guide, *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, Greater Metropolitan Regional Environmental Plan No 2—Georges River Catchment (a deemed SEPP), Bankstown Local Environmental Plan 2015 and Bankstown Development Control Plan 2015*.

The application was advertised and notified for a period of 21 days. One submission was received.

Attachment A provides for the assessment report of DA-738/2015/A as furnished to Councils Local Planning Panel Meeting of 5 August 2019.

PROPOSED DEVELOPMENT

This application is submitted under the provisions of Section 4.55(2) of the *Environmental Planning and Assessment Act, 1979*. The application seeks to amend Determination Notice No. 738/2015, and involves the following modifications:

Minor extensions to Level 01 retail area by 38sqm

DA-738/2015/C before Council is reliant upon the plans previously refused within DA-738/2015/A. No changes to the plans have been proposed with this modification.

The applicant has submitted the following documentation relevant to consideration of the extension requested in this modification:

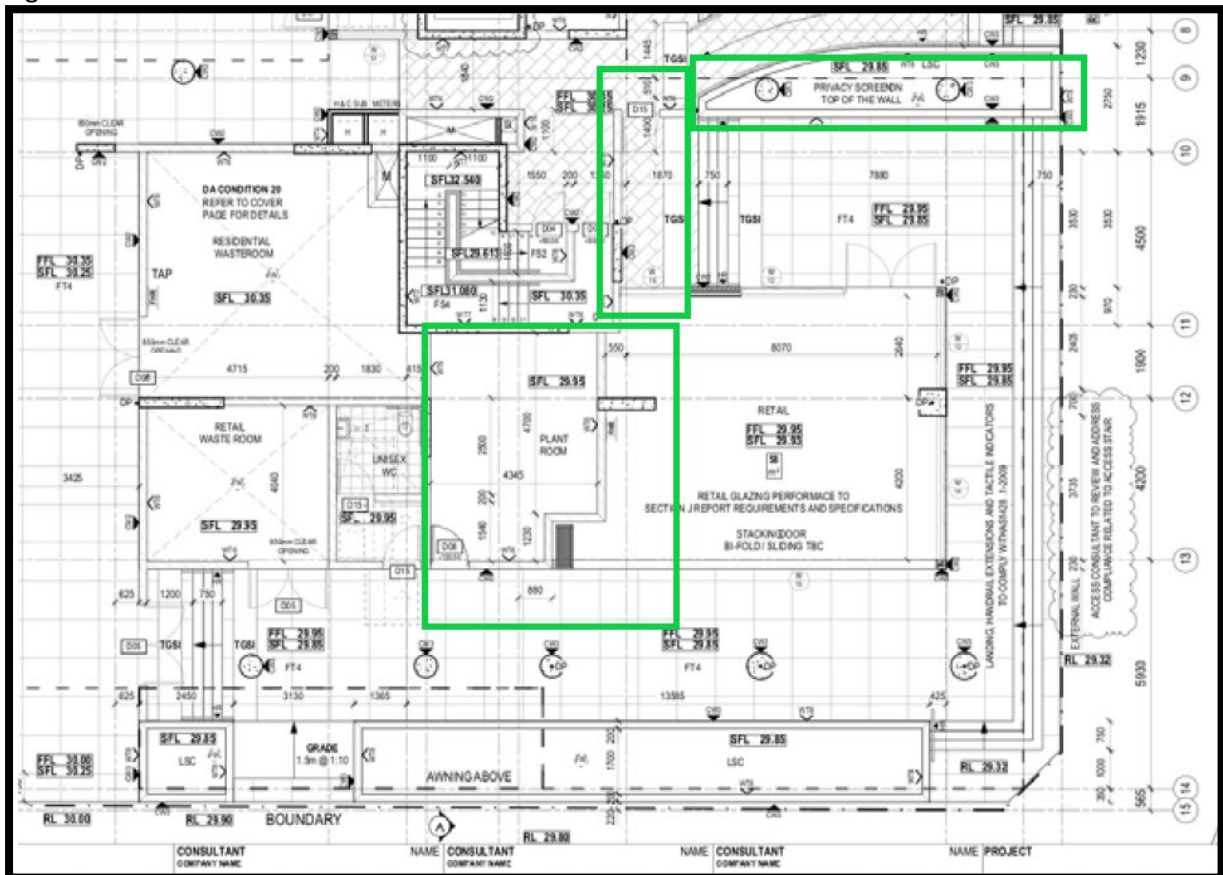
- **As built Architectural plans**
- **Stamped construction drawings**

- **Statement of Environmental Effects**
- **Architectural drawings**
- **Original deferred commencement drawings**

The modification as submitted has not resulted in a change in the plans previously refused. The modification remains non-complaint with the maximum floor space ratio (FSR) as set by a Council resolution of 3.5:1 across the site. The as built plans do not adequately factor in all FSR provided to the development as the ground floor plant room was not constructed and needs to be considered as FSR. Additionally, it is considered that the enclosing of the undercroft as built is a poor design outcome for the proposal and results in a reduction in streetscape legibility at the pedestrian level.

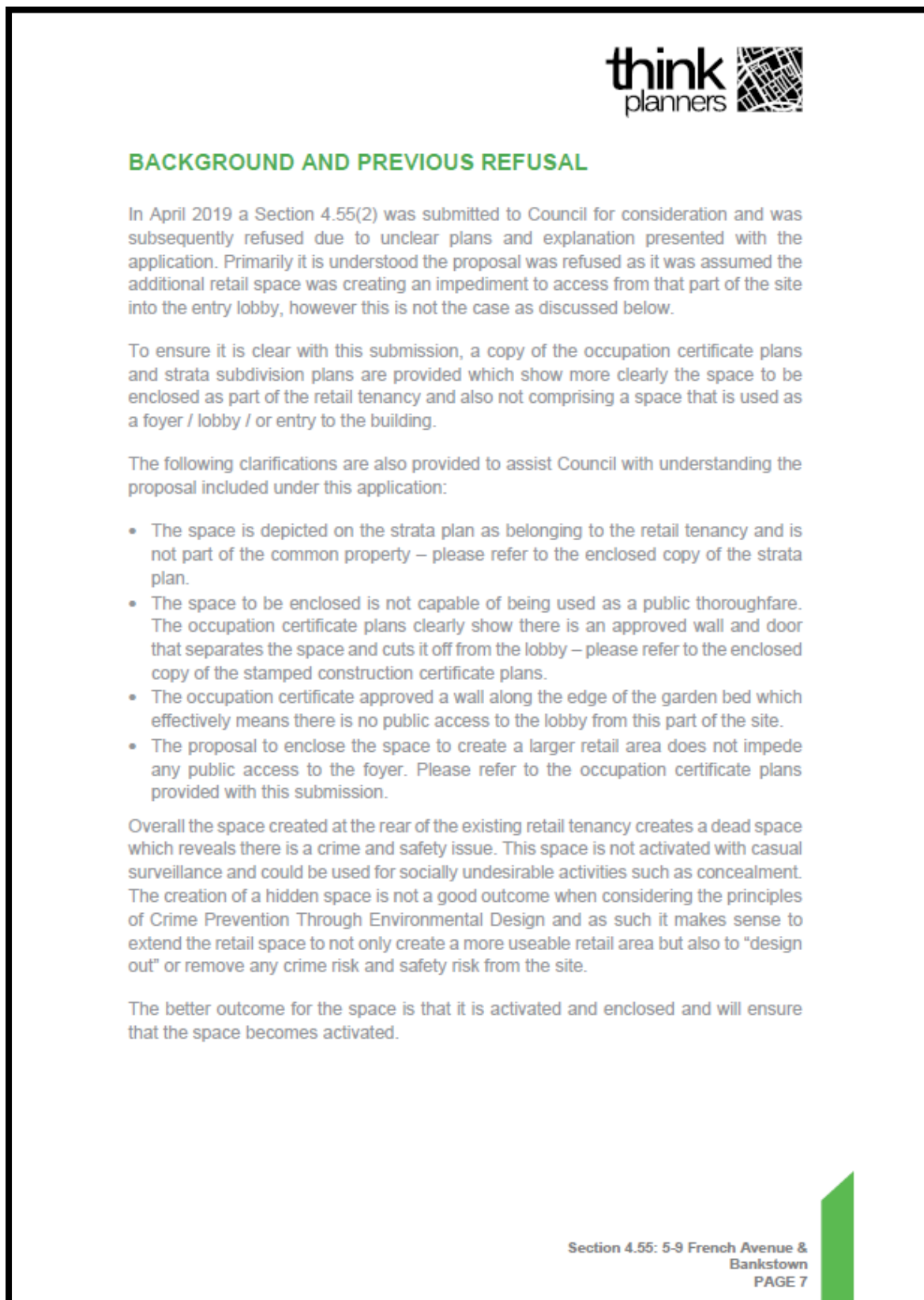
The modification as submitted seeks reliance upon the construction certificate (CC) drawings issued and the SEE to validate the works undertaken. The SEE and construction certificate drawings for the DA are attached, however the relevant excerpts are provided below.

Figure 1



The above excerpt from the CC drawings provided notes the location of a privacy screen to be provided on the planter box edge to the north of the commercial tenancy. Instead a solid wall has been constructed. The solid wall proposed for the fire stairs on the western edge of the area has been lengthened and the solid wall on the north of the commercial tenancy extends to align with the fire stairs, and a single access door has been installed to the western wall. The CC plans show the construction of a plant room adjoining the commercial tenancy. This has not been constructed, rather forms part of the commercial tenancy.

Figure 2



The SEE provides a list of points to clarify Council’s understanding of the proposal. The SEE notes that the space to be enclosed is not capable of being used as a public thoroughfare resulting from the occupation certificate plans. The construction certificate plans submitted

do note this area to have the installation of a privacy screen to the north of the commercial tenancy on top of the planter box, however a solid wall has been constructed and the rear (western edge) of the area enclosed with a solid wall along the fire stairs. Neither of which were approved on the DA plans.

The construction certificate plans submitted are not consistent with what has been constructed on site for this area and the commercial tenancy. The SEE notes that the “*Overall the space at the rear of the existing retail tenancy creates a dead space which reveals there is a crime and safety issue*”. The creation of the dead space is a result of non-compliance with the approved DA plans and results in a less than desirable built form outcome on the site.

The inconsistency of the construction certificate drawings with the approved plans is a matter for the certifier and does not lend to providing a basis for Council to support a variation to its controls in relation to FSR or endorse a design that is a less desirable outcome for the development as a whole.

SECTION 4.55(2) ASSESSMENT

The proposed modifications have been assessed pursuant to section 4.55(2) of the *Environmental Planning and Assessment Act, 1979*.

(a) the development as modified is substantially the same development as the development for which the consent was originally granted

The development remains substantially the same development to that which was originally approved in so far as the modification provides for a development of a comparable scale and intensity.

(b) the application has been notified in accordance with the regulations or a development control plan

The application has been notified and advertised in accordance with the notification requirements of BDCP 2015.

(c) Council has consulted with the relevant Minister, public authority or approval body

Consultation with a Minister, public authority or approval body is not required for this application.

(d) any submissions made concerning the proposed modification

One submission was made in relation to the proposed amendments. The report later considers the content of this submission.

SECTION 4.15 ASSESSMENT

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

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

State Environmental Planning Policy 55 – Remediation of Land

Having regard to the modifications proposed, no further assessment is required to be undertaken against this planning instrument. It is therefore considered that the consent authority can be satisfied that the development site will remain suitable for the proposed development, as modified, in accordance with Clause 7 of SEPP 55.

Greater Metropolitan Regional Environmental Plan No 2—Georges River Catchment

It is considered that the proposed development as modified will not significantly impact upon the environment of the Georges River, either in a local or regional context, and that the development is not inconsistent with the general and specific aims, objectives, planning principles, planning considerations and policies and recommended strategies contained within the GMREP No.2.

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

SEPP No. 65 applies to residential flat buildings having four or more units and three or more storeys. Accordingly, the SEPP applies, and an assessment against the Design Quality Principles in SEPP 65 and the accompanying Apartment Design Guide (ADG) was carried out as part of the original application. The proposed modification, in which the applicant seeks to enclose the area north of the approved commercial tenancy, is considered to be inconsistent with the design guidance provided within Objective 3G 2-3 in regards to pedestrian access and entries. The proposed modification restricts visibility from the public domain and pedestrian links moving through the site. It is considered that the enclosing of this area is not consistent with the objectives of Part 3G of the ADG.

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

The proposed modifications to the development do not alter compliance with the SEPP as established under the original application.

Bankstown Local Environmental Plan 2015

The following clauses of *Bankstown Local Environmental Plan (BLEP) 2015* are relevant to the proposed modification and were taken into consideration:

- Clause 1.2 – Aims of Plan
- Clause 2.1 – Land use zones
- Clause 2.2 – Zoning of land to which Plan applies
- Clause 2.3 – Zone objectives and Land Use Table
- Clause 4.3 – Height of buildings
- Clause 4.4 – Floor space ratio
- Clause 4.4A – Additional gross floor area for more sustainable development in Bankstown CBD commercial core

Clause 4.5 – Calculation of floor space ratio and site area

The proposed modification has been assessed against the relevant controls as provided below.

STANDARD	BLEP 2015 COMPLIANCE	PROPOSED
Clause 4.4 FSR	Maximum 3:1	No, 3.508:1 across the development site
Clause 4.4A Additional gross floor area for more sustainable development in Bankstown CBD commercial core	Maximum of 3.5:1 permitted on B4 only pursuant to clause 4.4A. R4 is not eligible for the bonus, therefore the FSR must comply with: 3.5:1 on the B4 (if the provisions of Cl4.4A are met) and 3:1 on the R4.	No, 3.508:1 across the development site

An assessment of the application revealed that the proposed modifications fail to comply with the provisions of *Bankstown Local Environmental Plan 2015* in relation to Clause 4.4A Floor Space Ratio. The inconsistency with the development and the BLEP 2015 is as previously reported in DA-738/2015/A.

The information submitted with this application, includes as built drawings with FSR calculations, these calculations have not included the ground floor washroom, which was previously included and is required to be included.

A further detailed breakdown of non compliance was provided in DA-738/2015/A and is attached to this report.

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

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

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

The following table provides a summary of the development application as modified against the applicable controls contained in Part B5 of the Bankstown Development Control Plan 2015.

STANDARD	PROPOSED	PART B5 of BDCP 2015		BLEP 2015 COMPLIANCE
		REQUIRED	COMPLIANCE	
Part B5 Parking Controls				
Car Parking (Part B5 of BDCP 2015)	Commercial area Commercial area	Bankstown CBD 1 car space per	Yes – approved strata plan by a	N/A

STANDARD	PROPOSED	PART B5 of BDCP 2015		BLEP 2015 COMPLIANCE
		REQUIRED	COMPLIANCE	
	132sqm $132 / 40 = 3.35$	40m2 of half the gross floor area of the premises; and a planning agreement is considered on the remaining 50% of parking requirements for the purpose of Public parking.	private certifier allocated 4 spaces within level 1 basement to the commercial use.	

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

There are no planning agreements applicable to the modification application.

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

The proposed amendments are considered to satisfactorily address the relevant provisions of the regulations.

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

The proposed expansion of the ground floor commercial tenancy is not supported as it is considered that the extension of the ground floor commercial tenancy will have a detrimental impact upon the streetscape and pedestrian legibility.

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

The suitability of the site for the proposed modification is considered to remain as assessed in the original development application.

Although the proposed modification appears minor in nature it would detrimentally impact the legibility of the ground floor interface of the building with the street. The development as approved included clear and delineated access for residential separate to that of the commercial patronage. The proposed amendment would erode this.

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

The application was advertised and notified for a period of 21 days. One submission was received. The submission raised issues in regards to the notification letter and formatting which have been responded to separately.

The last point on the submission raised concerns about the contractors and ensuring compliance with construction, cladding, fire safety, state and federal laws. It is the

responsibility of the certifier to ensure that the building meets all the requirements of the Building Code of Australia prior to issuing an occupation certificate.

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

The proposed modifications are considered to contravene the public interest in that the legibility of public and private components of the development are reduced as a result of the modification.

CONCLUSION

The proposed modifications have been assessed in accordance with the provisions of section 4.55(2) and section 4.15 of the *Environmental Planning and Assessment Act 1979*, requiring, amongst other things, an assessment against State Environmental Planning Policy No. 55—Remediation of Land, State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development and the associated Apartment Design Guide, State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, Greater Metropolitan Regional Environmental Plan No 2—Georges River Catchment (a deemed SEPP), Bankstown Local Environmental Plan 2015 and Bankstown Development Control Plan 2015.

The assessment of the application has found that the development as modified cannot be supported and it is recommended that the modification application should be refused.

Decision - CBLPP 5 August 2019

DA-738/2015/A ASSESSMENT REPORT

SITE & LOCALITY DESCRIPTION

The subject site is now known as 5 French Avenue, however was formerly identified as 5 to 9 French Avenue and 2 Conway Road, Bankstown.

The attached maps show the location of the site and its zoning. As can be seen from the attached maps, Nos. 5-9 French Avenue are zoned B4- Mixed Use and 2 Conway Road is zoned R4- High Density Residential, both under the provisions of Bankstown Local Environmental Plan 2015.

The site is located on the northern fringe of the Bankstown CBD, and this is evident in the split of the business and residential zonings that apply to the site. The site is “L” shaped in nature and has an area of 2,018m² with frontages to Conway Road of 47.24m and to French Avenue of 35.05m (plus splay). Construction on site is nearing completion and a strata subdivision certificate has been issued by a private certifier.

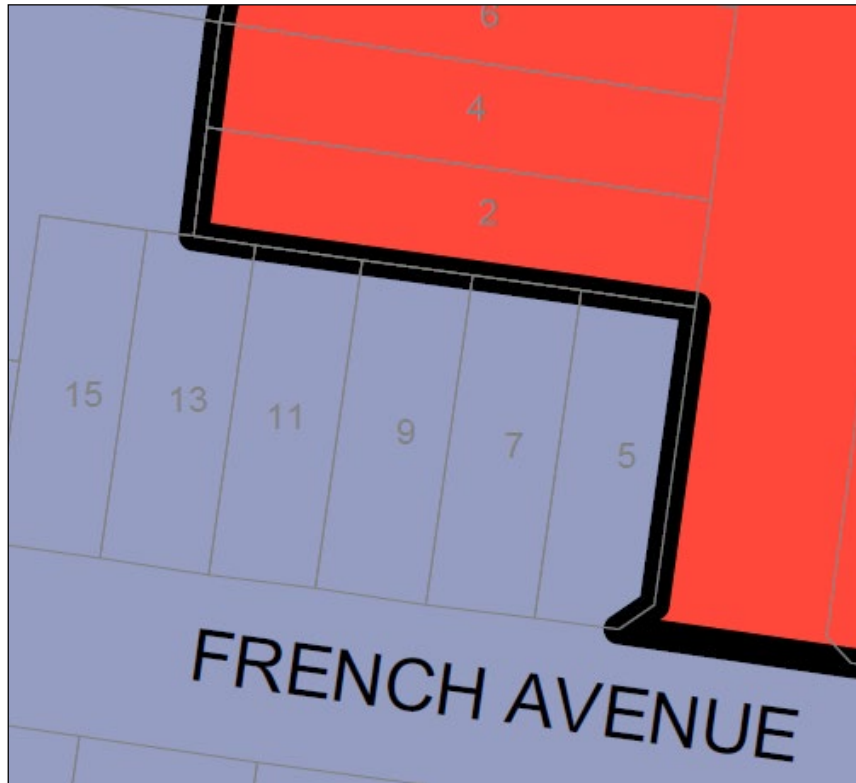
The site has a moderate fall from north- west to south east of 3.61 metres, with the lowest point of the site being at the intersection of French Avenue and Conway Road. The site is free from constraints such as flooding, contamination, and the like, but is affected by a height limit associated with Bankstown Airport’s obstacle limitation surface of 15.24 metres above the site’s ground level.

Image 1- Aerial photo of the subject site



In general terms, it could be said that the area in the vicinity of the site is currently undergoing transition and contains a mix of development types and scales, consistent with the mix of zonings that apply in the area, coupled with the site's location on the fringe of the Bankstown CBD.

Image 2- Extract of LEP 2015 zoning map



BACKGROUND/HISTORY

Council, at its Ordinary Meeting of 23 February 2016 resolved to approve DA-738/2015 for the demolition of all structures on site and construction of an eleven storey mixed residential/commercial flat building comprising of 81 residential units, a ground floor retail premises and basement car parking (on a deferred commencement basis).

The resolution of Council was as follows:

RESOLVED that Council accept the applicant's submission made under clause 4.6 of the Bankstown LEP 2015 and approve DA 738/2015 on a deferred commencement basis. The deferred commencement matters that must be satisfied within 12 months of the date of determination of the development application are:

- 1. The applicant will alter the plans (Substantially the same) to reduce the FSR to 3.5:1 (calculated as "ratio of the gross floor area of all buildings within the site to the site area") adopting the definitions from clause 4.5 of the Bankstown LEP 2015.*
- 2. The applicant will alter the plans (Substantially the same) of setbacks to balconies,*

resulting in the non-compliance with clause 3F-1 of the Apartment Design Guide, to achieve full compliance with the clause of the Apartment Design Guide.

3. *The applicant will alter unit sizes of 505, 605, 705, 805, 504, 604, 704, 804, 904, 1004, 1104, to meet the minimum sizes required by the Apartment Design Guide in accordance with clause FD-1 of the Apartment Design Guide. These changes may include removal of ensuites or other internal minor design changes.*
4. *Approval from Bankstown Airport Limited for breach of Airport's Obstacle Limitation Surface level.*
5. *Satisfaction of basement manoeuvring and car parking layout to meet the requirements of the relevant Australian Standard.*
6. *Resolution of waste storage areas and waste collection provisions to the satisfaction of Council's Resource Recovery Team.*

In response to the submission of amended plans addressing the above matters, an operative consent was issued by Council on 12 September 2016.

On 9 July 2018, Council's Local Planning Panel approved a S4.55 application to amend the original application by way of increasing the height of the building (being an increase to the height of the lift overrun by 500mm). Additional works associated with this modification included the addition of a lobby area to the roof top communal open space, reallocation of areas within the roof top to private open space for unit 1103, the addition of bi-fold doors to the commercial tenancy, rearranging of the ground floor waste areas and the addition of a toilet facility, the installation of louvers to the façade, a new awning proposed to the French Avenue frontage, and the installation of an electricity substation fronting Conway Road.

PROPOSED DEVELOPMENT

This application is submitted under the provisions of section 4.55(2) of the *Environmental Planning and Assessment Act, 1979*. The application seeks to amend Determination Notice No.738/2015, and involves the following modifications:

- Creation of an additional 38sqm to the previously approved ground floor retail premises by extending into the undercroft approved to the north of the commercial tenancy.

As part of the assessment of the development application a site inspection was undertaken. Upon inspection it was identified that the ground floor (being level 01) had not been constructed in accordance with the approved plans. The ground floor had not included the plant room as shown on the plans adjacent to the commercial tenancy and has in fact constructed an additional wall to the north and north west of the approved commercial area, providing for an 'extended' commercial tenancy. These walls form the northern and north western wall of the area under this modification that is proposed to be enclosed.

The plans approved (as modified) did not provide for a solid constructed wall within the residential undercroft to the north or north west of the commercial tenancy. The construction of these walls form an enclosure to the area shown as the ground floor retail extension. The proposed extension of the commercial space within this area includes a level change to the rear 12sqm (steps within the area) and a rear access door to the residential interface of the building.

The extension of the commercial area into the approved undercroft is considered to result in poor functionality and design layout as a result of the limited space and existing level change within the area. The proposed rear access door and wall serve to close off the area and direct people through the commercial space into the residential domain. The approved plans showed this area as an open area with direct access from the commercial space into this area, this was considered functional as the design and built form made clear distinctions between the residential and public domain. The proposed modification will undo this functionality.

SECTION 4.55(2) ASSESSMENT

The proposed modifications have been assessed pursuant to section 4.55(2) of the *Environmental Planning and Assessment Act, 1979*.

- (a) *the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and***

The development remains substantially the same development to that which was originally approved in so far as the modification provides for a development of a comparable scale and intensity.

- (b) *it has consulted with the relevant Minister, public authority or approval body in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and***

Comment: The original application was referred to Sydney Metro Airport and required approval from the Department Infrastructure and Regional Development (Civil Aviation Safety Authority). The modification does not change the heights as previously approved. A referral was not required to be undertaken.

- (c) *it has notified the application in accordance with the regulations or a development control plan, and***

Comment: The application was advertised and notified for a period of 21 days.

The exhibition and notification process was consistent with that which occurred with the original development application as required by the provisions contained in Bankstown Development Control Plan 2015.

- (d) *it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan.***

Comment: No submissions have been received.

SECTION 4.15(1) ASSESSMENT

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

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

State Environmental Planning Policy No. 55 – Remediation of Land

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.*

Having regard to the modifications proposed, no further assessment is required to be undertaken against this planning instrument. It is therefore considered that the consent authority can be satisfied that the development site will remain suitable for the proposed development, as modified, in accordance with Clause 7 of SEPP 55.

Greater Metropolitan Regional Environmental Plan No 2—Georges River Catchment

It is considered that the proposed development as modified will not significantly impact upon the environment of the Georges River, either in a local or regional context, and that the development is not inconsistent with the general and specific aims, objectives, planning principles, planning considerations and policies and recommended strategies contained within the GMREP No.2.

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

SEPP No. 65 applies to residential flat buildings having four or more units and three or

more storeys. Accordingly, the SEPP applies, and an assessment against the Design Quality Principles in SEPP 65 and the accompanying Apartment Design Guide (ADG) was carried out as part of the original application. The proposed modification enclosing of the area north of the approved commercial tenancy is considered to be inconsistent with the design guidance provided within Objective 3G 2-3 in regards to pedestrian access and entries. The proposed modification restricts visibility from the public domain and pedestrian links moving through the site. It is considered that the enclosing of this area is not consistent with the objectives of Part 3G of the ADG.

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

The proposed modifications to the development do not alter compliance with the SEPP as established under the original application.

Bankstown Local Environmental Plan 2015

The following clauses of *Bankstown Local Environmental Plan (BLEP) 2015* are relevant to the proposed development and were taken into consideration:

- Clause 1.2 – Aims of Plan
- Clause 2.1 – Land use zones
- Clause 2.2 – Zoning of land to which Plan applies
- Clause 2.3 – Zone objectives and Land Use Table
- Clause 2.7 – Demolition requires development consent
- Clause 4.3 – Height of buildings
- Clause 4.4 – Floor space ratio
- Clause 4.4A – Additional gross floor area for more sustainable development in Bankstown CBD commercial core
- Clause 4.5 – Calculation of floor space ratio and site area
- Clause 6.2 – Earthworks

The proposed modification has been assessed against the relevant controls as provided below.

STANDARD	BLEP 2015 COMPLIANCE	PROPOSED
Clause 4.4 FSR	Maximum 3:1	No, 3.508:1 across the development site
Clause 4.4A Additional gross floor area for more sustainable development in Bankstown CBD commercial core	Maximum of 3.5:1 permitted on B4 only pursuant to clause 4.4A. R4 is not eligible for the bonus, therefore the FSR must comply with: 3.5:1 on the B4 (if the provisions of Cl4.4A are met) and 3:1 on the R4.	No, 3.508:1 across the development site

The following comments are offered in response to the details provided in the above compliance table.

Floor space ratio (Clause 4.4) and Additional gross floor area for more sustainable development in Bankstown CBD Commercial core (Clause 4.4A)

Firstly Clause 4.4(2) of the Bankstown LEP states that 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.*”

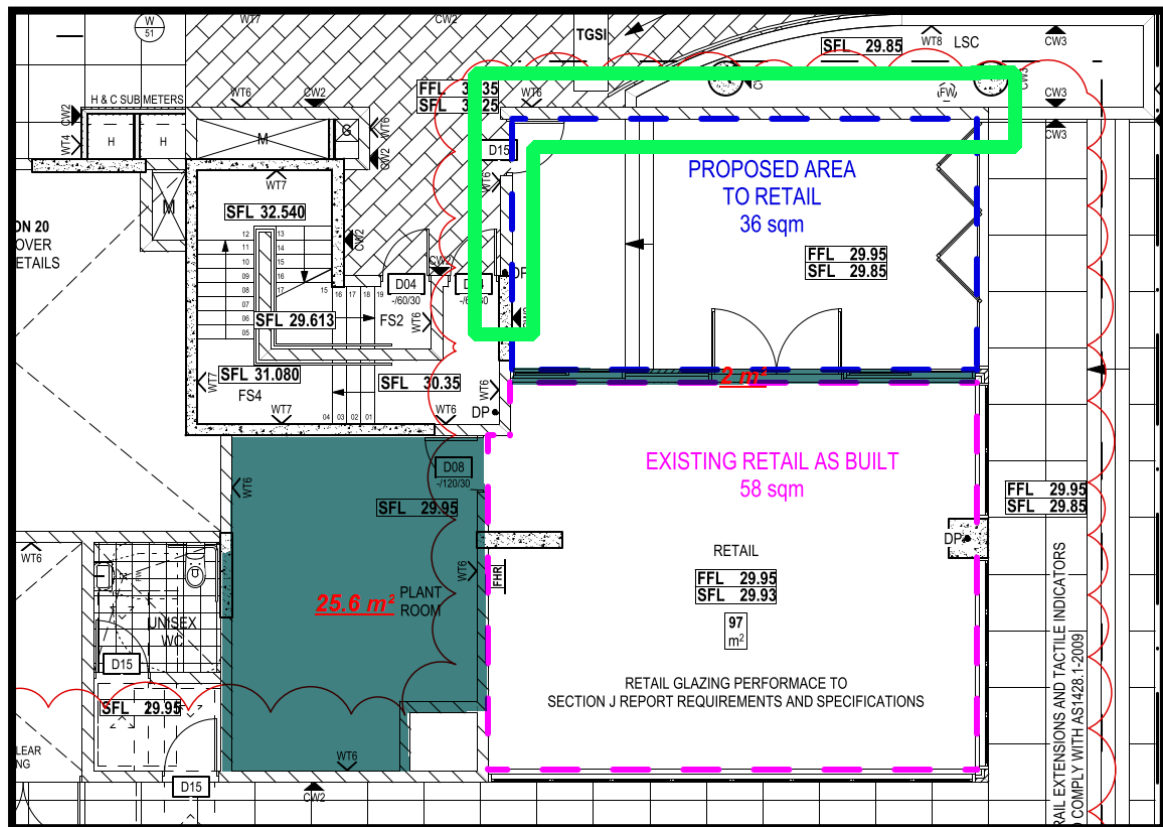
The Floor Space Ratio Map identifies the development site as having a maximum permissible floor space ratio of 3:1.

Clause 4.4A(3) of the Bankstown LEP states “*Despite any other provision of this Plan, the consent authority may grant development consent to development to which this clause applies if the gross floor area of the buildings on the development site exceeds the gross floor area otherwise permitted by this Plan by no more than 0.5:1.*”

The provisions contained in Clause 4.4A of the LEP only applies in circumstances where the “... *development is on land in Zone B4 Mixed Use.*” That is, the ‘bonus’ GFA should not be applied to the land, being the subject of the development, that is zoned R4 High Density Residential. Part of the site is zoned R4 High Density Residential and Councils original assessment report recommended that the Development Application be refused.

Notwithstanding this, Council resolved to approve the development subject to a resolution to allow a maximum FSR across the overall site of 3.5:1.

This modification proposes additional floor area by enclosing the open area adjoining the north of the approved commercial unit. The additional floor area totals 38sqm.

Image 3 – Excerpt of floor plan noting walls already built in green box

Inspection of the site has shown that building works have occurred that are not consistent with the approved plans (as modified). The ground floor plant room has not been constructed and now forms part of the approved commercial tenancy. A solid wall has been built to the north of the commercial unit partially enclosing the area proposed to be extended as part of the commercial tenancy.

The 'plant room' approved to the west of the commercial area, now results in an additional 25.6sqm of floor space that has not been accounted for in the gross floor area calculations of the development. The issue of the plant room was raised with the applicant who has advised that the plant room wall between the commercial tenancy and the plant room is not required at present and will be built once a tenancy use is identified. This is not considered a viable or likely occurrence, given the building is at completion and 'plant' to facilitate a commercial tenancy cannot be retrofitted in a way that isn't considered floor area.

Accepting the as constructed calculations provided, with the addition of the ground floor extension proposed and the 'plant room', the proposal results in a FSR of 3.508:1 across the site.

The proposed extension of the commercial space to the north of the approved retail area seeks to extend into a portion of the approved ground floor undercroft that contains a level change to the rear 12sqm (steps within) and a rear access door to the residential interface of the building. The undercroft as approved with the level change

served the development by providing a distinction between the public accessible spaces and the transition into the residential component of the development. This provided a particular legibility in the streetscape and at pedestrian level in terms of navigating the development.

The extension of the commercial area into the approved undercroft is considered to be poor in terms of functionality and design layout for the proposed commercial tenancy, as a result of the limited space and existing level change within the area. The proposed built form and the walls as constructed serve to reduce the legibility of the development from the street level, and the solid wall and single door to the north western wall, as built, serve to close off the area and direct people through the commercial space into the residential domain with no clear separation of the spaces.

The approved plans showed this area as an open area with direct access from the commercial space into this area, this was considered functional as the design and built form made clear distinctions between residential and public domain.

The enclosing of these areas and the inclusion of the walls and single door reduce the legibility of the ground floor plan and provide seemingly direct access into the residential portion of the development. The construction of the walls to the north of the commercial area has resulted in an unsuitable outcome for the area north of the commercial tenancy as it has resulted in a visual obstruction, preventing pedestrians identifying the residential component and access to the development.

The modification as built on site has not been constructed in accordance with the approved plans. Should this modification be supported it would result in a development with an FSR of 3.508:1. This would be non-compliant with the resolution of elected Council on 23 February 2016 ensuring that the FSR across the overall site does not exceed 3.5:1.

Further, it should be noted that Clause 4.6 of the BLEP 2015 does not operate with respect to Clause 4.4A of the BLEP 2015. The result is that had floor space greater than 3.5:1 been proposed as part of the original DA, Council would have no power to approve the DA. It would be inappropriate for a larger FSR to be permitted by way of a S4.55 application.

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

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

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

The following table provides a summary of the development application as modified against the applicable controls contained in B5 of the Bankstown Development Control Plan 2015.

STANDARD	PROPOSED	PART B5 of BDCP 2015		BLEP 2015 COMPLIANCE
		REQUIRED	COMPLIANCE	
Part B5 Parking Controls				
Car Parking (Part B5 of BDCP 2015)	Commercial area Commercial area 132sqm $132 / 40 = 3.35$	Bankstown CBD One car space per 40m ² of half the gross floor area of the premises; and a planning agreement is considered on the remaining 50% of parking requirements for the purpose of Public parking.	Yes – approved strata plan by a private certifier allocated four spaces within level one basement to the commercial use.	N/A

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

There are no planning agreements applicable to the modification application.

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

The proposed amendments are considered to satisfactorily address the relevant provisions of the regulations.

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

The proposed expansion of the ground floor commercial tenancy is not supported as it is considered that the extension of the ground floor commercial tenancy will have a detrimental impact upon the streetscape and pedestrian legibility.

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

As originally assessed it was not considered that the development was suitable for the site as the proposal contained a floor space ratio which significantly failed to comply with the permitted level of floor space, failed to comply with height controls, and had unreasonable amenity impacts on development in the vicinity of the site.

The suitability of the site for the proposed modification is considered to remain as assessed in the original development application.

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

The application was advertised/notified for a period of 21 days. No submissions were received.

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

The proposed modifications are considered to contravene the public interest in that the legibility of public and private components of the development are reduced as a result of the modification.

CONCLUSION

The proposed modifications have been assessed in accordance with the provisions of section 4.55 and section 4.15 of the *Environmental Planning and Assessment Act 1979*, requiring, amongst other things, assessment against State Environmental Planning Policy No. 55- Remediation of Land, State Environmental Planning Policy No 65— Design Quality of Residential Apartment Development and the associated Apartment Design Guide, State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, Greater Metropolitan Regional Environmental Plan No 2—Georges River Catchment (a deemed SEPP), Bankstown Local Environmental Plan 2015 and Bankstown Development Control Plan 2015.

The assessment of the application has found that the development as modified cannot be supported and it is recommended that the modification application should be refused.

Reasons for Refusal

1. The development fails to comply with the provisions of Clause 4.4 and 4.4A of Bankstown Local Environmental Plan 2015 (Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979).
2. The site is not suitable for the development as proposed (Section 4.145(1)(c) of the Environmental Planning and Assessment Act 1979).
3. The development is not in the public interest (Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979).

-END-

**CANTERBURY BANKSTOWN LOCAL PLANNING PANEL
DECISION– 5 AUGUST 2019****DECISION**

- 1 5 FRENCH AVENUE, BANKSTOWN: DEMOLITION OF EXISTING SITE STRUCTURES AND CONSTRUCTION OF AN ELEVEN STOREY MIXED RESIDENTIAL/COMMERCIAL FLAT BUILDING COMPRISING OF 81 RESIDENTIAL UNITS AND BASEMENT CAR PARKING. S4.55(2) AMENDMENT: EXTENSION TO LEVEL 01 RETAIL AREA.**

Site Visit

An inspection of the site was undertaken by the Panel and staff members prior to the public hearing.

Public Addresses

There was no public address for this item.

Panel Assessment

Ms Kayee Griffin was the community Panel member present for the deliberation and voting in respect to this item.

The Panel agrees with the matters raised in the report and the recommendation.

The Panel is of the opinion that the pedestrian entry is unsatisfactory and should be retained as per the previous approved modification/plans. In the Panels opinion the pedestrian entry and access to the lift area is already compromised in its design especially in relation to the meandering awkward access to the lift lobby.

Enclosing the pedestrian access area would remove the opportunity for open and clear pedestrian access to the units.

It will be a matter for the Councils Compliance department as to what action should be taken in relation to the construction of the various walls that have been constructed without the necessary consent or contrary to the current consent.

CBLPP Determination

THAT Development Application DA-738/2015A RE: Demolition of existing structures and construction of an eleven storey mixed residential/commercial flat building comprising of 81 residential units and basement car parking. S4.55(2) Amendment: Extension to level 01 retail area be **REFUSED** in accordance with the Council staff report recommendation, subject to the following amendments to the reasons for refusal:

1. The entry to the 81 units is further compromised by the proposed modification as it results in an access way without a clearly visible lobby entrance to the residential units.

2. The development fails to comply with the provisions of Clause 4.4 and 4.4A of Bankstown Local Environmental Plan 2015 and (Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979).
3. The site is not suitable for the development as proposed (Section 4.145(1)(c) of the Environmental Planning and Assessment Act 1979).
4. The development is not in the public interest (Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979).

Vote: 4 – 0 in favour

-END-

Canterbury Bankstown Local Planning Panel - 02 March 2020

ITEM 2	67-69 Balmoral Ave, Croydon Park Demolition of existing structures and construction of an in-fill affordable housing development containing nine dwellings over a basement car park pursuant to State Environmental Planning Policy (Affordable Rental Housing) 2009
FILE	DA-635/2019 – Canterbury
ZONING	R3 Medium Density Residential
DATE OF LODGEMENT	23 August 2019 Additional Information received 6 December 2019 and 17 February 2020
APPLICANT	Danney Bob Faker
OWNERS	Daneey Bob Faker
ESTIMATED VALUE	\$3,034,876
AUTHOR	Planning

REPORT

This matter is reported to Canterbury-Bankstown Local Planning Panel due to the number of objections, received in relation to this Development Application, exceeding 10.

Development Application No. DA-635/2019 proposes demolition of existing structures and construction of an in-fill affordable housing development containing nine dwellings over a basement car park

DA-635/2019 has been assessed against the relevant plans, policies, and controls including Canterbury Local Environmental Plan 2012 and Canterbury Development Control Plan 2012 and the key topics for consideration are solar access, design, and deep soil.

The application was advertised and notified for a period of 21 days between 4 and 24 September 2019 (inclusive), 28 objections and 1 petition containing 77 signatories were received during this period.

POLICY IMPACT

There are no direct policy implications

FINANCIAL IMPACT

There are no direct financial implications.

RECOMMENDATION

It is recommended that Development Application DA-635/2019 be approved subject to the conditions outlined in Attachment B.

ATTACHMENTS

- A. Assessment Report
- B. Conditions of Consent

DA-635/2019 ASSESSMENT REPORT

SITE & LOCALITY DESCRIPTION

The subject site is legally described as Lots 4, 6 and 8 on Section J of Deposited Plan (DP) 876 and is known as 67-69 Balmoral Ave, Croydon Park. The site forms a regular allotment with a combined frontage of 30.18m and an area of 1,380m². The site has a slight fall from the street to the rear of the site.

The site is located on the western side of Balmoral Avenue, approximately 10m to the South of the intersection with Lyminge Road, and contains two single storey dwellings and associated outbuildings, garages.

To the front of the site, in the nature strip, are five street trees and a power pole. Adjoining the site to the North is 65 Balmoral Avenue, a single storey dwelling which is accessible from Lyminge Road. To the rear (West) of the site is 56-62 Windsor Avenue, which are single storey brick built dwellings. To the south of the site is 71 Balmoral Avenue, which is a single storey brick built dwelling. 73 Balmoral Avenue is a two storey dwelling.

The site is zoned R3 Medium Density Residential. The wider surrounding area is characterised by single and two storey dwellings.



Figure 1: Aerial of subject site in blue. **Source:** NearMaps 2020



Figure 2: From site inspection

PROPOSED DEVELOPMENT

The Development Application proposes demolition of existing on-site structures and construction of nine dwellings above a single level of basement car park.

The development comprises:

- A basement car park containing nine x tandem (two car) spaces with storage and individual access to each dwelling;
- Construction of five single storey with attic and four two storey dwellings, of which
 - Four x three bedroom dwellings
 - Five x two bedroom dwellings;
- Associated pedestrian and vehicular access; and
- Associated landscaping and private open space.

The proposed finishing materials are

- Boral Federation roof tiles;
- Boral Restoration Red facing bricks;
- Colorbond Matt White window frames, gutters and fascia, and downpipes; and
- Antique White paint.

BACKGROUND

On 29 August 2017, Council, under delegated authority, refused development application, DA-213/2015, for the demolition of existing structures, construction of ten multi dwellings (including two affordable housing dwellings) with basement car parking and strata subdivision under State Environmental Planning Policy (Affordable Rental Housing) 2009.

On 3 April 2019, DA-231/2018 was refused by the Canterbury-Bankstown Local Planning Panel. The application was for demolition of existing structures and construction of an

affordable housing development for a multi dwelling development comprising nine dwellings with basement car parking, strata subdivision and associated works pursuant to State Environmental Planning Policy (Affordable Rental Housing) 2009 and was refused for the following reasons: -

1. *Pursuant to the provisions of Section 4.15(1)(b) and Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, insufficient information has been provided by the applicant to allow a proper and thorough assessment of the impacts of the proposed development and the suitability of the site for the development. The proposal has not provided an adequately detailed survey plan with site dimensions and existing levels across the site by a registered surveyor, inconsistent landscaping, stormwater and architectural plans, incorrectly labelled plans, inadequately detailed floor plans and elevations, inaccurate and inadequately detailed solar access plans, inaccurate elevations showing natural ground level, omission of a strata plan and insufficient reports including geotechnical report and acid sulfate soils report.*
2. *The proposed development, pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, has not demonstrated it meets the State Environmental Planning Policy 2004 – (Building Sustainability Index: BASIX) 2009 on the architectural plans.*
3. *The proposed development, pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, has not demonstrated it meets the accessible area precondition of Division 1, 10 (2) of State Environmental Planning Policy (Affordable Rental Housing) 2009.*
4. *The proposed development, pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, does not meet the minimum solar access requirements of clause 14 (1) (e) of State Environmental Planning Policy (Affordable Rental Housing) 2009.*
5. *Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the application did not address, and the proposed design fails to satisfy the design requirements of Clause 15 of State Environmental Planning Policy (Affordable Rental Housing) 2009.*
6. *Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development is incompatible with the desired character of the locality, having considered the requirements of clause 16A of State Environmental Planning Policy (Affordable Rental Housing) 2009.*
7. *Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development fails to meet the R3 Medium Density Residential zone objectives in that the proposed density is uncharacteristic of the anticipated medium density environment as per Clause 2.3 (2) of the Canterbury Local Environmental Plan 2012.*

8. *Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, it is considered that the proposed development does not satisfy Clause 4.3 Building Height of the Canterbury Local Environmental Plan 2012 in that insufficient details have been provided to determine the building height.*
9. *Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, it is considered that the proposed development does not satisfy Clause 4.4 Floor space ratio of the Canterbury Local Environmental Plan 2012 in that the proposal does not satisfy the requirements to qualify for State Environmental Planning Policy (Affordable Rental Housing) 2009 and therefore breaches the maximum permitted FSR under Clause 4.4 of the Canterbury Local Environmental Plan 2012.*
10. *Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, a Clause 4.6 written request has not been provided to breach Clause 4.4 Floor space ratio of the Canterbury Local Environmental Plan 2012.*
11. *Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not satisfy the requirements of Clause 6.1 – Acid Sulfate Soils of the Canterbury Local Environmental Plan 2012.*
12. *Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not satisfy the requirements of Clause 6.2 – Earthworks of the Canterbury Local Environmental Plan 2012.*
13. *Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not satisfy the requirements of Clause 6.4 – Stormwater Management of the Canterbury Local Environmental Plan 2012.*
14. *Pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development does not satisfy the following provisions of the Canterbury Development Control Plan 2012:*
 - a. *Part 3.2.2 Avoid Isolating Sites, in that the proposal isolates the adjoining site at 65 Balmoral Avenue and fails to satisfy the objectives of the Part and the site isolation planning principles established by the Land and Environment Court.*
 - b. *Part 3.2.3 Private Open Space, in that privacy and fencing details have not been addressed.*
 - c. *Part C3.2.4 Layout and Orientation, in that solar access has not been demonstrated.*
 - d. *Part C3.3 Building Envelope, in that insufficient details have been provided to determine the proposed wall height.*
 - e. *Part 3.3.3 Setbacks as the proposal does not comply with the minimum side setbacks and deep soil requirements.*

- f. Part 3.3.5 Building Separation, in that the development does not provide adequate separation between the front dwellings and does not provide adequate landscaping in these areas.*
 - g. Part 3.4.1 Building Design, in that the proposed façade is poorly designed, clear entry ways are not provided and fencing details have not been provided.*
 - h. Part C3.4.3 Dwelling layout and mix, in that the bedrooms are inadequately dimensioned.*
 - i. Part 3.5.1 Solar access and overshadowing, in that inadequate solar access information was provided.*
 - j. Part C3.5.2 Visual privacy, in that inadequate details have been provided regarding the proposed privacy conditions.*
 - k. Part C3.6.1 Fences, in that no details have been provided.*
 - l. Part C3.6.2 Building Services, in that inadequate details of fire hydrant and hoses are detailed on the plans.*
 - m. Part B Stormwater, in that the minimum pit surface/invert levels have not been achieved and the proposed design is unlikely to be achievable.*
 - n. Part B Landscaping and Trees as insufficient and inaccurate information has been provided.*
- 15. Having regard to the above non-compliances with the Canterbury Development Control Plan 2012 and pursuant to the provisions of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development is unsatisfactory and represents an overdevelopment of the subject site.*
 - 16. The proposed development is unsatisfactory, pursuant to the provisions of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, providing an undesirable and unacceptable impact on the streetscape and adverse impact on the surrounding built environment.*
 - 17. Pursuant to the provisions of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development is excessive in terms of bulk and scale and would adversely impact upon the amenity of the locality.*
 - 18. Pursuant to the provisions of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development is unsatisfactory as it fails to demonstrate acceptable disposal of stormwater from the subject site.*
 - 19. Having regard to the previous reasons noted above and the number of submissions received by Council against the proposed development, pursuant to the provisions of Section 4.15(1)(d) and (e) of the Environmental Planning and Assessment Act 1979, approval of the development application is not in the public interest.*

On 28 June 2019, the applicant sought a Review of the refusal to DA-231/2018. The Review (RE-231/2018/1) was withdrawn by the applicant on 7 August 2019 as it would be unlikely that a determination would be possible within the legal timeframe.

STATUTORY CONSIDERATIONS

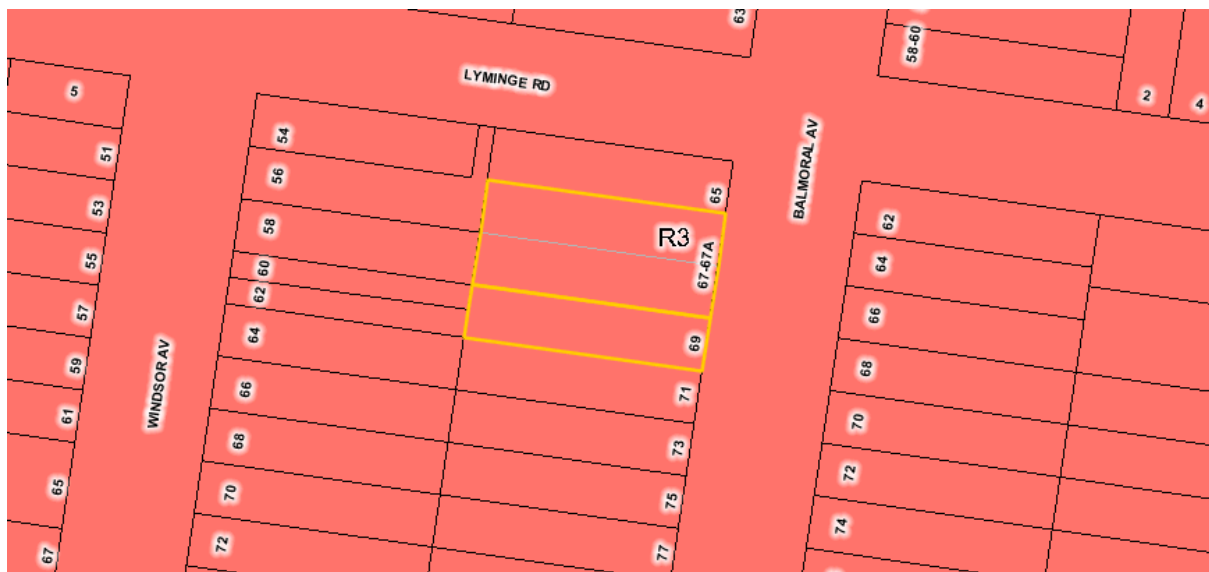
When determining this application, the relevant matters listed in Section 4.15C of the Environmental Planning and Assessment Act 1979 must be considered. In this regard, the following environmental planning instruments, development control plans, codes and policies are relevant:

- State Environmental Planning Policy 55 – Contaminated Land (SEPP 55)
- State Environmental Planning Policy 2004 (Building Sustainability Index: BASIX)
- State Environmental Planning Policy (Affordable Rental Housing) 2009
- Canterbury Local Environmental Plan 2012 (CLEP 2012)
- Canterbury Development Control Plan 2012 (CDCP 2012)
- Canterbury Development Contributions Plan 2013 (Contributions Plan 2013)

In addition, any demolition works requires specific consideration of the Australian Standards 2601 – 1991 *Demolition of Structures* as required by Clause 92 of the Environmental Planning and Assessment Regulation 2000.

PERMISSIBILITY

The site is zoned R3 Medium Density Residential under Canterbury Local Environmental Plan 2012.



- To enable other land uses that provide facilities or services to meet the day to day needs of residents.

The development complies with the objectives of the R3 Medium Density Residential zone as it is for a residential development to meet the housing needs of the community in a variety of housing types.

SECTION 4.15 ASSESSMENT

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

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

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

A revised BASIX Certificate No.1025404M_02 dated 31 July 2019, was submitted to Council which indicated a series of commitments for the development application.

The relevant commitments have been shown on the plans and conditions can be placed on any consent which requires that the BASIX is complied with. The design achieves a pass mark for water, thermal comfort and energy scores and therefore meets the relevant requirements of BASIX.

The proposal therefore satisfies the requirements of the State Environmental Planning Policy.

State Environmental Planning Policy 55 – Contaminated 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 a consent authority must not consent to the carrying out of development unless it has considered whether the land is contaminated. If the land is contaminated, it must ascertain whether it is suitable in its contaminated state for the proposed use or whether remediation of the land is required.

A review of the history of the site shows that the subject sites have generally only been used for residential purposes. Given that the site has been used for only residential purposes, the site is consistent with State Environmental Planning Policy 55 - Remediation of Land and is considered suitable for the proposed use.

State Environmental Planning Policy (Affordable Rental Housing) 2009

The application has been assessed against the provisions within Division 1 - In-Fill Affordable Housing of the ARH SEPP.

Clause 10(1) of Division 1 – Infill affordable Housing states that the Division applies to

development for the purposes of multi dwelling housing if

- (a) the development is permitted with consent under another environmental planning instrument, and
- (b) the development is on land that does not contain a heritage item, or interim heritage order, or on the State Heritage Register.

In this instance, the development is permitted with consent under the Canterbury Local Environmental Plan 2012 and does not contain any heritage item.

Clause 10(2) states that Division 1 does not apply to development on land in the Sydney Region unless all or part of the development is within an accessible area. This site lies in an accessible area. An accessible area is defined by the SEPP as land within 400 metres walking distance of a bus stop used by a regular bus service (within the meaning of the Passenger Transport Act 1990) that has at least one bus per hour servicing the bus stop between 06.00 and 21.00 each day from Monday to Friday (both days inclusive) and between 08.00 and 18.00 on each Saturday and Sunday.

The site lies 270m from a bus stop on Burwood Road, at Lyminge Road, and 300m from a bus stop on Burwood Road, at Yandarlo Street, which are both served by the 410 Bus Service, which provides a regular bus service at the required rates.

As a result Division 1 – In-fill Affordable Housing applies to the development. The proposed development is assessed having regard to the standards as set out in the table below:

Standard	Requirement	Proposal	Complies
Clause 13 – Floor Space Ratios	<p>This clause applies to development to which this Division applies if the percentage of the gross floor area of the development that is to be used for the purposes of affordable housing is at least 20 per cent.</p> <p>The maximum floor space ratio for the development to which this clause applies is the existing maximum floor space ratio for any form of residential accommodation permitted on the land on which the development is to occur, plus:</p> <p>(a) if the existing maximum floor space ratio is 2.5:1 or less:</p> <p>(ii) Y:1—if the percentage of</p>	<p>Site area = 1,380sqm</p> <p>Maximum Floor Space Ratio (FSR) = 0.5:1</p> <p>Total Gross Floor Area (GFA) = 796.1m²</p> <p>Units 6 and 7 nominated as affordable housing. Affordable GFA = 161.7m²</p> <p>Percentage Affordable GFA = 20.3%</p> <p>Total overall FSR allowable = 0.5:1 + 0.203:1 = 0.703:1.</p> <p>Proposed FSR = 0.577:1</p>	Yes.

	<p>the gross floor area of the development that is used for affordable housing is less than 50 per cent, where:</p> <ul style="list-style-type: none"> • <i>AH</i> is the percentage of the gross floor area of the development that is used for affordable housing. • $Y = AH \div 100$ 		
Clause 14(1)(b) Site Area	Minimum 450m ² .	1,380m ²	Yes.
Clause 14(1)(c) Landscaped Area	Min 30% of the site area (414m ²).	<p>The plans show a total of 408m² or 29.6% as landscaped area.</p> <p>There is an area of 19.6m² at Unit 5 which is shown as hardstand, which can be converted to soft landscaping without impacting on external dining areas.</p> <p>This would bring the total area of soft landscaping to 427.6m² or 31%.</p> <p>This matter can be conditioned.</p>	Yes, by condition.
Clause 14(1)(d) Deep Soil Zone	<p>15% of the site area (207m²).</p> <p>3m min. dimension.</p> <p>Min two-thirds (10% of site area, 138m²) is located at the rear of the site, when practical.</p>	<p>279.5m² (20.2%) is provided as deep soil with 3m minimum dimension.</p> <p>140.2m² (10.2% of site area).</p>	<p>Yes.</p> <p>Yes.</p> <p>Yes.</p>
Clause 14(1)(e) Solar Access	Living rooms and private open space areas for a minimum of 70% of the dwellings are to receive a minimum of three hours direct sunlight between 9am and 3pm in mid-winter.	<p>Living rooms for 5 dwellings receive 3 hours solar access at midwinter. This equates to 55.6%.</p> <p>Private open space for 7 dwellings receive 3 hours of solar access at midwinter. This equates to 77.8%</p>	<p>No, See discussion below.</p> <p>Yes</p>
Clause 14(2)(a)	0.5 spaces per 1 bedroom	The development consists	Yes

Car Parking	unit. 1 space per 2 bedroom unit. 1.5 spaces per 3 bedroom unit.	of Four x three bedroom and five x two bedroom dwellings. This would require 11 spaces. Each dwelling contains 2 spaces in the form of tandem garages, providing 18 spaces.	
Clause 14(2)(b) Minimum Dwelling Size	Min unit sizes: Bedsit/studio - 35m ² 1 bed – 50m ² 2 bed – 70m ² 3 bed – 95m ²	Min. proposed unit sizes: 2 bed – 80.4m ² 3 bed – 84.5m ²	Yes.
Clause 15 – Design Requirements	(1) A consent authority must not consent to development to which this Division applies unless it has taken into consideration the provisions of the <i>Seniors Living Policy: Urban Design Guidelines for Infill Development</i> published by the Department of Infrastructure, Planning and Natural Resources in March 2004, to the extent that those provisions are consistent with this Policy. (2) This clause does not apply to development to which clause 4 of <i>State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development</i> applies.	Clause 4 of SEPP 65 is not relevant to this development proposal, as the proposed development is not 3 storeys or more. (see full assessment below) The applicant has provided a consideration of the Seniors Living Policy in their Statement of Environmental Effects. An assessment of the proposal against the provisions of the Seniors Living Policy as required by the ARH SEPP is below	Yes Refer to discussion below table.
Clause 16A – Character of Local Area	A consent authority must not consent to development to which this Division applies unless it has taken into consideration whether the design of the development is compatible with the character of the local area.	The proposed development is compatible with the character of the local area.	Yes, see discussion below.

Clause 17 – Must be used for affordable housing for 10 years	A consent authority must be satisfied that the dwellings proposed will be used for the purpose of affordable housing and managed by a registered housing provider for 10 years from the date of the occupation certificate. A restriction must be registered before the date of the occupation certificate in accordance with section 88E of the <i>Conveyancing Act 1919</i> .	A condition has been recommended to ensure compliance with these provisions.	Yes, see discussion below.
Clause 18 – Subdivision	Land on which development has been carried out under this Division may be subdivided with the consent of the consent authority.	Subdivision has not been sought in relation to this application.	N/A

Clause 14(1)(e) – Solar Access

The proposal fails to comply with the minimum solar access requirements found in Clause 14, subclause (1)(e). The requirement states that a minimum of 70% of living areas should receive three hours solar access at midwinter within dwellings.

Five dwellings receive the required three hours solar access which equates to 55.56% of dwellings. Dwellings 1, 4, 5 and 9 receive less than three hours solar access at midwinter. All dwellings receive at least one hour of solar access, and no dwellings receive no solar access.

The Canterbury Development Control Plan 2012, Control C3.5.1.1, takes into consideration the orientation of the development in the assessment of solar access. The site is orientated on east-west and as such it is difficult to achieve the required level of solar access. The applicant has provided front and rear living spaces to some dwellings to maximise solar access to living spaces. However, in order to achieve a mix of dwelling sizes and bedroom mix in other dwellings have single aspect living spaces. It is considered that the applicant has achieved a suitable mix of development and achieved an adequate level of solar access.

Furthermore, whilst the interior living spaces for the four dwellings do not achieve the maximum solar access requirements, all private open space does meet the requirements.

Clause 14(3) states 'A consent authority may consent to development to which this Division applies whether or not the development complies with the standards set out in subclause (1) or (2).' Given this, there is no restriction in granting consent to this development despite the reduced levels of solar access.

Clause 15 – Design Requirements, and Application of State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development.

Clause 15 of SEPP ARH requires a two step assessment.

Firstly, Clause 15(1) requires Council to consider the provisions of the Seniors Living Policy: Urban Design Guidelines for Infill Development 2004 to the extent that the provisions are consistent with the SEPP.

Secondly, Clause 15(2) says that this clause does not apply where development falls under the definition of Clause 4 of SEPP 65 – Design Quality of Residential Apartment Development.

SEPP 65 does not apply, as Clause 4 of the policy states (emphasis added):

4 ***Application of Policy***

(1) This Policy applies to development for the purpose of a residential flat building, shop top housing or mixed use development with a residential accommodation component if:

- (a) the development consists of any of the following:*
 - (i) the **erection of a new building**,*
 - (ii) the substantial redevelopment or the substantial refurbishment of an existing building,*
 - (iii) the conversion of an existing building, and*
- (b) **the building concerned is at least 3 or more storeys** (not including levels below ground level (existing) or levels that are less than 1.2 metres above ground level (existing) that provide for car parking), **and***
- (c) **the building concerned contains at least 4 or more dwellings.***

For SEPP 65 to apply Clause 4 sets three preconditions. If the development proposed is not for a residential flat building, shop top housing or mixed use development, then whether it meets the remaining preconditions is irrelevant. In this instance, SEPP 65 does not apply as consent is sought for multi-dwelling housing, not a residential flat building, shop top housing or mixed use development. As such, Clause 15(1) applies as do the provisions of the Seniors Living Policy: Urban Design Guidelines for Infill Development 2004.

The *Seniors Living Policy: Urban Design Guidelines for Infill Development* sets out five sections, each corresponding to a key issue when designing infill development. Sections of the guidelines addressing these issues are:

1. Responding to (neighbourhood) context
2. Site Planning and Design
3. Impacts on streetscape
4. Impacts on neighbours
5. Internal site amenity

The proposed development is assessed having regard to relevant provisions of the guidelines.

1. Responding to (neighbourhood) context

The Seniors Living Policy stipulates that *‘new developments that increase residential densities need not be out of character with their surroundings’*.

In this respect, new development seeking an increased development must respond to the existing and desired future character of their local area. A detailed analysis of the character of the area is found below under ‘Clause 16A – Character of Local Area’.

Each of the front facing dwellings incorporate individual garden areas which replicate a standard pattern of development found elsewhere in the street.

The development establishes an appropriate relationship with existing development and the desired future character as shaped by the CLEP 2012 and CDCP 2012 planning controls.

2. Site Planning and Design

Key objectives according to the guidelines are listed and responded to below:

○ *Minimising impact on neighbourhood character*

The existing character of the area comprises single detached dwellings.

The proposed development incorporates terrace style housing rows spanning across the rear of and attached dwellings to the front of subject site.

The dwellings have been adequately articulated to present as attached dwellings. Some features have been incorporated into the design including a built form break in the front façade and front courtyards to replicate front setbacks existing within the streetscape. These design features will suitably fit within the character envisaged by Land Use Table, which permits attached dwellings, dual occupancies, and multi-dwelling housing.

Whilst the dominant built form of single detached dwellings, and the front of the subject site would generally be consistent with the character of the area.

To the rear of the site, the development proposes a rear terrace. However, views into this element will be limited by the front buildings. Given this, the proposal is generally considered consistent with the potential future character of the area.

○ *Providing high amenity for new dwellings*

Solar access has been provided to 55.56% of dwellings as required by the ARH SEPP, whilst this is below the 70% minimum set out by the SEPP ARH, the orientation of the site and

surrounding development limits the ability to achieve full compliance. The applicant has proposed front and rear living spaces in several dwellings to increase solar access.

Adequate privacy between dwellings has been maintained. Architectural features, such as fencing and blade walls, and landscaping, ensure that there are no direct views between the front and rear rows of dwellings.

- *Maximising deep soil areas*

Deep soil areas have been provided within the development to meet the minimum requirements set out in SEPP ARH.

- *Minimising visual dominance of parking and vehicle manoeuvring*

The proposed basement car parking entrance and driveway do not dominate the front setback. The front setbacks incorporate appropriate landscaped areas and the façade is not dominated by services that would detract from or diminish the quality of the streetscape.

- *Providing a range of dwelling sizes to promote housing choice*

A mix of two and three bedroom dwellings been proposed, therefore the proposal is consistent with a range of dwelling sizes.

3. Impacts on streetscape

The impact of the proposal on the local streetscape is acceptable as discussed below under 'Clause 16A Character of a Local Area'. Points 1 and 2 above also detail the proposal's impact on the streetscape with respect to the built form proposed and the proposal's consistency with the future desired character as sought by the suite of applicable controls in the Canterbury Local Environmental Plan 2012 and Canterbury Development Control Plan 2012.

4. Impacts on neighbours

With respect to visual privacy, the first floor areas have bedrooms and bathrooms and will therefore not create any unreasonable privacy impacts. Visual privacy between dwellings within the development is satisfactory.

Although representing a significant change from the existing situation, the visual bulk presented by the dwellings to neighbouring properties is acceptable, and comply with the relevant setbacks.

The rear block of dwellings has been designed as a single storey with attic and dormer windows which is in keeping with the controls found in the Canterbury Development Control Plan 2012.

5. *Internal site amenity*

As discussed above, the key issues of internal amenity include adequate direct sunlight to the internal living spaces and private courtyards of the townhouses and privacy afforded to the private open space areas of the dwellings. On balance, with the exception of solar access which is predominantly due to the orientation of the site, the proposal meets the key requirements of these controls.

The proposed design concept driven by the design principles of the Policy, presenting an appropriate and well-thought out design response that is suitable for this site and for the type of development being proposed. Assessment of the proposal has not identified any issues of concern arising from this Policy.

Clause 16A - Character of Local Area

Clause 16(A) of the ARH SEPP requires that a consent authority take into consideration whether the design of the development is compatible with the character of the local area. For consent to be granted, the consent authority must be satisfied that the design of the proposal is compatible with the character of the local area.

The current planning controls applicable to the subject site and its surrounds allow for a range of development types, including multi dwelling housing.

Project Venture v Pittwater Council (2005, NSWLEC 191) sets out the planning principles for compatibility in the urban environment and expanded upon Fodor v Hornsby Shire Council (2005, NSWLEC 71). In the Project Venture decision, Senior Commissioner (SC) Roseth noted that 'for a new development to be visually compatible with its context, it should contain, or at least respond to, the essential elements that make up the character of the surrounding urban environment'. SC Roseth opined that the most important contributor to urban character is the relationship between the built form and surrounding space; "a relationship that is created by building height, setbacks, and landscaping".

In this instance, the proposed development is in keeping with the maximum height limits, meets the setback and separation controls and provides landscaping in a manner compatible with the streetscape.

As demonstrated above, the proposal is in keeping with the overall FSR requirements and other controls which show that the proposal responds to the character of the local area.

The proposed development is considered under the ARH SEPP and in this respect, responds appropriately to the intent of the Policy and satisfies the requirements of Clause 16(A). The proposed development is, therefore, compatible with the character of the local area and is acceptable.

Clause 17 - Must be used as Affordable Housing for Ten Years

Clause 17 of the SEPP requires that the nominated affordable housing dwellings within the development must be used for affordable housing for a period of ten years and managed by a registered community housing provider, specifically requiring that Council impose conditions to this effect, to ensure that the proposal satisfies this Clause. Appropriate conditions of consent have been recommended to ensure Clause 17 is met by the developer.

Canterbury Local Environmental Plan 2012

The site is zoned R3 Medium Density Residential under Canterbury Local Environmental Plan (CLEP) 2012. The proposed multi dwelling housing development and ancillary work is permissible in the zone subject to development consent.

The development satisfies the general objectives of the zone by providing for community housing needs within a medium density environment and contributing to the provision of a variety of housing types.

The controls applicable to this application are:

Standard	Requirement	Proposal	Complies
Zoning	R3 Medium Density Residential	Multi Dwelling Housing is permissible with consent	Yes
Building height (Clause 4.3)	8.5m maximum	The maximum height above natural ground level of any building is 8.4m.	Yes
Floor Space Ratio (Clause 4.4)	The maximum FSR under the LEP is superseded by the bonus provided under ARH SEPP. 0.5:1 (CLEP 2012) + 0.203:1 bonus by SEPP ARH = 0.703:1 maximum	Proposed FSR is 0.577:1	Yes
Heritage Conservation	The consent authority may, before granting consent to any development: (a) on land on which a heritage item is located, or (b) on land that is within a heritage conservation area, or (c) on land that is within the vicinity of land referred to in paragraph (a) or (b) require a heritage management document to be prepared that assesses the extent to which the carrying out of the	Heritage items are located at 60-62 Windsor Avenue. The application has been reviewed by Council's Heritage Advisor who considered the proposal to be acceptable.	Yes

Standard	Requirement	Proposal	Complies
	proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.		
Acid Sulfate Soils (Clause 6.1)	The site is identified as within Class 4 land on the Acid Sulfate Soils Map.	<p>The Applicant has provided a geotechnical and Acid Sulfate Soils report and has noted that there is no adverse impact as a result of the development.</p> <p>Conditions can be placed on any consent to implement the recommendations of the reports.</p>	Yes
Earthworks (Clause 6.2)	<p>Before granting consent to development including earthworks, the following must be considered:</p> <ul style="list-style-type: none"> (a) drainage patterns and soil stability (b) the likely future use or redevelopment of the land, (c) quality of the fill or the soil to be excavated, or both, (d) effect of development on existing and likely amenity of adjoining properties, (e) the source of any fill material and the destination of any excavated material, (f) the likelihood of disturbing relics, (g) the potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area, (h) appropriate measures proposed to avoid, minimise or mitigate the impacts of the development. 	A geotechnical report has been submitted with the application and the proposal is considered in accordance with Clause 6.2.	Yes
Stormwater management (Clause 6.4)	<p>A consent authority must be satisfied that the development:</p> <ul style="list-style-type: none"> (a) is designed to maximise the use of water permeable 	Council's engineer has considered this proposal, as discussed under CDCP 2012 (below) and raised no objection to the proposal	Yes

Standard	Requirement	Proposal	Complies
	<p>surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water, and</p> <p>(b) includes, if practicable, on-site stormwater retention for use as an alternative supply to mains water, groundwater or river water, and</p> <p>(c) avoids any significant adverse impacts of stormwater runoff on adjoining properties, native bushland and receiving waters, or if that impact cannot be reasonably avoided, minimises and mitigates the impact.</p>	subject to the imposition of appropriate conditions.	
Essential Services (Clause 6.6)	<p>Essential services must be available or adequate arrangements have been made to make them available, including:</p> <ul style="list-style-type: none"> - the supply of water; - the supply of electricity; - the disposal and - management of sewage; - stormwater drainage or on-site conservation; - suitable vehicular access. 	The site has adequate access to water, electricity, sewage and vehicular access.	Yes

An assessment of the Development Application revealed that the proposal complies with the matters raised in each of the above clauses of *Canterbury Local Environmental Plan 2012*.

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

There are no draft environmental planning instruments relevant to the assessment of this development application.

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

Canterbury Development Control Plan 2012 (CDCP 2012)

The following sections of Canterbury Development Control Plan 2012 are relevant:

B1 Transport and Parking

This part of the DCP contains requirements in relation to car parking however the provisions of ARH SEPP take precedence. Refer to the ARH SEPP Tables for detailed assessment against relevant requirements.

CDCP 2012 requires bicycle parking at a rate of one space per five dwellings for residents and one space per ten dwellings for visitors. With nine dwellings, a total of three spaces are required. A condition can be placed to ensure that three bicycle parking spaces within the basement, satisfying these controls and improving the facilities available to residents.

Council's Development Engineer has reviewed the proposal against other relevant aspects of this part of the DCP such as design requirements for vehicular access areas and basements and has recommended approval of the application subject to the imposition of conditions.

B2 Landscaping and B3 Tree Preservation

This aspect of the proposal was reviewed by Council's Tree Management Section who raised no objection subject to the imposition of conditions on consent. Given this, the proposal is considered to be compliant with the provisions of Part B2 and B3 of Canterbury Development Control Plan 2012.

B4 Accessible and Adaptable Design

The proposal is acceptable with respect to this part of the DCP and has been accompanied by a Statement of Compliance: Access for People with a Disability addressing access and mobility requirements. A condition is recommended to require the development to comply with the recommendations of the report.

B5 Stormwater and Flood Management

This aspect of the proposal was assessed by Council's Development Engineer who raised no objection to the proposal in relation to Stormwater and Flood Management subject to the imposition of conditions on any consent. Accordingly, the proposal is considered to generally meet the provisions of Part B5 of CDCP.

B7 Crime Prevention and Safety

The proposal is acceptable from a crime prevention and safety perspective. The proposal has been considered against the key principles of Surveillance, Access Control, and Territorial Reinforcement and Space Management.

- **Surveillance**
The proposal avoids blind corners and allows passive and active surveillance of communal areas within the site. Entry points are well located and easily legible from the street. The proposed front fencing does not limit views to and from the site, due to its low level nature. Landscaping does not restrict views to and from the street and does not provide hidden areas for intruders to hide.

- Access Control
Entrances are easily identifiable and conditions in relation to the street naming and numbering to allow for ease of identification, can be included as a condition of consent. Fencing and planting ensures a sense of ownership and prevents unauthorised access.
- Territorial Reinforcement and Space Management
Fencing, planting and landscaping promotes a sense of ownership and proposals include a clear sense of public and private spaces.

Given the above, the proposal is in accordance with the provisions of the controls found in Part B7 of the CDCP and does not raise any issues of concern with respect to this part of the CDCP.

Part B8 – Heritage

The subject site is located in the vicinity of heritage items including 60-62 Windsor Avenue and 63 Balmoral Avenue, the former of which are located diagonally behind the site and the latter north of the site on the corner of Lymige Road.

Their significance is detailed below:

63 Balmoral Avenue:

An intact shop and one of the oldest in the Municipality, which served the first suburban development in Canterbury.

60 and 62 Windsor Avenue:

Early houses built by the development company, which was subdivided and sold the first successful suburban in Canterbury.

The proposed development includes the demolition of two existing houses and the construction of 9 dwellings/townhouses with basement car-parking. The proposal is designed wholly within the boundaries of the site and retain a domestic scale and aesthetic with appropriate setbacks. The view corridors to and from the properties remain unaffected by the proposal.

The proposal is considered to have a negligible heritage impact on the existing heritage items and their associated built form, fabric and setting. As a result, it is considered that design meet the requirements of Part B8 of the Canterbury Development Control Plan 2012. Council's Heritage Officer supports this view.

Part B9 - Waste Management

Part B9 – Waste Management of Canterbury Development Control Plan 2012 provides the controls for the assessment of applications in relation to waste management.

A waste management plan has been submitted with the application which considers demolition and construction waste. A condition can be placed on a consent which will require compliance with the Waste Management Plan and the requirements of Part B9 of the Canterbury Development Control Plan 2012.

The following table provides an assessment against the relevant controls

Standard	Requirement	Proposal	Complies
Part B9.4 – Waste Storage For Residential Accommodation			
C1	The waste storage area is of sufficient size to accommodate all the allocated bin requirements		See discussions in the table
C4	An onsite bin presentation area is to be provided within 15m of the street kerb	A 9m ² bin storage area is located with its furthest area 8.1m from the street kerb.	Yes
C5(b) Multi Dwelling Housing	Allocation sizes are as follows: (i) Rubbish allocation is one x 140 litre bin per dwelling. (j) Recycling allocation is one x 240 litre bin per dwelling. (iii) Garden vegetation is one x 240 litre bin per dwelling.	The allocation for the development is therefore Total 13 bins. The Residential Waste Room shown in plan B103 shows space for 19 bins.	Yes
Part B9.6 Design and Access Waste Bin Storage Areas			
Part B9.6.1 Specifications and Design			
C1	Waste bin storage areas and bin presentation areas must be capable of containing the required number and bins.	Enough space is provided in all the locations to accommodate the required number of bins	Yes
C2	Provide separated storage areas for waste and recycling bins	The storage space is of sufficient size to accommodate the bins	Yes
C4 and C9	Where presentation areas are provided use landscaping to screen the bins	No information is provided. However, this matter can be conditioned	Yes, by condition
C6	Provide separate bin storage areas for commercial and residential occupants	Provided	Yes
Part B9.6.2 Construction			
C2	Use concrete or similar hardstand impervious surface on bin presentation areas	No information is provided. However, this matter can be conditioned	Yes, by condition
C4	Provide a clear travel path of minimum 1.2m wide and gradient of 1:8 for collection. With no steps or obstructions	Access is shown as being provided at 900mm, this matter can be dealt with by condition. The gradient is compliant and there are no obstructions.	Yes, by condition

C5	Provide light and storage to bin storage areas	No information is provided. However, this matter can be conditioned	Yes, by condition
C6	Provided water supply to the bin storage area or presentation area for in cleaning and connect to sewer requirements	No information is provided. However, this matter can be conditioned	Yes, by condition

C3 Multi Dwelling Housing and Attached Dwellings

It is noted that Part C3 of CDCP 2012 does not provide criteria for the assessment of affordable rental housing applications as ARH SEPP is the relevant policy. However, ARH SEPP does not contain controls regarding built form, setbacks etc. With this in mind, it is considered that the multi dwelling housing controls contained in Part C3 of CDCP 2012 should be used as a guide. This guide is useful in setting the proposed future desired character of the area.

Accordingly, the proposed development has been assessed against the multi dwelling housing controls of CDCP 2012 as follows:

Standard	Control	Proposed	Complies
C3.2.1 Minimum Lot Size and Frontage	The minimum primary street frontage width for multi dwelling housing is 20m for development any local road.	30.18m wide	Yes
C3.2.2 Isolated Sites	Neighbouring properties are not to be isolated so that the property will be unable to reasonably accommodate redevelopment.	The development proposal will isolate 65 Balmoral Avenue	See discussion below.
C3.2.3 Private Open Space	Multi Dwelling Housing must provide 40m ² of private open space per dwelling.	The proposed private open space for all dwellings exceeds 40sq.m.	Yes
	Private open space must include an area 2.5m by 2.5m suitable for outdoor dining facilities.	All private open spaces include sufficient space for external dining. The external patio area is located adjacent to main habitable spaces and are generally flat.	Yes
	Private open space must be located adjacent to the main living areas, such as a living room, dining room or kitchen.		
	Private open space at ground level must be a minimum of 4m in any direction for multi dwelling housing.		
	Private open space at ground level shall have a maximum gradient of 1:50.		
	Ensure that balconies, verandas or pergolas do not encroach upon any required deep soil	No encroachments to the minimum deep soil areas as required by ARH SEPP.	Yes

Standard	Control	Proposed	Complies
	area.		
C3.3.2 Height	(c) Two storey dwellings may be permitted at the rear of an allotment in R3 zones only where that part of the site faces an industrial development, a road, a railway line or an area of open space.	The rear block of dwellings is single storey with an attic. Attics do not comprise a storey as per C4.	Yes
	(e) Maximum external wall height of 7m where two storeys are permitted and the height of buildings under the LEP is 8.5m.	External walls are less than 7m in height.	Yes
	Any part of a basement or sub-floor area that projects greater than 1m above ground level comprises a storey.	No part of the basement will project above ground level.	Yes
	The provision of basement parking for multi dwelling housing in the R3 Medium Residential Zone of the LEP may be considered where site constraints warrant and it can be demonstrated that there will be no adverse impacts on amenity, streetscape or public domain.	Basement parking is desirable at this location given the proposal is for affordable rental housing where bonus floor space is applied. Provision of parking in a basement enables the bonus floor space to be absorbed at ground and first floor levels at the same time as enabling other aspects of the proposal to be consistent with the local character such as with respect to provision of ample deep soil zones, landscaped areas, building setbacks etc. The application has demonstrated that there will be no adverse impacts on amenity, streetscape or public domain.	Yes
	Maximum 1m cut below ground level where it will extend beyond an exterior wall of the building.	The proposal will not result in significant amounts of cut to beyond the exterior of the basement walls.	Yes
	No limit to cut below ground level where it will be contained	No habitable space is located substantially below	Yes

Standard	Control	Proposed	Complies
	entirely within the exterior walls of a building, however, excavated area is not to accommodate any habitable room that would be located substantially below ground level.	ground level.	
	Maximum 600mm fill above ground level where it would extend beyond an exterior wall of a building.	There is no fill proposed.	Yes
C3.3.3 Setbacks	<u>Front and rear setbacks</u> (a) A minimum setback of 6m from the front boundary. (b) A minimum setback of 3m from the rear boundary where the building the subject of the setback, is single storey. (c) Minimum 3m or 5m width of deep soil along the front and rear boundaries based on setback requirements.	The front setback is 6m. The rear setback is not defined in CDCP as a rear setback of 5m to accord with deep soil requirements is provided.	Yes
	<u>Side setbacks</u> (a) A minimum of setback of 1.5m from the side boundaries for dwellings that would be fronting the street or front setback.	A setback of 1.5m is provided for dwellings 1-4 which are fronting the street.	Yes
	(b) A minimum setback of 2.5m from the side boundaries for building that does not front the street or front setback.	A setback of 2.5m are provided for the dwellings that do not front the street.	Yes
	(c) A minimum of 1m width of deep soil along side boundaries.	1m Deep soil is provided along the side boundaries. However incursions exist to allow for fire access to the basement car park and for potential future vehicular access to 65 Balmoral Avenue. Whilst this is a technical breach, Council has approved similar in the past.	No, however acceptable.
C3.3.4 Building	Building depth must not exceed	The maximum building	Yes

Standard	Control	Proposed	Complies
Depth	a maximum of 25m.	depth is 13.9m.	
C3.3.5 Building Separation	<p>Multi dwelling housing must provide a minimum 5m separation between buildings that are on one site (measured from the outer faces of the exterior wall of each building).</p> <p><u>In the separation area:</u> Deep soil or private open spaces are permitted as well as communal open space.</p> <p>Driveways, walkways and building lobbies are permitted (driveways should have planted verges at least 1m wide comprising canopy trees, along both sides).</p> <p>Garages, carports or outdoor parking are not permitted.</p>	<p>A minimum of 5.03m separation is provided between buildings.</p> <p>Deep soil and private open spaces are provided within the separation.</p> <p>Walkways and driveway access are also provided in the building separation. Whilst planted verges are not proposed, the separation is considered appropriate.</p> <p>No garages or carports are proposed in the building separation.</p>	Yes
C3.4 Building Design	Contemporary architectural designs may be acceptable if: (a) A heritage listing does not apply to the existing dwelling or to its immediate neighbours.	No heritage items exist on site, as such a contemporary design, as proposed, is acceptable in this location.	Yes
	New building forms and design features shall not mimic traditional features, but should reflect these in a contemporary design.	The proposed design provides a modern contemporary design with echoes of traditional features including pitched roof.	Yes
	Access to upper storeys must not be via external stairs.	There are no external stairs providing access to upper storeys.	Yes
	In multiple unit development, face at least one habitable room or private open space area towards a communal space, internal driveway or pedestrian way.	All communal spaces, including pedestrian access ways, have at least one habitable room facing which provides passive surveillance and security within the site.	Yes
	Ground level private terraces located within the front setback must be setback at least 1m from the street boundary to accommodate a landscape strip	Whilst open space exists to the front, this is not private open space.	Yes

Standard	Control	Proposed	Complies
	which should remain in communal ownership.		
C3.4.2 Roof Design and Features	Roof pitches are to be compatible and sympathetic to nearby buildings.	The proposed roof pitch is 22 degrees for those dwellings not fronting the street and 30 degrees for those not fronting the street. This is considered appropriate.	Yes
C3.4.3 Dwelling Layout & Mix	The primary living area and principal bedroom must have a minimum width of 3.5m.	All primary living areas and main bedrooms have a minimum internal dimension of 3.5m.	Yes
	Secondary bedrooms must have a minimum width of 3m.	All secondary bedrooms have a minimum width of 3m.	Yes
	Provide general storage in addition to bedroom wardrobes and kitchen cupboards. The minimum amount of storage required is 6m ³ for one bedroom dwellings 8m ³ for two bedroom dwellings, or 10m ³ for dwellings with three or more bedrooms.	All dwellings include sufficient storage to meet the requirements.	Yes
	10% of dwellings in any new multiple dwelling development must be accessible or adaptable to suit current or future residents with special needs.	11% i.e. 1 out of 9 dwellings (dwelling 4) is proposed as adaptable.	Yes
C3.5.1 Solar Access and Overshadowing	<p><u>Solar Access to Neighbouring Development</u></p> <p>C4 Proposed development must retain a minimum of 2 hours of sunlight between 9.00am and 3.00pm on 21 June for existing primary living areas and to 50% of the principal private open space.</p> <p>C5 If a neighbouring dwelling currently receives less than 2 hours of sunlight, then the proposed development must not reduce the existing level of solar access to that property.</p> <p>C6 Sunlight to solar hot water or photovoltaic systems on adjoining properties must</p>	<p>The solar access plans submitted with the application show that the proposal will retain solar access to the private open space of the neighbouring property to the south.</p> <p>Properties to the west will also retain 2 hours solar access.</p> <p>Neighbouring properties do not have photovoltaic panels.</p> <p>Drying areas adjoining the site, will retain at least 2 hours sunlight.</p>	Yes

Standard	Control	Proposed	Complies
	<p>comply with the following:</p> <p>(a) Systems must receive at least 2 hours of direct sunlight between 9.00am and 3.00pm on 21 June.</p> <p>(b) If a system currently receives less than 2 hours sunlight, then proposed development must not reduce the existing level of sunlight.</p> <p>C7 Clothes drying areas on adjoining residential properties must receive a minimum of 2 hours of sunlight on 21 June.</p>		
C3.5.2 Visual Privacy	<p>If living room windows or private open spaces would directly overlook a neighbouring dwelling:</p> <p>(a) Provide effective screening with louvres, shutters, blinds or pergolas; and/or</p> <p>(b) Use windows that are less than 600mm wide or have a minimum sill height of at least 1.5m above the associated floor level.</p> <p>Screening of bedroom windows is optional and dimensions are not restricted.</p>	<p>At ground floor level, the living rooms windows are located in such a way that there will be no loss of privacy to neighbouring properties.</p> <p>Boundary fences and the distance between the proposed dwellings and rear boundaries mean that there will not be a detrimental loss of privacy to neighbouring property owners. There are no side (north/south) windows to habitable rooms proposed.</p> <p>On the first floor, the use of limited windows in bedrooms to the front/rear also results in a high level of privacy retention for adjoining neighbours.</p> <p>The potential for overlooking from neighbouring properties into the site is also limited. There are limited habitable room windows on first floor level.</p>	Yes
C3.5.3 Acoustic Privacy	C1 Protect sensitive rooms, such as bedrooms, from likely sources of noise such as major roads and neighbouring living	There are no major roads or rail corridors affecting the site.	Yes

Standard	Control	Proposed	Complies
	<p>areas.</p> <p>C2 Bedroom windows in new dwellings that would be located at or close to ground level are to be raised above, or screened from, any shared pedestrian pathway.</p> <p>C3 Screen balconies or windows in living rooms or bedrooms that would face a driveway or basement ramp.</p>	<p>The proposed use is residential in a residential area, given this there is unlikely to be conflict between the proposed and existing use.</p> <p>All bedrooms are raised above (i.e. at first floor level) with the exception of the ground floor bedroom in dwelling 5 and 9. However, this bedroom is located at the end of the common internal walkway which serves only this unit. Given this the proposal is unlikely to result in acoustic privacy issues.</p>	
C3.6 Fences and Ancillary Development	<p>C1 Provide boundary definition by construction of an open fence or low hedge to the front street boundary.</p> <p>C2 Front fences within the front boundary setback are to be no higher than 1.2m.</p> <p>C3 Side fences may be 1.8m high to the predominant building line. Forward of the building line, side fences must taper down to the height of the front fence at a height no greater than 1.2m.</p> <p>C4 On corner sites where the façade of a building presents to two street frontages, fences are to be no higher than 1.2m.</p> <p>C5 Screen walls around private open spaces shall not be taller than 1.2m, although screens with 50% transparency may be up to 1.8m in height.</p>	<p>Conditions can be placed on any consent to ensure that fences are appropriately designed.</p>	Yes, by condition.

Isolation of 65 Balmoral Avenue

65 Balmoral Avenue (Lot 2, Section J in Deposited Plan (DP) 876) is located to the north of the application site and has a frontage of 10.03m and land area of 455.3m². 65 Balmoral Avenue is bounded to the north by Lyminge Road. As a result, Council considers, property will be isolated by the proposed development as it will not be able to reasonably accommodate development.

Part C3.2.2 – Isolated Sites is therefore relevant to the assessment of this application. The applicant has provided details of attempts to negotiate with the owner of 65 Balmoral Avenue, in line with Control C2 of Part C3.2.2 of Canterbury Development Control Plan 2012.

The information provided is that the owner of 65 Balmoral Avenue does not agree to amalgamate the sites. The applicant has provided evidence of reasonable offers, as required by Control C3 of Part C3.2.2 of Canterbury Development Control Plan 2012.

The applicant has also provided a proposed concept plan showing three small townhouses and has proposed that the garage area of the application development has potential to be expanded to allow for basement parking. A condition has been recommended to ensure the future expansion of the garage.

The proposed concept plans would allow for a development which, putting aside frontage and site size controls, meet the minimum requirements for car parking and private open space and would retain a level of amenity which could be appropriate in the area.

Given this, whilst Council considers that 65 Balmoral Avenue will be isolated by the development, the applicant has provided sufficient justification, including two recent independent valuations, to meet the planning principles of *Karavellas v Sutherland Shire Council* [2004] NSWLEC 251 and the requirements of Part C3.2.2 of Canterbury Development Control Plan 2012.

Canterbury Development Contributions Plan 2013

The proposed development attracts a contribution of under the provisions of the Development Contributions Plan 2013 and a condition can be placed on any consent to this end.

The relevant contributions would be as follows:

Community Facilities	\$7,566.26
Open Space and Recreation	\$73,953.74
Plan Administration	\$2,129.13
TOTAL	\$83,649.13

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

There are no relevant planning agreements in relation to this site or development.

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

The proposed development is consistent with the relevant provisions of the Environmental Planning and Assessment Regulation 2000.

Coastal Zone Management Plans [section 4.15(1)(a)(v)]

There is no Coastal Zone Management Plan that applies to this site.

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

The key impacts of the development have been discussed throughout this report. Apart from those matters already addressed, the following likely impacts are considered: -

National Construction Code

The development application has been reviewed and assessed by the Council's Building Officer who raised no objection to the proposal subject to appropriate conditions being imposed, which include full compliance with the National Construction Code.

Proposed Excavation Works

The proposed development involves excavation and construction works near property boundaries and neighbouring properties. Should the application be approved, relevant conditions have been recommended requiring the Applicant to provide a dilapidation report for the adjoining properties, prior to the issue of the Construction Certificate. Should any damage occur, from the proposed excavation works, the applicant would be required to rectify all damages.

Sediment and Erosion Control

Standard conditions have been recommended regarding the installation and maintenance of the sediment and erosion control measures as part of the pre- and during construction phase of development.

Construction/Excavation Waste

The development will involve excavation of part of the site to accommodate the development. Any excavated material not utilised elsewhere on the property, will require proper disposal and transportation in accordance with the Waste Avoidance and Recovery Act, and the Protection of the Environment Operations Act. A condition can be imposed with this regard.

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

The application has been assessed under Section 4.15 of the Act, and as demonstrated throughout the body of this report, the proposal is generally consistent with planning controls and standards.

The proposed development is permissible in the zone subject to consent and the site is suitable for the proposed development.

Submissions [section 4.15(1)(d)]

The application was advertised/notified for a period of 21 Days in accordance with the Canterbury Development Control Plan 2012. 28 objections and 1 petition containing 77 signatures were received during this period, which raise concerns relating to: -

Bulk, Scale, Density

The proposed development is in keeping with the maximum height limits, meets the setback and separation controls and provides landscaping in a manner compatible with the streetscape.

The type of development is permissible, with consent, in the zoning as per the Canterbury Local Environmental Plan 2012. The proposal meets the maximum Floor Space Ratio requirements as set out in the State Environmental Planning Policy (Affordable Rental Housing) 2009.

Having assessed the proposal against the relevant controls, Council considers the proposed development is in keeping with the bulk, scale and density controls.

Incompatibility with Streetscape

The application has been assessed against the provisions of the various plans, policies and controls, including the Seniors Living Policy: Urban Design Guidelines for Infill Development. The development fronting the street will appear as two buildings containing two dwellings each and will be in keeping with the wider area, which does include some two storey buildings. The break between the two buildings at the front of the development is of sufficient size to meet the requirements of building separation and the development will not form a long street front out of keeping with the overall character of the area.

Character, and Future Character, of the Area

The proposed type of development, a multi-dwelling housing development, is permissible in the zone with consent. Whilst there are no examples of multi-dwelling housing developments in the immediate area, the Canterbury Local Environmental Plan 2012, envisages this type of development within R3 Medium Density Residential zones.

Planning case law indicates that height, setbacks and landscaping area are three of the key considerations in assessing the impact of a proposal on the character of the area. Council has considered these aspects in the consideration of the application and has found the proposal to be compliant. The size of the site is compatible with the proposed type of development as per the requirements in the State Environmental Planning Policies and Canterbury controls.

This means that the proposal is not out of keeping with the desired future or existing character of the area and this would not form a reason for a refusal.

Inaccurate and Misleading Plans, including BASIX

The plans submitted are suitable for the purposes of an assessment under Section 4.15 of the Act. Any inconsistencies between plans can be dealt with by condition to ensure that all relevant plans and information can be submitted and approved by the relevant authorities prior to the commencement of works on site.

The BASIX Certificate submitted to Council with this application is appropriate for the development.

Isolation of 65 Balmoral Avenue

Council considers that 65 Balmoral Avenue will be isolated by the development. However, the applicant has provided sufficient justification to meet the planning principles of *Karavellas v Sutherland Shire Council* [2004] NSWLEC 251 and the requirements of Part C3.2.2 of Canterbury Development Control Plan 2012.

Suitability of Townhouses for Community Housing Tenants

The dwellings are of suitable size for future tenants. The room sizes have been assessed against the requirements of the relevant policies, controls and standards. The room sizes are and appropriate and meet the requirements of these policies.

The proposed development is within the required accessible areas as outlined in the State Environmental Planning Policy (Affordable Rental Housing) 2009. Given this, Council cannot refuse an application on the basis of the location of nearby facilities (e.g. shops, doctor's surgeries, etc.)

Noise

Residential accommodation in a residential zone is unlikely to result in an incompatibility between the uses.

Conditions can be placed on a consent to limit the impacts of construction noise, including the hours of construction.

Noise from traffic and accessing and egressing the driveway will not cause significant impacts on neighbours as the driveway is centrally located within the site and not adjacent to the site boundaries.

Traffic (Generation and Parking)

The application was considered by Council's Development Engineer. The basement car park is suitable for the proposed development and will not result in detrimental impacts on neighbouring property owners. The driveway is appropriately located and, Council considers that, subject to conditions being placed on a consent, the application is suitable in terms of access and parking.

In terms of car parking spaces, the development shows there is an appropriate number of spaces for the proposed development in line with State Environmental Planning Policies and the Canterbury Development Control Plan 2012.

Over-Development

The proposed development meets the required height, setback and floor space ratio controls. In addition, subject to the imposition of conditions, the proposal meets the requirements of landscaping and private open space. Given this, the proposal does not result in the overdevelopment of the site.

Overshadowing

The applicant has provided shadow diagrams, which have been checked by Council. Solar access will be maintained to the windows of the neighbouring southerly properties and the private open space to the minimum requirements of 2 hours between 9am and 3pm at midwinter.

Visual Impact from Rear and two-Storey Design to Rear

The Canterbury Development Control Plan 2012 requires that for townhouse developments, buildings to the rear third of the site must be single storey (n.b. attics are not considered storeys). The development comprises a single storey with attic to the rear. This reduces the overall height of the development at the rear of the site.

At attic level, the rooms are bedrooms and bathrooms which have reduced privacy concerns, as per the Canterbury Development Control Plan.

The proposed development therefore meets the requirements of the relevant plans, policies and controls including the Seniors Living Policy: Urban Design Guidelines for Infill Development. Overall, the proposed development will not result in a significant visual impact from Windsor Avenue.

In addition, the Heritage advisor has not raised concerns about the impact of the new development from the Heritage items near the rear of the site. Further, there will be limited views into the site from the public domain at Windsor Avenue, and any limited views will be read in the context of the residential area.

Loss of Privacy

The design meets the minimum setbacks as required under the Canterbury Development Control Plan 2012. No windows are located on the north/south boundaries which would impact on privacy. To the rear of the site at the upper level windows are for bedrooms and bathrooms, bedroom windows do not require screening as per Control C4 of Canterbury Development Control Plan 2012.

Loss of Property Value

The loss of property value is not a material planning consideration for the assessment of this application.

Lack of Local Services to Cater for the Development

The perceived or actual lack of local services is not a material planning consideration for the assessment of this application.

Accessibility (Disabled Access)

The application has been considered by the Council's Building Surveyors who have assessed the design against the accessibility standards. The Surveyors have raised no objection to the proposal, subject to the imposition of suitable conditions.

Precedent

The proposed development is generally consistent with the relevant plans, policies and controls. As a result, the proposal, if consented, will not result in an undesirable precedent being set.

Dust and Asbestos

Conditions of consent can be placed on any consent which ensures effective measures for dust, and odour, control during construction.

Any excavated material not utilised elsewhere on the property, will require proper disposal and transportation in accordance with the Waste Avoidance and Recovery Act, and the Protection of the Environment Operations Act. A condition can be imposed with this regard.

Conditions can also be placed to ensure that if asbestos is discovered on site, the treatment of any discovered contaminants can be adequately determined.

Street Trees

The application has been considered by the Council's Tree Assessment Officer. The landscaping measures provided are considered to be satisfactory for the proposed development and the Tree Assessment Officer raised no objection to the proposal, subject to the imposition of conditions on any consent to protect street trees.

Impact on Heritage Items

The proposal has also been referred to Council's Heritage Advisor who has not objected to the proposal. The Heritage Advisor considers that the proposal will have no impact on 60 and 62 Windsor Avenue.

Notification

The application has been notified in accordance with the provisions of Part A3 of the Canterbury Development Control Plan 2012.

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

The public interest is served through the consistent and measured application of the relevant plans, policies and standards. The proposal is generally consistent with these policies and, as such, is in the public interest.

However, a number of objections were received in relation to this proposal, including a petition with 77 signatures. This high level of public interest must be considered in the assessment of the application. However, determining whether a matter is contrary to the public interest is not solely a product of the number of submissions for or against a particular proposal. The objections raised a number of pertinent points, however matters can be dealt with by condition, or are matters which do not warrant refusal of the application.

Given this, despite the high number of objections, Council considers that the proposal meets the planning controls and should be supported and this would be in the public interest.

CONCLUSION

The Development Application has been assessed in accordance with the provisions of Section 4.15 of the Environmental Planning and Assessment Act 1979, State Environmental Planning Policies, Canterbury Local Environmental Plan 2012 and Canterbury Development Control Plan 2012. Given the assessment above, it is considered that the development application can be supported.

RECOMMENDATION

It is recommended that the application be Approved, subject to the conditions set out in appendix B:

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-635/2019, submitted by Danney Bob Faker, accompanied by the drawings as listed in the table below, 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.

Drawing No.	Drawing Title	Revision	Dated	Prepared by
DA18	Roof / Site Plan	A	21.08.19	Kizana Design Group
DA21	First Floor Plan	A	21.08.19	Kizana Design Group
DA20	Ground Floor Plan	A	21.08.19	Kizana Design Group
DA16	Ground Floor / Site Plan	A	21.08.19	Kizana Design Group
DA17	First Floor / Site Plan	A	21.08.19	Kizana Design Group
DA15	Basement / Site Plan	A	21.08.19	Kizana Design Group
DA19	Elevations	A	21.08.19	Kizana Design Group
L/01	Landscape Plan		23/06/19	Bluegum Design Services
L/02	Landscape Details		23/06/19	Bluegum Design Services
	Demolition Plan			
DA01/3	Basement Drainage Plan	A	June 2019	M. Noaman BE MIE
DA02/3	Ground Floor Stormwater Drainage Plan	A	June 2019	M. Noaman BE MIE
DA03/3	Standard Drawings and Notes	A	June 2019	M. Noaman BE MIE
	East Elevation Schedule of Finishes			Kizana Design Group
DA-08	Elevations	B	28 November 2019	Kizana Design Group
DA-12	Development Concept	B	29 November 2019	Kizana Design Group

The development plans shall be amended as follows:

- a) To accord with the provisions of Clause 14(1)(c) Landscaped Area of State Environmental Planning Policy (Affordable Rental Housing) 2009, the area of hardstand located between the building line Unit 5 and the south boundary fence, totaling 19.6m², as shown on Landscape Plan L/01 shall be planted and maintained as soft landscaping for the lifetime of the development.
 - b) The Basement Drainage Plan, Plan No. DA01/3 shall be amended to accord with the requirements of Plan No. DA15 Basement / Site Plan.
 - c) For the avoidance of doubt, no consent is granted or implied for any form of subdivision on this site. If subdivision is required, a further application must be submitted to Council.
- 3) The deep soil areas located in the front setback along Balmoral Avenue must be retained as deep soil and landscaping respectively for the life of the development. No encroachments for services or any structure is permitted.
- 4) All substation, hydrants, boosters and other services must be contained within cabinets in the built form and must not be located in the front setback or to the front of the site.
- 5) STATE ENVIRONMENTAL PLANNING POLICY (AFFORDABLE RENTAL HOUSING) 2009
- In accordance with Clause 17(1) (a) of State Environmental Planning Policy (Affordable Rental Housing) 2009, dwellings 6 and 7 must be used for the purpose of affordable housing for a tenure of 10 years from the date of the issue of the occupation certificate. All affordable rental housing at the site must be managed by a registered community housing provider.
- 6) A restriction being registered against the title of the property on which development is to be carried out, in accordance with section 88E of the Conveyancing Act 1919, prior to the issue of the occupation certificate requiring that dwellings 6 and 7 within the approved development be used for the purposes of affordable housing for 10 years from the date of issue of the occupation certificate in accordance with Clause 17(1) (b) of State Environmental Planning Policy (Affordable Rental Housing) 2009. In this regard, the restriction shall specifically nominate those units to be allocated as affordable housing.
- 7) Approval is granted for the removal of the following trees:
- Any tree/s where the base of the trunk of the tree is located within 3 metres of the external wall of an approved dwelling;
 - Any declared noxious plant. The applicant, builder and all contractors are to ensure that all noxious plants are properly identified, controlled and/or removed on this site without injury or death of any protected plants;
 - Any tree species listed under clause 3.4 of Canterbury Development Control Plan 2012 Part B3 – Tree Management Order;

- Any of the following tree/s:

Tree Species	Location
1 x <i>Betula sp.</i> (birch tree)	Located on the south western side of 67 Balmoral Avenue, Croydon Park.

All tree removal works must comply with the Amenity Tree Industry – Code of Practice, 1998 (Workcover, NSW) and Guide to Managing Risks of Tree Trimming and Removal Work (Safe Work Australia 2016).

All other vegetation not specifically identified above, and protected by Councils Tree Management Order, is to be retained and protected from construction damage and pruning. The Tree Management Order protects trees over 5m in height.

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:

- 8) 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.
- 9) The landscape plan shall include the provision for the replacement of all boundary fencing. All fencing must comply with C3.6 of Canterbury Development Control Plan 2012. A new 1.8m fence is to be erected along all side and rear boundaries of the subject allotment at full cost to the developer. The colour of the fence is to complement the development and the fence is to be constructed of lapped and capped timber paling, sheet metal or other suitable material unless the type of material is stipulated in any flood study prepared for the site. The selection of materials and colours of the fence is to be determined in consultation with the adjoining property owners. Fencing forward of the building line shall be no higher than 1m unless otherwise approved by Council.
- 10) Approval in accordance with Council's Tree Preservation Order (TPO) is granted to lop or remove only the trees identified to be lopped or removed on the approved plans. Separate approval shall be obtained to prune or remove trees on adjoining properties or other trees located on the site. Failure to comply with Council's TPO may result in a fine of up to \$100,000.
- 11) 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 inTM.

Please refer to www.sydneywater.com.au/tapin

For Sydney Water's Guidelines for building over or next to assets, visit 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.

- 12) 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.
- 13) 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.
- 14) This condition has been levied on the development in accordance with Section 7.11 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 amount of the contribution (as at the date of this consent) has been assessed as \$83,649.13. The amount payable is based on the following components:

Contribution Element	Contribution
Community Facilities	\$7,566.26
Open Space and Recreation	\$73,953.74
Plan Administration	\$2,129.13

Note: The contributions payable may be adjusted, at the time of payment, to reflect Consumer Price Index increases (All Groups Index) for Sydney as published by the Australian Bureau of Statistics.

The contribution is to be paid to Council in full prior to the release of the Construction Certificate, (or for a development not involving building work, the contribution is to be paid to Council in full before the commencement of the activity on the site) in accordance with the requirements of the Contributions Plan.

The Development Contributions Plan 2013 may be inspected at Council's Campsie Customer Service Centre, 137 Beamish Street, Campsie or from Council's website www.cbccity.nsw.gov.au. A copy of the Plan may be purchased from Council's Administration Centre, 137 Beamish Street, Campsie during office hours.

- 15) 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.

- 16) 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.

- 17) 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.
- 18) The Construction Certificate plans shall include screening details of the Overnight Bin Storage Area, as indicated in DA16 – Ground Floor / Site Plan, to limit views from the public domain. The minimum fence height will be 1.4 and surrounded by screen planting. The minimum width of the access/egress from the Overnight Bin Storage Area shall be 1.2m.
- 19) Any fire assemblies / facilities required to be on a frontage of a building must be integrated into the building design and screened from public view within cabinets and integrated into the built form using finishes and materials from the approved colours and finishes schedule. Fire facilities must not be located in the public domain or in landscaped areas.
- 20) Any heat shield and/or associated fire assembly structures/facilities not shown on the approved plans are not permitted and a modification application is required for any such structures/facilities.
- 21) In the unforeseen event that a substation is required, the size and location of the substation is to be submitted for approval to Council and Ausgrid, prior to the issue of any Construction Certificate or the commencement of use, whichever is earlier. A substation has not been approved and if required, must form part of a Section 4.55 modification application to Council.

The substation must not be situated within any landscaped area, must not be situated in any area visible from the public domain and must be integrated into the building.

If required by the applicable energy supplier, the owner must dedicate to the applicable energy supplier an area of land within the building to enable an electricity substation to be installed.

- 22) All roof-top plant and associated equipment must be located within the approved building envelope and must not be visible from the public domain.
- 23) Individual air conditioning units to the facade or balconies of the building are not approved. Air-conditioning units must not be visible from the public domain. Equipment and associated wiring must be visually concealed. Air-conditioner units must not be located on an awning, any visible face of the building or on roofs in a way that would be visible from any street, footpath or park.
- 24) 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

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.

- 25) Access to the premises must be provided for people with disabilities and in accordance with the Disability (Access to Premises-Buildings) Standards 2010. Plans demonstrating compliance must be supplied for approval with the Construction Certificate.
- 26) A Work Permit shall be applied for and obtained from Council for the following engineering works in front of the site, at the applicant's expense:
 - a) A medium duty VFC at the property boundary.
 - b) Relocation of existing power pole to the relevant authority's requirements.

- c) Drainage connection to Council's system.
- d) Concrete footway paving along the sites entire frontage.
- e) Concrete kerb and gutter along the site entire frontage.
- f) Removal of all driveway surfaces, reinstatement of laybacks to kerb and gutter and reshaping of the footway, all associated with redundant VFCs.
- g) Repair of any damage to the public road including the footway occurring during development works.
- h) 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 days prior to the information being required and must be approved prior to the issue of the Construction Certificate.

- 27) Stormwater drainage from the development shall be designed so as to comply with Council's Canterbury Development Control Plan 2012 Part B5 stormwater guideline requirements and of the BASIX Certificate (where applicable). A final detailed stormwater drainage design shall be prepared by a qualified Professional Civil Engineer in accordance with the above requirements and shall generally be in accordance with the concept stormwater plan project No. JK01-06/19, issue A dated June 2019 prepared by M.NOAMAN BE MIE (AUST).

Council's Canterbury Development Control Plan 2012 Part B5, the BASIX Certificate and the relevant Australian Standards.

- 28) The pump out drainage system for the access ramp and basement car parking area shall be provided in accordance with Council's Canterbury Development Control Plan 2012 Part B5. The Engineer must design the Pump out system in accordance with Australian Standards AS3500.3. Engineering details and specifications shall be submitted to the Principal Certifying Authority (PCA) for approval prior to the issue of any Construction Certificate. Engineering details and manufacturers specifications for the pumps, switching system and sump pit shall be submitted to the Principal Certifying Authority (PCA) for approval prior to issue of any Construction Certificate.
- 29) For internal driveways with a gradient exceeding 10% (1 in 10), longitudinal profiles of all vehicular driveways and ramps shall be submitted for approval by the Principal Certifying Authority (PCA) prior to the issue of the Construction Certificate. The maximum grade of the driveway/ramp shall not exceed 25% and shall comply with AS 2890.1. The profile shall be drawn at a reduction ratio of 1 to 25 vertical and horizontal and shall be related to the datum used for the issue of the footway design levels and shall also show the road centre line levels, Council issued footway design levels and gutter levels.

- 30) The proposed development must comply with all recommendations the Geotechnical and Acid Sulfate Soil Investigation Report, 67-69 Balmoral Avenue, Croydon Park, NSW Report ID: G15052CP-R02F, dated 17 July 2019, prepared by Geo-Environmental Engineering. Should any matters encountered during the build be inconsistent with the findings and recommendations of the Desktop Geotechnical Investigation report, a revised report must be prepared and submitted to the PCA. All development must be carried out in accordance with the Recommendations of any revised Report.

CONDITIONS TO BE SATISFIED PRIOR TO CONSTRUCTION

- 31) The building work in accordance with the development consent must not be commenced until:
- a. a construction certificate for the building 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 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 work.
- 32) 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.
- 33) 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.
- 34) 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.

- 35) 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.
- 36) 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 > Building and Developing > Developing your Land > Water Servicing Coordinator or telephone 13 20 92.

- 37) 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.

- 38) 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.
- 39) 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.
- 40) 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.

- 41) A sign must be erected in a prominent position on any site on which building 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 or demolition work is being carried out, but must be removed when the work has been completed.

- 42) A photographic survey must be prepared of all adjoining properties, (Nos. 65 and 71 Balmoral Avenue and Nos. 56, 58, 60 and 62 Windsor Avenue) detailing the physical condition of those properties, 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 and Canterbury Bankstown Council, if Council is not the Principal Certifying Authority, prior to the issue of the relevant Construction Certificate. On completion of the excavation and building works and prior to the occupation of the building, a certificate stating to the effect that no damage has resulted to adjoining premises is to be provided to the Principal Certifying Authority and Canterbury Bankstown Council if Council is not 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 the occupation of the development. All costs incurred in achieving compliance with this condition shall be borne by the persons entitled to act on this Consent.
- 43) A dilapidation report prepared by an Accredited Engineer, detailing the structural adequacy of the adjoining properties (Nos. 65 and 71 Balmoral Avenue and Nos. 56, 58, 60 and 62 Windsor Avenue) and their ability to withstand any proposed excavation, and any measures required to be incorporated into the work to ensure that no damage will occur during the course of the works, shall be submitted to Council, or the Principal Certifying Authority prior to the issue of a Construction Certificate. All costs to be borne by the applicant.
- 44) The Overnight Bin Storage Area, as indicated in DA16 – Ground Floor / Site Plan shall be constructed to accord with the requirements of Part B9.6.2 of Canterbury Development Control Plan 2012.

CONDITIONS TO BE SATISFIED DURING CONSTRUCTION

- 45) The hours of site works shall be limited to between 7.00am and 5.00pm on weekdays and on Saturdays. No work shall be carried out on Sundays and 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 Canterbury Development Control Plan 2012 Part B5. 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 Canterbury Development Control Plan 2012 Part B5 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) 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 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.
- 56) The following tree/s shall be retained and protected from removal and damage for the duration of the development:

Tree Species	Location	Protection Zones*
1 x <i>Cinnamomum camphora</i> (camphor laurel)	Located on the north western side of 71 Balmoral Avenue, Croydon Park.	TPZ: 5.16m SRZ: 2.32m
1 x <i>Callistemon viminalis</i> (weeping bottlebrush)	Located on the north western side of 71 Balmoral Avenue, Croydon Park.	TPZ: 2m SRZ: 1.5m

- The tree/s 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.
- 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.
- No vehicular access, excavations for construction or installation of services shall be carried out within the Tree Protection Zone.
- All utility services, pipes, stormwater lines and pits shall be located outside the Tree Protection Zone.
- Building materials, chemical storage, site sheds, wash out areas, and similar shall not be located within the Tree Protection Zone.
- Trees marked for retention must not be damaged or used to display signage, or as fence or cable supports for any reason.
- If tree roots are exposed during approved works, roots with a diameter less than 25mm are to be pruned cleanly using sharp hand tools and not torn or ripped by machinery. Tree roots greater than 25mm in diameter are to be assessed by a qualified arborist - minimum Australian Qualification Framework (AQF) Level 4 or equivalent – before any pruning work is undertaken. If necessary, changes in design

- or relocation of works may be required.
- h. No ripping or rotary hoeing within the Tree Protection Zone of trees to be retained is permitted.
 - i. Any approved excavation within the Tree Protection Zone of protected trees must be carried out by hand under the care and control of a qualified arborist - minimum Australian Qualification Framework (AQF) Level 4 or equivalent - to avoid unnecessary damage to tree roots.
 - j. Footings for the proposed dwelling U5 (As per Ground floor plan / Site plan, Date: 21/8/2019) area shall be pier and beam, with a minimum void of 150mm between the underside of the floor and the existing natural ground surface.
 - k. Excavation for the footings shall be carried out by hand. No tree roots greater than 25mm in diameter are to be severed. Should tree roots greater than 25mm in diameter be located, the piers are to be relocated accordingly.
 - l. Excavation for the footings of the proposed dwelling shall be carried out by hand within a 5 metre radius of the tree, with any tree roots exposed to be cut cleanly.
- 57) The following street tree/s shall be retained and protected from removal and damage for the duration of the development:

Tree Species	Location	Protection Zones*
1 x <i>Eucalyptus haemastoma</i> (scribbly gum)	Located on the nature strip forward of 67 Balmoral Avenue, Croydon Park.	TPZ: 6.48m SRZ: 2.59m
1 x <i>Callistemon viminalis</i> (weeping bottlebrush)	Located on the nature strip forward of 67 Balmoral Avenue, Croydon Park.	TPZ: 2m SRZ: 1.5m
1 x <i>Callistemon viminalis</i> (weeping bottlebrush)	Located on the nature strip forward of 69 Balmoral Avenue, Croydon Park.	TPZ: 4.32m SRZ: 2.15m
<i>Eucalyptus melliodora</i> (yellow box)	Located on the nature strip forward of 69 Balmoral Avenue, Croydon Park.	TPZ: 8.52m SRZ: 2.93m

* TPZ and SRZ in metres measured from the centre of the trunk of the tree.

- 58) Tree protection measures shall comply with Australian Standard AS4970-2009 Protection of trees on development sites, together with the following conditions:
- a. The tree/s are 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.
 - c. The area of Council's nature strip – excluding the concrete footpath – shall be fenced off for a distance of a 3 metres radius measured from the trunk of the *Eucalyptus melliodora* (yellow box) located on the nature strip forward of 69 Balmoral Avenue, Croydon Park 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.
- d. The area of Council's nature strip – excluding the concrete footpath – shall be fenced off for a distance of a 2 metres radius measured from the trunk of the *Callistemon viminalis* (weeping bottlebrush) located on the nature strip forward of 69 Balmoral Avenue, Croydon Park 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.
 - e. The area of Council's nature strip – excluding the concrete footpath – shall be fenced off for a distance of a 2 metres radius measured from the trunk of the *Callistemon viminalis* (weeping bottlebrush) located on the nature strip forward of 67 Balmoral Avenue, Croydon Park 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.
 - f. The area of Council's nature strip – excluding the concrete footpath – shall be fenced off for a distance of a 3 metres radius measured from the trunk of the *Eucalyptus haemastoma* (scribbly gum) located on the nature strip forward of 67 Balmoral Avenue, Croydon Park 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.
- 59) 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:
- a) The Development Consent number;
 - b) The name and contact phone number of the consultant arborist;
 - c) The purpose of the protection zone;
 - d) The penalties for disregarding the protection zone;
- 60) No vehicular access, excavations for construction or installation of services shall be carried out within the fenced off Tree Protection Zone.
- 61) All utility services, pipes, stormwater lines and pits shall be located outside the fenced off Tree Protection Zone.
- 62) Building materials, chemical storage, site sheds, wash out areas, and similar shall not be located within the fenced off Tree Protection Zone.
- 63) Trees marked for retention must not be damaged or used to display signage, or as fence or cable supports for any reason.

- 64) Pruning of Council street trees/s can only be carried out under the authority of a Works Permit approving tree pruning and in accordance with the conditions imposed.

CONDITIONS TO BE SATISFIED PRIOR TO OCCUPATION

- 65) The occupation or use of the building must not be commenced unless an occupation certificate has been issued for the building.
- 66) 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 A Copy of the Work Permit Compliance Certificate shall be submitted to the PCA Prior to the issue of the Occupation Certificate.
- 67) Off street car spaces being provided in accordance with the submitted plans. Car parking spaces are to be provided for people with mobility impairment in accordance with AS 2890.1. All car parking spaces shall be allocated and marked according to these requirements.
- 68) Landscaping is to be installed in accordance with the approved landscape plan, as amended by conditions of this consent. All works and methods nominated and materials and plants specified on the approved landscape plan are to be completed prior to the issue of an occupation certificate. The landscaping shall be maintained for the life of the development.
- 69) 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.
- 70) 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.
- 71) 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.
- 72) The Section 73 compliance certificate under the Sydney Water Act 1994 must be submitted to the principal certifying authority before occupation of the development.
- 73) The site forming all Lots 4, 6 and 8 on Section J of Deposited Plan (DP) 876 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.

- 74) Prior to the issue of ANY occupation certificate, a right of carriageway must be registered on the title of the land over the internal driveway and vehicular paths for the benefit of 65 Balmoral Avenue, Croydon Park, (Lot 2, section J Deposited Plan (DP) 876). The boundary walls at the point of future access to 65 Balmoral Avenue shall contain non-load bearing cavities for the standard width and height of the aisle, as shown on Plan DA12 – Development Concept and must be constructed to comply with the relevant fire safety regulations and National Construction Code.
- 75) The granting of easements within the properties to the satisfaction of Council or Private Certifier. Costs associated with the preparation and registration of easements are to be borne by the developer.
- 76) To ensure that adequate provision is made for ventilation of the premises, mechanical and/or natural ventilation systems shall be designed, constructed and installed in accordance with the provisions of:
 - a. The Building Code of Australia; and
 - b. Protection of the Environment Operations Act 1997; and
 - c. Australian Standard AS 1668.2-2012 (parts 1 & 2).

Notes:

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

5. This consent will lapse 5 years from the endorsed date of consent unless the use has commenced, or any building works have physically commenced.
6. The applicant or any other person entitled to act on this Consent may apply to modify the Development Consent in accordance with Section 4.55 of the Environmental Planning and Assessment Act, 1979.
7. Failure to comply with a condition contained within this Development Consent may result in a fine or prosecution by Council.
8. Inspection of building works shall be undertaken as determined by the PCA. If Canterbury Bankstown Council has been nominated as the PCA then details of inspection type and number required will be determined prior to the issue of a construction certificate.
9. Where a combined development consent is issued for demolition of buildings and construction of new work, a Construction Certificate must be obtained for the work, including demolition.
10. Also, before you dig, call “Dial before you Dig” on 1100 (listen to the prompts) or facsimile 1300 652 077 (with your street no./name, side of street and distance to nearest cross street) for underground utility services information for any excavation areas.

-END-