



AGENDA FOR THE CANTERBURY BANKSTOWN LOCAL PLANNING PANEL MEETING

1 July 2019 - 6.00pm

Location:

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

ORDER OF BUSINESS

APOLOGIES AND DECLARATIONS

CONFIRMATION OF MINUTES OF PREVIOUS MEETING

REVESBY WARD

1 16 - 18 Meager Avenue, Padstow

Demolition of Existing Structures and Construction of Multi Dwelling Housing
Comprising of Six Dwellings, Front Fence and Strata Title Subdivision 3

2 5 and 7 Hydrae Street, Revesby

Development Application No. DA-1007/2017 proposes demolition,
consolidation of two lots and the construction of six multi-dwelling housing
units, front fence and strata subdivision. 39

Canterbury Bankstown Local Planning Panel - 1 July 2019

ITEM 1	16 to 18 Meager Avenue, Padstow
	Demolition of Existing Structures and Construction of Multi Dwelling Housing Comprising of Six Dwellings, Front Fence and Strata Title Subdivision
FILE	DA-524/2018
ZONING	R2 Low Density Residential
DATE OF LODGEMENT	4 July 2018
APPLICANT	Chris Khoury
OWNERS	Josephine Chung & Patrick Chun Sing Li
ESTIMATED VALUE	\$1,705,692.00
AUTHOR	City Development

REPORT

This matter is reported to Council's Local Planning Panel in accordance with the Panel's delegation from the Minister as the application seeks to vary development standards by more than ten percent. The development standards the applicant seeks to vary relate to the maximum permissible wall and building height requirements as contained in Clause 4.3(2B)(c)(i) and 4.3(2B)(c)(ii) of the Bankstown Local Environmental Plan 2015.

The application proposes a maximum wall height (to the rear dwellings) of 3.8m resulting in a 26.6% variation to the standard and a maximum building height of 6.5m (again to the rear dwellings) which results in an 8.3% variation.

The application also seeks a variation to the site area per dwelling standard (requiring a minimum 300sqm per dwelling) for multi-dwelling housing developments as provided in Clause 4.1B(5) of the Bankstown Local Environmental Plan 2015. The site area requirements for six multi-dwelling housing units requires a minimum 1800sqm, with the site area being 1773sqm and therefore resulting in a 1.5% variation.

The development application proposes the construction of six multi-dwelling housing units and has been assessed in accordance with the provisions contained in Section 4.15 of the Environmental Planning and Assessment Act 1979 requiring, amongst other things, an assessment against the provisions contained in the Bankstown Local Environmental Plan 2015, the Greater Metropolitan Regional Environmental Plan No 2 - Georges River Catchment, State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, State Environmental Planning Policy (Infrastructure) 2007, State Environmental Planning Policy No 55—Remediation of Land and Bankstown Development Control Plan 2015.

The application was neighbour notified for a period of 14 days from 6 July 2018 to 19 July 2018. No submissions were submitted to Council.

It should also be noted that an approval was issued under a former planning instrument (Bankstown Local Environmental Plan 2001) generally in the same form and layout as the current plans, however was not activated.

The development as currently proposed provides for an acceptable outcome and is worthy for support based on detailed merit assessment. It is recommended that the application be approved, subject to the conditions of consent attached in the report.

POLICY IMPACT

The matter will not result in direct policy implications given the development remains consistent with previously granted approvals.

FINANCIAL IMPACT

The matter will not result in any financial implications.

RECOMMENDATION

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

ATTACHMENTS

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

DA-524/2018 SECTION 4.15 ASSESSMENT REPORT

SITE & LOCALITY DESCRIPTION

The proposed development site is known as Nos. 16 and 18 Meager Avenue Padstow. The site is legally described as Lot 270 in DP 132312 and Lot 26 in DP 663168. The consolidated site generally consists of a regular shape, with a small splay to the rear boundary. The development site has a frontage of 25.6 metres to Meager Avenue.

The side boundary lengths consist of 65.85 metres along the eastern boundary and 69.97 metres along the western boundary with a northern (rear) width of 26.64 metres. The total area is approximately 1773m² (by survey). Noteworthy characteristics of the land is the existing cross-fall in excess of 4.00 metres from the southern boundary (front) to the northern boundary (rear), the East Hills Railway Corridor that meets towards the rear boundary, and a number of trees that are dispersed across the site.

The development site is currently occupied by single storey dwellings consisting of weather-board and clad construction. Located on each property are single storey structures previously used as detached garages and ancillary storage areas.

The immediate locality is defined by low density residential development, with the streetscape of Meager Avenue largely consisting of single and two storey dwelling houses. In recent times, new development within the area also consists of a mix of dual occupancies, and multi-dwelling housing developments to the west of the development site.

In consideration of the existing urban environment and recent development within Meager Avenue, the provision of a multi-dwelling housing development is consistent with the changing residential characteristics of the area. The proposed design and site specific constraints, being the medium risk flooding affectation to the rear of the site and the existing cross fall, have been addressed and provides a development siting and layout suitable for the allotment and as a development outcome.



Figure 1: Aerial photograph of development site (source: nearmap images)

PROPOSED DEVELOPMENT

The proposal seeks consent for the consolidation of existing lots, the demolition of the existing site structures and the construction of six multi-dwelling housing units, front fence and strata subdivision. The development specifically consists of:

- (x2) Two storey detached multi-dwelling housing units, each containing five bedrooms, associated private open space and landscaping.
- (x4) One storey multi-dwelling housing units with attic, each containing three bedrooms, associated private open space and landscaping.

SECTION 4.15 ASSESSMENT

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

Environmental Planning Instruments [Section 4.15](1)(a)(i)]

Greater Metropolitan Regional Environmental Plan No 2—Georges River Catchment (deemed SEPP)

The proposed development is considered to be consistent with the aims and objectives of the deemed SEPP. The development is not considered to adversely impact the environment of the Georges River, either in a local or regional context, and does not propose a form of development that is inconsistent with the general and specific aims and strategic action plans recommended in the Plan.

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

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

State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP) (ISEPP)

In accordance with SEPP (Infrastructure) 2007, the application was referred to Sydney Trains for comment in accordance with Clause 85 – Development adjacent to rail corridors.

In response, Sydney Trains reviewed the development proposal and have recommended conditions to be included in any consent issued for the development.

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.*

In this instance, it is considered that the consent authority can be satisfied that the development site is suitable for the proposed development, in accordance with Clause 7 of SEPP 55. The site has a history of use for low density residential purposes and there is no evidence to suggest that the site has been subject to any contaminating land uses.

In accordance with the Managing Land Contamination Planning Guidelines, the historical uses of the site would not warrant the need for further consideration of contamination and testing.

A condition in the development consent has also been included if unexpected soil contaminants are unearthed during excavation and/or construction works.

Bankstown Local Environmental Plan, 2015

The following core clauses of the Bankstown Local Environmental Plan 2015 (BLEP 2015) were taken into consideration:

- Clause 1.2 – Aims of Plan
- Clause 1.3 – Land to which Plan applies
- Clause 2.2 – Zoning of land to which Plan applies
- Clause 2.3 – Zone objectives and Land Use Table
- Clause 4.1B – Minimum Lot Sizes and Special Provisions for Certain Dwellings
- Clause 4.3 – Height of Buildings
- Clause 4.4 – Floor Space Ratio
- Clause 4.5 – Calculation of Floor Space Ratio and Site Area
- Clause 4.6 – Exceptions to Development Standards
- Clause 5.9 – Preservation of Trees or Vegetation
- Clause 6.1 – Acid Sulfate Soils
- Clause 6.3 – Flood Planning

A comprehensive assessment of the proposal revealed that the proposed development complies with the matters raised in each of the above clauses of the Bankstown Local Environmental Plan 2015, with the exception of the numerical (site area) density requirement in Clause 4.1B(5) and the wall height controls as provided in Clause 4.3(2B)(c)(i) and 4.3(2B)(c)(ii).

Site Density

Clause 4.1(B)(5) of the BLEP 2015 reads as follows:

Despite subclause (2), development consent must not be granted to development for the purpose of multi dwelling housing on land in Zone R2 Low Density Residential unless the site area per dwelling (excluding the area of access handles or rights of way for access) is at least 300 square metres.

In consideration of the above, the proposed development of six multi-dwelling housing units results in a site area per unit density of 295.5sqm per dwelling. While this value is under the numerical requirement listed above, the proposal appropriately complies with the listed objectives contained in Clause 4.1(B)(1) which reads as follows:

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

- a) to ensure that lots for residential accommodation are of sufficient size to accommodate proposed dwellings, setbacks to adjoining residential land, private open space and landscaped areas, driveways and vehicle maneuvering areas,*
- b) to ensure that multi dwelling housing and boarding houses in Zone R2 Low Density Residential retain the general low-density scale and character of existing single dwelling development,*
- c) to ensure that lots for non-residential accommodation are of sufficient size to accommodate proposed dwellings, setbacks to adjoining residential land, private open space and landscaped areas, play areas, pedestrian access, set down and pick up areas, car parks, driveways and vehicle maneuvering areas,*
- d) to minimise any likely adverse impact of the development on the amenity of the area,*
- e) where an existing lot is inadequate in terms of its area or width—to require the consolidation of two or more lots.*

The intent of the set of objectives listed in Clause 4.1B of the Bankstown LEP 2015, is to provide guidance on the purpose of the numerical controls.

In this instance, the proposed multi-dwelling housing units provide for a functional development that is consistent with the listed objectives. The development reflects the orderly and economic development of a site and accommodates the required setbacks to the adjoining residential land, meets the requirements of private open space and provides for a development that is consistent with the existing and emerging urban character of Meager Avenue.

It can be maintained that the provision of the additional multi-dwelling housing unit does not diminish the environmental, social or economic environment in consideration of the listed objectives. The subject development otherwise complies with the relevant development standards, with exception to the wall and building height, and would only equate to 1.5% variation to the development standard. In this regard, the proposed development is unlikely to have significant precedent implications under the BLEP 2015 and supports an outcome that provides for sufficient environmental merit.

Height of Buildings

Clause 4.3(2B)(c)(i) and 4.3(2B)(c)(ii) reads as follows:

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

(c) for multi dwelling housing and boarding houses:

- (i) the maximum building height for a dwelling facing a road is nine metres and the maximum wall height is seven metres, and*
- (ii) the maximum building height for all other dwellings at the rear of the lot is six metres and the maximum wall height is three metres.*

The development consists of the construction of two detached two storey multi-dwelling housing units fronting Meager Avenue and four single storey multi-dwelling housing units with attics to the rear of the site.

The numerical exceedance in the building height and wall height requirements permitted are summarised in the table below:

Unit/Location	Maximum Wall Height	Non Compliance as percentage	Maximum Building Height	Non Compliance as percentage
Front Units	Required (<7.0m)		Required (<9.0m)	
Unit 1	6.96m	N/A	7.05m	N/A
Unit 2	6.83m	N/A	7.105m	N/A
Midblock Units	Required (<3.0m)		Required (<6.0m)	
Unit 3	3.26m	8.6%	6.15m	2.5%
Unit 4	2.585m	N/A	5.33m	N/A
Rear Units	Required (<3.0m)		Required (<6.0m)	
Unit 5	3.8m	26.6%	6.5m	26.6%
Unit 6	3.8m	26.6%	6.5m	26.6%

Table 1: Summary of the wall height and building height non-compliances.

In this case, consideration must be given to the matters that have resulted in the non-compliances.

Firstly, the nature of the development site consists of an existing cross-fall in excess of 4.00 metres from the southern boundary (front) to the northern boundary (rear). The site conditions therefore require a degree of minor earthworks to accommodate the building footprints, with the construction of an accessible common driveway also requiring a degree of platforming.

Secondly, the site consists of a medium stormwater flooding affectation across the northern corner (rear of the site) as per the Padstow Flood Study 2010. The Council generated Stormwater System Report (SSR) provides information on the site specific items and requires the development to provide a minimum freeboard above the maximum probable flood from the Georges River (noted at RL 6.2) of at least 500mm. In order to satisfy the

recommendations of the SSR, a finished floor level of at least RL 6.70 is to be provided to the habitable areas of dwellings. As a consequence, the finished floor level of the rear multi-dwelling housing units are also elevated in response to the site requirements.

Lastly it can be argued that although a portion of the wall and building height remains greater than the applicable standards, the collective impact of the variations do not result in any unfavourable impact on the overshadowing generated by the development nor increase the visual bulk or result in visual privacy issues between the development and adjoining properties. The consolidated site also shares a rear boundary with the railway corridor and therefore does not result in residential visual privacy implications to the rear.

In addition to the above, the proposal appropriately complies with the listed objectives contained in Clause 4.3 as provided below:

4.3 Height of buildings

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

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

In this instance, the proposed siting and design of the multi-dwelling housing units are a direct result of the need to address the requirements of the cross-fall of the site and the flood affectation and consequently results in a height exceeding the planning provisions.

The design and siting of the dwellings are not considered to represent a development that would be inconsistent with the intended future character of multi-dwelling housing developments in the R2 Low Density Residential zone.

Clause 4.6 – Exception to Development Standards

In accordance with the Bankstown Local Environmental Plan 2015, the applicant has submitted a variation statement to be considered under Clause 4.6 to justify the contravention of the development standards by demonstrating:

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

Below is a summary of the environmental planning grounds provided to justify the variation to the site density and height controls (complete Clause 4.6 Variation Statement attached):

- *Under the circumstances, it would be unreasonable to reject the development due to minor design issues and limited excavation due to the prescribed flood level to avoid flood/stormwater drainage issues.*
- *Regardless, the proposed development with contemporary style front dwellings and single storey with attic construction for the rear dwellings, achieves the outcomes behind the development standard, being comparable in bulk and scale to adjoining and nearby dwellings. Other design measures, such as window scheduling and fully compliant setbacks further mitigate any adverse impacts on adjoining properties.*
- *Overall, it is considered that the proposed development will effectively assimilate with the existing streetscape, therefore, its appearance will not be in strong visual contrast, being within the environmental capacity of the zone and the variation to the maximum wall height requirement is considered acceptable.*

In considering the Clause 4.6, it is good practice to assess the objection having regard to the following matters:

- 1) *Is the objection to the planning control the well-founded?*

The development will result in the orderly and economic use and development of land and the provision of new housing is considered to be in the broader public interest. The design and layout of the development responds to site specific design constraints and enables the provision of a compatible multi-unit development housing development.

- 2) *Is there sufficient environmental planning grounds to justify contravening the development standard?*

Strict compliance with the standards are considered unreasonable in the context of the application and the characteristics of the site. The proposed development fulfils the listed objectives contained in Clause 4.1(B)(1) and Clause 4.3 of the BLEP 2015 and will not result in a undesirable environmental outcome for surrounding properties or future occupants.

Proposed Environmental Planning Instrument [section 4.15(1)(a)(ii)]

There is no proposed or draft environmental planning instrument applicable to the development.

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

The development has been assessed against the following provisions of the Bankstown Development Control Plan, 2015. The outcomes of the assessment are provided below:

Part B1	Requirement	Proposal	Complies
Section 1 Preliminary	The desired character of the residential zones is to retain	The proposal is compatible with the	Yes

	low density development where typical features include multi dwelling housing within a generous landscaped setting with high quality urban design in terms of building form, bulk, architectural treatment and visual amenity.	desired future character of the Zone R2 Low Density Residential for the purposes of multi dwelling housing units. It is considered to provide a suitable outcome in terms of bulk, scale and height for the locality.	
Section 7 – Multi dwelling housing			
7.1 Storey Limit	Storey limit is two storeys for front dwellings facing the street and single storey for the remaining dwellings at the rear.	Development proposes two storey dwellings at the front and single storey with attics at the rear.	Yes
7.2	Applicable to Nos. 81–83 and 105 Wattle Street in Punchbowl.	N/A	N/A
7.3 Siting	Siting of multi dwelling housing and landscaping works must be compatible with the existing slope and contours of the allotment and any adjoining property. Council does not allow any development that involves elevated platforms on columns, or excessive rock excavation, retaining walls or reclamation.	The ground floor levels have been designed to accommodate the flooding freeboard, the development involves a minimal use of elevated platforms.	Yes
7.4	Any reconstituted ground level on the allotment must not exceed a height of 600mm above the ground level (existing) of an adjoining property except where: (a) the multi dwelling housing are required to be raised to achieve a suitable freeboard in accordance with Part B12 of this DCP; or (b) the fill is contained within the ground floor perimeter of the multi dwelling housing to a height no greater than one metre above the	The development consists of elevated platforms to achieve the freeboard required.	Yes

	ground level (existing) of the allotment.		
7.5 Setback Restrictions	The erection of multi dwelling housing is prohibited within nine metres of an existing animal boarding or training establishment.	N/A – not located within nine metres of an existing animal boarding or training establishment.	N/A
7.6 Setbacks	Primary frontage – minimum setbacks: - 5.5m for ground floor - 6.5m for first floor	Unit one and two (front facing dwellings) provide: - 5.5m to 6.48m ground floor setback - 7.75m first floor setback	Yes
7.7 Secondary Road Frontages	Sets minimum setbacks to the secondary road frontage.	N/A	N/A
7.8 Side/Rear Setbacks	Side and rear setbacks: - 5m for a building wall which contains a living area window or door - 2m for building wall which does not contain a living area window or door - 0.9m for a garage or carport	Side and rear setbacks Midblock and rear units - 2m to the side boundary - 3m to the rear boundary	Yes
7.9	Minimum setback for a driveway to side and rear boundaries is 1m.	1.0m provided.	Yes
7.10 Open Space	A minimum of 60sqm of private open space provided per dwelling behind the front building line.	Unit 1: 60sqm Unit 2: 60sqm Unit 3: 60sqm Unit 4: 60sqm Unit 5: 60sqm Unit 6: 61sqm	Yes
7.11 Access Sunlight	At least one living area to each dwelling must receive minimum three hours solar access between 8.00am and 4.00pm at midwinter solstice.	All units achieve minimum three hours solar access.	Yes
7.12	At least one living area of dwelling on adjoining allotment must receive minimum three hours solar access between 8.00am and 4.00pm at mid-winter solstice.	Shadow diagrams demonstrate adjoining dwellings receive a minimum of three hours solar access.	Yes

7.13	A minimum of 50% of private open space for each dwelling and adjoining is to receive at least three hours solar access between 9am and 5pm at the equinox.	Shadow diagrams demonstrate solar access received for subject and adjoining allotments.	Yes
7.14	Development should avoid overshadowing any existing solar hot water systems or other solar collectors on allotment and adjoining.	Development does not overshadow any existing solar hot water systems or other solar collectors.	Yes
7.15 Visual Privacy	Where development proposes windows, which overlook living area or bedroom windows of existing dwellings, the development must offset windows to minimise overlooking, or provide the window with minimum sill heights of 1.5m above floor level or ensure the window cannot open and has obscure glazing or use another form of screening to the satisfaction of Council.	The development does not result in any privacy concerns inconsistent with Clause 7.15.	Yes
7.16	Where development proposes a window that directly looks into the private open space of an adjoining property, windows do not require screening where the window is to a bedroom, bathroom or other non-habitable room.	Suitable window locations provided.	Yes.
7.17	Upper floor balconies may require screening where the open space overlooks more than 50% of adjoining private open space.	Nil proposed.	N/A
7.18	Council does not allow roof top balconies.	Nil proposed.	N/A
7.19 Building Design	Development proposed for the purpose of multi-dwelling housing developments must demolish all existing on the allotment	Demolition proposed.	Yes

7.20	Design of front dwellings must ensure a street façade where architectural elements are compatible with asymmetric appearance of neighbouring dwellings, ensure the front porch and windows are street facing and ensure any garage, driveway and front fence do not dominate the appearance of the development	Units one and two provide for an asymmetric design with suitable architectural elements. The dwellings provide front windows and porch.	Yes
7.21	The maximum roof pitch for multi dwelling housing is 35 degrees	Maximum 26 degrees.	Yes
7.22	Council may allow multi dwelling housing to have an attic	Proposed for Units 3, 4,5 and 6.	Yes
7.23 Dormers	7.23 The design of dormers must: (a) be compatible with the form and pitch of the roof; and (b) must not project above the ridgeline of the main roof; and (c) must not exceed a width of two metres; and (d) the number of dormers must not dominate the roof plane.	The design complements the roof form and pitch. Dormers remain below the ridgeline of the main roof. Dormers consist of a two metre width. The presentation and number of dormers do not dominate the roof plane.	Yes
7.27	Design and siting of car parking structures must ensure vehicles can leave the allotment in a forward direction.	Vehicles accessing the common carriageway can enter and leave in a forward direction.	Yes
7.28	Car parking must be provided behind the front building line.	Car parking located behind the front building line.	Yes
7.29	A garage with up to two car parking spaces per dwelling facing the street must ensure the garage architecturally integrates with the development and does not dominate the street facade.	Single garage provided to Unit one and Unit two.	N/A

<p>7.30 Landscaping</p>	<p>Development must retain and protect any significant trees on the allotment and adjoining.</p>	<p>All trees on the subject site are supported for removal by Councils Tree Management Unit providing that appropriate replacement plantings in accordance with conditions of consent.</p> <p>The two <i>Callistemon viminalis</i> (Bottlebrush) located on the council nature strip forward of the property line are to be retained and protected.</p>	<p>Conditions of consent require replacement and street tree retention.</p>
<p>7.31</p>	<p>Development must landscape areas in accordance with the following:</p> <ul style="list-style-type: none"> - 45% of area between front dwellings and primary setback to be landscaped - Plant one 75L tree in the primary setback 	<p>Achieved.</p>	<p>Yes</p>
<p>Part B5 – Parking</p>	<p>One space per one bed 1.5 spaces per two bed Two spaces per three bed</p> <p>One visitor space per five dwellings</p>	<p>Ten covered spaces for the multi-dwelling housing units. Two stacked spaces provided on the vehicle crossing of Unit one and Unit two.</p> <p>Yes, one visitor space provided.</p>	<p>Yes</p> <p>Yes</p>

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

There are no planning agreements applicable to the proposed development.

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

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

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

An assessment of the likely impacts of the proposed development as detailed in the report are such that it is considered suitable for approval.

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

The site is considered suitable for the development.

Submissions [section 4.15(1)(d)]

The application was neighbour notified for a period of 14 days from 6 July 2018 to 19 July 2018.

During the notification period, no objections were submitted to Council.

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

The proposed development demonstrates the provision of an acceptable development outcome and is considered to be in the public interest.

Recommendation

In consideration of the proposed design, site constraints and emerging character of the locality the application demonstrates merit. In this instance, strict compliance with relevant development standards contained in the Bankstown Local Environmental Plan 2015 relating to the site density and building and wall height is unreasonable and unnecessary.

The development as currently proposed provides for an acceptable outcome and it is recommended that the application be approved, subject to the conditions attached in the report.

DEFERRED COMMENCEMENT REQUIREMENTS (Schedule A)

The following deferred commencement conditions must be complied with to the satisfaction of Council within 24 months of the date of this deferred commencement consent, prior to the issue of an operational development consent:

1. The developer shall provide evidence of Sydney Train's concurrence of the proposed drainage connection to the existing drainage channel within the Sydney Train's rail corridor, prior to issue of the Operational Consent. Conversely, the developer shall provide a satisfactory alternative drainage design which discharges detained stormwater upstream from the Sydney Train's rail corridor and adequately disperses the flow of stormwater over the rear boundary of the development at a rate equal to or less than the existing discharge rate, prior to the issue of the Operational Consent.

FORESHADOWED CONDITIONS OF APPROVAL (Schedule B)

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

These conditions are imposed taking into account the matters for consideration in determining a Development Application pursuant to Section 79(C) of the Environmental Planning & Assessment Act, 1979 and other relevant Acts and Regulations.

Notes:

1. This Determination Notice does not constitute permission to begin works associated with the development. A Construction Certificate (where applicable) must be obtained prior to the commencement of any development works.
2. This Determination Notice operates or becomes effective from the endorsed date of Consent.
3. If you are dissatisfied with this decision, you may apply for a review of determination pursuant to Section 82A of the Environmental Planning and Assessment Act, 1979 (does not apply to Integrated Development proposals) or appeal to the Land and Environment Court pursuant to Section 97 of the Environmental Planning and Assessment Act, 1979. Any application for a review of determination pursuant to Section 82A must be received, assessed and determined by Council within 6 months after the date of receipt of this Notice.
4. Section 125 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 five 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 96 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.

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-524/2018, submitted by CK Design, accompanied by the Drawings as listed in the table below, dated 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
A1-04	Subdivision & Demolition Plan	D	23/10/2018	CK Design
A1-05	Site & Setout Plan	D	23/10/2018	CK Design
A1-06	Block A Plans & Elevations	D	23/10/2018	CK Design
A1-07	Block B Plans & Elevations	D	23/10/2018	CK Design
A1-08	Block C Plans & Elevations	D	23/10/2018	CK Design
A1-09	Block D Plans & Elevations	D	23/10/2018	CK Design
A1-10	Block E Plans & Elevations	D	23/10/2018	CK Design
A1-11	Roof Plans	D	23/10/2018	CK Design
A1-15	Schedule of Finishes	D	23/10/2018	CK Design

- 3) The recommendations outlined in Section six of the DA Acoustic Assessment Report, dated 15/12/2014, prepared by Acoustic Logic, reference number 20141313.1/1512A/RO/MF form part of the development consent. The development shall be constructed to include all of the recommended attenuation measures and

acoustic consultant shall certify that all recommendations have been incorporated into the development prior to the issue of the Occupation Certificate.

- 4) If unexpected soil contaminants are unearthed during excavation and/or construction works all work is to cease and Council notified immediately. In this instance, the contaminated land is to be evaluated by a suitably qualified and experienced environmental consultant and an appropriate response determined by the applicant which is agreed to the satisfaction of Council, prior to the re-commencement of works.

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:

- 5) 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.
- 6) Landscaping shall be in accordance with Landscape Plan, prepared by RFA Landscape Architects, Dwg No L-01, Issue C, dated 7/8/2015 with a minor amendment to increase the pot size of replacement trees from the proposed 45 litres to a required 100 litres. If required, specimens are to be sourced at the beginning of the project and grown on to the appropriate size.

Tree planting and locations shall also comply with the following specifications:

- (a) Replacement trees are to be a minimum container size of 100 litres. They shall comply with *NATSPEC Specifying Trees: a guide to assessment of tree quality (2003)*, and be planted and maintained in accordance with Councils standard specification.
- (b) The trees are to be planted no closer than 3.5 metres from the wall of any approved dwelling on the property.
- (c) All new plantings shall be located so future growth will not be in conflict with electricity wires. Consideration should be given to the location of new electricity poles and wires so that sufficient space is provided.
- (d) The replacement trees are to be planted prior to the issue of an occupation certificate.
- (e) The replacement trees to be planted shall be maintained in a healthy and vigorous condition until they attain a height of 5.0 metres whereby they will be protected by Bankstown Development Control Plan 2015 Part B11– Tree Preservation Order.
- (f) If the replacement trees are found to be faulty, damaged, dying or dead before being protected by Bankstown Development Control Plan 2015 Part B11– Tree Preservation Order; the tree/s shall be replaced with the same species at no cost to Council.

- 7) A detailed landscape plan prepared by a qualified landscape architect or designer is to be approved prior to the issue of a Construction Certificate. The landscape plan is to be prepared in accordance with the relevant DCP and is to show all features, built structures including retaining walls, irrigation, mulch and natural features such as significant gardens, landscaping, trees, natural drainage lines and rock outcrops that occur within three metres of the site boundary. The landscape plan shall consider any stormwater, hydraulic or overland flow design issues where relevant.
- 8) The landscape plan shall include the provision for the replacement of all boundary fencing. A new 1.8m fence is to be erected along all side and rear boundaries of the subject allotment at full cost to the developer. The colour of the fence is to complement the development and the fence is to be constructed of lapped and capped timber paling, sheet metal or other suitable material unless the type of material is stipulated in any flood study prepared for the site. The selection of materials and colours of the fence is to be determined in consultation with the adjoining property owners. Fencing forward of the building line shall be no higher than 1m unless otherwise approved by Council.
- 9) 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.

All tree removal works must comply with the Amenity Tree Industry – Code of Practice, 1998 (Workcover, NSW).

- 10) A soil erosion and sediment control plan must be prepared by a suitably qualified professional, in accordance with the Bankstown Demolition and Construction Guidelines and Council's Development Engineering Standards, and submitted to the certifying authority for approval prior to the issue of a construction certificate.
- 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 in™.

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) Pursuant to section 4.17 of the Environmental Planning and Assessment Act 1979, and the Bankstown City Council Section 94A Development Contributions Plan 2009 (Section 94A Plan) , a contribution of \$17,059.62 shall be paid to Council.

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

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

- 15) 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) Two separate single light duty VFCs, each of maximum width of 2.75 metres at the property boundary for Dwelling No.'s. 1 & 2 and another heavy duty VFC of maximum width of 5.5 metres at the property boundary for the internal driveway to provide access to the Dwelling No.'s. 3,4,5 & 6. The driveways should be designed in such a way to provide a minimum of 6.0 metres between the driveways to provide for two on-street car parking spaces.
 - b) Drainage connection through an underground on-site detention system discharging to the Sydney Trains drainage reserve as per Sydney Trains' consent and conditions.
 - c) Removal of all driveway surfaces, reinstatement of laybacks to kerb and gutter and reshaping of the footway, all associated with redundant VFCs.
 - d) Repair of any damage to the public road including the footway occurring during development works.
 - e) 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 21 days prior to the information being required and must be approved prior to the issue of the Construction Certificate.

- 13) Stormwater runoff from within the property shall be collected and controlled by means of an underground on site detention system in accordance with Council's Development Engineering Standards. The runoff from the detention storage shall be conveyed to an inspection pit to be located at the north eastern corner of the site and from there to the drainage system owned by Sydney Trains, for which a consent in writing from Sydney Trains must be obtained. A final stormwater drainage and on site detention system plan, shall be prepared by a qualified professional Civil Engineer in accordance with the above requirements and the requirements contained in Council's Development Engineering Standards.
- 14) Where Council approved cut or fill exceeds 200mm and stable batter of one vertical to three 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.

- 15) The development is to be carried out in accordance with the commitments shown on the BASIX Certificate. The BASIX commitments approved with this Development Application are to be reflected in the Construction Certificate plans and specifications. Any proposed changes to the BASIX commitments after the Construction Certificate has been issued will require an updated BASIX Certificate and a new Construction Certificate.
- 16) An Acoustic Report, prepared by a suitably qualified acoustics consultant demonstrating that the proposed development can comply with the requirements of the State Rail Publication "Rail related Noise and Vibration Guidelines", shall be prepared and submitted to Council or the PCA prior to the release to the Construction Certificate. The Construction Certificate plans shall include all of the attenuation measures recommended in the Acoustics Report. The development shall be constructed to include all of the recommended attenuation measures and the acoustic consultant shall certify that all recommendations have been incorporated into the development prior to the issue of the Occupation Certificate.

- 17) As any works within, or use of, the footway or public road for construction purposes requires separate Council approval under Section 138 of the Roads Act 1993 and/or Section 68 of the Local Government Act 1993, Council requires 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.

- 18) The sum of the impervious areas associated with the car parking area, driveway and paths must not exceed 55% of the area between the dwellings and the primary frontage.
- 19) An acoustic assessment is to be submitted to Council prior to the issue of a Construction Certificate demonstrating how the proposed development will comply with the Department of Planning's document titled "Development Near Rail Corridors and Busy Roads – Interim Guidelines".
- 20) Prior to the issue of a Construction Certificate the Applicant is to engage an Electrolysis Expert to prepare a report on the Electrolysis Risk to the development from stray currents. The Applicant must incorporate in the development all the measures recommended in the report to control that risk. A copy of the report is to be provided to the Principal Certifying Authority with the application for a Construction Certificate.
- 21) Prior to the issue of a Construction Certificate a Risk Assessment/Management Plan and detailed Safe Work Method Statements (SWMS) for the proposed works are to be submitted to Sydney Trains for review and comment on the impacts on the rail corridor. The Principal Certifying Authority shall not issue the Construction Certificate until

written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.

- 22) No metal ladders, tapes, and plant/machinery, or conductive material are to be used within six horizontal metres of any live electrical equipment. This applies to train pantographs and 1500V catenary, contact and pull-off wires of the adjacent tracks, and to any high voltage aerial supplies within or adjacent to the rail corridor.
- 23) Prior to the issuing of a Construction Certificate the Applicant is to submit to Sydney Trains a plan showing all craneage and other aerial operations for the development and must comply with all Sydney Trains requirements. The Principal Certifying Authority shall not issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.

CONDITIONS TO BE SATISFIED PRIOR TO CONSTRUCTION

- 24) The building / subdivision work in accordance with the development consent must not be commenced until:
- a. a construction certificate for the building / subdivision work has been issued by the council or an accredited certifier, and
 - b. the person having benefit of the development consent has:
 - i. appointed a principal certifying authority for the building / subdivision work, and
 - ii. notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
 - c. the person having the benefit of the development consent, if not carrying out the building work as an owner-builder, has:
 - i. appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential building work is involved, and
 - ii. notified the principal certifying authority of any such appointment, and
 - iii. unless the person is the principal contractor, notified the principal contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
 - d. the person having the benefit of the development consent has given at least two days' notice to the council of the person's intention to commence the building/subdivision work.
- 25) 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.

Trees to be retained and protected

The following trees are to be retained and protected as per the conditions below. Failure to comply with these conditions is an offence and may incur a fine or lead to prosecution.

Species	Location	Protection Measures
<i>Callistemon viminalis</i> (Bottlebrush)	Council nature strip forward of the property line of 16 Meager Avenue	*TPZ - 3.6 metres *SRZ - 2.0 metres A fenced *TPZ of a minimum of 2.5 metres to the east and west. 2.0 metres to the north and as bounded by the kerb shall be installed as per the conditions below.
<i>Callistemon viminalis</i> (Bottlebrush)	Council nature strip forward of the property line of 18 Meager Avenue	*TPZ - 4.8 metres *SRZ - 2.25 metres A fenced *TPZ of a minimum of 2.5 metres to the east and west. 2.0 metres to the north and as bounded by the kerb shall be installed as per the conditions below.

* TPZ (Tree Protection Zone) and SRZ (Structural Root Zone) in metres measured from the centre of the trunk of the tree.

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 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) A 1.8m chain link wire fence that complies with Section 4.3 of AS 4970 - 2009, Protection of trees on development sites shall be erected around the above trees to be retained and protected during all approved works. The fence is to be installed prior to demolition / construction, shall not be removed or altered, and is to remain in place for the duration of the site works.
- (d) The applicant will display in a prominent location on the fencing of each protection zone a durable, weather resistant sign having a minimum dimension of 500mm high x 400mm wide of similar design and layout as per

Appendix C, *Australian Standard AS4970-2009 Protection of trees on development sites* clearly showing clearly showing:

- i. The Development Consent number
 - ii. The name and contact number of the site manager;
 - iii. Indication that access into the Tree Protection zone is not permitted.
- (e) The above notice is to be in place prior to commencement of demolition or construction.
- (f) Fences are to be inspected on a regular basis to ensure that they are intact, comply with the above standard, installed to the appropriate dimensions and provide effective protection for the tree to be retained.
- (g) The TPZ shall be maintained as per AS4970 - 2009, Section 4.6. Access to the TPZ is permitted to undertake necessary maintenance such as mowing, watering, weed control
- (h) No vehicular access, excavations for construction or installation of services shall be carried out within the fenced Tree Protection Zone.
- (i) All utility services, pipes, stormwater lines and pits shall be located outside the fenced Tree Protection Zone.
- (j) Building materials, chemical storage, site sheds, wash out areas, and similar shall not be located within the fenced Tree Protection Zone.
- (k) Trees marked for retention must not to be damaged or used to display signage, or as fence or cable supports for any reason.
- (l) If any tree roots are exposed during any approved works then roots smaller than 50mm are to be pruned. They shall be cut cleanly by hand, by an experienced Arborist/Horticulturist (with a minimum of the Horticulture Certificate or Tree Surgery Certificate). Any roots greater than 50mm are to be assessed by a qualified arborist before any pruning is undertaken. If required, changes in design may need to be considered.
- 26) 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.
- 27) 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.
- 28) 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.

- 29) 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.

- 30) 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.

- 31) 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.
- 32) 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.
- 33) 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.

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

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

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

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

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

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

CONDITIONS TO BE SATISFIED DURING CONSTRUCTION

- 36) The hours of site works shall be limited to between 7.00am and 6.00pm on weekdays and 7.00am and 1.00pm on Saturdays. No work shall be carried out on Sundays and public holidays, and weekends (Saturdays and Sundays) adjacent to public holidays.
- 37) The building work must be carried out in accordance with the requirements of the Building Code of Australia.
- 38) 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.
- 39) All Civil and Hydraulic engineering works on site must be carried out in accordance with Council's Development Engineering Standards. All Civil and Hydraulic engineering works associated with Council's assets and infrastructure must be carried out in accordance with Council's Work Permit requirements and to Council's satisfaction.
- 40) All excavations and backfilling must be executed safely and in accordance with the relevant Australian Standards.
- 41) 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.

- 42) 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.
- 43) 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.
- 44) The stormwater drainage system shall be constructed in accordance with Council's Development Engineering Standards and the engineering plans and details approved by the Principal Certifying Authority (PCA). Should the developer encounter any existing, live, underground stormwater drainage pipes, which carry flow from upstream properties, the developer must maintain the stormwater flow and re-route the stormwater pipes around the subject building or structures at the developer's expense.
- 45) Prior to the commencement of work, the builder shall prepare a photographic record of the road reserve which clearly shows its condition prior to works occurring on site. For the entirety of demolition, subdivision or construction works, there shall be no stockpiling of building spoil, materials, or storage of equipment on the public road, including the footway and the road reserve shall be maintained in a safe condition at all times. No work shall be carried out on the public road, including the footway, unless a Work Permit authorised by Council has been obtained.

CONDITIONS TO BE SATISFIED PRIOR TO OCCUPATION

- 46) The occupation or use of the building must not be commenced unless an occupation certificate has been issued for the building.
- 47) A final Occupation Certificate shall not be issued until all conditions relating to demolition, construction and site works of this development consent are satisfied and Council has issued a Work Permit Compliance Certificate.
- 48) Consolidation of the existing allotments must be registered by the office of Land and Property Information prior to the issue of an occupation certificate.

- 49) Landscaping is to be installed in accordance with the approved landscape plan. All works and methods nominated and materials and plants specified on the approved landscape plan are to be completed prior to the issue of an occupation certificate. The landscaping shall be maintained for the life of the development.
- 50) Landscaping is to be installed in accordance with the approved landscape plan. All works and methods nominated and materials and plants specified on the approved landscape plan are to be completed prior to the issue of an occupation certificate. The landscaping shall be maintained for the life of the development as follows:

Replacement Trees: On-Site

- (a) In line with Council's policy to maintain and increase tree cover in the Council area, the applicant is to plant a minimum of 12 replacement trees as detailed on Landscape Plan, prepared by RFA Landscape Architects, Dwg No L-01, Issue C, dated 7/8/2015
 - (b) Replacement trees are to be a minimum container size of 100 litres. They shall comply with *NATSPEC Specifying Trees: a guide to assessment of tree quality* (2003) and be planted and maintained in accordance with Councils standard specification.
 - (c) The trees are to be planted no closer than 3.5 metres from the wall of any approved dwelling on the property.
 - (d) All new plantings shall be located so future growth will not be in conflict with electricity wires. Consideration should be given to the location of new electricity poles and wires so that sufficient space is provided.
 - (e) The replacement trees are to be planted prior to the issue of an occupation certificate.
 - (f) The replacement trees to be planted shall be maintained in a healthy and vigorous condition until they attain a height of 5.0 metres whereby they will be protected by Bankstown Development Control Plan 2015 Part B11– Tree Preservation Order.
 - (g) If the replacement trees are found to be faulty, damaged, dying or dead before being protected by Bankstown Development Control Plan 2015 Part B11– Tree Preservation Order; the tree/s shall be replaced with the same species at no cost to Council.
- 51) 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.
- 52) 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.

- 53) 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.
- 54) A Copy of the Work Permit Compliance Certificate shall be submitted to the PCA Prior to the issue of the Occupation Certificate.
- 55) The developer shall register, on the title of the subject property, a Restriction on the Use of Land and Positive Covenant, in accordance with the standard terms for "Registration of OSD on title", as outlined in Council's Development Engineering Standards and in accordance with the appropriate provisions of the Conveyancing Act. Where subdivision is not proposed, the surveyor shall show the location of the "On-Site Stormwater Detention System" on an A4 size site plan attached to the Section 88E Instrument to be registered, on the title of the subject property, prior to the issue of the Final Occupation Certificate. Alternatively, where subdivision is proposed, the developer shall register, on the title of the subject property, a Restriction on the Use of Land and Positive Covenant, in accordance with the standard terms for "Registration of OSD on title", as outlined in Council's Development Engineering Standards and in accordance with the appropriate provisions of the Conveyancing Act. The surveyor shall show the location of the "On-Site Stormwater Detention System" on the plan of subdivision. The developer shall submit evidence of the final registration of the Restriction and Positive Covenant on the title of the property, to Council.
- 56) The Section 73 compliance certificate under the Sydney Water Act 1994 must be submitted to the principal certifying authority before occupation of the development / release of the plan of subdivision.

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

- 57) The subdivision certificate shall not be issued until the final Occupation Certificate has been issued for the building, site and subdivision works.
- 58) An application and appropriate fees for the issue of a Subdivision Certificate shall be submitted to Council upon all works being completed.
- 59) The following information shall be submitted to Council or accredited certifier (where applicable) with an application for a Subdivision Certificate:
- a) Original plan of subdivision prepared and signed by a qualified surveyor, plus five copies;
 - b) Copy of the relevant development consent, including all Section 96 Modifications if applicable,

- c) Works as executed engineering plans.
- d) Evidence that all conditions of consent have been complied with,
- e) A certificate of compliance (Section 73 Certificate) from Sydney Water if required,
- f) Final occupation certificate for all works.
- g) Certification by a registered surveyor that all services such as stormwater, drainage, water, gas, electricity and telephone are contained separately within each lot or within easements created to accommodate such services.
- h) Copy of the Work Permit Compliance Certificate, where required.

SCHEDULE A: ADVICE TO APPLICANTS

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

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

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

-END-

Canterbury Bankstown Local Planning Panel - 1 July 2019

ITEM 2	5 and 7 Hydrae Street, Revesby
	Development Application No. DA-1007/2017 proposes demolition, consolidation of two lots and the construction of six multi-dwelling housing units, front fence and strata subdivision.
FILE	DA-1007/2017 - Revesby
ZONING	Zone R2 – Low Density Residential
DATE OF LODGEMENT	30 October 2017
APPLICANT	Chris Khoury
OWNERS	Joseph Malouf
ESTIMATED VALUE	\$1,825,312.00
AUTHOR	City Development

REPORT

This matter is reported to Council's Local Planning Panel in response to the Panel's request at its meeting held Monday 4 March 2019 to adjourn the determination of the application to enable the applicant to provide further details as noted in Attachment A and for the Council to prepare draft conditions of development consent.

As detailed in the previous Section 4.15 report, the proposed non-compliances relate to the maximum wall and building height requirements as contained in Clause 4.3(2B)(c)(ii) of the Bankstown Local Environmental Plan 2015. Specifically, the development consists of a maximum wall height (to the rear dwellings) of 3.89m resulting in a 29.6% variation to the standard and a maximum building height of 7.07m (again to the rear dwellings) which result in a 17.8% variation.

POLICY IMPACT

This matter has no direct policy implications.

FINANCIAL IMPACT

This matter has no direct financial implications.

RECOMMENDATION

It is recommended that the application be approved subject to the draft conditions of consent included at Attachment 'D'.

ATTACHMENTS

- A. CBLPP Determination 04/03/2019
- B. Council Response to Adjourned Items
- C. Previous Section 4.15 Assessment Report
- D. Conditions of Approval

CITY OF CANTERBURY BANKSTOWN

MINUTES OF THE

CANTERBURY BANKSTOWN LOCAL PLANNING PANEL MEETING

HELD IN THE COUNCIL CHAMBERS

BANKSTOWN

ON MONDAY 4 MARCH 2019

PANEL MEMBERS

PRESENT: Mr Anthony Hudson -Chairperson
 Mr David Epstein- Expert Member
 Mr Stephen Kerr- Expert Member
 Mr Robert Furolo- Community Representative Bankstown
 Ms Inaam Tabbaa - Community Representative Bass Hill
 Mr Ian Stromborg OAM - Community Representative Revesby

STAFF IN

ATTENDANCE: Ms Maryann Haylock (Local Planning Panel Administration Officer)
 Mr Brad McPherson (Manager Governance, not present for the closed session)
 Mr Stephen Arnold (Coordinator Planning - West, not present for the closed session)
 Ms Samantha Mitchell (Executive Planner, not present for the closed session)
 Ms Kristy Bova (Executive Planner, not present for the closed session)
 Mr Ryan Bevitt (Senior Town Planner, not present for the closed session)
 Mr Warren Terry (Town Planner, not present for the closed session)
 Mr Michael Bonnici (Cadet Town Planner, not present for the closed session)

THE CHAIRPERSON DECLARED THE MEETING OPEN AT 6.00 PM.

INTRODUCTION

The Chairperson welcomed all those present and explained the functions of the Canterbury Bankstown Local Planning Panel and that the Panel would be considering the reports and the recommendation from the Council staff and the submissions made by objectors and the applicant and/or the applicant's representative(s) and determining the development applications

APOLOGIES

There were no apologies received

DECLARATIONS OF INTEREST

The Chairperson advised that all Panel Members had submitted written Declarations of Interest returns prior to the meeting.

The Chairperson also asked the Panel if any member needed to declare a conflict of interest in any of the items on the agenda. There were no declarations of interest.

The Chairperson declared a significant non pecuniary interest in respect of Item 2: 2 Willow Place, Bass Hill. The nature of the interest disclosed was that a partner of the Chairpersons legal firm had provided advice about the development. The Chairperson advised he would not be involved in any consideration or determination of the matter.

4 5-7 HYDRAE STREET, REVESBY: DEMOLITION OF EXISTING STRUCTURES, CONSOLIDATION OF TWO LOTS TO CREATE ONE LOT AND CONSTRUCTION OF A MULTI-DWELLING HOUSING DEVELOPMENT COMPRISING OF SIX UNITS, FRONT FENCE AND STRATA SUBDIVISION

Site Visit

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

Public Addresses

The following people addressed the meeting in relation to this item:

- Bernard Moros - Town Planner (representing applicant)
- John Maddox - Flood Engineer (representing applicant)
- Chris Khoury - (Applicant)

Panel Assessment

Mr Ian Stromborg was the community Panel member present for the deliberation and voting for this matter.

The recommendation for refusal appears to be based primarily on noncompliance with the Clause 4.2(2B)(c)(ii) of the LEP which relates to the overall height of 6m and a wall height of 3m.

There are no specific amenity impacts from this breach of the height control such as overshadowing or privacy impacts.

The report refers to the design and siting of dwellings at the rear not representing a dwelling that is compatible or respects the intended future character of this area. The Panel does not agree with this impact

Another matter to be addressed is the appearance of the North Elevation of Block A and the South Elevation of Block B. The Panel is of the opinion that this could be improved by some indentations in the rear of Block A and B which would take up part of the void area.

Also, the relocation of the visitor parking spot along the driveway or at the end of the driveway could be explored. If this is not feasible because of turning and manoeuvring, then further details are required of how the visitors parking space would be specifically separated and isolated from the rear yard of Block B to ensure that it is available for all units.

The Panel does not agree with this assessment and is of the opinion that the proposal may be acceptable with an appropriate Clause 4.6 variation.

Another issue to be addressed in the Panel's opinion before this application could be approved is the provision of landscaping in the Southwest corner between the property boundary and the beginning of the landscaping already provided on the Southern boundary.

This can potentially be addressed by joining blocks A and B with appropriate design variations to address the streetscape and any internal amenity relationships.

The Panel proposes to adjourn this matter to enable a revised set of plans to be submitted with a new Clause 4.6 variation to together with a proposed set of conditions for consent.

CBLPP Determination

THAT the determination of Development Application DA-1007/2017 RE: Demolition of existing structures, consolidation of two lots to create one lot and construction of a multi-dwelling housing development comprising of six units, front fence and strata subdivision be:

- a) adjourned to enable the applicant to provide further details as noted above, and
- b) the council staff to prepare a set of draft conditions.

Vote: 4 – 0 in favour

RESPONSE TO ADJOURNED ITEMS

Building Appearance and Streetscape Presentation and Internal Amenity

The revised plans consist of the modification and internal revision to Block A and Block B that removes the rear void over the living and dining area. This modification assists to create an indentation in the building wall and upper floor plan.

The design of Block A and Block B remain detached and is considered to accommodate an appropriate presentation to the streetscape, with acceptable internal amenity relationships in review of visual privacy, the location living room windows and the built form of the development.

Visitor Car Parking

The visitor car parking space is placed on the common driveway. Council's Development Engineering Unit have reviewed the modification and support the vehicle swept paths and the access and egress to the development.

The relocation of the visitor car space provides separation and reduces visual impact from the former location of the rear yard of Block B and is considered better placed for independent use for all units.

Clause 4.6 Variation Request

A revised Clause 4.6 Variation Request (see attachment B) has been submitted to justify the contravention of the development standards as outlined in the Section 4.15 Assessment Report.

Following a review of the amended document, Council is satisfied that the applicant's submission has properly sought to justify the proposed variation.

Landscaping

The amended site plan (A1-05) indicates a revision to the landscaping in the south-west corner of the development site. A 1.0m landscaped planter is proposed to the side boundary and vehicle crossing. This provides additional screening to the next-door property and offers additional soft landscaping forward of the front building line.

Canterbury Bankstown Local Planning Panel - 4 March 2019

ITEM 4	5-7 Hydræ Street, Revesby
DESCRIPTION	Demolition of existing structures, consolidation of two lots to create one lot and construction of a multi-dwelling housing development comprising of six units, front fence and strata subdivision
FILE	DA-1007/2017 - Revesby
ZONING	Zone R2 – Low Density Residential
DATE OF LODGEMENT	30.10.2017
APPLICANT	Chris Houry
OWNERS	Joseph Malouf
ESTIMATED VALUE	\$1,825,312.00
AUTHOR	City Development

REPORT

This matter is reported to Council's Local Planning Panel in accordance with the Panel's delegation from the Minister as the application seeks to vary development standards by more than 10 percent. The development standards the application seeks to vary relate to the maximum permissible wall and building height requirements as contained in Clause 4.3(2B)(c)(ii) of the Bankstown Local Environmental Plan 2015. The applicant proposes a maximum wall height (to the rear dwellings) of 3.89m resulting in a 29.6% variation to the standard in addition to proposing a maximum building height of 7.07m (again to the rear dwellings) which result in a 17.8% variation.

The application also seeks a variation to the siting control for multi-dwelling housing developments as provided in Clause 7.3 of Part B1 of Bankstown Development Control Plan 2015 and the visitor car parking requirements as provided in the Off-street Parking Requirements Schedule of Part B5 of the Bankstown Development Control Plan 2015.

The development application proposes the construction of six multi-dwelling housing units and has been assessed in accordance with the provisions contained in Section 4.15 of the

Environmental Planning and Assessment Act 1979 requiring, amongst other things, an assessment against the provisions contained in the Bankstown Local Environmental Plan 2015, the Greater Metropolitan Regional Environmental Plan No 2—Georges River Catchment, State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, State Environmental Planning Policy No 55—Remediation of Land and Bankstown Development Control Plan 2015.

The application was first lodged and neighbour notified for a period of 14 days from 1 November 2017 to 14 November 2017 for the construction of seven multi-dwelling housing units. Following an initial assessment, which was undertaken by Council, the applicant was advised of a number of concerns relating to the development. Amended plans were subsequently submitted for the construction of six multi-dwelling housing units and re-notified for a further 14 days from 31 July 2018 to 13 August 2018. During the notification periods, two objections were submitted to Council. A summary of the issues raised have been included in the report. The comments raised primarily related to the management of stormwater, visual privacy impacts and the associated traffic impacts resulting from the development.

With the subject proposal failing Clause 4.3(2B)(c)(ii) of the Bankstown Local Environmental Plan 2015, Clause 7.3 of Part B1 of the Bankstown Development Control Plan 2015 and the Off-street Parking Requirements Schedule of Part B5 of the Bankstown Development Control Plan 2015 the application is recommended for refusal.

POLICY IMPACT

If the development application were to be approved, it would result in direct policy implications given the development remains inconsistent with previously granted approvals and will have a perceived impact on the application and integrity of the standards and controls contravened. Refusal of the application in accordance with the recommendation would not have any policy implications.

FINANCIAL IMPACT

The matter will not result in any financial implications.

RECOMMENDATION

It is recommended that the application be refused for the reasons outlined in the attached determination notice.

DA-736/2015 SECTION 4.15 ASSESSMENT REPORT

SITE & LOCALITY DESCRIPTION

The proposed development site is known as Nos. 5 and 7 Hydrae Street Revesby. The site is legally described as Lot 212 DP 1072039 and Lot 10 DP 16779. The consolidated site generally consists of a regular shape, with a small mid-block step and splay to the rear boundary. The development site accommodates a frontage of 27.38 metres to Hydrae Street.

The side boundary lengths consist of 70.22 metres along the northern boundary and a stepped 90.93 metres along the southern boundary with an eastern boundary (rear) width of 37.105 metres. The total area is approximately 2269.3m² (by survey). Noteworthy characteristics of the land is the existing cross-fall in excess of 4.35 metres from the western boundary (front) to the eastern boundary (rear) and Little Salt Pan Creek that meets towards the rear boundary resulting in medium to high risk flooding affectations on the site.

The development site is currently occupied by two single storey dwellings consisting of weather-board and masonry construction. Located to the rear of each property are single storey structures previously used as detached garages and ancillary storage areas.

The immediate locality is defined by low density residential development, with the streetscape of Hydrae Street largely consisting of single and two storey dwelling houses. In recent times, new development within the area also consists of a mix of dual occupancies, multi-dwelling housing developments and aged care facilities to the south of Hydrae Street.

In consideration of the existing urban environment and recent development within the area, the provision of a multi-dwelling housing development would remain consistent with the changing residential characteristics of the area. The proposed design and site specific constraints, being the medium to high risk flooding affectation and cross fall of the allotment, however has resulted in a development siting and layout not suitable for the allotment or as a development outcome intended for the area.

Figure 1: Aerial photograph of development site (source: nearmap images)



PROPOSED DEVELOPMENT

Canterbury Bankstown Local Planning Panel Meeting held on 4 March 2019

Page 3

The proposal seeks consent for the consolidation of existing lots, the demolition of the existing site structures and the construction of six multi-dwelling housing units, front fence and strata subdivision. The development specifically consists of:

- Two storey detached multi-dwelling housing units, each containing 4 bedrooms, associated private open space and landscaping.
- Three, One storey multi-dwelling housing units with attic, each attached and containing 3 bedrooms, associated private open space and landscaping.
- One, One storey attached multi-dwelling housing unit, containing 4 bedrooms, associated private open space and landscaping.

SECTION 4.15 ASSESSMENT

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

Environmental Planning Instruments [Section 4.15](1)(a)(i)]

Greater Metropolitan Regional Environmental Plan No 2—Georges River Catchment (deemed SEPP)

The proposed development is considered to be consistent with the aims and objectives of the deemed SEPP.

The development is not considered to adversely impact the environment of the Georges River, either in a local or regional context, and does not propose a form of development that is inconsistent with the general and specific aims and strategic actions plans recommended in the Plan.

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

An updated BASIX Certificate is required to accompany the amended development plans. The Certificate is to certify that the thermal, energy, and water commitments of the proposal satisfy the requirements of State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004.

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.*

In this instance, it is considered that the consent authority can be satisfied that the development site is suitable for the proposed development, in accordance with Clause 7 of SEPP 55. The site has a history of use for low density residential purposes and there is no evidence to suggest that the site has been subject to any contaminating land uses.

In accordance with the Managing Land Contamination Planning Guidelines, the historical uses of the site would not warrant the need for further consideration of contamination and testing.

Bankstown Local Environmental Plan, 2015

The following core clauses of the Bankstown Local Environmental Plan 2015 (BLEP 2015) were taken into consideration:

- Clause 1.2 – Aims of Plan
- Clause 1.3 – Land to which Plan applies
- Clause 2.2 – Zoning of land to which Plan applies
- Clause 2.3 – Zone objectives and Land Use Table
- Clause 4.1B – Minimum Lot Sizes and Special Provisions for Certain Dwellings
- Clause 4.3 – Height of Buildings
- Clause 4.4 – Floor Space Ratio
- Clause 4.5 – Calculation of Floor Space Ratio and Site Area
- Clause 4.6 – Exceptions to Development Standards
- Clause 5.9 – Preservation of Trees or Vegetation
- Clause 6.1 – Acid Sulfate Soils
- Clause 6.3 – Flood Planning

A comprehensive assessment of the proposal revealed that the development does not meet the requirements of Clause 4.3(2B)(c)(ii) of the Bankstown Local Environmental Plan 2015 as discussed below:

Height of Buildings

Clause 4.3(2B)(c)(ii) reads as follows:

- 2B) *Despite subclause (2), the following restrictions apply to development on land in Zone R2 Low Density Residential:*
- (c) *for multi dwelling housing and boarding houses:*
- (i) ...
- (ii) *the maximum building height for all other dwellings at the rear of the lot is 6 metres and the maximum wall height is 3 metres.*

The development consists of the construction of two detached two storey multi-dwelling housing units fronting Hydræ Street, three single storey attached multi-dwelling housing units with attics and one single storey attached multi-dwelling housing unit serviced by a common driveway to the rear of the site.

In this layout, the development consists of four dwellings marked Unit 3, Unit 4, Unit 5 and Unit 6 that exceed the building height and wall height controls permitted as summarised in the table below.

Table 1: Summary of the wall height and building height non-compliances.

Dwelling Number	Wall Height (Maximum)	Overall Height (Maximum)	Extent of Non-compliance Wall/Overall (NGL's)	Non-Compliance as a percentage
Dwelling three (3)	3.23m	6.585m	230mm/585mm	7.6%/9.75%
Dwelling four (4)	3.345m	6.7m	345mm/700mm	11.5%/11.6%
Dwelling five (5)	3.720m	7.07m	720mm/1.07m	24%/17.8%
Dwelling six (6)	3.89m	6.4m	890mm/400mm	29.6%/6.6%

In this case, consideration must be given to the matters that have resulted in the non-compliances.

Firstly, the development site is impacted by medium to high risk flood affectations. The Council generated Stormwater System Report (SSR) provides information on the site specific items and acknowledges the following:

- An open, unlined Stormwater channel located along the eastern site boundary.
- Overland flowpath (floodway) for excess stormwater runoff from the catchment associated with the drainage system.
- 100 year water surface levels in the Little Salt Plan Creek

In accordance with the SSR, the development must provide a minimum freeboard above the 1 to 100 inundation event (RL 3.9m) of at least 500mm and recommends a minimum requirement of RL 4.4m. In response, the applicant has provided a Flood Study Report that assists to determine the post development 100 year flood extent and the water surface level flooding at the site. In order to satisfy the recommendations of the Flood Study Report and the SSR, a freeboard of RL 4.50 to RL 4.85 has been provided to the habitable areas of dwellings 3, 4, 5 and 6. As a consequence the finished floor level of the rear multi-dwelling housing units are significantly elevated, with the finished ground floor level of unit 6 being up to 1.63 metres above natural ground level.

While it is acknowledged the use of platforms and pier construction methods assist to address the requirements of the SSR and the Flood Study Report, the built form that results does not appropriately respond to the site specific constraints or represent a suitable development outcome intended for rear multi-dwelling housing units.

In addition to the matters above, the proposal fails to comply with the objectives contained in Clause 4.3 – Height of Buildings as provided below:

4.3 Height of buildings

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

- a) *to ensure that the height of development is compatible with the character, amenity and landform of the area in which the development will be located,*

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

Objective 4.3(1)(a)

The intended character of multi-dwelling housing units to the rear of an allotment in Zone R2 Low Density Residential is to be single storey with a design and siting that responds to the existing site characteristics. This intended future character is achieved through the application of planning provisions that include, among other things, development controls requiring a single storey built form for rear multi-dwelling housing units and maximum wall and building height standards as per the BLEP 2015.

In this instance, the proposed siting and design of the rear multi-dwelling housing units is a direct result of the need to address the requirements of the flood affectation and consequently results in a height inconsistent with the planning provisions and the existing built environment of surrounding properties.

The design and siting of the dwellings to the rear are not considered to represent a development that is compatible or respects the intended future character of rear multi-dwelling housing units in the zone R2 Low Density Residential. The potential for additional impacts on the amenity of the immediate area are also evident with the resulting increase in visual bulk and overshadowing.

Clause 4.6 – Exception to Development Standards

In accordance with the Bankstown Local Environmental Plan 2015, the applicant has submitted a variation statement to be considered under Clause 4.6 to justify the contravention of the development standards by demonstrating:

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

Below is a summary of the environmental planning grounds provided to justify the variation of the height control (complete Clause 4.6 Variation Statement attached):

- *the development has been designed to minimise impacts where practicable on neighbouring properties and future adjoining properties;*
- *the proposed development results in a floor space ratio of 0.34:1 or 790m² well below the allowable 0.5:1 or 1134.2m². In this regard, there is not tangible nexus between the height noncompliance and the density capacity of the site.*
- *strict compliance with the building height standards would result in no material built form benefits;*
- *given the siting of the development and generous levels of spatial building separation provided between this and existing neighbouring development, the*

extent of non-compliance will be imperceptible to the casual observer when viewed from the adjacent street frontage or from private properties;

- *the non-compliant sections of the building do not contribute to any notable increase to overshadowing or loss of privacy of neighbouring properties; and*
- *the non-compliant sections of the building do not result in view loss.*

In considering the Clause 4.6, it is good practice to assess the objection having regard to the following matters:

1) Is the objection to the planning control the well-founded?

Under the circumstances, the objection is not considered well founded since the departure is not minor in nature. As indicated earlier, the variations seek a wall height exceedance up to 29.6% and overall building height exceedance up to 17.8%.

In consideration of the key constraints and characteristics of the site, it is not unreasonable to accept that the nature of flood affected allotments are such that compliance with the development standards may lead to design constraints that could reduce the development yield for the site.

A revised layout with a modified yield could be provided that significantly reduces the elevated platforms and columns/piers and could better moderate amenity impacts to adjoining residential land.

2) Is there sufficient environmental planning grounds to justify contravening the development standard?

The proposed development fails to demonstrate sufficient environmental planning grounds to justify the contravention of the development standard. The proposal fails to satisfy the objectives contained in Clause 4.3 of the BLEP 2015 and remains inconsistent with the existing and desired emerging urban character of Hydræ Street.

The contravention to the development standard will result in an undesirable environmental outcome and compromise the standards future application and therefore is not considered to be in the public interest.

In this instance, the submitted variation statement is not considered well founded given the inconsistencies with the building height objectives and that of Zone R2 Low Density Residential and fails to provide sufficient environmental planning grounds to justify the contravention the standards to be worthy of Council support.

Proposed Environmental Planning Instrument [section 4.15(1)(a)(ii)]

There is no proposed or draft environmental planning instrument applicable to the development.

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

The development has been assessed against the following provisions of the Bankstown Development Control Plan, 2015. The outcomes of the assessment are provided below:

Part B1	Requirement	Proposal	Complies
Section 1 – Preliminary	The desired character of the residential zones is to retain low density development where typical features include multi dwelling housing within a generous landscaped setting with high quality urban design in terms of building form, bulk, architectural treatment and visual amenity.	The proposal is not compatible with the desired future character of the Zone R2 Low Density Residential for the purposes of multi-dwelling housing units. It is not considered to provide a suitable outcome in terms of bulk, scale and height for the locality.	No
Section 7 – Multi dwelling housing			
7.1 Storey Limit	Storey limit is 2 storeys for front dwellings facing the street and single storey for the remaining dwellings at the rear.	Development proposes 2 storey dwellings at the front and single storey at the rear.	Yes
7.2	Applicable to Nos. 81–83 and 105 Wattle Street in Punchbowl.	N/A	N/A
7.3 Siting	Siting of multi dwelling housing and landscaping works must be compatible with the existing slope and contours of the allotment and any adjoining property. Council does not allow any development that involves elevated platforms on columns, or excessive rock excavation, retaining walls or reclamation.	While the ground floor levels have been designed to accommodate the flooding freeboard, the development involves the use of elevated platforms and columns/piers.	No
7.4	Any reconstituted ground level on the allotment must not exceed a height of 600mm above the ground level (existing) of an adjoining property except where: (a) the multi dwelling housing are required to be raised to achieve a suitable freeboard in	The development consists of elevated platforms and piers/columns to achieve the freeboard required. No fill or reconstituted levels are proposed given the overland flow impacts on the allotment.	N/A

	accordance with Part B12 of this DCP; or (b) the fill is contained within the ground floor perimeter of the multi dwelling housing to a height no greater than 1 metre above the ground level (existing) of the allotment.		
7.5 Setback Restrictions	The erection of multi dwelling housing is prohibited within 9 metres of an existing animal boarding or training establishment.	N/A – not located within 9 metres of an existing animal boarding or training establishment.	N/A
7.6 Setbacks	Primary frontage – minimum setbacks: - 5.5m for ground floor - 6.5m for first floor	Unit 1 and 2 (front facing dwellings) provide the minimum 5.5 and 6.5m setback.	Yes
7.7 Secondary Road Frontages	Sets minimum setbacks to the secondary road frontage.	N/A	N/A
7.8 Side/Rear Setbacks	Side and rear setbacks: - 5m for a building wall which contains a living area window or door - 2m for building wall which does not contain a living area window or door - 0.9m for a garage or carport	- Unit 1 to 2 - 0.9m to 6.580m side setback - Unit 3, 4 and 5 – 5.10 to 7.380m to side setback - Unit 6 - 2.0 to 4.880m to side setback - 12.667 to 14.415m to rear setback	Yes Yes Yes
7.9	Minimum setback for a driveway to side and rear boundaries is 1m.	Achieves setback for the driveways to Unit 1 and 2. Common driveway proposes nil setback to the southern boundary	Yes No
7.10 Open Space	A minimum of 60sqm of private open space provided per dwelling behind the front building line.	Unit 1: 69sqm Unit 2: 65sqm Unit 3: 66sqm Unit 4: 60sqm Unit 5: 60sqm Unit 6: 398sqm	Yes
7.11 Access Sunlight	At least one living area to each dwelling must receive minimum 3 hours solar access between 8.00am and 4.00pm at midwinter solstice.	All units achieve minimum 3 hours solar access.	Yes

7.12	At least one living area of dwelling on adjoining allotment must receive minimum 3 hours solar access between 8.00am and 4.00pm at mid-winter solstice.	Shadow diagrams demonstrate adjoining dwellings receive a minimum of 3 hours solar access.	Yes
7.13	A minimum of 50% of private open space for each dwelling and adjoining is to receive at least 3 hours solar access between 9am and 5pm at the equinox.	Shadow diagrams demonstrate solar access received for subject and adjoining allotment achieves minimum requirements to private open space.	Yes
7.14	Development should avoid overshadowing any existing solar hot water systems or other solar collectors on allotment and adjoining.	Development does not overshadow any existing solar hot water systems or other solar collectors.	Yes
7.15 Visual Privacy	Where development proposes windows, which overlook living area or bedroom windows of existing dwellings, the development must offset windows to minimise overlooking, or provide the window with minimum sill heights of 1.5m above floor level or ensure the window cannot open and has obscure glazing or use another form of screening to the satisfaction of Council.	The development is not considered to pose any significant privacy concerns in accordance with Clause 7.15.	Yes
7.16	Where development proposes a window that directly looks into the private open space of an adjoining property, windows do not require screening where the window is to a bedroom, bathroom or other non-habitable room.	Screening required (as noted on plans) to unit 3, 4, 5 and 6.	Yes, subject to condition.
7.17	Upper floor balconies may require screening where the open space overlooks more than 50% of adjoining private open space.	Nil proposed	N/A
7.18	Council does not allow roof top balconies.	Nil proposed	N/A
7.19 Building Design	Development proposed for the purpose of multi-	Demolition proposed.	Yes

	dwelling housing developments must demolish all existing on the allotment		
7.20	Design of front dwellings must ensure a street façade where architectural elements are compatible with asymmetric appearance of neighbouring dwellings, ensure the front porch and windows are street facing and ensure any garage, driveway and front fence do not dominate the appearance of the development	Units 1 and 2 provide for an asymmetric design with suitable architectural elements. The dwellings provide front windows and porch.	Yes
7.21	The maximum roof pitch for multi dwelling housing is 35 degrees	Maximum 26 degrees.	Yes
7.22	Council may allow multi dwelling housing to have an attic	Proposed for Units 3, 4 and 5.	Yes
7.23 Dormers	7.23 The design of dormers must: (a) be compatible with the form and pitch of the roof; and (b) must not project above the ridgeline of the main roof; and (c) must not exceed a width of 2 metres; and (d) the number of dormers must not dominate the roof plane.	Poor roof design and exposed wall for unit 3. Yes Yes Yes	No Yes Yes Yes
7.24	Multi dwelling housing with 10 or more dwellings must provide one adaptable dwelling per 10 dwellings in accordance with AS 4299–Adaptable Housing.	N/A	N/A
7.25	Development in the foreshore protection area (refer to map in Appendix 1) must use non-reflective materials that are compatible with the natural characteristics and colours of the area (such as olive	N/A	N/A

	green, grey and dark brown).		
7.26	Applies to development on land bounded by Birdwood Road, Bellevue Avenue and Rex Road in Georges Hall.	N/A	N/A
7.27	Design and siting of car parking structures must ensure vehicles can leave the allotment in a forward direction.	Vehicles accessing the common carriageway can enter and leave in a forward direction.	Yes
7.28	Car parking must be provided behind the front building line.	Car parking located behind the front building line.	Yes
7.29	A garage with up to two car parking spaces per dwelling facing the street must ensure the garage architecturally integrates with the development and does not dominate the street facade.	Single garage provided to Unit 1 and Unit 2.	N/A
7.30 Landscaping	Development must retain and protect any significant trees on the allotment and adjoining.	Yes	Yes
7.31	Development must landscape areas in accordance with the following: <ul style="list-style-type: none"> - 45% of area between front dwellings and primary setback to be landscaped - Plant one 75L tree in the primary setback 	This development control could be imposed as a condition of consent.	Yes
Part B5 – Parking	1 space per 1 bed 1.5 spaces per 2 bed 2 spaces per 3 bed 1 visitor space per 5 dwellings	12 spaces for the multi-dwelling housing units. No visitor space provided	Yes No

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

There are no planning agreements applicable to the proposed development.

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

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

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

An assessment of the likely impacts of the proposed development as detailed in the report are such that it is not considered suitable for approval.

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

The site is considered unsuitable for the development.

Submissions [section 4.15(1)(d)]

The application was first lodged, and neighbour notified for a period of 4 days from 1 November 2017 to 14 November 2017 for the construction of seven multi-dwelling housing units. Following an initial assessment, which was undertaken by Council, the applicant was advised of a number of concerns relating to the development. Amended plans were subsequently submitted for the construction of six multi-dwelling housing units and re-notified for a further 14 days from 31 July 2018 to 13 August 2018. During the notification periods, two objections were submitted to Council. The issues raised have been grouped below for consideration:

Privacy Impacts on Adjoining Properties

The visual privacy concerns were raised with regard to the potential of windows looking directly into the private open space of adjoining properties and concern of outside light impacts. In review, the proposed window locations and terrace area of unit 6 of the development overlooks the property and a 1.8 metre boundary fence is unlikely to screen a height of a minimum of 1.5 metres above floor level of the development.

Traffic and Parking Impacts

As discussed above, the development consists of the construction of six multi-dwelling housing units. The provision of on-site car parking within the development consists of:

- Unit 1 and Unit 2 (front facing units) - Provide x1 car space in a single garage and x1 in a stacked arrangement on the vehicle crossing.
- Unit 3 to Unit 6 (front facing units) – Provide x 2 in tandem garages.

The submissions have raised concern with the current provision of on-street car parking within Hydræ Street and potential increase in traffic to the surrounding street network. Given the above, the provision of parking within the proposed development has been assessed in accordance with Part B5 – Parking of the Bankstown Development Control Plan 2015 and requires twelve car parking spaces for the multi-dwelling housing units.

The proposal however fails to provide an on-site visitor car space and therefore does not provide the required on-site car parking spaces.

In review of the street access to the site and driveway design the proposed development remains acceptable, however will require revision to accommodate the additional visitor car space.

Stormwater Management

Council's development engineers have assessed the drainage plan against the relevant provisions of the Bankstown Development Engineering Standards and Australian Standards and has found the design to be adequate.

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

The proposed development does not demonstrate the provision of an acceptable development outcome and is not considered to be in the public interest.

Recommendation

The subject proposal fails Clause 4.3(2B)(c)(ii) of the Bankstown Local Environmental Plan 2015, Clause 7.3 of Part B1 of the Bankstown Development Control Plan 2015 and the Off-street Parking Requirements Schedule of Part B5 of the Bankstown Development Control Plan 2015 and remains unsuitable for approval.

In consideration of the key constraints and characteristics of the site, it is not unreasonable to accept that nature of flood affected allotments are such that compliance with the development standards may lead to design constraints that could reduce the development yield for the site. A revised layout could reduce the elevated platforms and columns and better moderate amenity impacts to adjoining residential land.

Furthermore, it is Council's view that the variation statement has not successfully demonstrated that development has merit that sufficient environmental planning grounds exist or that strict compliance with such development standards is unreasonable or unnecessary.

ATTACHMENTS

- A. Reasons for Refusal

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-1007/2017, submitted by CK Design, accompanied by the Drawings as listed in the table below, dated 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
A1-05	Subdivision, Site and Demolition Plan	G	16-05-19	CK Design
A1-06	Block A- Plans, Elevations & Sections	G	16-05-19	CK Design
A1-07	Block B – Plans, Elevations & Sections	G	16-05-19	CK Design
A1-08	Block C – Ground Floor Plans	G	16-05-19	CK Design
A1-09	Block C – Level 1 & Roof Plan	D	28-09-18	CK Design
A1-10	Block C – Elevations & Sections	D	28-09-18	CK Design
A1-14	Schedule of Finishes	Nil	AUG 17	CK Design

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

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

- 3) The Certifying Authority must ensure that any certified plans forming part of the Construction Certificate are not inconsistent with this Development Consent and accompanying plans.
- 4) A detailed landscape plan prepared by a qualified landscape architect or designer is to be approved prior to the issue of a Construction Certificate. The landscape plan is to be prepared in accordance with the relevant DCP and is to show all features, built structures including retaining walls, irrigation, mulch and natural features such as significant gardens, landscaping, trees, natural drainage lines and rock outcrops that occur within 3 metres of the site boundary. The landscape plan shall consider any stormwater, hydraulic or overland flow design issues where relevant.
- 5) The landscape plan shall include the provision for the replacement of all boundary fencing. A new 1.8m fence is to be erected along all side and rear boundaries of the subject allotment at full cost to the developer.

The colour of the fence is to complement the development and the fence is to be constructed of lapped and capped timber paling, sheet metal or other suitable material unless the type of material is stipulated in any flood study prepared for the site. The selection of materials and colours of the fence is to be determined in consultation with the adjoining property owners. Fencing forward of the building line shall be no higher than 1m unless otherwise approved by Council.

- 6) Approval in accordance with Council's Tree Preservation Order (TPO) is granted to lop or remove only the trees identified to be lopped or removed on the approved plans. Separate approval shall be obtained to prune or remove trees on adjoining properties or other trees located on the site. Failure to comply with Council's TPO may result in a fine of up to \$100,000.
- 7) A soil erosion and sediment control plan must be prepared by a suitably qualified professional, in accordance with the Bankstown Demolition and Construction Guidelines and Council's Development Engineering Standards and submitted to the certifying authority for approval prior to the issue of a construction certificate.
- 8) The Council Approved building plans, including demolition plans, must be submitted to Sydney Water for assessment. This will determine if the proposed structure(s) would affect any Sydney Water infrastructure or if there are additional requirements. Building plan approvals can be submitted online via Sydney Water Tap in™.

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

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.

- 9) A Construction Certificate shall not be issued until written proof that all bonds, fees and/or contributions as required by this consent have been paid to the applicable authority.
- 10) A long service levy payment which is 0.35% of the total cost of the work is to be paid to the Building and Construction Industry Long Service Payments Corporation.
- 11) Pursuant to section 4.17 of the Environmental Planning and Assessment Act 1979, and the Bankstown City Council Section 94A Development Contributions Plan 2009 (Section 94A Plan) , a contribution of \$18,253.12 shall be paid to Council.

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

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

- 12) Finished surface levels of all internal works and at the street boundary, including driveways, landscaping and drainage structures, must be as shown on the approved plans. The levels at the street boundary must be consistent with the Street Boundary Alignment Levels issued by Council.
- 13) The developer must engage a suitably qualified structural Engineer to certify that the design of the dwellings and their associated foundations can withstand the impact of flood waters and floating objects passing by during a flood, and the dwellings can withstand the forces of buoyancy during a flood event.
- 14) The developer shall apply for a Work Permit and obtain approval from Council, for the following engineering works in front of the site, at the applicant's expense:
 - a) A Heavy Duty VFC of maximum width of 3.0 metres at the property boundary for villas 3, 4, 5 & 6, a Medium Duty VFC of maximum width of 5.5 metres at the property boundary for villas one and two.
 - b) Drainage connection to Council's Open Drain / Little Salt Pan Creek.
 - c) 1.2 metre wide concrete footway paving along the sites entire frontage to Hydræ Street.
 - d) Removal of all driveway surfaces, reinstatement of laybacks to kerb and gutter and reshaping of the footway, all associated with redundant VFCs.
 - e) Repair of any damage to the public road including the footway occurring during development works.
 - f) Reinstatement of the footway reserve and adjustment or relocation of existing public utility services to match the footway design levels as proposed on the approved Work Permit. Adjustment or relocation to any public utility services shall be carried out to the requirements of the public utility authority.

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

- 15) For this development, Council requires that the stormwater runoff from within the development site shall be collected and controlled by means of an on-site stormwater detention system, in accordance with Council's Development Engineering Standards. The developer shall engage a suitably qualified Engineer to prepare a final stormwater

drainage and on site detention system plan to be generally in accordance with the concept plan 01083 Revision 00, dated 26 April 2018, by S. Y. Harb Engineering, and in accordance with the requirements contained in Council's Development Engineering Standards. The plans must be amended to reflect the Approved Driveway layout. The Engineer shall certify that the design and plans comply with Council's Development Engineering Standards and the relevant Australian Standards.

- 16) Where Council approved cut or fill exceeds 200mm and stable batter of one vertical to three 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) 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.

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

CONDITIONS TO BE SATISFIED PRIOR TO CONSTRUCTION

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

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

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

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

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

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

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

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

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

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

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

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

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

soil and sand. (NOTE: If required, Council will clean the public road/footway at the applicant's expense). On the spot fines may be levied by Council against the demolisher and or owner for failure to comply with this condition.

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

CONDITIONS TO BE SATISFIED DURING CONSTRUCTION

- 31) The hours of site works shall be limited to between 7.00am and 6.00pm on weekdays and 7.00am and 1.00pm on Saturdays. No work shall be carried out on Sundays and public holidays, and weekends (Saturdays and Sundays) adjacent to public holidays.
- 32) The building work must be carried out in accordance with the requirements of the Building Code of Australia.
- 33) Prior to the ground floor slab being poured, an identification report by a Registered Surveyor must be submitted to the principal certifying authority verifying that the proposed buildings finished ground floor level and siting to the property boundaries conforms to the approved plans.
- 34) All Civil and Hydraulic engineering works on site must be carried out in accordance with Council's Development Engineering Standards. All Civil and Hydraulic engineering works associated with Council's assets and infrastructure must be carried out in accordance with Council's Work Permit requirements and to Council's satisfaction.

- 35) All excavations and backfilling must be executed safely and in accordance with the relevant Australian Standards.
- 36) If soil conditions require it, retaining walls or other approved methods of preventing movement of the soil must be provided, and adequate provisions must be made for drainage. Separate approval may be required for retaining walls should they be required.
- 37) If the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
- a. protect and support the adjoining premises from possible damage from the excavation, and
 - b. where necessary, underpin the adjoining premises to prevent any such damage.
- 38) All boundary fencing behind the building line shall be replaced by a 1.8m high lapped and capped timber or sheet metal fence, or as stipulated in a flood study prepared for the site, or as determined in consultation with the adjoining property owners at the developer's expense. Fencing forward of the building line shall be no higher than 1m unless otherwise approved by Council.
- 39) The stormwater drainage system shall be constructed in accordance with Council's Development Engineering Standards and the engineering plans and details approved by the Principal Certifying Authority (PCA). Should the developer encounter any existing, live, underground stormwater drainage pipes, which carry flow from upstream properties, the developer must maintain the stormwater flow and re-route the stormwater pipes around the subject building or structures at the developer's expense.
- 40) 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.
- 41) Development located adjacent to Council's drainage pipe and/or easements shall comply with the following:
- a) Concrete Pier and beam type footings/foundations adjacent to Council's drainage easements shall be constructed in accordance with the approved details and Council's Development Engineering Standards. The applicant/developer shall arrange for an inspection to be carried out by Council to verify depth and location of piers in relation to the pipe and easement prior to pouring of concrete.

- b) Any disturbance or damage caused to Council's drainage pipes within the site shall be repaired by Council at the applicant's expense. The applicant shall notify Council of such damage immediately after it occurs, and of any pre existing damage prior to commencement of work within the site.
- 42) Prior to the commencement of work, the builder shall prepare a photographic record of the road reserve which clearly shows its condition prior to works occurring on site. For the entirety of demolition, subdivision or construction works, there shall be no stockpiling of building spoil, materials, or storage of equipment on the public road, including the footway and the road reserve shall be maintained in a safe condition at all times. No work shall be carried out on the public road, including the footway, unless a Work Permit authorised by Council has been obtained.

CONDITIONS TO BE SATISFIED PRIOR TO OCCUPATION

- 43) The occupation or use of the building must not be commenced unless an occupation certificate has been issued for the building.
- 44) A final Occupation Certificate shall not be issued until all conditions relating to demolition, construction and site works of this development consent are satisfied and Council has issued a Work Permit Compliance Certificate.
- 45) Consolidation of the existing allotments must be registered by the office of Land and Property Information prior to the issue of an occupation certificate.
- 46) Landscaping is to be installed in accordance with the approved landscape plan. All works and methods nominated and materials and plants specified on the approved landscape plan are to be completed prior to the issue of an occupation certificate. The landscaping shall be maintained for the life of the development.
- 47) 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.
- 48) 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.
- 49) 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.

- 50) A Copy of the Work Permit Compliance Certificate shall be submitted to the PCA Prior to the issue of the Occupation Certificate.
- 51) The developer shall register, on the title of the subject property, a Restriction on the Use of Land and Positive Covenant, in accordance with the standard terms for "Registration of OSD on title", as outlined in Council's Development Engineering Standards and in accordance with the appropriate provisions of the Conveyancing Act. Where Strata Subdivision is proposed, the developer must register, on the title of the subject property, a Restriction on the Use of Land and Positive Covenant, in accordance with the standard terms for "Registration of OSD on title", as outlined in Council's Development Engineering Standards and in accordance with the appropriate provisions of the Conveyancing Act. The surveyor must show the location of the "On-Site Stormwater Detention System" on the Strata Plan of Subdivision. The developer shall submit evidence of the final registration of the Restriction and Positive Covenant on the title of the property, to Council.
- 52) The developer must create a Restriction On the Use of Land which includes the following terms:

- a) The registered proprietor of the land must not change any of the ground levels, or construct any walls, within the site boundaries, unless approved, in writing, by Bankstown City Council.*
- b) The registered proprietor of the land must not enclose the undercroft area, below the lowest habitable floor area, so as to impede the free passage of flood waters.*

The above Restriction may be created at the time of the Strata Subdivision of the land.

- 53) The developer must create a Restriction On the Use of Land which includes the following terms:
- a) "A flow path for overland stormwater runoff / floodway must not be allowed to fall into disrepair within the constructed floodway marked".
- b) "No trees or shrubs shall be planted within the constructed floodway.
- c) "Changes to approved levels and/or the construction of walls and landscaping within the constructed floodway marked is not permitted unless approved by Council".
- d) "Any fencing constructed across the floodway must not be allowed to fall into disrepair and must allow for the free passage of surface flow of stormwater to the satisfaction of Council".

Note: The location of the floodway must be shown on the Strata Plan of Subdivision.

- 54) A registered surveyor shall prepare a Work As Executed Plan, and a suitably qualified Hydraulic Engineer shall provide certification of the constructed on-site stormwater detention system.

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

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

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

- 55) The Section 73 compliance certificate under the Sydney Water Act 1994 must be submitted to the principal certifying authority before occupation of the development / release of the plan of subdivision.

PRIOR TO SUBDIVISION CERTIFICATE

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

SCHEDULE A: ADVICE TO APPLICANTS

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

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

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

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