



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

**2 August 2021 - 6.00pm**

---

## **ORDER OF BUSINESS**

---

### **ORDER OF BUSINESS**

### **APOLOGIES AND DECLARATIONS**

### **CONFIRMATION OF MINUTES OF PREVIOUS MEETING**

### **BANKSTOWN WARD**

- 1        DA-605/2019 - 44 Kitchener Parade, Bankstown**
- Demolition of existing structures and construction of a seven storey mixed use development over two basement levels of car parking with strata subdivision under the provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009 3

### **ROSELANDS WARD**

- 2        DA-783/2020 - 6-8 Kent Street, Belmore**
- Demolition of existing buildings and construction of a five storey shop top housing development comprising of 22 apartments, one commercial premise on ground floor and two levels of basement parking. 79

---

## Canterbury Bankstown Local Planning Panel - 02 August 2021

---

<b>ITEM 1</b>	<b>DA-605/2019 - 44 Kitchener Parade, Bankstown</b>
	<b>Demolition of existing structures and construction of a seven storey mixed use development over two basement levels of car parking with strata subdivision under the provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009</b>
<b>FILE</b>	<b>DA-605/2019 – Bankstown</b>
<b>ZONING</b>	<b>B4 Mixed Use</b>
<b>DATE OF LODGEMENT</b>	<b>14 August 2019</b>
<b>APPLICANT</b>	<b>Mariam Investment Pl &amp; KS Medical Group Pty Ltd</b>
<b>OWNERS</b>	<b>The Registered Proprietors of Strata Plan 3744</b>
<b>ESTIMATED VALUE</b>	<b>\$4,634,366.00</b>
<b>AUTHOR</b>	<b>Planning</b>

### REPORT

This matter is reported to Council's Local Planning Panel as the proposal is development to which *State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development* applies and is four or more storeys in height, which is listed as a development that is to be determined by the local planning panel.

Development Application No. DA-605/2019 proposes the demolition of existing structures on the site and the construction of a 7-storey mixed use development over two basement levels of car parking with strata subdivision. The development application is submitted under *State Environmental Planning Policy (Affordable Rental Housing) 2009* (AHSEPP).

DA-605/2019 has been assessed against, amongst other things, the provisions contained within *State Environmental Planning Policy (Affordable Rental Housing) 2009* (AHSEPP), *State Environmental Planning Policy No. 55 – Remediation of Land* (SEPP 55), *State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development* (SEPP 65), *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*, *Greater*

The assessment report provides for a detailed assessment of this application having regard to the standards, controls and objectives within the above planning legislation. As the report demonstrates, compliance has been achieved, in the most part, by the applicant.

There originally existed a degree of conjecture with this proposal as to whether, as the applicant stated, ‘... *the site is constrained on traffic engineering grounds*’ and hence consideration should be given to applying less stringent design controls in the basement car park. The applicant sought Council to assess the basement car park having regard to the design criteria of a B85 vehicle as opposed to a B99 vehicle.

Originally Council’s Development Engineer raised concerns in relation to the parking, access and the basement design of the development, which was considered unfunctional and failing to meet the requirements of the Australian Standards. Specifically, Council’s assessment in this regard identified concerns in the basement relating to on-site manoeuvring, access and egress from the proposed car parking spaces, a deficiency in required on-site parking and concerns relating to motorist safety. Council assessed the basement design with consideration to a B99 vehicle. Clause 2.5.2(c) of AS2890.1 requires the intersection areas (i.e. between circulation roadways, ramps and parking aisles), to be assessed using the B99 vehicle if the design is for a single way access. The only time a B85 vehicle would be used is where two way access is proposed and both B85 and B99 demonstrate a passing manoeuvre. At the time of the Council engineering assessment, a two way access was not proposed.

It was concluded, based on the plans that were reviewed by Council’s Development Engineer that the proposal fails to provide for a functional multi-level basement design for the type of development proposed, which was largely due to the fact that the site contains a width of 13.411m. The applicant believed that the site is constrained due to the remaining internal site width of 13m (given the need for 200mm wall thicknesses) could not accommodate a B99 design vehicle to execute a single swept path ‘U-turn manoeuvre’ (as it requires 13.2m).

It was Council’s view that the site is in fact not constrained as the lack of manoeuvring area (that the applicant refers to above) is only arrived at as a result of the type of development that the applicant proposes coupled with the intensity of the development. As a result, Council deemed it appropriate to engage the services of an independent traffic specialist to review Council’s assessment of the basement car park and access driveway. As part of the specialists review, regard was also given to the arguments presented by the applicant.

The traffic specialist considered the B85 design vehicle and tested it for compliance for circulation through the basement levels. It was concluded, amongst other things, that *“the use of a B85 vehicle for circulation is supported due to the application of Clause B2,2 of AS2890.1:2004, given that the development is a low generator and the site is constrained. A B99 undertaking three-point turns within the basement will not create intolerable congestion nor hazards”*.

The plans were subsequently revised during the assessment to address the finding of the traffic specialist, including providing a widened driveway access. It was finally determined by the traffic specialist that the proposed design of the driveway and overall basement design is satisfactory, and the provision of car parking for the development is acceptable demonstrating compliance with the relevant standards and controls.

The application was advertised for a period of 21 days commencing 4 September 2019 and concluding 24 September 2019. No submissions have been received.

## **POLICY IMPACT**

---

The Development Application proposes minor variations to *State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development* (SEPP 65). Support of the proposed variations would not undermine the intent of the policies and their future application. Despite the minor variations, there are no major policy implications as a result of this matter.

## **FINANCIAL IMPACT**

---

There are no direct financial impacts as a result of the subject Development Application.

## **RECOMMENDATION**

---

It is recommended that the application be approved on a deferred commencement basis, subject to the conditions as set out in Attachment B:

## **ATTACHMENTS**

---

- A. Assessment Report
- B. Conditions of Consent



## **DA-605/2019 ASSESSMENT REPORT**

### **SITE & LOCALITY DESCRIPTION**

The subject site is known as 44 Kitchener Parade, Bankstown and is legally identified as Lot 1 and 2 in SP3744. The site is a regular shaped allotment containing a site area of 490m<sup>2</sup>, a front and rear boundary width of 13.41m, and a length of 36.575m to each side boundary.

The existing structures on the site include a single storey brick building with a tile and metal roof. An existing single vehicle crossing is situated to the far north of the site. The existing use of the building is commercial in nature.

The site is situated on the western side of Kitchener Parade; 100m south of Rickard Road. The site is currently zoned 'B4 Mixed Use' pursuant to Bankstown LEP 2015 and is located within the Bankstown Central Business District, approximately 250 metres from the Bankstown Train Station. It is situated within the Northern CBD Core under the provisions of Bankstown Development Control Plan 2015 Part A1. The established character of the area is distinctly commercial with a mix of retail and office buildings.

The context of the subject site is illustrated in the aerial photo below:



Aerial of subject site highlighted in blue. Source: NearMaps 2021





Street view of subject site 44 Kitchener Parade (building to the left) and 46 Kitchener Parade (building to the right) Source: Google Street view 2019

The immediate surrounding development generally consists of commercial development to the north and east. To the west and south of the subject site is land that is currently under construction for a 14 storey mixed use development (comprising 516 residential apartments, retail tenancies, health services and child care centre) including basement car parking, known as 32 Kitchener Parade. This neighbouring site was previously occupied by the Bankstown RSL club.

The approval for the redevelopment of the former Bankstown RSL site consisted of a deep soil zone which is to be provided immediately adjoining the subject site to the south and west, in the form of a dense native garden. The species within the garden lane will include native species of Bankstown providing forested dining breakout spaces. A concept plan of the development at 32 Kitchener Parade is illustrated in the following image:





The above is a concept plan relating to the development at 32 Kitchen Parade (located to the south and west of 44 Kitchen Parade), indicating substantial landscaping that is to be provided which will immediately adjoin the southern and western boundary of the proposed development site.

## **PROPOSED DEVELOPMENT**

The development application seeks consent for the demolition of all existing structures on the site and construction of a seven-storey mixed use development comprising a two-level basement car park, two levels of commercial floor space and 14 residential apartments above; seven apartments of which are nominated as in-fill affordable units under the AHSEPP. Two of the seven in-fill affordable units are designed as adaptable units.

The specifics of the development are as follows:

Floor	Description
Basement Level 2	6 residential car parking spaces including 1 accessible space and 10 residential storage bays
Basement Level 1	4 commercial car parking spaces, 3 residential car parking spaces including 2 accessible spaces, 1 service bay and 4 residential storage bays.
Ground Floor	Lobby entry, 1 office tenancy and waste storage rooms
Level 01	2 office tenancies
Level 02	3 studio apartments + 1 x 1 bedroom apartment
Level 03	3 studio apartments + 1 x 1 bedroom apartment
Level 04	1 x 3 bedroom apartment + 1 x 2 bedroom adaptable unit
Level 05	1 x 3 bedroom apartment + 1 x 2 bedroom adaptable unit
Level 06	1 x 3 bedroom apartment + 1 x 2 bedroom apartment
Rooftop	Communal open space

The development is proposed with a nil setback to Kitchener Parade and the sites northern boundary, a 3m setback to the southern side boundary and a 6m rear setback. A vehicular crossing is proposed adjacent the sites north-eastern corner.

A photo montage of the proposed development is provided below:





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

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

#### **Statutory Considerations**

When determining a development application, the consent authority is to take into consideration the matters for consideration contained in Section 4.15(1) of the *Environmental Planning and Assessment Act, 1979*. In this regard, the following environmental planning instruments, draft environmental planning instruments, development control plans, codes and policies are relevant:

- *Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment ('Deemed SEPP')*
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*
- *State Environmental Planning Policy No. 55 – Remediation of Land*
- *State Environmental Planning Policy (Affordable Rental Housing) 2009*
- *State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development*
- *Bankstown Local Environmental Plan 2015*
- *Draft Canterbury Bankstown Consolidated Local Environmental Plan*
- *Bankstown Development Control Plan 2015*
- *Bankstown Development Engineering Standards*

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

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

The site is located within land identified as being affected by *Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment* (being a deemed SEPP from 1 July 2009). The GMREP No 2 contains a series of general and specific planning principles which are to be taken into consideration in the determination of development applications.

An assessment of the proposal indicates that the development is consistent with the general aims and objectives of the plan and there is no inconsistency with the planning principles as set out in Clause 8 of the GMREP No 2.

The proposed development is not considered to have any detrimental impacts on the catchment area of the Georges River. Furthermore the proposed development is not a listed development type under Part 3 – Planning requirements of the GREP No. 2.

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

A BASIX Certificate has been submitted in support of the development (as amended), detailing the thermal, energy and water commitments associated with the development. The proposal is consistent with the requirements of *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*.

***State Environmental Planning Policy No 55 - Remediation of Land***

The provisions of Clause 7(1) of *State Environmental Planning Policy No. 55 - Remediation of Land* specifies that a consent authority must not consent to the carrying out of any development on land unless:

- a) *it has considered whether the land is contaminated, and*
- b) *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- c) *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

The existing structures and uses on the site are of a commercial nature with no indication that contamination is, or may be, present at the site. Existing records and previous known uses on the site include health care services. The site is currently completely sealed and the subject land is not associated with any activities identified in Table 1 of the Managing Land Contamination Guidelines that may cause contamination. As such, no further investigation with regards to contamination is considered warranted for this application. The requirements of SEPP 55 are therefore considered to be satisfied in this regard.

Conditions will be provided within the consent requiring the works to immediately cease should any unexpected contaminants be uncovered during site works or in the instance works cause the generation of odours, with the requirement of a Site Audit Report and Site Audit Statement undertaken by an environmental consultant if considered necessary.

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

The provisions of the AHSEPP have been considered in the assessment of this development application. The intent of the AHSEPP is to facilitate the increased supply and diversity of affordable rental and social housing in NSW, including 'in-fill affordable housing' such as that which is proposed under the subject development application.

In the context of the AHSEPP, 'in-fill affordable rental housing' relates to development that contains a percentage of affordable dwellings as provided for in Division 1 of the AHSEPP. A total of 7 of the 14 residential units have been nominated as in-fill affordable rental housing dwellings, equating to 50% of the residential component. A total of 444.49m<sup>2</sup> of the gross floor area of the residential component is nominated as in-fill affordable rental housing, including the following unit types:

- 2 studio apartments (units 201 and 202)
- 2 x 1 bedroom apartments (units 203 and 303)
- 2 x 2 bedroom apartments (units 401 and 501)
- 1 x 3 bedroom apartment (unit 402)

The following table provides an assessment of the development against the requirements of the AHSEPP.

State Environmental Planning Policy (Affordable Rental Housing) 2009 DIVISION 1 – In-fill affordable housing			
Standard	Requirement	Proposal	Complies
<b>10. Development to which Division applies</b>	Cl.10(1)(a)&(b) The development concerned is permitted with consent under another EPI and the development is on land that does not contain a heritage item that is identified in an EPI	The proposed development is permitted with consent in the 'B4 Mixed Use' zone pursuant to BLEP 2015.  The site does not contain a heritage item pursuant to BLEP 2015.	YES
	Cl.10(1)(c) The % of the GFA of the development that is to be used for the purposes of affordable housing is at least 20%	At least 50% of the GFA of the residential component of the development is to be used for the purposes of affordable housing.  GFA of the AHSEPP component equates to 444.49m <sup>2</sup> (which is 50% of the total residential component; 874.01m <sup>2</sup> )	YES

	<p>Cl.10(1)(d)</p> <p>This Division does not apply unless all or part of the development is on land in the Greater Sydney region and is within an accessible area</p>	<p>The site is within the 'Greater Sydney region' and is within an 'accessible' area.</p> <p>The site is within 400m walking distance to Bankstown train station and bus stops used regularly between 6am and 9pm Monday to Friday, and 8am to 6pm on weekends.</p>	YES
<p><b>13. Floor space ratios</b></p> <p>NOTE 1: The max. FSR for site as per BLEP 2015 FSR map is 3:1. However, for sites within 'Area 3', for lots with a width less than 18m, an FSR of 2:1 applies. The subject site has an allotment width of 13.41m, <u>therefore max. FSR for this site is 2:1.</u></p>	<p>The max. FSR for the development to which this Division applies is the existing max. FSR for any form of residential accommodation permitted on the land on which the development is to occur (which is 2:1 as per BLEP 2015), plus 0.5:1 if the percentage of GFA of the development that is used for affordable housing is 50% or higher.</p> <p>NOTE: min. 50% of the residential component is nominated as ARH, as such cl.13(2)(a)(i) applies: therefore 0.5:1 bonus FSR is allowed; as such the total FSR permitted for this development is 2.5:1</p>	<p>GFA of development is broken down as follows:</p> <ul style="list-style-type: none"> <li>• Ground floor commercial 93.04m<sup>2</sup></li> <li>• Ground floor lobby / waste rooms 70.23m<sup>2</sup></li> <li>• Level 1 commercial 186.58m<sup>2</sup></li> <li>• Level 2 residential 167.2m<sup>2</sup></li> <li>• Level 3 residential 167.2m<sup>2</sup></li> <li>• Level 4 residential 179.87m<sup>2</sup></li> <li>• Level 5 residential 179.87m<sup>2</sup></li> <li>• Level 6 residential 179.87m<sup>2</sup></li> </ul> <p>Total GFA = 1,223.86m<sup>2</sup>  Site area = 490m<sup>2</sup>  FSR = 2.497:1 or 2.5:1</p> <p>Total GFA of the overall residential component is 874.01m<sup>2</sup>.</p>	YES



		444.49m <sup>2</sup> of the total residential GFA is nominated as affordable rental housing (i.e. 7 of the 14 units) equating to 50% of the total residential GFA.	
<b>14. Standards that cannot be used to refuse consent</b>	Cl.14(1)(b) <u>site area</u> : At least 450m <sup>2</sup> in site area	490m <sup>2</sup>	YES
	Cl.14(1)(c) <u>landscaped area</u> : At least 30% of the site area (which is 147m <sup>2</sup> of the site) is required for DA made by a non-social housing provider	Total landscaping provided is 152.30m <sup>2</sup> (31.08%)	YES
	Cl.14(1)(d) <u>deep soil zones</u> : At least 15% of the site area (which is 73.5m <sup>2</sup> of the site), with a min. 3m dimension, and 2/3 being located at rear of site is required	51.99m <sup>2</sup> (10.6% of site) of the landscaping provided as DSZ; all of DSZ located at the rear of the site with min. dimension of 3.876m	NO – however complies with ADG and is therefore considered acceptable in this instance
	Cl.14(1)(e) <u>solar access</u> : Min. 70% of dwellings (i.e. 9.8 dwellings) living areas and POS areas receive min. 3 hours direct sunlight between 9am - 3pm in mid-winter	A min. of 10 units fail to receive min. 3 hours of sunlight at mid-winter.	NO – however complies with ADG and is therefore considered acceptable in this instance
	Cl.14(2)(a) <u>parking</u> : For private scheme (non-social housing provider); min. 0.5 spaces per 1 bedroom dwelling; and min. 1 space per 2 bedroom dwelling; and 1.5 spaces per 3 bedroom dwelling.  <i>Note: no parking requirement mentioned for studio apartments</i>  Parking required for development: <ul style="list-style-type: none"> <li>• 6 x Studio's x 0 car spaces = Nil required</li> <li>• 2 x 1 bed (x 0.5 car spaces) = 1 car space required</li> <li>• 3 x 2 bed (x 1 car spaces) = 3 car spaces required</li> </ul>	Total of 13 spaces proposed within basement levels with 9 of the spaces allocated to residential units (these include 3 disabled spaces).  The remaining 4 car spaces are allocated to commercial tenancies.  One service bay is also provided in the basement car parking.	YES  *refer to separate DCP parking assessment table relating to the commercial component

	<ul style="list-style-type: none"> <li>• 3 x 3 bed (x 1.5 car spaces) = 4.5 car spaces required</li> </ul> <p>Total of 8.5 spaces (or 9) residential parking spaces required.</p>		
	<p>Cl.14(2)(b) <u>dwelling size</u>:</p> <p>Studios: min. 35m<sup>2</sup> 1 bed: min. 50m<sup>2</sup> 2 bed: min. 70m<sup>2</sup> 3 bed: min. 95m<sup>2</sup></p>	<p>6 x Studio's = min. 35m<sup>2</sup> 2 x 1 bed = min. 50m<sup>2</sup> 3 x 2 bed = min. 70m<sup>2</sup> 3 x 3 bed = min. 95m<sup>2</sup></p>	YES
<b>15. Design requirements</b>	<p>Cl.15(1) Must take into consideration Seniors Living Policy</p> <p>Cl.15(2) This clause does not apply to development to which Cl.4 of SEPP 65 applies.</p>	<p>SEPP 65 applies to this development application, Seniors Living SEPP is N/A. The matters for assessment under SEPP 65 have been considered in the assessment of this application.</p>	Refer to SEPP 65 and ADG assessment table below
<b>16. Continued application of SEPP 65</b> <i>Nothing in this Policy affects the application of SEPP 65 to any development to which this Division applies.</i>	The requirements of SEPP 65 are applicable.	The proposed development has been assessed against the applicable requirements of SEPP 65. Refer to SEPP 65 assessment below.	Refer to SEPP 65 and ADG assessment table below
<b>16A. Character of local area</b>	Consent must not be granted unless it has taken into consideration whether the design of the development is compatible with the character of the local area	The development incorporates a built form and contemporary design that is compatible with the surrounding area, the future vision of the area, and the B4 Mixed Use zone.	YES
<b>17. Must be used for affordable housing for 10 years</b>	The affordable rental housing component is to be secured for a minimum of 10 years and managed by a registered Community Housing Provider (CHP).	A total of 7 units, of the 14 proposed, are nominated as in-fill housing under the AHSEPP. The applicant has submitted evidence	YES – subject to condition of consent

		of an agreement with a registered CHP.	
<b>18 Subdivision</b>	Subdivision may be carried out with the consent of the consent authority.	Subdivision is proposed under this development application.	YES

As the above table indicates, the application fails to adequately meet the following requirements of the AHSEPP:

- Cl.14(1)(d) Deep Soil Zone (DSZ):

A minimum of 15% of the site area (being 73.5m<sup>2</sup> of the site) must be provided as DSZ, with a minimum dimension of 3m, and a minimum of two-thirds to be located at the rear of the site. The development proposes the DSZ for the development entirely at the rear of the site with a minimum dimension of 3m, however, only equates to 10.6% of the site (being a total of 51.99m<sup>2</sup>).

Clause 16 of the AHSEPP states that nothing in the Policy affects the application of SEPP 65, meaning that the ADG requirements are applicable for this development. Although the application fails to meet the AHSEPP requirements for DSZ, the development meets the minimum requirements under the ADG and is therefore considered acceptable in this instance. Refer to the ADG assessment table below.

- Cl.14(1)(e) solar access:

A minimum 70% of apartments (10 of the 14) are required to receive at least 3 hours of sunlight between 9am and 3pm. The application fails to meet these solar access requirements as less than 3 hours of direct sunlight is received to a minimum of 10 units. The north facing fire rated windows cannot be relied upon to receive sufficient solar access.

Clause 16 of the AHSEPP states that nothing in the Policy affects the application of SEPP 65, meaning that the ADG requirements are applicable for this development. Although the application fails to meet the AHSEPP requirements for solar access, the development meets the minimum requirements under the ADG, (requiring a minimum 2 hours of sunlight to living area and private open space to 70% of the units) and is therefore considered acceptable in this instance. Refer to the ADG assessment table below.

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

*State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development* (SEPP 65) aims to improve the design quality of residential flat buildings and provides an assessment framework - the 'Apartment Design Guide' (ADG) for the assessment of applications under which this is considered.

Clause 50(1A) of the EP&A Regulation 2000 requires the submission of a statement from a qualified designer at lodgement of the development application. This document has been submitted with the lodgement of the development application by the applicant, demonstrating that the design quality principles contained in SEPP 65 and objectives of ADG have been achieved.

### Apartment Design Guide

The proposal has been considered against the various provisions of the ADG in accordance with Clause 28 (2) (c) of SEPP 65. The following table is an assessment against the relevant ADG requirements:

ADG 'DESIGN CRITERIA'	Proposed	Complies
<b>2G – Street Setbacks</b>  In a centre, the street setback or building line may be set at the property boundary defining the street corridor with a continuous built edge. It is appropriate for mixed use buildings to have a zero street setback	The development site is subject to the setback requirements under Part A1 of BDCP 2015 (Centres) which requires a min. nil setback to the street boundary.  Nil setback to the street is proposed.	YES
<b>2H – Side &amp; Rear Setbacks</b>  Setbacks vary according to the building's context.  Dense urban areas to consider zero side setbacks where the desired character is for a continuous street wall.	6m rear setback.  Nil setback to northern side boundary.  3m setback to the southern side boundary – as recommended by Council's Urban Design team.	YES
<b>3B – Overshadowing of neighbouring properties</b>  <u>Design Guidance:</u> <ul style="list-style-type: none"> <li>Solar access to living rooms, balconies and private open spaces of neighbours should be considered</li> </ul>	There are no residential developments to the north and east of the site, only commercial uses and developments.  The neighbouring property to the south and west of the subject site is the former Bankstown RSL site, known as 32 Kitchener Parade, which is currently under construction for a high rise mixed-use development (commercial/residential). A large landscape area and deep soil zone is approved as part of the development at 32 Kitchener Parade, which is to be situated immediately adjoining the southern and western side boundaries of the subject site.	YES

	<p>There is some overshadowing cast onto the north facing residential units situated on Levels 2, 3 and 4 of 32 Kitchener Parade. In particular, units 5.0203 and 5.0204 are overshadowed by the proposed development and would receive less than 2 hours of sunlight at mid-winter.</p> <p>The LPP report for the development application relating to 32 Kitchener Parade confirms that over 80% of the units would receive the required 2 hours so even if these above-mentioned units are taken out of that calculation, the development would remain compliant with the minimum 70% requirement.</p>	
<p><b>3C – 1 Transition / Public Domain Interface</b></p> <p><u>Design Guidance:</u></p> <ul style="list-style-type: none"> <li>• Direct street entry (terraces, balconies, courtyards) where appropriate</li> <li>• Changes in levels from street to private courtyards – improve surveillance and visual privacy</li> <li>• Upper level balconies and windows should overlook the public domain</li> <li>• Solid walls should be limited along street frontages.</li> <li>• Solid fences max 1m.</li> <li>• Opportunities should be provided for casual interaction between residents and the public domain – seating at entries, near letter boxes and private courtyard adjacent to streets</li> <li>• Multiple entries should be differentiated using architectural detailing, changes in materials, plants species and colour and there should be limited areas for people to be concealed</li> </ul>	<ul style="list-style-type: none"> <li>• No courtyards provided along the street. Commercial floor space only on ground and first level.</li> <li>• Upper level balconies and windows overlook the street.</li> <li>• No front fences are proposed.</li> <li>• No casual interaction opportunities provided.</li> <li>• No multiple entries proposed.</li> </ul>	YES
<p><b>3C – 2 Amenity of public domain</b></p> <p><u>Design Guidance:</u></p> <ul style="list-style-type: none"> <li>• Minimise visual prominence of underground carpark</li> </ul>	<p>There is no visual prominence of the basement car park, it is completely below ground level and not visible from the street.</p>	YES

<ul style="list-style-type: none"> <li>• Substations, pump rooms, garbage areas etc. to be in basement or out of view.</li> <li>• Ramping for accessibility should be minimised by building entry location and setting ground floor levels in relation to footpath levels.</li> </ul>	<p>No details were submitted with regards to the location of the substation. In response, Council sought confirmation as to whether a substation is required given the limited width of the site. The applicant subsequently provided correspondence from Ausgrid confirming that a substation is not required. A condition of consent is recommended to be imposed requiring the submission of a Section 4.55 modification application should a substation be required to be provided in association with this development.</p> <p>Other service rooms/areas such as a hydrant booster are shown to be located away on the plans and are situated in front of the commercial shopfront which is not ideal.</p> <p>Waste rooms are not visible from the public domain.</p> <p>With regard to the ground floor levels in relation to footpath levels, the footpath level at the commercial entry on Kitchener Parade is between RL28.52-RL28.56, and the ground floor commercial floor space at the front of the building is RL28.70. The rear commercial floor level is RL29.00. There is no substantial changes in levels between the footpath and ground floor tenancies.</p>	
<p><b>3D-1 Communal open space (COS)</b></p> <p><u>Design Criteria:</u> 25% of the site area is to be communal open space, and 50% of the COS must receive at least 2 hours direct sunlight between 9am-3pm on 21 June.</p> <p><u>Design Guidance:</u></p> <ul style="list-style-type: none"> <li>• Minimum dimension 3m</li> <li>• Co-located with deep soil zones</li> <li>• Direct access to communal area from entries, lobbies &amp; circulation areas.</li> </ul>	<p><u>Required:</u> 25% of 490m<sup>2</sup> site area = 122.5m<sup>2</sup> min. COS required for this development.</p> <p><u>Proposed:</u></p> <ul style="list-style-type: none"> <li>• A total of 209.87m<sup>2</sup> of COS is proposed on the roof top which receives full access to sunlight.</li> <li>• Total COS area equates to 42.83% of the site.</li> <li>• Min. 3m dimension for COS is provided.</li> <li>• COS cannot be provided on ground level, therefore is provided at roof level.</li> </ul>	YES



<ul style="list-style-type: none"> <li>• Where communal open space cannot be provided at ground level, provide at podium or roof</li> <li>• Where unable to achieve design criteria (small lots, business zones, dense urban areas) should:             <ul style="list-style-type: none"> <li>○ provide COS elsewhere (landscape roof top, terrace or common room), provide larger balconies or</li> <li>○ provide larger balconies/POS</li> <li>○ demonstrate good proximity to public open space and facilities</li> </ul> </li> <li>• Facilities are provided within communal open spaces and common spaces for a range of age groups and can incorporate seating, BBQ areas, play equipment/areas, swimming pools, gyms, tennis courts or common rooms</li> <li>• Communal open space is to be visible from habitable rooms and private open spaces while maintaining privacy, bay windows, corner windows or balconies.</li> <li>• Safe - fenced/contained for young children.</li> <li>• Connect to public street along one edge and clear boundaries between public and private open space.</li> </ul>	<ul style="list-style-type: none"> <li>• COS is not co-located with the DSZ however has a connection with landscaping that surrounds the perimeter of the COS area.</li> <li>• Direct access to COS is provided via a stairwell and lifts. Provision is made for facilities i.e. seating, BBQ facilities, landscaping.</li> <li>• The COS is not connected to the public street as it is located on the rooftop. As such, is unable to be visible from habitable rooms and POS areas, however roof top COS is permitted.</li> </ul>	
<p><b>3E – 1 Deep Soil Zones</b></p> <p>Minimum dimensions:</p> <ul style="list-style-type: none"> <li>• Less than 650m<sup>2</sup>: nil</li> <li>• 650m<sup>2</sup>-1,500m<sup>2</sup>: 3m</li> <li>• &gt; 1,500m<sup>2</sup>: 6m</li> </ul> <p>Achieving the design criteria may not be possible on some sites including where:</p> <ul style="list-style-type: none"> <li>• The location and building typology have limited or no space for deep soil at ground level (e.g. central business district, constrained sites, high density areas, or in centres).</li> </ul>	<p>7% of 490m<sup>2</sup> = 34.3m<sup>2</sup></p> <p><u>Nil</u> dimensions apply</p> <p>DSZ located at rear of building at the western end of the site, proposing a total area of 51.99m<sup>2</sup> equating to 10.6% of the site.</p>	YES

<ul style="list-style-type: none"> <li>There is 100% site coverage or non-residential uses at ground floor level.</li> </ul> <p>Where a proposal does not achieve deep soil requirements, acceptable stormwater management should be achieved, and alternative forms of planting provided such as on structure.</p>														
<p><b>3F – 1 Visual Privacy (Building separation)</b></p> <p>Minimum required separation distances from buildings to the side and rear boundaries are as follows:</p> <table border="1" data-bbox="188 869 659 1301"> <thead> <tr> <th>Building height</th><th>Habitable rooms &amp; balconies</th><th>Non-habitable rooms</th></tr> </thead> <tbody> <tr> <td>Up to 12m (4 storeys)</td><td>6m</td><td>3m</td></tr> <tr> <td>Up to 25m (5-8 storeys)</td><td>9m</td><td>4.5m</td></tr> <tr> <td>Over 25m (9+ storeys)</td><td>12m</td><td>6m</td></tr> </tbody> </table> <p>Note: Separation distances between buildings on the same site should be combined required building separations depending on the type of room.</p> <p>Apartment buildings should have an increase separation distance of 3m (in addition to the requirements in the table) when adjacent to a different zone that permits a lower density residential development to provide for a transition in scale and increased landscaping.</p>	Building height	Habitable rooms & balconies	Non-habitable rooms	Up to 12m (4 storeys)	6m	3m	Up to 25m (5-8 storeys)	9m	4.5m	Over 25m (9+ storeys)	12m	6m	<p>The existing development adjoining the site to the north is a commercial single storey building.</p> <p>The property to the south and west of the subject site (32 Kitchener Parade, which is the former Bankstown RSL site) has recently been approved for multi storey mixed-use development, which is situated a distance greater than 9m from the site. This development is currently under construction.</p> <p>Habitable levels: 6m setback to west boundary, development at 32 Kitchener Parade is setback at least 3m from boundary shared with subject development site, equating to min. 9m setback.</p> <p>Nil setback to northern wall is acceptable. Along with the neighbouring properties to the north providing a nil setback, this will provide a street wall presentation which is consistent with the scale of the development at 32 Kitchener Parade.</p>	YES
Building height	Habitable rooms & balconies	Non-habitable rooms												
Up to 12m (4 storeys)	6m	3m												
Up to 25m (5-8 storeys)	9m	4.5m												
Over 25m (9+ storeys)	12m	6m												
<p><b>3G – 1 &amp; 2 Pedestrian access and entries</b></p> <ul style="list-style-type: none"> <li>Multiple entries should be provided to activate the street frontage. Entry locations relate to the street.</li> </ul>	<p>The building entry is identifiable. There is one communal entry to the south of the site which is visible from the public domain.</p>	YES												

<ul style="list-style-type: none"> <li>Building entries should be clearly identifiable and communal entries should be clearly distinguishable from private entries. Access, entries, and pathways are accessible and easy to identify. Building access areas including lift lobbies, stairwells and hallways should be clearly visible from the public domain and communal spaces.</li> <li>The design of the ground floors and underground car parks minimise level changes along pathways along pathways and entries.</li> </ul>	<p>Multiple entries are not possible due to the width of the development site which doesn't allow opportunity for multiple entry points.</p> <p>Level changes between ground floor and underground car park are acceptable.</p>	
<p><b>3H – Vehicle access</b></p> <p>Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and creates high quality streetscapes.</p>	<p>Council's vehicular policy (standard drawing S004) requires a 2m setback for a driveway associated with a residential flat building.</p> <p>The driveway has a 2m setback to the northern boundary (adjacent the front property boundary) which meets the minimum setback requirements. The proposed development also demonstrates that sight triangles for pedestrian safety at the driveway exits comply with AS2890.1:2004 – Fig 3.3.</p>	YES
<p><b>3J-1 Car Parking</b></p> <p>Minimum car parking requirement must be provided on site.</p> <p>For development in the following locations:</p> <ul style="list-style-type: none"> <li>on sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan Area; or</li> <li>on land zoned, and sites within 400 metres of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre, the minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating.</li> </ul>	<p>13 car parking spaces are proposed in the basement over two levels; this includes 3 accessible residential spaces. 9 of the car parking spaces are allocated to residential apartments and 4 of the spaces are allocated to the commercial component. In addition, one service bay is proposed.</p> <p>7 of the 14 units are proposed as in-fill units under the AHSEPP. The AHSEPP controls apply to <u>all</u> of the residential component; there is no split assessment – refer to AHSEPP assessment table above.</p> <p>Note: the development does not provide car parking spaces for the studio apartments, rather parking is only provided for the 1, 2 and 3 bedroom apartments. The AHSEPP does not specify a parking requirement for studio apartments. As such, no</p>	<p>YES – as per AHSEPP provisions which prevails over this Policy</p> <p>*Refer to AHSEPP assessment table above for the parking assessment against the requirements of the AHSEPP</p> <p>*Refer to parking assessment further below in this report for the parking assessment of the commercial component as required under Part B5 of the BDCP</p>

Developments, or the car parking requirement prescribed by the relevant council, <u>whichever is less.</u>	parking is required for the studio apartments in accordance with the ASHEPP.  The section immediately below is a parking assessment of the residential component against the RMS Guide to Traffic Generating Developments and the parking controls contained within Part B5 of BDCP, as required of this Policy.	
<b>RMS Traffic Guide (medium density / RFB):</b>  <i>The recommended minimum number of off-street, resident parking spaces is 1 space <u>for each unit</u>, plus an additional 1 space per each 5 x 2 bedroom unit or part thereof. Also, an additional 1 space per each 2 x 3 or more bedroom unit or part thereof is recommended.</i>  <i>An additional one space per each five units for visitor parking or part thereof is recommended.</i> (14 units x 1cs each = 14cs) + (1cs x [3x2] bed units = 1cs) + (2cs x [3x3] bed units = 2cs) + (3 visitor spaces) = 20 residential car parking spaces are required under RMS Traffic Guide.  While a minimum of 20 residential spaces are required under the RMS Traffic Guide, 9 residential spaces have been provided for the development.		
<b>BDCP Part B5 – Parking</b>		
<b>Residential flat buildings</b>	<b>In Zone R4, Zone B1, Zone B2 and Zone B6</b> 1 car space per 1 bedroom dwelling; or 1.2 car spaces per 2 bedroom dwelling; or 1.5 car spaces per 3 or more bedroom dwelling; and 1 visitor car space per 5 dwellings.  <b>In Zone B4</b> A minimum of 1 car space and a maximum of 3 car spaces per dwelling; and 1 visitor car space per 5 dwellings.  <b>Note 1:</b> Residential flat buildings on state and regional roads with over 10,000 vehicles per day should provide an additional space on site for a furniture truck.  <b>Note 2:</b> All car spaces must be located behind the front building line. Residential flat buildings are required to provide car spaces for people with disabilities depending on the size of the development.  <b>Note 3:</b> Service and delivery vehicles can use visitor space.	
As per the parking table above, 1 car space per dwelling + 1 visitor per 5 dwellings is required: 14 spaces + 2.8 visitor spaces = 16.8 (or 17) spaces required under Part B5 of the BDCP.		



While a minimum of 17 residential spaces are required under the BDCP control, 9 residential spaces have been provided for the development.

The above parking assessment indicates that a total of 20 residential parking spaces are required under the RMS Traffic Guide and 17 residential spaces are required under the BDCP 2015. The ADG requires that the subject development be provided with car parking which has the lesser rate. In the absence of the AHSEPP, the lesser amount is the requirements prescribed under Part B5 of the BDCP, being 17 spaces. The development fails to provide the minimum required number of parking spaces in accordance with the ADG, however, the development does provide the minimum required parking in accordance with the AHSEPP.

Under the AHSEPP (as indicated in the AHSEPP assessment table contained in this report), a total of 9 residential car parking spaces are required for the residential component. In accordance with the provisions of the AHSEPP, *“if there is an inconsistency between the AHSEPP and any other environmental planning instrument, whether made before or after the commencement of the Policy, the AHSEPP prevails to the extent of the inconsistency”*.

As such, the AHSEPP controls prevail over the requirements of any other policy, including the ADG. Therefore the 9 residential car parking spaces proposed for the residential component of the development is considered to be satisfactory in the event that it meets the requirements of the AHSEPP.

<p><b>4A – 1 Solar access</b></p> <ul style="list-style-type: none"> <li>Living rooms and private open spaces of at least 70% of units receive min. 2hrs solar access between 9am – 3pm at midwinter.</li> <li>A maximum 15% of apartments receive no direct sunlight between 9am and 3pm midwinter</li> </ul>	<p>70% of 14 apartments is 9.8, therefore at least 10 units (71.4%) must receive min. 2 hours access to sunlight between 9am and 3pm at mid-winter.</p> <p>All west facing units (7 in total) receive min. of 2 hours of sunlight to the west facing living rooms and POS areas.</p> <p>All east facing 2 bed units (3 in total) receive 2 hours of sunlight between 9am up until 11am.</p> <p>A total of 10 units receive the minimum solar requirements.</p> <p>15% of 14 apartments is 2, therefore a maximum of 2 apartments are permitted to receive no direct sunlight between 9am and 3pm. Studio units 202 and 302 receive no direct sunlight. Studio units 201 and 301 receive sunlight however it is quite limited.</p>	<p>YES</p>
<p><b>4B – 3 Natural cross-ventilation</b></p> <ul style="list-style-type: none"> <li>60% of units to be naturally cross-ventilated.</li> <li>Overall depth max. 18m for cross-over or cross-through</li> </ul>	<p>Plans indicate that 100% of units are cross ventilated.</p> <p>No units exceed 18m in depth.</p> <p>Cross-ventilation plans have confirmed this.</p>	<p>YES</p>

<p><b>4C-1 Ceiling heights</b></p> <p>Minimum ceiling heights are as follows:</p> <ul style="list-style-type: none"> <li>• Min. 2.7m for habitable rooms. If variation is sought then satisfactory daylight access must be demonstrated.</li> <li>• For mixed use areas, min. ceiling height 3.3m</li> </ul>	<p>Ground floor (commercial) 3.3m First floor (commercial) 3.3m Levels 2 to 6 (residential) 2.7m</p>	YES
<p><b>4D – 1 Unit size</b></p> <p>Minimum internal areas are as follows:</p> <ul style="list-style-type: none"> <li>• Studio – 35m<sup>2</sup></li> <li>• 1 bed – min. 50m<sup>2</sup></li> <li>• 2 bed – min. 70m<sup>2</sup></li> <li>• 3 bed – min. 90m<sup>2</sup></li> </ul> <p>*the min. areas above include only 1 bathroom; additional bathrooms increase the internal area by 5m<sup>2</sup></p> <p>Every habitable room must have a window in an external wall with total min. glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.</p> <p>A window should be visible from any point in a habitable room.</p>	<p>6 x Studio = min. 35m<sup>2</sup> 2 x 1 bed = min. 50m<sup>2</sup> 3 x 2 bed (2 bathrooms) = min. 75m<sup>2</sup> 3 x 3 bed (2 bathrooms) = min. 95m<sup>2</sup></p> <p>All habitable rooms within units have a window to an external wall</p>	YES
<p><b>4D – 2 Apartment design</b></p> <ul style="list-style-type: none"> <li>• Habitable room depths are limited to max. of 2.5m x ceiling height</li> <li>• In open plan layouts (where living, dining &amp; kitchen are combined), max. habitable room depth is 8m from a window</li> </ul> <p><i>Habitable room: a room used for normal domestic activities, and includes a bedroom, living room, lounge room, music room, television room, kitchen, dining room, sewing room, study, playroom, family room and sunroom; but excludes a bathroom, laundry, water closet, pantry, walk-in wardrobe, corridor, hallway, lobby, photographic darkroom, clothes-drying room, and other spaces of a specialised nature</i></p>	<p><u>Habitable Room Depth</u> 2.5m x 2.7m (ceiling height) = 6.75m</p> <p>Habitable rooms of apartments that do not have open plan layouts (Units 203 and 303) have a max. room depth of 6.75m from a window</p> <p><u>Open Plan Layout Depths</u> Units with open plan layouts (other than Units 203 and 303) have a max. room depth of 8m from a window</p>	YES



<i>occupied neither frequently nor for extended periods, as defined by the BCA</i>		
<p><b>4D – 3 Apartment layouts</b></p> <ul style="list-style-type: none"> <li>• Master Bedrooms: 10m<sup>2</sup> min, and</li> <li>• Other bedrooms: 9m<sup>2</sup> min (excl. wardrobe space)</li> <li>• Bedrooms min. dimension of 3m (excl. wardrobe space)</li> <li>• Living Rooms at least 4m wide for 2 &amp; 3 bed apartments</li> <li>• Living Rooms min. width of 3.6m for studio and 1 bedroom apartments &amp; studios, and 4m for 2 and 3 bedroom apartments</li> <li>• Width is at least 4m internally for cross-over and cross-through apartments</li> </ul> <p><b>Design Guidance:</b></p> <ul style="list-style-type: none"> <li>• Access to bedrooms, bathrooms and laundries separated from living areas</li> <li>• All bedrooms allow min. 1.5m length of robes</li> <li>• Studios and main bedrooms to apartments to provide min. 1.8m length x 0.6 deep x 2.1m high for wardrobe</li> </ul>	<ul style="list-style-type: none"> <li>• All master beds min. 10m<sup>2</sup> excl. wardrobe space</li> <li>• All other bedrooms of units have min. 9m<sup>2</sup> excluding wardrobe space</li> <li>• All bedrooms have min. 3m dimension</li> <li>• All living areas for studio &amp; 1 bed units have min. 3.6m</li> <li>• All living areas for 2 &amp; 3 bed units have min. 4m width requirement; *aside from the two adaptable units 401 and 501 which have a min. width of 3.826m (shortfall of 174mm) due to the adaptable design requirements</li> <li>• No cross-over or cross-through apartments</li> <li>• All wardrobes comply with the min. 1.8m length requirement *aside from Unit 203 and 303 (which are the 1 bedroom units) as a wardrobe length of 1.5m is proposed in order to meet the min. 3m dimension requirement.</li> </ul>	NO – see comments below
<p><b>4E – 1 Private Open Space</b></p> <p>Primary balconies are as follows:</p> <ul style="list-style-type: none"> <li>• Studio: min. 4m<sup>2</sup></li> <li>• 1 bed: min. 8m<sup>2</sup>, 2m depth</li> <li>• 2 bed: min. 10m<sup>2</sup>, 2m depth</li> <li>• 3+ beds: min. 12m<sup>2</sup>, 2.4m depth</li> <li>• Ground level units, POS provided instead of balcony: min 15m<sup>2</sup>, 3m depth</li> </ul> <p>The minimum balcony depth to be counted as contributing to the balcony area is 1m</p>	<ul style="list-style-type: none"> <li>• Studio units have min. 4m<sup>2</sup> POS</li> <li>• 1 bed units have min. 8m<sup>2</sup> in total with a min. depth of 2m, however a portion of the POS areas for units 203 and 303 have a depth of 1.1m which meets the design criteria, requiring that the contributing balcony area be min. 1m in width</li> <li>• 2 bed units have min. 10m<sup>2</sup> with min. 2m depth</li> <li>• 3 bed units have min. 12m<sup>2</sup> with min. 2.4m depth</li> <li>• No ground level units proposed</li> </ul>	YES
<p><b>4E – 2 Private Open Space Design</b></p>	<ul style="list-style-type: none"> <li>• All POS areas are located off living spaces</li> <li>• All POS areas face either east or west</li> </ul>	YES

<ul style="list-style-type: none"> <li>• POS &amp; balconies located adjacent to living room, dining room or kitchen to extend living space</li> <li>• POS predominantly face north, east or west</li> <li>• Orientated with longer side facing outwards to be open to sky to optimise daylight access into adjacent rooms</li> </ul>	<ul style="list-style-type: none"> <li>• Longer sides of balconies face outward</li> </ul>	
<b>4F – 1 Internal circulation</b> <ul style="list-style-type: none"> <li>• Max. 8 units accessed from a single corridor</li> <li>• For buildings with 10 or more storeys, max. number apartments sharing a single lift is 40</li> </ul>	Either two or four apartments are provided on each level, therefore less than 8 is accessed from a single corridor	YES
<b>4G – 1 Storage</b> <ul style="list-style-type: none"> <li>• Studio: 4m<sup>3</sup></li> <li>• 1 beds: 6m<sup>3</sup>,</li> <li>• 2 beds: 8m<sup>3</sup>,</li> <li>• 3 beds: 10m<sup>3</sup></li> </ul> <p>At least half to be provided within the unit</p>	<p>In total, all units are provided with the min. required storage for the size of the unit, however not all provide at least half of the required storage space within the units, these include units 401 and 501 which provide 3.91m<sup>3</sup> in the unit – condition to require all units to provide correct amount of storage within the unit in accordance with ADG storage requirements.</p> <p>14 storage cells are provided in the basement levels as follows:  3.28m<sup>3</sup> x 4 (basement level 01)  5.05m<sup>3</sup> x 3 (basement level 02)  4.51m<sup>3</sup> x 7 (basement level 02)</p>	YES – condition to comply
<b>4H – Acoustic privacy</b> <p>Acoustic privacy is about protecting sound transmission between external and internal spaces, between apartments and communal areas and between apartments within a building</p>	An acoustic report has been prepared for this application, prepared by Acoustic Consulting Engineers dated 31/07/2019 and has been found to be acceptable.	YES
<b>4K – Apartment mix</b> <p>A mix of apartment choice provides housing choice and supports equitable housing access</p>	The development provides for an appropriate level of housing choice in accordance with the ADG. That is, the development provides for studios, 1 bedroom, 2 bedroom and 3 bedroom apartments, and two of the units which are adaptable.	YES
<b>4M – Facades</b>	Council's Urban Design team have assessed the proposed façade design and presentation of the development.	YES

The design of facade contributes greatly to the visual interest of the building and the character of the local area. Facades that face the street have an impact on the public domain, while side and rear facades often influence the amenity of neighbouring buildings and communal and private open spaces. Building entries are to be well defined.	The revised submission is deemed acceptable from a design perspective.	
<b>4N – Roof design</b> <ul style="list-style-type: none"> <li>Roof design relates to the street. Design features may include: <ul style="list-style-type: none"> <li>- Special roof features and strong corners</li> <li>- Use of skillion or very low pitch hipped roofs</li> <li>- Breaking down the massing of the roof by using smaller elements to avoid bulk</li> <li>- Using materials or a pitched form complementary to adjacent buildings.</li> </ul> </li> <li>Roof treatments are integrated into the building design and positively respond to the street</li> <li>Opportunities to use roof space for residential accommodation and open space are maximised</li> <li>Roof design incorporates sustainability features</li> </ul>	Council's Urban Design team have assessed the proposed roof design of the development. The proposal is deemed acceptable from a design perspective in this regard.	YES
<b>4O – Landscaping</b>  Sites up to 850m <sup>2</sup> to have 1 medium tree per 50m <sup>2</sup> deep soil zone	51.99m <sup>2</sup> of DSZ proposed to the rear of the building. One tree would be required; the proposal indicates the planting of three trees in the DSZ.	YES
<b>4P – Planting on structures</b>  Planting on structures can provide amenity, improve air quality and microclimate and reduces direct energy use and stormwater runoff. It can also supplement deep soil planting on site where opportunities for this area limited or restricted, e.g. in high density areas.	The proposed development incorporates landscaping within the communal open space area on the roof level. The landscaping proposed is consistent with the design guidance for planting on structures.	YES
<b>4T – Awnings and signage</b>	The proposal incorporates an awning along the front façade of the building.	YES

<ul style="list-style-type: none"> <li>• Awnings should be provided along street with high pedestrian activity and active street frontages.</li> <li>• Signage to respond to the context and desired streetscape character.</li> </ul>	There is no signage proposed as part of the development application.	
<b>4U – Energy efficiency</b> <ul style="list-style-type: none"> <li>• The development incorporates passive environmental design.</li> <li>• Development incorporates passive solar design to optimise heat storage in winter and reduce heat transfer in summer</li> <li>• Adequate natural ventilation minimises the need for mechanical ventilation</li> </ul>	<p>The development application includes a revised BASIX certificate for the latest revised submission.</p> <p>The application adequately meets the objectives that relate to energy efficiency.</p>	YES
<b>4V – Water management and conservation</b> <ul style="list-style-type: none"> <li>• Potable water use is minimised</li> <li>• Urban stormwater is treated on site before being discharged to receiving waters.</li> <li>• Flood management systems are integrated into the site design.</li> </ul>	<p>The development application includes a revised BASIX certificate for the latest revised submission.</p> <p>The application adequately meets the objectives that relate to water management and conservation.</p>	YES
<b>4W – Waste</b> <ul style="list-style-type: none"> <li>• Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents.</li> <li>• Domestic waste is minimised by providing safe and convenient separation and recycling.</li> </ul>	<p>Council's waste team have assessed the proposal against the requirements of Council's Waste Management Guide for New Developments and BDCP 2015 – Part B13 <i>Waste Management and Minimisation</i>. The proposed waste design is considered satisfactory, subject to conditions.</p>	YES

As identified in the above table, the proposed development is consistent with the objectives and numerical controls of the ADG, with the exception of the following:

- **4D – 3 Apartment size layouts – living areas:**  
The ADG requires all living areas of 2 and 3 bedroom units to have a minimum width of 4m. All units meet this requirement aside from the two adaptable units (401 and 501) which have living area dimensions of 4.8m x 3.826m, therefore failing the control by 174mm.

These apartments are designed as adaptable units requiring the bathrooms to be of a size such that it can meet the adaptable design requirements of AS4299. The main bathrooms in these apartments are therefore larger in area compared to that typically provided within a standard unit. A 4m width for the living areas is achievable if the units were designed as standard units as opposed to adaptable units.

In this instance, a larger bathroom area results in a living space for the units that fall short of the 4m minimum requirement (when measured north – south). However, the length of the internal living space when measured east – west is in excess of 4m; being 4.8m in length. The shortfall is considered minor and not of an extent that would compromise the internal amenity of the units or have an impact on the functionality of the internal living spaces.

The applicant has provided certification from an access consultant stating that the design of units 401 and 501 can achieve pre and post adaptation compliance required for adaptable unit requirements under AS4299. As such, the deficient width will not impact on how a person would move around the apartment. The report further recommends that confirmation of compliance be provided by an appropriately qualified access consultant prior to the issue of a Construction Certificate. The development consent will be conditioned accordingly in this regard.

- **4D – 3 Apartment size layouts – wardrobes:**

The ADG requires bedrooms to have a minimum 3m dimension excluding wardrobe space, with all main bedrooms to have wardrobes with a minimum length of 1.8m. All units comply with these requirements aside from the one bedroom units (203 and 303) as a wardrobe length of 1.5m is proposed. Due to the layout of the rooms, a compliant wardrobe length would result in a room dimension that is less than 3m.

The bedrooms are generous in size containing an area greater than the minimum required of 10m<sup>2</sup> (excluding the wardrobe space), providing an internal space of 14.44m<sup>2</sup> for unit 203 and 14.33m<sup>2</sup> for unit 303. Therefore a deficient wardrobe length in this instance is not considered detrimental to the functionality of the bedrooms. The shortfall is minor and the intent of the control is considered to be met.

On the basis that the internal amenity of the bedrooms would not be compromised despite the deficient wardrobe length, it is considered that the variation should be supported.

### ***Bankstown Local Environmental Plan 2015 (BLEP 2015)***

The development application has been assessed against the relevant provisions of the *Bankstown Local Environmental Plan 2015*. The following specific clauses of the *Bankstown Local Environmental Plan 2015* were considered in the assessment of the development application:

Clause 1.2 – Aims of Plan

Clause 2.1 – Land use zones

Clause 2.2 – Zoning of land to which Plan applies

Clause 2.3 – Zone objectives and Land Use Table

Clause 2.7 – Demolition requires development consent

Clause 4.3 – Height of buildings

Clause 4.4 – Floor space ratio

Clause 4.4A – Additional gross floor area for more sustainable development in Bankstown CBD commercial core

Clause 4.5 – Calculation of floor space ratio and site area

Clause 5.6 – Architectural roof features

Clause 5.10 – Heritage conservation

Clause 6.1 – Acid sulfate soils

Clause 6.2 – Earthworks

Clause 6.3 – Flood planning

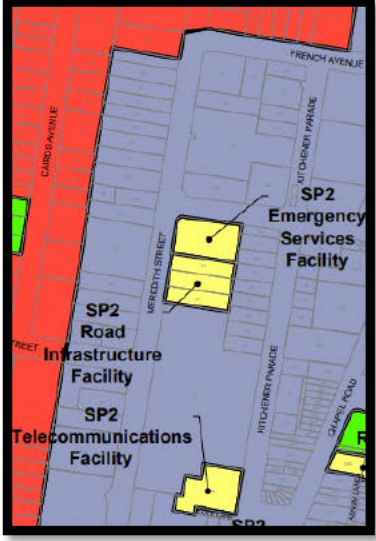
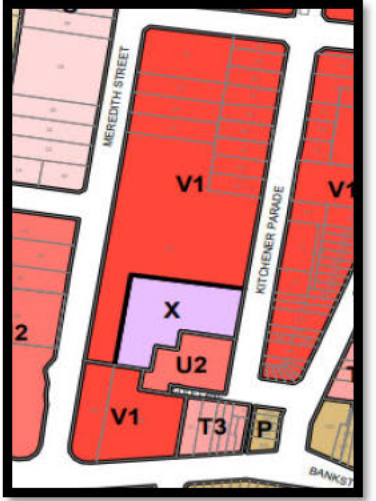
Clause 6.4 – Biodiversity

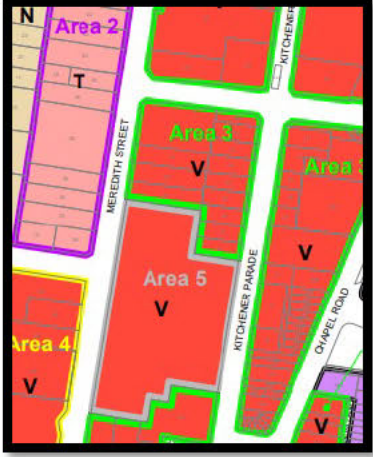
Clause 6.9 – Restrictions on development in Zone B4 Mixed Use

An assessment against the zoning, environmental and numerical development standards contained in the abovementioned clauses is provided in the table below.




Bankstown Local Environmental Plan 2015			
<p><b>1.2 Aims of Plan</b></p> <p>(aa) to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,</p> <p>(a) to manage growth in a way that contributes to the sustainability of Bankstown, and minimizes the needs and aspirations of the community,</p> <p>(b) to protect and enhance the landform and vegetation, especially foreshores and bushland, in a way that maintains the biodiversity values and landscape amenity of Bankstown,</p> <p>(c) to protect the natural, cultural and built heritage of Bankstown,</p> <p>(d) to provide development opportunities that are compatible with the prevailing suburban character and amenity of residential areas of Bankstown,</p> <p>(e) to minimize risk to the community in areas subject to environmental hazards by restricting development in sensitive areas,</p> <p>(f) to provide a range of housing opportunities to cater for changing demographics and population needs,</p> <p>(g) to provide a range of business and industrial opportunities to encourage local employment and economic growth,</p> <p>(h) to provide a range of recreational and community service opportunities to meet the needs of residents of and visitors to Bankstown,</p> <p>(i) <u>to achieve good urban design in terms of site layouts, building form, streetscape, architectural roof features and public and private safety,</u></p> <p>(j) to concentrate intensive trip-generating activities in locations most accessible to rail transport to reduce car dependence and to limit the potential for additional traffic on the road network,</p> <p>(k) to consider the cumulative impact of development on the natural environment and waterways and on the capacity of infrastructure and the road network,</p> <p>(l) to enhance the quality of life and the social well-being and amenity of the community.</p> <p><u>Comment:</u> The development is not consistent with the aims of the BLEP 2015; particularly subclauses (i)</p>			
Provision/ Standard	Requirement	Proposal	Complies
<b>Part 2 Permitted or Prohibited Development</b>			
2.1-2.3 Zoning	<p>The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.</p> <ul style="list-style-type: none"> <li>To provide a mixture of compatible land uses.</li> <li>To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.</li> </ul>	A mixed use development (residential flat building and commercial premises) is a permitted form of development in the B4 Mixed Use zone. The development is consistent with the objectives of the zone.	YES

	<ul style="list-style-type: none"> <li>To maintain the role of the Bankstown CBD as a major metropolitan centre.</li> </ul> <p>Land Zoning: B4 Mixed Use</p> <p>Defined development type: 'Residential flat building' and 'commercial premises'</p>		
2.7 Demolition requires development consent	The demolition of a building or work may be carried out only with development consent.	The application seeks consent for the demolition of all existing structures on the site.	YES
<b>Part 4 Principal Development Standards</b>			
4.3 Height of Buildings	<p>The max. HOB is 35.0m as per the BLEP 2015 HOB map</p> <p>V1 = 35.0m</p>	<p>The height of the proposed is well below 35m. The highest point of development is RL55.44, with a NGL of RL28.94; provides a building height of 26.5m.</p> 	YES
4.4 Floor Space Ratio	In accordance with BLEP 2015 Floor Space Ratio Map, the maximum permitted floor space ratio for the subject site is 3:1.	<p>An FSR greater than 2:1 is proposed; the applicant seeks bonus FSR under the AHSEPP.</p> <p>Under the AHSEPP, a total FSR of 2.5:1 is permitted. A max. FSR of 2.497:1 is proposed.</p>	YES – Refer to AHSEPP table above.

	<p>*Note: 'Area 3' = for lots with a width less than 18m, an FSR of 2:1 applies. The subject site has an allotment width of 13.41m, therefore the max. FSR permitted for this site is <u>2:1</u>.</p>		
4.4A Additional gross floor area for more sustainable development in Bankstown CBD commercial core	This clause applies to development if the land to be developed is within Zone B4 Mixed Use and the lot is at least 18m wide and the lot has a max. FSR of 3:1 on the FSR Map.	Although the allotment is in zone B4 Mixed Use, the subject site has a width less than 18m. The allotment width is 13.41m at the front building line. The maximum permitted FSR is 2:1 (refer to discussion under clause 4.4 above).	N/A
<b>Part 5 Miscellaneous Provisions</b>			
5.6 Architectural roof features	Roof features, that form an integral part of the building's design, may exceed the max. HOB	The roof feature for the building is well below the max. HOB for the site.	YES
5.10 Heritage Conservation	The heritage significance of heritage items is to be conserved.	<p>The subject site does not contain a heritage item nor is it identified as being within a Heritage Conservation Area.</p> <p>The site however is situated in close proximity to a heritage item identified with local significance, known as:</p> <p><i>Shop, "Rosen Chambers" at 346 Chapel Road, Bankstown</i></p> <p>The proposed development will have no impact on the significance of the heritage item being situated 150m to the south of the site on Chapel Road and having no direct line of sight.</p>	YES
<b>Part 6 Local Provisions</b>			
6.1 Acid Sulfate Soils	Development consent must not be granted under this clause for the carrying out of works unless an acid sulfate	The site is not affected by ASS	N/A

	soils management plan has been prepared for the proposed works in accordance with the Acid Sulfate Soils Manual and has been provided to the consent authority.		
6.2 Earthworks	<p>Before granting consent to development including earthworks, the following must be considered:</p> <ul style="list-style-type: none"> <li>(a) drainage patterns and soil stability</li> <li>(b) the likely future use or redevelopment of the land,</li> <li>(c) quality of the fill or the soil to be excavated, or both,</li> <li>(d) effect of development on existing and likely amenity of adjoining properties,</li> <li>(e) the source of any fill material and the destination of any excavated material,</li> <li>(f) the likelihood of disturbing relics,</li> <li>(g) the potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,</li> <li>(h) appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</li> </ul>	The application involves excavation works to accommodate two levels of basement car parking. The extent of the excavation is appropriate and acceptable.	YES
6.3 Flood Planning	This clause applies to land at or below the flood planning level.	The site is not flood affected. The sites surrounding the subject development site are also not flood affected.	N/A
6.4 Biodiversity	Maintain terrestrial and aquatic biodiversity by protecting native fauna and flora	The subject site is not identified as 'Biodiversity' on the Terrestrial Biodiversity Map	N/A



<p>6.9 Restrictions on development in Zone B4 Mixed Use</p>	<p>To promote active street frontages in the commercial core – applicable to land identified as “Area 3” on the Special Provisions Map of the BLEP 2015.</p> <p>Development consent must not be granted to the erection of a building, or a change of use of a building, on land to which this clause applies unless the consent authority is satisfied that the ground floor and first floor of the building are to be used for the purposes of commercial premises or other non-residential purposes after the erection or change of use.</p>	<p>The subject site is identified as Area 3 on the Special Provisions Map of the BLEP 2015 (see below). The ground and first floor of the development is proposed to be used for commercial purposes.</p> 	<p>YES</p>
---	---	--	------------

As identified in the above table, the proposed development is consistent with the objectives and relevant controls and requirements of the BLEP provisions.

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

The following draft environmental planning instrument applies to this development.

***Draft Canterbury Bankstown Consolidated Local Environmental Plan***

The Draft Canterbury Bankstown Consolidated Local Environmental Plan applies to the subject site. The Draft LEP has been publicly exhibited and was adopted by the Canterbury Bankstown Local Planning Panel on 30 June 2020 and is now being reviewed by the Department of Planning. While the draft instrument proposes the introduction of some additional provisions, in the most part, the Draft LEP provides for an administrative conversion of both the BLEP 2015 and CLEP 2012 into a combined document under the Standard Instrument LEP template.

With respect to the proposed development the proposal remains consistent with the aims, provisions and controls within the draft instrument.

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

The following section provides an assessment and compliance tables with a summary of the development application against the relevant controls contained under Part A1 (Centres), B5 (Parking) and B13 (Waste Management and Minimisation) of the *Bankstown Development Control Plan 2015*.



**Bankstown Development Control Plan 2015 – Part A1 - Centres**

<b>Bankstown Development Control Plan 2015</b>			
<b>Part A1 - Centres</b>			
<b>Standard</b>	<b>Requirement</b>	<b>Proposal</b>	<b>Complies</b>
<u>Objectives</u>		The development achieves good urban design and is compatible with the desired character of the surrounding area.	YES
(a) <i>To have development that is compatible with the desired character and role of the particular centre.</i>			
(b) <i>To have development that achieves good urban design in terms of building form, bulk, architectural treatment and visual amenity.</i>		The building form and architectural treatment is considered acceptable in terms of visual amenity, making a positive contribution to the surrounding built area and complementing the adjoining development at 32 Kitchener Parade.	
(c) <i>To have development that provides adequate amenity to people who live in, work in and visit the local area.</i>			
(d) <i>To have transitional areas that are compatible with the prevailing suburban character and amenity of the neighbouring residential environments.</i>			
(e) <i>To have specific guidelines for key development sites within the centres.</i>			
<u>1.0 Desired Character</u>	The desired character of the Northern CBD Core precinct is to provide a mix of retail and commercial activities on the ground and first floors, and high density living above. Development will generally be in the form of tall buildings.	The development proposes commercial uses on the ground and first floor of the building, with residential apartments above	YES
<u>2.0 Building Form</u>	The Northern CBD Core precinct is required to have a nil street setback.	The development proposes a nil setback to the street.	YES
2.1 – 2.2 Setbacks	<p>The side and rear setbacks will be determined with consideration to the following:</p> <ul style="list-style-type: none"> <li>• Whether the setbacks respond to site conditions</li> <li>• If setbacks are compatible with surrounding context and desired character of precinct</li> <li>• Setbacks to comply with ADG</li> </ul>	<p>A 3m setback is proposed to the southern side boundary which is consistent with the recommendations of Council's Urban Design officer.</p> <p>*Refer to ADG assessment for the setbacks provided to the other property boundaries</p>	
2.5 – 2.6 Orientation	Orientation of dwellings must consider ADG	The development's longest axis faces north	YES

	Development should orientate the building so that the longest axis is facing true north	*Refer to ADG assessment table	
2.7 Building Design	Development must articulate facades to achieve a unique and contemporary architectural appearance that unites the facades with the whole of the building form, responds to the desired character of the precinct, combines high quality materials and finishes, and considers any other architectural elements to Council's satisfaction	The revised design has taken into account the issues raised by Council's Urban Design officer. The proposed design is considered satisfactory.	YES
2.8 Building articulation	Development must use colour, modulation or articulation to improve appearance of blank party walls when viewed from the street	Council's Urban Design officer has reviewed the design and has considered it to be acceptable.	YES
2.9 Building Design – gateway & corner sites	Development at gateway and corner sites must ensure the building façade incorporates one of the corner elements that is mentioned in the clause.	This site technically is not a corner site as per Figure 2 of Part A1, however will be treated as a corner site to an extent, as the adjoining site to the south contains an open space walk-through zone that is situated immediately to the south of the site.  Council's Urban Design officer has reviewed the design and have considered it to be acceptable.	YES
3.0 Pedestrian Amenity & Active Street Frontages  3.1 Mid-block Connections	Development must retain exiting mid-block connections or provide new mid-block connections to provide a legible pedestrian network that is easy to move around and connects important destinations.	The site is situated within an area (as per Figure 7 of Part A1 of the DCP) that is required to retain the ground and first floors as commercial and retail floor space to create active street frontages.  The ground and first floor level are proposed as commercial floor space.	YES

3.2 Active Street Frontages	<p>The design of street frontages must ensure:</p> <ul style="list-style-type: none"> <li>• The ground floor is at the same general level as the footpath and accessible directly from the street;</li> <li>• The ground floor provides a positive street address in the form of entries, lobbies and clear glazing that contribute to street activity and promote passive surveillance;</li> <li>• The ground floor façade must minimise large expanses of blank walls.</li> </ul>	<p>The building at street level is occupied by the driveway, building entry with a small section of wall that is to be used for identification purposes for the building.</p> <p>The development does not have any large expanses of wall at ground level.</p>	YES
3.3 Vehicle Footpath Crossings	<p>Development must optimise opportunities for active street frontages &amp; streetscape design by:</p> <ul style="list-style-type: none"> <li>• Making vehicle access points as narrow as possible;</li> <li>• Limit the number of vehicle accessways to a minimum;</li> <li>• Avoiding location of car park entries, driveways and loading docks at the corners of street intersections.</li> </ul>	<p>The proposed driveway width of 6.1m at the property boundary is acceptable and meets the relevant requirements under the Australian Standards.</p> <p>A min. 2m side setback is required in accordance with Council's Development Engineering Standards. The crossing has a setback of 2m from the northern side boundary.</p>	YES

As identified in the above table, the proposed development is consistent with the objectives and numerical controls contained within Part A1 of the BDCP.

#### Bankstown Development Control Plan 2015 – PART B5 – Parking

Despite only a portion of the units being nominated as in-fill affordable units, the AHSEPP parking requirements apply to the whole residential component of the development; refer to the AHSEPP table above for the parking assessment of the residential component.

An assessment of the parking requirements for the commercial component against the controls of Part B5 of BDCP 2015 is provided below:

Bankstown Development Control Plan 2015 Part B5 - Parking			
<u>Objectives</u> <p>(a) To have car parking meet the demands of new development.</p> <p>(b) To have the layout and design of car parks function efficiently and safely.</p> <p>(c) To have development achieve the parking requirements.</p> <p>(d) To have the design of open-air car parks incorporate landscaping areas to minimize visual impact.</p> <p>(e) To have a balance between parking requirements, visual aesthetics and pedestrian safety, which includes access for people with disabilities and convenience for drivers.</p>			
Standard	Requirement	Proposal	Complies
Business premises/ Office premises	Bankstown CBD <ul style="list-style-type: none"> <li>1 car space per 40m<sup>2</sup> of half the gross floor area of the premises; &amp;</li> <li>a planning agreement is considered on the remaining 50% of parking requirements for the purpose of public parking.</li> </ul>	<p>The total commercial floor space proposed is as follows: Ground floor 93.04m<sup>2</sup> + First floor 186.58m<sup>2</sup> = 279.62m<sup>2</sup> / 40 m<sup>2</sup> 6.9 (7) commercial spaces required.</p> <p>The proposal includes 4 commercial car parking spaces within basement level 01.</p> <p>The remaining 3 commercial parking spaces not provided in the basement are to be subject of a VPA in accordance with the requirements of this DCP (in the form of a written irrevocable offer pursuant to Cl.3.1.2 of Council's Planning Agreement Policy), and is subject to a 'deferred commencement' condition.</p>	YES

### Car parking design

Council's initial assessment of the basement design revealed that the site is not constrained (as originally suggested by the applicant) as the lack of manoeuvring area identified is only arrived at as a result of the type of development that the applicant proposes, the narrow nature of the site and intensity of the proposal.

The site is free of any restrictions, easements or impediments that would prevent its reasonable development for an alternative permissible use where it would be found that a B99 vehicle compliant design could be accommodated. As evidenced with the developments currently occupying numbers 50 and 52 Kitchener Parade, sites of this width and depth are able to accommodate a compliant basement design for a scale of development that responds to the size of the site.

AS2890.1 requires the intersection areas (i.e. between circulation roadways, ramps and parking aisles), to be assessed using the B99 vehicle if the design is for a single way access. However since the initial assessment of the parking and access arrangement, the applicant has revised the plans to allow for a two way access, therefore permitting both B85 and B99 to demonstrate a passing manoeuvre.

The revised plans were subsequently reviewed by an external traffic consultant. Based on the advice and recommendations of the traffic consultant, the proposed final layout and design of the basement car park will be able to function efficiently and safely thereby meeting the objectives of Part B5 of BDCP 2015.

Bankstown Development Control Plan 2015 – Part B13 – Waste Management and Minimisation (Part B13), and Waste Management Guide for New Developments (the Guide)

The application has been assessed against the waste requirements under Part B13 of the BDCP 2015 (section 4 and 5) and the Waste Management Guide (section 3 to 5). Part B13 of the BDCP and the Guide seeks to ensure that a development is provided with adequate waste storage and waste collection arrangements so that there are minimal impacts on the environment and minimal impacts on the amenity of occupants within the development and adjoining properties.

The objectives of Part B13 of the BDCP 2015 are:

- (a) To ensure development is designed to maximise resource recovery and encourage source separation of waste, reuse and recycling by ensuring development provides adequate and appropriate bin storage and collection facilities.*
- (b) To ensure development incorporates well-designed and responsive bin storage and collection facilities that are convenient and accessible to occupants.*
- (c) To maximise residential amenity and minimise adverse environmental and health related impacts associated with waste management such as odour from bin storage areas and noise from collection areas.*
- (d) To ensure development facilitates all waste streams being handled, stored and collected in a manner to reduce risk to health and safety of all users including maintenance (such as caretakers), collection staff and contractors (and required vehicles and equipment).*



The application was referred to Council's Waste Officer. The development proposal has been revised to allow for waste rooms that meet the design requirements and objectives of Part B13 of BDCP, as well as those that are stipulated in the Guide. The consent is to be conditioned accordingly to ensure the waste rooms are built and designed in accordance with the waste requirements.

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

The applicant is required to enter into a Voluntary Planning Agreement in response to the shortfall of required commercial car parking which is to be provided in the basement. Correspondence accompanied the application which acknowledges this and will form as a condition under a 'deferred commencement' consent.

**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 development [section 4.15(1)(b)]**

The proposed development is not considered to result in detrimental impacts on the locality. As such, it is considered that the impact of the development on the locality, as currently proposed, is acceptable.

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

The proposal for a mixed use development is permissible with development consent. The application has been assessed under the matters for consideration contained in Section 4.15 of the *Environmental Planning and Assessment Act 1979*, and as demonstrated throughout the body of this report, the proposal complies with the relevant controls, aside from a number of minor variations under the ADG. The built form of the development is in keeping with the existing and envisaged future character of the locality. Subsequently, the site is suitable for the proposed development.

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

The application was advertised for a period of twenty-one (21) days. No submissions were received.

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

With regard to the relevant planning considerations, it is concluded that the proposed development will not contravene the public interest.

## **CONCLUSION**

The Development Application has been assessed in accordance with the provisions of Section 4.15 of the *Environmental Planning and Assessment Act 1979*, requiring, amongst other things, an assessment against the provisions contained in *State Environmental Planning Policy (Affordable Rental Housing) 2009* (AHSEPP), *State Environmental Planning Policy No. 55 – Remediation of Land* (SEPP 55), *State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development* (SEPP 65), *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*, *Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment*, *Bankstown Local Environmental Plan 2015*, *Draft Canterbury Bankstown Consolidated Local Environmental Plan* and *Bankstown Development Control Plan 2015*.

The proposed development is considered to be satisfactory in accordance with the relevant environmental planning instruments and development controls that are applicable to this site and development. Therefore, it is recommended that the development application be approved.

## **RECOMMENDATION**

It is recommended that the application be approved, on a deferred commencement basis, subject to conditions as set out in **Attachment B**.

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

**The following deferred commencement condition must be complied with to the satisfaction of Council within two (2) years of the date of this deferred commencement consent, prior to the issue of an operational development consent:**

1. A Voluntary Planning Agreement (VPA) to provide for deficient three (3) car parking spaces in accordance with the offer made on behalf of the Applicant in the letter dated 14 July 2021 to the Council shall be entered into prior to the issue of an operational consent.

The development contributions required to be paid in the operative part of the consent are not to be taken into account in the VPA, and the VPA payments are in addition to the Section payments in the operative part of the consent.

The VPA rates for the parking spaces are to be determined in accordance with the rates for parking in Bankstown Development Control Plan 2015 – Part B5, and indexed in the same way as those rates are indexed under that plan.

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

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

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

- a) This Determination Notice does not provide consent to commence building or subdivision work. A Construction Certificate must be obtained prior to the commencement of any building work and a Subdivision Works Certificate must be obtained prior to the commencement of any subdivision work. Council can provide certification services relating to the issue of a construction certificate or subdivision works certificate if required by the development consent. Please contact Council for a fee proposal if you require any of these certification services.
- b) This Determination Notice becomes effective from the endorsed “Consent is to operate from” date noted above, pursuant Section 10.11 (1)(c) of the *Environmental Planning and Assessment Act 1979*.
- c) This Determination Notice will lapse 5 years from the endorsed “Consent to operate from” date unless this Determination Notice has been activated and verified by Council or the appointed Principal Certifier or unless otherwise specified within this Determination Notice.

- d) Modifications to this Determination Notice may be made in accordance with Section 4.55 of the *Environmental Planning and Assessment Act 1979*.
- e) If you are dissatisfied with this decision, you may apply for a review of determination pursuant to Section 8.2 of the *Environmental Planning and Assessment Act 1979* or appeal to the Land and Environment Court pursuant to Sections 8.7 and 8.10 of the *Environmental Planning and Assessment Act 1979*. Any application for a review pursuant to Section 8.2 must be received, assessed and determined by Council within 6 months after the date of receipt of this Determination Notice. It is therefore advisable to lodge the application for review as soon as possible to ensure that assessment is complete within the statutory timeframes. Section 8.10 in the *Environmental Planning and Assessment Act 1979* extends this six-month period to twelve months for determinations made during, or six months before, the Prescribed Period of 25 March 2020 and 25 March 2022. You should seek advice from your legal advisor on the time limits for the lodgement of any appeal.
- f) Sections 9.37 and 9.50 of the *Environmental Planning and Assessment Act 1979* confer the authority to direct any person to comply with the terms and conditions of any consent condition and any person failing to comply with such a direction shall be guilty of an offence under that Act.
- g) Failure to comply with this Determination Notice may result in a fine or prosecution by Council.
- h) If the building work is in proximity of any infrastructure (including water, stormwater, sewer mains, electricity power lines, railway lines and telecommunications facilities or the like), then the relevant infrastructure authority must be consulted before commencing the building work to gain their approval. Any impacts must be considered in the design and construction of the building work/s.

## CONDITIONS OF CONSENT

### APPROVED DEVELOPMENT

- 1) The building work/s must comply with the conditions of this Determination Notice. A Construction Certificate must not be issued until the plans and specifications satisfy the required technical standards and the consent conditions of this Determination Notice. In the event of an inconsistency between this Determination Notice, the approved plans and supplementary documentation, this Determination Notice shall prevail.
- 2) The building work/s must be carried out in accordance with the approved plans and supplementary documentation set out in the table below, except where amended by the conditions specified in this Determination Notice.

Sheet No.	Plan Name	Issue	Date	Prepared By
A-0010	BASIX Commitments	B	16/06/2021	Ghazi Al Ali Architect
A-0020	Unit Schedule	C		
A-1010	Site Plan	B		
A-1201	Basement 02	E		
A-1202	Basement 01	D		
A-1203	Ground Floor Plan	E		
A-1204	Level 01 Plan	D		
A-1205	Level 02 Plan	E		
A-1206	Level 03 Plan	E		
A-1207	Level 04 Plan	D		
A-1208	Level 05 Plan	C		
A-1209	Level 06 Plan	C		
A-1210	Rooftop Terrace Plan	C		
A-1211	Roof Plan	C		
A-1301	East & West Elevations	C		
A-1302	North Elevation	C		
A-1303	South Elevation	C		
A-1400	Section AA	C		
A-1401	Section BB	C		
A-1402	Ramp Sections	B		
A-2001	Affordable Housing Calculation	D		
A-2030	Landscape Calculation	C		
A-2201	Material Schedule	C		
A-2202	Material Schedule	E		
A-2301	Strata-Basement 02 & 01	A		
A-2303	Strata-Ground & Level 01 Floor Plan	A		
A-2304	Strata-Level 02 & 03 Plan	A		
A-2305	Strata-Level 04 & 05 Plan	A		
A-2306	Strata-Level 06 & 07 Plan	A		

- 3) The acoustic report submitted in support of this application, prepared by Acoustic Consulting Engineers titled 'Noise Assessment – Development Application (DA) Phase Proposed Mixed-Use Development, 44 Kitchener Parade, Bankstown, reference number: 191071-01L-DD, dated 31 July 2019 and recommendations of this report forms part of the development consent.
- 4) The response letter submitted in support of this application prepared by Morphology Design Associates Titled, "Application No: DA-605/2019, Property: 44 Kitchener Parade, Bankstown NSW 2200, dated 24 July 2020, section 7, forms part of this development consent.



- 5) No approval is granted or implied for the use of each of the commercial tenancies. Separate Development Consent for the use of the commercial floor space for each commercial tenancy is required prior to occupation.
- 6) A separate application shall be submitted to Council prior to the erection of any signage unless the proposed signage is "exempt development" in accordance with the exempt provisions of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* and Bankstown Development Control Plan 2015.
- 7) Any new information which comes to light during demolition/excavation/construction works which has the potential to alter previous conclusions about site contamination, shall be notified to Council immediately. Works are to cease until the new information is evaluated by an appropriately qualified and experienced environmental consultant and an appropriate response determined by the applicant and/or owner which is agreed to by Council. Council may also request that a NSW EPA accredited site auditor is involved to assist with the assessment of the new contamination information.
- 8) The external finishes and building treatment of the development is to be consistent with that shown in the approved plans (material schedule plans). The finishes to external walls on the boundary shall incorporate anti-graffiti coatings.

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

- 9) The Principal Certifier must ensure that any certified plans forming part of the Construction Certificate are not inconsistent with this Development Consent and accompanying plans.
- 10) Sight triangle for pedestrian safety at the Vehicular Footway Crossing to Kitchener Parade is required to comply with AS2890.1:2004-Figure 3.3. Sight lines shall be indicated on the Construction Certificate plans and shall be kept clear of any obstacles, including shrubs, at all times.
- 11) The layout of the proposed car parking areas associated with the subject development (including, driveways, grades, turn paths, sight distance requirements in relation to landscaping and/or fencing, aisle widths, aisle lengths, and parking bay dimensions) shall be in accordance with the Australian Standard AS 2890 parking series.
- 12) Prior to the issue of a Construction Certificate, certification is required by an appropriately qualified access consultant certifying that the design criteria for the adaptable units approved under this consent comply with AS4299 (Adaptable Housing Standard) and the BCA.
- 13) Each unit shall be provided with storage in accordance with the requirements of the Apartment Design Guide, with at least half to be provided within each of the units. The Construction Certificate plans shall be consistent with this requirement.

- 14) A detailed landscape plan prepared by a qualified landscape architect or qualified landscape designer must be approved by the Principal Certifier prior to the issue of a Construction Certificate. The landscape plan shall be prepared in accordance with the plan prepared by Conzept Landscape Architects, Drawing no.LPDA 19-239, Sheet nos.1, 2, 3, Dated June 2019, and shall also include the comments and requirements noted under “Street Tree Protection Measures” as contained in this consent under the heading “CONDITIONS TO BE SATISFIED PRIOR TO CONSTRUCTION WORKS COMMENCING” and “Trees on adjoining properties: Protection Measures” as contained in this consent under the heading “CONDITIONS TO BE SATISFIED DURING CONSTRUCTION”.

The landscape plan must also be prepared in accordance with Bankstown DCP 2015 and include the following features, notations and specifications where relevant:

- a) The location of existing and proposed structures on the subject property/properties, including existing and proposed trees, impermeable areas, landscaped areas, deep soil zones, fixed furniture, shade structures, lighting, and other features,
- b) Details of earthworks and soil depths, including mounding and retaining walls and planted boxes,
- c) The location, number, pot size and type of chosen plant species. Details of planting procedures and long-term maintenance (if any), and
- d) Details of drainage and watering systems (if any).

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.

- 15) The landscape plan must include a provision for the replacement of all existing boundary fencing where such fencing does not reach a height of 1.8 metres and/or is not of suitable quality or standard. Replacement fencing must be 1.8 metres high unless otherwise shown on the approved plans or as stipulated within this Determination Notice. The materials and colours of the fence must be selected in consultation with the adjoining property owners unless the design of the fence and the type of material is specified to allow for overland flow. Fencing forward of the building line must not be greater than 1 metre. All costs related to fencing must be borne by the person having the benefit of this Determination Notice.
- 16) Approval in accordance with Council’s Tree Preservation Order (TPO) is granted to lop or remove only those trees identified to be lopped or removed on the approved plans. If not indicated on the approved plans, separate approval must be obtained to prune or remove trees on adjoining properties or other trees located on the site. A person(s) who contravenes or causes or permits the TPO to be breached shall be guilty of an offence and liable for prosecution.

- 17) A Soil Erosion and Sedimentation Control Plan must be prepared prior to the issue of a Construction Certificate. The plan must be prepared by a professional engineer as defined by the Building Code of Australia and approved by the Principal Certifier. The plan must state that the capacity and effectiveness of erosion and sediment control devices must always be maintained throughout the construction period.
- 18) The Council approved plans, including demolition plans, must be submitted to Sydney Water for assessment. This will determine if the proposed structure(s) will affect any Sydney Water infrastructure or if there are additional requirements. Building plan approvals can be submitted online via Sydney Water Tap inTM.

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

Sydney Water must issue either a Building Plan Assessment letter which states that the application is approved, or the appropriate plans must be stamped by a Water Servicing Coordinator.

- 19) All fees, levies, bonds and/or contributions as required by this Determination Notice must be paid to the relevant authority/entity.
- 20) A long service levy payment which is calculated to be 0.35% of the total cost of the building work/s must be paid to the Building and Construction Industry Long Service Payments Corporation.
- 21) The development must be carried out in accordance with the commitments shown on the submitted BASIX Certificate. The BASIX commitments must 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.

The location of the air-conditioning units, hot water units and associated infrastructure must be located to ensure that they are not visible from the street, and that they do not result in a non-compliance with the relevant built form controls and private open space controls contained in the Apartment Design Guide. Confirmation from a suitably qualified architect that the BASIX commitments do not comprise the design guidance requirements as contained within the Apartment Design Guide must be provided prior to the issuing of a Construction Certificate.

- 22) Pursuant to Section 7.12 of the *Environmental Planning and Assessment Act 1979* and the Bankstown Development Contributions Plan 2019, this development will require or increase the demand on public amenities, public services and public facilities in the area.

The amount of the contribution (as at the date of this Development Notice) has been assessed as **\$46,343.66**. The amount payable is based on the following components:

**Note:** The contributions payable will be adjusted, at the time of payment, to reflect Consumer Price Index increases which have occurred since the “Consent to operate from date” on the front page of this Determination Notice.

The contribution must be paid to Council in accordance with the requirements of the Development Contributions Plan prior to the issue of the Construction Certificate

- 23) Finished surface levels of all internal works and at the street boundary, including driveways, landscaping and drainage structures, must be as shown on relevant Construction Certificate plans. The levels at the street boundary must be consistent with the Street Boundary Alignment Levels issued by Council.
- 24) A Construction Certificate shall not be issued until design verification from a qualified designer has been received. The design verification is a statement in which the qualified designer verifies that the plans and specifications achieve or improve the design quality of the development of which Development Consent was granted, having regard to the design quality principles set out in Schedule 1 of SEPP No. 65.
- 25) The person having benefit of this Determination Notice shall apply for a Work Permit and obtain approval from Council, for any of the following applicable engineering works in front of the site, at their own expense:
  - a) A medium duty VFC at the property boundary.
  - b) Drainage connection to Council's system.
  - c) Concrete footway paving along the site's entire frontage.
  - d) Concrete kerb and gutter along the site's entire frontage.
  - e) Removal of all driveway surfaces, reinstatement of laybacks to kerb and gutter and reshaping of the footway, all associated with redundant VFCs.
  - f) Repair of any damage to the public road including the footway occurring during development works.
  - g) Reinstatement of the footway reserve and adjustment or relocation of existing public utility services to match the footway design levels as proposed on the approved Work Permit. Adjustment or relocation to any public utility services shall be carried out to the requirements of the public utility authority.

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

- 26) Stormwater drainage from the development shall be designed so as to comply with Council's Bankstown Development Engineering Standards and the requirements of the BASIX Certificate. A final detailed stormwater drainage design shall be prepared by a professional engineer as defined by the Building Code of Australia in accordance with the above requirements and shall generally be in accordance with the approved concept stormwater plan as shown in the table below. The final plan shall be certified by a professional engineer as defined by the Building Code of Australia that it complies with Council's Bankstown Development Engineering Standards, the BASIX Certificate and the relevant Australian Standards.

Plan Name	Sheet / Project Number	Issue	Date	Prepared By
Concept Stormwater Plan	20190112	C	01/12/2020	SGC Engineering Values

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

The retaining wall shall be located so that it will not impede or obstruct the natural flow of stormwater. Retaining walls exceeding 600mm in height shall be designed by a professional engineer as defined by the Building Code of Australia. Plans and details prepared and signed by the professional engineer as defined by the Building Code of Australia are to be submitted to the Principal Certifier 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.

- 28) An all-weather pavement shall be designed to withstand the anticipated wheel loads for all areas subjected to vehicular movements. Internal pavements specification prepared and certified by all qualified professional Civil Engineer to comply with the relevant Australian Standards, shall be submitted to the Principal Certifying Authority (PCA) for approval prior to the issue of a construction certificate.
- 29) The Construction Certificate plans shall include details of the garbage receptacle area in accordance with the approved plans. The garbage receptacle area shall not be visible from the street.
- 30) Prior to the issue of any Construction Certificate for this development, the applicant must obtain approval from Council's Traffic Section for a Site, Pedestrian and Traffic Management Plan (SPTMP). This Plan must address the measures that will be implemented for pedestrian safety and traffic management as specified below.

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

This plan shall include details of the following:

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

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

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

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

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



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

This plan shall include details of the following:

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

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

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

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

## A PRIVATE CERTIFIER CANNOT ISSUE THESE PERMITS

### WORKS REQUIRING A 'WORKS PERMIT'

- a) Dig up, disturb, or clear the surface of a public footway or public road,
- b) Remove or interfere with a structure or tree (or any other vegetation) on a public footway or public road,
- c) Connect a road (whether public or private) to a classified road,
- d) Undertake footway, paving, vehicular crossing (driveway), landscaping or stormwater drainage works within a public footway or public road,
- e) Install utilities in, under or over a public road,
- f) Pump water into a public footway or public road from any land adjoining the public road,
- g) Erect a structure or carry out a work in, on or over a public road
- h) Require a work zone on the public road for the unloading and or loading of vehicles
- i) Pump concrete from within a public road,
- j) Stand a mobile crane within a public road
- k) Store waste and recycling containers, skips, bins and/or building materials on any part of the public road.
- l) The work is greater than \$25,000.
- m) Demolition is proposed.
- n) Subdivision is proposed.
- o) A Swimming pool is proposed.
- p) A Medium Duty Vehicular Footway Crossing (VFC) of maximum width at the property boundary in accordance with the approved plans. All existing and / or new infrastructure located on Council's land in front of the development site is to be provided in accordance with Council's Engineering Standard STD DWG N° S-004. All costs associated in achieving compliance with this condition must be borne by the person having the benefit of this Determination Notice. All work must be completed prior to the issue of any Occupation Certificate.

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 i.e. Hoardings, Work Zones etc.

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

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

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

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

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

- 33) The pump out drainage system for the access ramp and basement car parking area shall be provided in accordance with Council's Development Engineering Standards. Engineering details and specifications shall be submitted to the Principal Certifying Authority (PCA) for approval prior to the issue of any Construction Certificate.
- 34) Engineering details and manufacturers specifications for the pumps, switching system and sump pit shall be submitted to the Principal Certifying Authority (PCA) for approval prior to issue of any Construction Certificate.
- 35) For internal driveways with a gradient exceeding 10% (1 in 10), longitudinal profiles of all vehicular driveways and ramps shall be submitted for approval by the Principal Certifying Authority (PCA) prior to the issue of the Construction Certificate. The maximum grade of the driveway/ramp shall not exceed **25%** and shall comply with AS 2890.1. The profile shall be drawn at a reduction ratio of 1 to 25 vertical and horizontal and shall be related to the datum used for the issue of the footway design levels and shall also show the road centre line levels, Council issued footway design levels and gutter levels. Council's Car Clearance Profile in Council's Development Engineering Standards, (Plan No. S 006) shall be used to design the profile.

- 36) The basement of the development is located adjacent to a Council Public Road Reserve. Separate approval and Work Permit is to be obtained from Council for any temporary or permanent anchoring works under Council's Public Road.
- 37) The route for transportation to and from the development site of bulk and excavation materials shall generally be by the shortest possible route to the nearest "regional road", with every effort to avoid school zones on public roads. The applicant shall nominate the route for approval by Council prior to commencement of any work on the site. An "Agreement" to Council's satisfaction, signed by the applicant/owner specifying the approved route and acknowledging responsibility to pay Council for damages to public property adjacent to the site shall be lodged with Council prior to release of any Construction Certificate. All damage must be rectified upon completion of work.
- 38) The Construction Certificate plans shall comply with the following safety and security measures:
- a) Basement storage areas – CCTV and mirrors are required to be installed to cover complete area. The CCTV system is required to have the capacity to store for up to 28 days and be made available to police upon request.
  - b) Secure access into all building entry points including basement is to be ensured via a key or intercom system.
  - c) Letterboxes are to be in a location away from the public's eye with CCTV cameras covering the area.
  - d) CCTV systems is to be installed for the development including the building entry points, basement levels, within commercial tenancies and residential lobby area. The CCTV system is required to have the capacity to store for up to 28 days and be made available to police upon request.
- 39) Separate approval is required for any heat shield and/or associated fire assembly structures/facilities not shown on the approved plans.
- 40) A substation is not approved as part of this development. In the event that a substation is required for the development, an application is to be submitted to Council for approval, including the size and location of the substation as per the requirements of Ausgrid, prior to the issue of any Construction Certificate.
- The substation must not be situated within any landscaped area, must not be situated in any area visible from the public domain and must be integrated into the building.
- If required by the applicable energy supplier, the owner must dedicate to the applicable energy supplier an area of land within the building to enable an electricity substation to be installed.
- 41) Access to all communal and public areas of the development, including communal open spaces, are to be designed and constructed in accordance with the requirements of *Disability (Access to Premises — Buildings) Standards 2010*.

- 42) Any required hydrants, boosters and other services must be contained within cabinets in the built form. Separate approval is required for any services outside of the built form and not authorised through this Development Consent.
- 43) The Applicant shall apply to the Traffic Committee for the installation of a time restricted Loading Zone along the property frontage for movers, commercial / retail delivery etc. In addition, a No Parking signage is also required subject to Traffic Committee recommendation for waste collection. The No Parking on waste nights can be shared with the Loading Zone.

All costs associated with the signage works shall be borne by the Applicant and shall be in line with Council's current fees and charges, and subject to Traffic Committee recommendation.

This condition is to be complied with prior to the issue of any Construction Certificate issued for the development

- 44) The plans and documentation forming part of the Construction Certificate shall be consistent with the following waste requirements. The Certifying Authority shall ensure these requirements are complied with prior to the issue of a Construction Certificate:

a) Vacant Land Charge Application

A vacant land charge form is to accompany any Construction Certificate (CC) application for the removal of all domestic garbage and recycling bins.

<https://www.cbccity.nsw.gov.au/council/forms/waste-recycling>

b) Residential Waste Storage Room Construction

A design certificate and detailed plans are to accompany any Construction Certificate (CC) application which demonstrate that the residential waste storage room has been designed to be constructed in accordance with the Waste Management Guide for New Developments and including the following requirements:

- i. Floors must be constructed of concrete at least 75mm thick and graded and drained to a Sydney Water approved drainage fitting;
- ii. The floors must be finished so that is non-slip and has a smooth and even surface;
- iii. The room is to be integrated within the building, a minimum 2.1m unobstructed room height is required in accordance with the Building Code of Australia;
- iv. The walls must be constructed of solid impervious material;
- v. The ceilings must be finished with a smooth faced non-absorbent material capable of being cleaned;
- vi. Walls, ceiling and floors must be finished in a light colour;
- vii. Is to be provided with an adequate supply of hot and cold water mixed through a centralised mixing valve with hose cock;
- viii. A self-closing door openable from within the room;

- ix. Must be constructed to prevent the entry of birds and vermin;
- x. Be provided with adequate light and ventilation. Light source must be through controlled light switches located both outside and inside the room;
- xi. Any doorways to be utilised for the collection of bins must be a minimum 2m wide;
- xii. A resident access door is required, which is a minimum 850mm wide and is to open outwards;
- xiii. Designed to fit 6 x 660L recycling bins; and
- xiv. Designed to fit 3 x 660L garbage bins.

c) Residential Bin Carting Route

A design certificate and detailed plans are to accompany any CC application which demonstrate that the bin carting route from the residential waste storage room to nominated collection point has been designed to be constructed in accordance with the following requirements:

- i. Direct and less than 10 metres;
- ii. Minimum 2m wide hard surface;
- iii. Non-slip, free from obstacles and steps;
- iv. Not within a driveway or carpark, this is considered a conflict point for vehicles and collection staff;
- v. A maximum grade of 1:30 (3%); and
- vi. Layback installed at the nominated kerbside collection point.

d) Residential Bulky Waste Storage Room Construction

A design certificate and detailed plans are to accompany any Construction Certificate (CC) application which demonstrate that the residential bulky waste storage room has been designed to be constructed in accordance with the Waste Management Guide for New Developments and including the following requirements:

- i. Floors must be constructed of concrete at least 75mm thick and graded and drained to a Sydney Water approved drainage fitting;
- ii. The floors must be finished so that is non-slip and has a smooth and even surface;
- iii. The walls must be constructed of solid impervious material;
- iv. The room is to be integrated within the building, a minimum 2.1m unobstructed room height is required in accordance with the Building Code of Australia;
- v. The ceilings must be finished with a smooth faced non-absorbent material capable of being cleaned;
- vi. Walls, ceiling and floors must be finished in a light colour;
- vii. Is to be provided with an adequate supply of hot and cold water mixed through a centralised mixing valve with hose cock;
- viii. A self-closing door openable from within the room;
- ix. Must be constructed to prevent the entry of birds and vermin;



- x. Be provided with adequate light and ventilation. Light source must be through controlled light switches located both outside and inside the room;
- xi. Any doorways must be 2m wide; and
- xii. Designed to a minimum size of 5.82m<sup>2</sup>.

e) Commercial Waste Storage Rooms Construction

A design certificate and detailed plans are to accompany any Construction Certificate (CC) application which demonstrate that the two commercial waste storage rooms have been designed to be constructed in accordance with the Waste Management Guide for New Developments and including the following requirements:

- i. Floors must be constructed of concrete at least 75mm thick and graded and drained to a Sydney Water approved drainage fitting;
- ii. The floors must be finished so that is non-slip and has a smooth and even surface;
- iii. The room is to be integrated within the building, a minimum 2.1m unobstructed room height is required in accordance with the Building Code of Australia;
- iv. The walls must be constructed of solid impervious material;
- v. The ceilings must be finished with a smooth faced non-absorbent material capable of being cleaned;
- vi. Walls, ceiling and floors must be finished in a light colour;
- vii. Is to be provided with an adequate supply of hot and cold water mixed through a centralised mixing valve with hose cock;
- viii. A self-closing door openable from within the room;
- ix. Must be constructed to prevent the entry of birds and vermin;
- x. Be provided with adequate light and ventilation. Light source must be through controlled light switches located both outside and inside the room;
- xi. Any doorways to be a minimum 2m wide;
- xii. COMM GO1 BIN storage room is to be a minimum 3m<sup>2</sup>; and
- xiii. COMM BIN storage room is to be a minimum 6m<sup>2</sup>.

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

- 45) A Construction Certificate is required for the erection of a building in accordance with this Determination Notice.

This Determination Notice does not authorise building work until a Principal Certifier has been appointed as the Principal Certifier for the work by (or with the approval of) the person having the benefit of this Determination Notice.

The following requirements apply before the commencement of building work in accordance with this Determination Notice:

- a) the Principal Certifier has, no later than 2 days before the building work commences, notified the Consent Authority and the Council (if the council is not the Consent Authority) of his or her appointment as the Principal Certifier,
  - b) the Principal Certifier has, no later than 2 days before the building work commences, notified the person having the benefit of this Determination Notice of any inspections that are required to be carried out in respect of the building work,
  - c) the person carrying out the building work has notified the Principal Certifier that the person will carry out the building work as an owner-builder, if that is the case,
  - d) the person having the benefit of this Determination Notice, if not carrying out the 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 involve, and
    - ii. notified the Principal Certifier of the appointment, and
    - iii. unless that person is the principal contractor, notified the principal contractor of any inspections that are required to be carried out in respect of the building work,
  - e) the person having the benefit of this Determination Notice has given at least a 2-day notice to the Council, and the Principal Certifier if not the Council, of the person's intention to commence the erection of the building.
- 46) Prior to the commencement of works, a dilapidation report shall be prepared by the developer and a copy provided to adjoining property owners to the north (46 Kitchener Parade Bankstown) of the subject site. The report must clearly identify the condition of existing structures on adjoining properties prior to the commencement of works. All care shall be taken during the construction process to ensure adjoining structures are protected and should any change in condition occur from that recorded in the dilapidation report, the rectification of such shall be at full cost to the developer of the subject site.
- 47) Existing trees within the vicinity of the development site or paths of travel of construction vehicles accessing the development site that are to be retained must be protected with temporary fencing. This must be of a type that prevents injury to tree roots, placed 2 metres away from the trunk base of the existing tree to prevent damage during construction and retained in accordance with Council's Tree Management Order (TMO). There must not be any stockpiling of materials within the 2-metre fenced zone whilst the construction of the building work/s is being undertaken and must always be maintained throughout the construction period.

**Street Tree Protection Measures:**

The following street tree shall be retained and protected from removal and damage for the duration of the development:

Tree Species	Location	Protection Zones*
1 x Platanus acerifolia (Plane tree)	On the nature strip forward of the property line of no.44 Kitchener Parade	TPZ 3.6m SRZ 2.0m
1 X Platanus acerifolia (Plane tree)	On the nature strip forward of the property line of no.46 Kitchener Parade	TPZ 4.2m SRZ 2.37m

\* TPZ and SRZ 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:

- The trees to be retained and protected together with their relevant Tree Protection Zone (TPZ) and Structural Root Zone (SRZ) shall be marked on all demolition and construction drawings.
- All contractors and workers on site shall be briefed on the tree protection and management procedures in place as part of their site induction. A written record of the induction process is to be kept on site.
- The area of Council's nature strip – excluding the concrete footpath – shall be fenced off for a distance of 2.5 metre radius measured from the trunk of the (2) Platanus acerifolia (Plane trees) located on the nature strip forward of the subject property lines prior to the commencement of demolition / construction. The tree protection fencing is to be constructed of chain wire mesh 1.80 metres high, supported by steel posts and shall remain in place throughout the duration of site works.
- The applicant will display in a prominent location on the fencing of each tree protection zone a durable, weather resistant sign of a similar design, layout and type size as per Appendix C, Australian Standard AS4970-2009 Protection of trees on development sites clearly showing:
  - a) The Development Consent number;
  - b) The name and contact phone number of the consultant arborist / site manager (nominate whoever is applicable);
  - c) The purpose of the protection zone;
  - d) The penalties for disregarding the protection zone;

NB: Delete any of a – d not applicable to the site
- No vehicular access, excavations for construction or installation of services shall be carried out within the fenced off Tree Protection Zone.
- All utility services, pipes, stormwater lines and pits shall be located outside the fenced off Tree Protection Zone.

- Building materials, chemical storage, site sheds, wash out areas, and similar shall not be located within the fenced off Tree Protection Zone.
  - Trees marked for retention must not be damaged or used to display signage, or as fence or cable supports for any reason.
  - Pruning of Council street trees can only be carried out under the authority of a Works Permit approving tree pruning and in accordance with the conditions imposed.
- 48) Erosion and sediment control measures must be installed in accordance with the plans accompanying the Construction Certificate. The capacity and effectiveness of the erosion and sediment control devices must always be adequately maintained throughout the construction period.
- 49) Council's warning sign for Soil and Water Management must be displayed throughout the construction period at the most prominent point of the site, visible to both the street and site.
- 50) Prior to the commencement of work, the person having the benefit of this Determination Notice must provide a temporary on-site toilet if access to existing toilets on site is not adequate/available. Temporary on-site toilet facilities must be installed and be adequately maintained throughout the construction period.
- 51) A Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be obtained from Sydney Water. It is recommended that applicants apply early 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 can be made through an authorised Water Servicing Coordinator. For help either visit [www.sydneywater.com.au](http://www.sydneywater.com.au) > Plumbing, building and developing > Developing > Section 73 Compliance Certificates or telephone 13 20 92.
- 52) A fence must be erected around the area of the development site, except where an existing 1.8 metres high boundary fence is in good condition and can secure the area. Any new fencing must be temporary and at least 1.8 metres high. All fencing must be maintained throughout the construction period 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 work proposed. An application for a Work Permit for such hoarding must be submitted to Council for approval prior to the commencement of building work/s.
- 53) A sign must be erected in a prominent position at the development site and must clearly show the following information:
- a) the name, address and telephone numbers (both during and outside of normal working hours) of the Principal Certifier for the work,

- b) the name of the licenced builder / owner-builder and a telephone number on which that person may be contacted outside working hours, and
- c) that unauthorised entry to the development site is prohibited.

Any such sign must be maintained while the building work is being carried out and must be removed when the building work has been completed.

- 54) 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 that Act and that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.
- 55) Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the Principal Certifier 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 Certifier 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 carried out 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 carrying out the residential building work are changed while the work is in progress, further work must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

- 56) 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 certifier 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.

- 57) Prior to demolition, the entire site (includes any structures) is to be assessed for hazardous materials, especially asbestos. A Hazardous Materials (HAZMAT) Report is to be prepared by a Type "A" inspection body accredited by NATA. All recommendations contained within this report are to be implemented and a clearance certificate issued by an appropriately qualified Occupational Hygienist is to be submitted to Council prior to the issue of a construction certificate.
- 58) The demolition of all structures on the property must be undertaken in accordance with all the following:
- a) Written notice must be issued to adjoining residents a minimum of seven (7) days prior to the commencement of demolition advising of the commencement date,
  - b) Written notice must be issued to Council for inspection a minimum of (7) days prior to the commencement of demolition. Written notice must include the date when demolition work will commence and details of the name, address, contact telephone number and licence number of the demolition contractor,
  - c) Inspections being undertaken by Council including:
    - i. A pre-commencement demolition inspection when all site works required as part of this Determination Notice are installed on the site and prior to demolition work commencing, and
    - ii. A final demolition inspection when the demolition work has been completed to ensure that the site is left in a satisfactory manner, in accordance with the conditions of this Determination Notice,
  - d) Payment of an inspection fee at Council's current rate must be paid prior to inspection. Council requires 48 hours' notice to carry out an inspection,
  - e) A sign must be erected at the front of the property showing the name of the licenced demolition contractor, the licence number and a telephone number on which that person can be contact outside of working hours,
  - f) All demolition work must be carried out in accordance with Australian Standard 2601-2001 – The Demolition of Structures,
  - g) Where asbestos containing materials are to be removed, demolition must be carried out by contractors who have a current SafeWork NSW licence in asbestos removal,
  - h) An asbestos clearance certificate issued under the *Work Health and Safety Act 2011* must be submitted to Council after the completion of demolition work,
  - i) Hazardous and intractable wastes arising from the demolition process must be removed and disposed of in accordance with the requirements of SafeWork NSW and the NSW Environment Protection Authority,



- j) Demolition procedures must maximise the reuse and recycling of demolished materials to reduce the environmental impacts of waste disposal,
- k) Adhere to the requirements stipulated in the approved Waste Management Plan, and
- l) Demolition may only be carried out between 7.00 am and 5.00 pm on Monday to Saturday and no building work/s is to be carried out at any time on a Sunday or a public holiday.

A copy of the final demolition inspection report must be submitted to the Principal Certifier prior to the commencement of any building work.

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

- 59) Building work, subdivision work or demolition work may only be carried out between 7.00 am and 5.00 pm on Monday to Saturday and no construction is to be carried out at any time on a Sunday or a public holiday.
- 60) The building work must be carried out in accordance with the requirements of the Building Code of Australia.
- 61) A report as prepared by a registered surveyor must be submitted to the Principal Certifier prior to the construction of any floor level of the development verifying that the proposed finished floor level and the wall setbacks to the property boundary conform to the approved plans.
- 62) Erosion and sediment control measures must be installed in accordance with the plans accompanying the Construction Certificate and the capacity and effectiveness of the erosion and sediment control devices must always be adequately maintained throughout the construction period.
- 63) Any new information revealed during building work/s that has the potential to alter previous conclusions about site contamination or hazardous materials shall be immediately notified to the Council and the Principal Certifier. Works are to cease until the new information is evaluated by an appropriately qualified and experienced environmental consultant and an appropriate response determined by the applicant and/or owner which is agreed to by Council. Council may also request that a NSW EPA accredited site auditor is involved to assist with the assessment of the new contamination information.
- 64) In the instance works cause the generation of odours or uncovering of unexpected contaminants works are to immediately cease, Council is to be notified and a suitably qualified environmental consultant appointed to further assess the site. The exposed material/excavation is to be evaluated by the supervising environmental consultant and an appropriate response determined in consultation with the applicant, which is agreed to by Council.

Council may also request that a NSW EPA Accredited Site Auditor is involved to assist with the assessment of any unexpected finds, review any contamination information and prepare a Site Audit Report and Site Audit Statement. The applicant must adhere to any additional conditions which may be imposed by the NSW EPA Accredited Site Auditor.

- 65) Any soils to be excavated and disposed of from the site must be analysed and classified by a suitably qualified environmental consultant, in accordance with relevant NSW EPA guidelines including the 'Waste Classification Guidelines' (NSW EPA, 2014) prior to off-site disposal.
- 66) Any waste material is to be transported to an appropriately licensed waste facility by an EPA licensed waste contractor in accordance with relevant NSW EPA guidelines.
- 67) All civil and hydraulic engineering works on site must be carried out in accordance with Council's Bankstown 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.
- 68) All precautions must be taken to prevent any damage likely to be sustained to adjoining properties. Where damage occurs to an adjoining property, all necessary repairs or suitable agreement for such repairs must be undertaken by the person having the benefit of this Determination Notice in consultation with, and with the approval of, the affected property owner as soon as practical. All costs associated in achieving compliance with this condition must be borne by the person having the benefit of this Determination Notice.
- 69) All excavations and backfilling must be executed safely and in accordance with the relevant Australian Standards.

If the development involves an excavation that extends below the level of the base of the footings of a building, structure or work (including any structure or work within a road or rail corridor) on adjoining land, the person having the benefit of this Determination Notice must, at his/her own expense:

- a) Protect and support the building, structure or work from possible damage from the excavation, and
- b) Where necessary, underpin the building, structure or work to prevent any such damage.

This consent condition does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

The owner of any affected buildings is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on an adjoining allotment of land.

- 70) 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.
- 71) Replacement boundary fencing must be 1.8 metres high unless otherwise shown on the approved plans or as stipulated within this Determination Notice. The materials and colours of the fence must be selected in consultation with the adjoining property owners unless the design of the fence and the type of material is specified to allow for overland flow. Fencing forward of the building line must not be greater than 1 metre. All costs related to fencing must be borne by the person having the benefit of this Determination Notice.
- 72) The stormwater drainage system shall be constructed in accordance with Council's Bankstown Development Engineering Standards and the engineering plans and details approved by the Principal Certifier. Should the person having benefit of this Determination Notice encounter any existing, live, underground stormwater drainage pipes, which carry flow from upstream properties, then he / she must maintain the stormwater flow and re-route the stormwater pipes around the subject building or structures at his / her own expense.
- 73) 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.
- 74) 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.
- 75) No permanent or temporary anchors are to be installed on adjoining properties without the approval of the adjoining land owners.

- 76) If any neighbouring properties or roadway are to be utilised for support, the legal rights of any adjoining properties must be respected including for temporary supports. In this regard the written permission of the affected property owner must be obtained and a copy of the owner's consent for temporary rock anchors or other material in adjacent lands must be lodged to Canterbury Bankstown Council prior to the issue of a Construction Certificate.

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

Council will not permit permanent rock anchors in adjacent private lands unless they are specifically permitted in a Development Consent.

Where temporary anchors are proposed to be used, an Application must be made to Canterbury Bankstown Council for approval under Section 138 of the Roads Act 1993, via a Road Works Permit application. The submission would need to be supported by an engineering report prepared by a suitably qualified Structural Engineer, with supporting details addressing the following issues:

- a) Demonstrate that any structures within the road reserve are of adequate depth to ensure no adverse impact on existing or potential future service utilities in the road reserve.
  - b) All existing services must be shown on a plan and included on cross sectional details where appropriate.
  - c) Demonstrate how the temporary anchors will be removed and replaced by full support from structures within the subject site by completion of the works.
- 77) The report must be supported by suitable geotechnical investigations to demonstrate the efficacy of all design assumptions.

78) Trees on adjoining properties: Protection Measures

The following tree protection measures are to be complied with to protect the Melia azedarach (White cedar) with SRZ 2.37m located in the south western corner of the rear yard on the adjoining property at no.46 Kitchener Parade.

If tree roots are exposed during approved works, roots with a diameter less than 35mm are to be pruned cleanly using sharp hand tools and not torn or ripped by machinery. Tree roots greater than 35mm in diameter are to be assessed by a qualified arborist - minimum Australian Qualification Framework (AQF) Level 4 or equivalent – before any pruning work is undertaken.

- 79) Requirements of the approved Waste Management Plan (WMP) shall be complied with during all site preparation works, demolition (if proposed) and throughout all construction works.

When implementing the WMP the developer is to ensure:

- a) The disposal of any demolition and construction waste must be undertaken in accordance with the requirements of the *Protection of Environment Operations Act 1997*;
- b) All waste on site is to be stored, handled and disposed of in such a manner as to not create air pollution, offensive noise or pollution of land and water as defined by the *Protection of Environment Operations Act 1997*;
- c) Generation, storage, treatment and disposal of hazardous waste is conducted in accordance with the relevant waste legislation administered by the EPA and relevant Occupational Health and Safety legislation administered by WorkCover NSW;
- d) All waste generated (including excavated materials) which cannot be reused or recycled must be transported to a facility which can lawfully accept it;
- e) Records are required regarding the details and location of the disposal of all demolition and construction waste (including excavated material), description of waste and are to be kept on site as evidences of lawful disposal. Records are to include receipts and weighbridge dockets which verify material types and volumes, time and date of disposal, waste vehicle rego, and confirmation of the waste disposal facility. Records/ details are also to be kept of person removing the waste;
- f) All materials and resources that are to be stored on site during construction works are contained on the site, The provisions of the *Protection of Environment Operations Act 1997* must be complied with when placing/stock piling loose material, disposal of concrete waste or activities which have potential to pollute drains and water courses; and
- g) The storage of waste and recycling containers must be within the boundaries of the development site at all times. Public footways and roads must not be used for the storage of any waste and must be kept clear of obstructions during all construction works.

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

- 80) The occupation or use of the building must not commence unless an Occupation Certificate has been issued.
- 81) An Occupation Certificate for the completed development must not be issued until all conditions relating to demolition, building and subdivision works have been satisfied and Council has issued a Work Permit Compliance Certificate (where applicable).
- 82) Prior to the issue of the Occupation Certificate, the developer shall register, on the title of the subject property, a Restriction on the Use of Land, in accordance with Clause 17(1)(a) of *State Environmental Planning Policy (Affordable Rental Housing) 2009*, and the appropriate provisions of the *Conveyancing Act 1919*, including wording to the following effect:

*For 10 years from the date of the issue of the occupation certificate—*

- (i) the dwellings proposed to be used for the purposes of affordable housing will be used for the purposes of affordable housing, and*
- (ii) all accommodation that is used for affordable housing will be managed by a registered community housing provider*

The developer shall submit to Council an application for a Land Title Dealing, seeking Council's endorsement of a Section 88E Instrument under the Conveyancing Act, 1919. Final wording will be subject to Council's satisfaction.

A statement shall be placed on the Section 88E Instrument that nominates Canterbury-Bankstown Council as the only authority empowered to release, vary or modify the restrictions created.

The location of the "dwellings proposed to be used for the purposes of affordable rental housing" shall be identified on an A4 size site plan attached to the Section 88E Instrument.

Evidence of the final registration of the Restriction on the title of the property shall be provided to Council and the principal certifier, prior to issue of the Occupation Certificate.

- 83) A report as prepared by a registered surveyor must be submitted to the Principal Certifier verifying that the reduced level (RL) of the finished floor level at each level, the height of external walls, the maximum reduced level (RL) of roof structures / roof eaves overhangs and the external wall setbacks to the property boundaries all conform with the approved plans.
- 84) 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.
- 85) A Copy of the Work Permit Compliance Certificate shall be submitted to the PCA Prior to the issue of the Occupation Certificate.
- 86) Prior to the issue of any Occupation Certificate a design verification from a qualified designer shall be submitted to the Principal Certifying Authority. The design verification is a statement in which the qualified designer verifies that the development has been constructed as shown in the plans and specifications in respect of which the Construction Certificate was issued, having regard to the design quality principles set out in Schedule 1 of SEPP No. 65.



- 87) The acoustic report submitted in support of this application, prepared by Acoustic Consulting Engineers titled 'Noise Assessment – Development Application (DA) Phase Proposed Mixed-Use Development, 44 Kitchener Parade, Bankstown, reference number: 191071-01L-DD, dated 31 July 2019 and recommendations of this report forms part of the development consent.

The Principal Certifying Authority shall obtain a report from an appropriately qualified acoustic consultant, stating that the recommendations outlined in the above stated report have been completed and that relevant noise criteria have been satisfied prior to the issue of any Occupation Certificate. A copy of the report is to be submitted and approved by Council prior to the issue of any Construction Certificate.

- 88) Fourteen (14) off street car spaces being provided in accordance with the submitted plans. This shall comprise:

Nine (9) residential spaces;

Four (4) business / commercial spaces;

Three (3) of the above car parking spaces are to be provided for people with mobility impairment in accordance with AS 2890.1.

One (1) service bay is to be provided in accordance with the approved plans.

All car parking spaces shall be allocated and marked according to these requirements.

No further off-street car spaces are required to be provided in addition to the fourteen (14) spaces shown on the approved plans, subject to the resolution of a Planning Agreement paying a monetary contribution in lieu of the three (3) additional business/commercial spaces required.

- 89) Landscaping is to be installed in accordance with the approved landscape plan(s). All works and methods nominated and materials specified on the approved landscape plan(s) are to be completed prior to the issue of an Occupation Certificate. The landscaping shall be maintained for the life of the development.
- 90) Lighting must be provided to the entry of the building, driveway and parking areas to promote a high level of safety and security at night and during periods of low light. All lighting must be hooded, shielded or directed away from neighbouring dwellings to minimise glare and associated nuisances to residents.
- 91) The building must be readily identified from the street with the allocated house number. Numbering of the development without Council's written approval is not permitted.
- 92) The Section 73 compliance certificate under the *Sydney Water Act 1994* must be submitted to the Principal Certifier.
- 93) A registered surveyor shall prepare a Work As Executed Plan, and a suitably qualified Hydraulic Engineer shall provide certification of the constructed stormwater 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 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 occupation certificate.

- 94) A Restriction as to User and Positive Covenant under the provision of Section 88B of the Conveyancing Act and in accordance with the terms described in Council's Development Engineering Standards shall be registered on the title of the subject property requiring that the "On-Site Stormwater Detention System" within the site as constructed shall not be altered and shall be maintained in good working order to the satisfaction of Council.

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

Canterbury-Bankstown Council shall be the only authority empowered to release, vary or modify the Restriction.

- 95) Prior to the issue of the occupation certificate, the safety and security requirements under condition no. 38 of this consent must be complied with to the satisfaction of the Certifying Authority.
- 96) The amount of storage area per unit shall be provided in accordance with the ADG storage requirements and in the location as indicated on the approved plans.
- 97) Council Inspection – Waste Management Facilities  
Prior to the issue of an Occupation Certificate, an authorised Council waste officer is to inspect and approve all waste management facilities to ensure they comply with the development approval, Waste Management Plan. Specifically, the path of travel for all waste, from unit to point of waste collection, waste storage room sizing, access to water and sewer connections, finished materials, access and door way dimensions, truck turntables, and that all waste facilities are fit for purpose.

98) Waste Collection Agreement with Council

Prior to the issue of an Occupation Certificate, the developer is to enter into a formal agreement with Council for the utilisation of Council's Domestic Waste Collection Service. This is to include Council being provided an easement for unimpeded access to and from the waste collection locations for council and its contractors to enter and exit for the purpose of waste and recycling collection. The development is also required to indemnify council and its contractors against claims for loss or damage or wear and tear of access roads or to other parts of the building.

The applicant must complete, sign and return Canterbury-Bankstown Council's 'Agreement for On-Site Waste Collection' prior to the issue of an Occupation Certificate.

Note: By entering into an agreement with Council for waste collection, the development will be required to operate in full compliance with Council's Waste Management collection requirements. The provision of Council's waste collection service will not commence until formalisation of the agreement.

99) Private Waste Collection Service – Commercial Waste

Prior to the issue of an Occupation Certificate, the owner is to enter into a formal agreement with a licenced private waste contractor to service the commercial portion of the development. The contract is to ensure the removal of all waste from the development site.

Prior to entering into an agreement for a private commercial waste collection service, the owner is to ensure that:

- a) The service is functional and meets the operational needs of the development
- b) The service minimises environmental nuisances including noise and other adverse impacts on the safety and amenity of residents and the public.

A copy of the contract is to be forwarded to Council prior to the issue of an Occupation Certificate.

- 100) The open walkway between units on each of the residential levels are approved as open areas only and shall not be enclosed by any wall, window or similar obstruction. Compliance with this condition must be verified prior to the issue of an occupation certificate. This condition must be complied with for the life for the development, unless altered by Council under a separate consent.

**CONDITIONS TO BE SATISFIED PRIOR TO THE RELEASE OF THE SUBDIVISION CERTIFICATE**

- 101) An application and appropriate fees for the issue of a Subdivision Certificate for the approved mixed-use development, shall be submitted to Council upon all works being completed.

- 102) The Subdivision Certificate for the approved mixed-use development shall not be issued until the final Occupation Certificate has been issued for the building, site and subdivision works.
- 103) The following information shall be submitted to Council or accredited certifier (where applicable) with an application for a Subdivision Certificate for the development:
- a) Original plan of subdivision prepared and signed by a qualified surveyor, plus five (5) copies;
  - b) Copy of the relevant development consent, including all Section 4.55 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) Copy of the Work Permit Compliance Certificate, where required.
- 104) The fourteen (14) car parking spaces to be provided for the development is to be allocated in the following manner:
- Nine (9) residential spaces including three (3) accessible residential spaces;
  - Four (4) business / commercial spaces;
  - One (1) service bay space.

The strata subdivision plan must indicate these car parking spaces in terms of the same numbering as the units they have been allotted to. Visitor/common parking spaces are to remain as common property.

#### **CONDITIONS OF CONSENT FOR ON-GOING USE**

- 105) Following occupation of the building, should it be found that the measures recommended in the acoustic assessment are not sufficient, or have been incorrectly installed or a noise issue (relating to the development) not previously identified arises (through complaint or otherwise), the owner/ occupier must, upon request by Council, employ the services of a qualified acoustic consultant who has not previously been involved with the development to undertake a post-occupation assessment of the development and complete an acoustic report with recommendations to rectify the situation. A copy of this acoustic assessment report must be submitted to Council for approval and from there noise attenuation works must be implemented. Submission of the acoustic report must be within 30 days from the date requested by Council.
- 106) Any activity carried out in accordance with this approval shall not give rise to offensive odour, offensive noise or pollution of air, land or water as defined in the Protection of the Environment Operations Act 1997 and Regulations.

- 107) The implementation of this development shall not adversely affect the amenity of the neighbourhood or interfere unreasonably with the comfort or repose of a person who is outside the premises by reason of the emission or discharge of noise, fumes, vapour, odour, steam, soot, ash, dust, waste water, waste products, grit, oil or other harmful products.
- 108) All waste generated on the site is to be stored, handled and disposed of in such a manner as to not create offensive odour, offensive noise or pollution of land and/or water as defined under the *Protection of the Environment Operations Act 1997*. All waste generated shall be removed and disposed of by an authorised waste removal contractor.
- 109) The following waste requirements shall be complied with:
- a) Waste Management Plan Implementation  
The approved Waste Management Plan is to be implemented throughout the ongoing use of the development.
  - b) Waste Management Collection Policy  
The development must operate in full compliance with Council's Waste Management collection requirements.
  - c) Collect and Return Service  
The nominated collect and return collection point is to be utilised to facilitate the collection of waste and recycling bins for the development.
  - d) Licensed Waste Collection  
All businesses must have written evidence on site of a valid and current contract with a licenced waste collector for waste and recycling collection disposal. You must be able to show your waste collection contract if it is requested by a Council Enforcement Officer.
  - e) Management  
Contracts (or agreements) with cleaners, building managers and tenants must clearly outline the waste management and collection system and must clearly identify everyone's role and responsibility.

This is to include the following:

- i. Responsibility for cleaning and maintaining waste storage bins and containers;
- ii. Responsibility for cleaning and maintaining waste storage room;
- iii. Responsibility for the transfer of bins to the nominated collection point;
- iv. Method of communication to new tenants and residents concerning the developments waste management system; and
- v. Cleaning up and management of bulky waste.

Where the development incorporates strata title subdivision, the by-laws are to clearly set out the management responsibilities for the developments waste and recycling system.

f) Waste Storage Containers

No waste storage containers are to be located or placed outside the approved waste storage area at any time except for collection purposes.

g) Signage

Adequate signage is to be provided and maintained on how to use the waste management system and what materials are acceptable for recycling within all waste storage areas of the development. Signage is also to be provided and maintained which clearly identifies which bins (and containers) are to be used for general waste and recycling and what materials can be placed in each bin.

- 110) All waste materials shall be stored in the approved designated waste storage areas away from public view in accordance with the approved plans. No waste storage containers are to be located or placed outside the approved waste storage area at any time except for collection purposes. The on-site collection point is always to be kept clear of obstructions so not to restrict the collection of waste and recycling.
- 111) The Pedestrian Sight Triangles adjacent the new driveway shall remain clear of any obstruction at all times.
- 112) Identification number/s are to be conspicuously displayed at the front of the premises.
- 113) Instructions concerning procedures to be adopted in the event of an emergency are to be clearly displayed on the premises for both public and staff information at all times.
- 114) Any lighting on the site shall be designed so as to avoid annoyance to the occupants of adjoining premises or glare to motorists on nearby roads, and to ensure no adverse impact on the amenity of the surrounding area by light overspill. Any lighting of the premises must be installed in accordance with AS 4282-1997, 'Control of the obtrusive effects of outdoor lighting'. Flashing, moving or intermittent lights or signs are prohibited. The intensity, colour or hours of illumination of the lights must be varied at Council's discretion if Council considers there to be adverse effects on the amenity of the area.
- 115) The approved landscaping on the site shall be maintained under best horticultural practise at all times. The approved landscaping and external work must be maintained post occupation and must not be altered or changed without Council approval or unless the altered work is carried out in accordance with the relevant provisions of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.
- 116) All roof-top plant and associated equipment must be located within the approved building envelope and must not be visible from the public domain.



- 117) Access control for the basement must include the provision of a roller door installed with swipe card and an intercom system access.
- 118) Access into the building and residential lobby shall be via key/swipe card and/or intercom system.
- 119) CCTV is to be installed for the development including the building entry points, basement levels, commercial tenancies and residential lobby area. The CCTV system is required to have the capacity to store for up to 28 days and be made available to police upon request.
- 120) All storage areas in the basement are to be clearly identifiable and secured. Any storage areas in alcoves need to be well lit and mirrors to be erected to assist with unclear sightlines. CCTV and mirrors are required to be installed to cover complete area. CCTV system is required to have the capacity to store for up to 28 days and be made available to police upon request.
- 121) All letter boxes are to have non-master key locks, to prevent mail theft and fraud. Letterboxes are to be in a location away from the public's eye with CCTV cameras covering the area. The CCTV system is required to have the capacity to store for up to 28 days and be made available to police upon request.
- 122) The open walkway between units on each of the residential levels are approved as open areas only and must remain open for the life of the development.

-END-

---

## Canterbury Bankstown Local Planning Panel - 02 August 2021

---

<b>ITEM 2</b>	<b>DA-783/2020 - 6-8 Kent Street, Belmore</b>
	<b>Demolition of existing buildings and construction of a five storey shop top housing development comprising of 22 apartments, one commercial premise on ground floor and two levels of basement parking.</b>
<b>FILE</b>	<b>DA-783/2020 – Roselands</b>
<b>ZONING</b>	<b>B2 Local Centre</b>
<b>DATE OF LODGEMENT</b>	<b>7 September 2020</b>
<b>APPLICANT</b>	<b>8 Kent Street Pty Ltd</b>
<b>OWNERS</b>	<b>8 Kent Street Pty Ltd</b>
<b>ESTIMATED VALUE</b>	<b>\$6,867,182</b>
<b>AUTHOR</b>	<b>Planning</b>

### REPORT

This matter is reported to Council's Local Planning Panel as the application seeks consent for a development for which State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development applies and is four or more storeys in height.

Development Application No. DA-783/2020 proposes demolition of existing structures, construction of a five storey shop top housing development comprising of one commercial tenancy on ground floor and 22 apartments above and two levels of basement parking.

DA-783/2020 has been assessed against the relevant provisions of State Environmental Planning Policy No. 55- Remediation of Land, State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development, State Environmental Planning Policy (Infrastructure) 2007, State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, Canterbury Local Environmental Plan 2012 and Canterbury Development Control Plan 2012.

The application was advertised for a period of 21 days. One (1) objection was received during this period, which raises concerns as summarised below:

- *Noise Pollution*
- *Reduced Privacy*
- *Proposed Property Shadow*
- *Ongoing Light Pollution*

## **POLICY IMPACT**

---

This matter has no direct policy implications

## **FINANCIAL IMPACT**

---

This matter has not direct financial implications

## **RECOMMENDATION**

---

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

## **ATTACHMENTS**

---

- A. Assessment Report
- B. Conditions of Consent

## **DA-783/2020 ASSESSMENT REPORT**

### **SITE & LOCALITY DESCRIPTION**

The subject site is known as 6-8 Kent Street, Belmore and is legally identified as Lot 2 section 1 in DP 4291. The site is located on the eastern side of Kent Street. It is irregular in shape, with a street frontage to Kent Street of 20.115m. The northern and southern side boundaries are 50.29m and the rear boundary is 20.115m. The site has a total area of 962.7m<sup>2</sup>.

Two industrial developments and a car port exist on site. The surrounding development is characterised by commercial and industrial developments to the north and east of the site. The surrounding zoning is predominantly B2 Local Centre and R4 High Density Residential (see Figure 3 below).

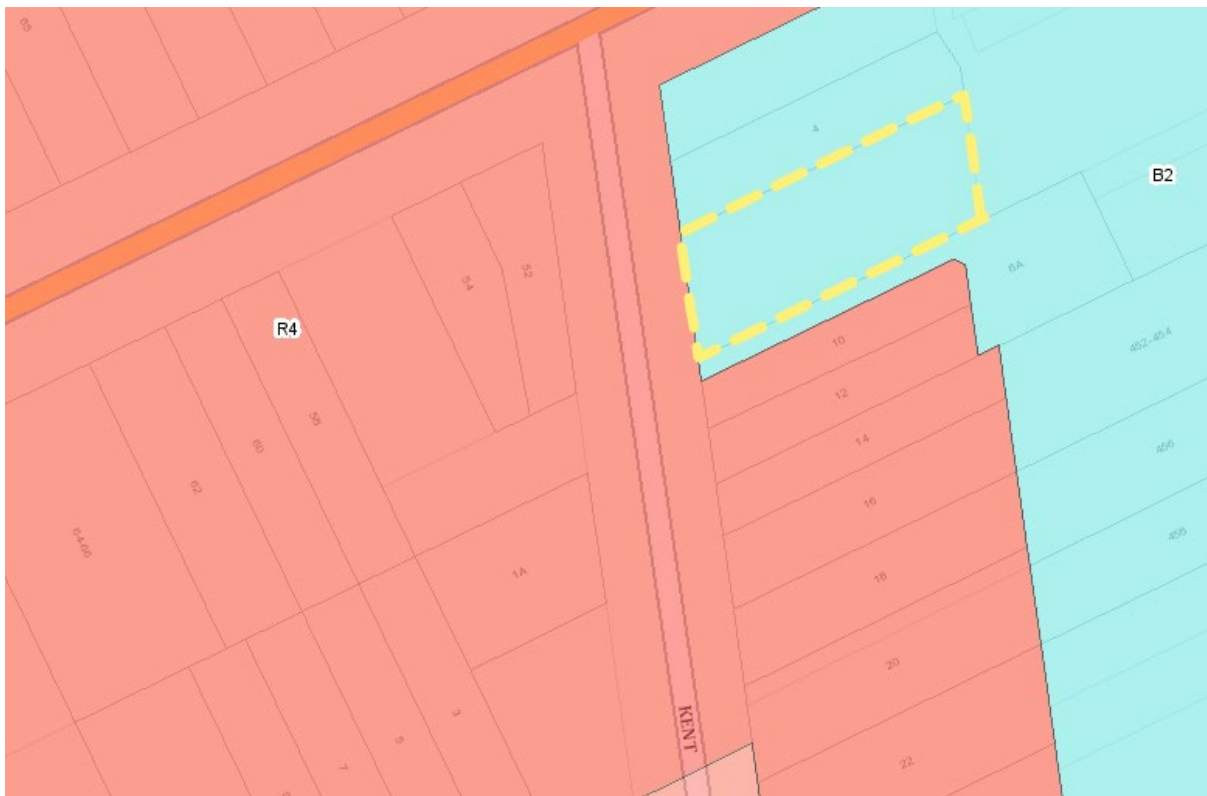


**Figure 1: Aerial of subject site shaded in yellow. Source: Six Maps**





**Figure 2: View of the subject site from Kent Street (source Google Maps)**



**Figure 3: Zoning Map, site outlined in yellow (Source NSW Planning Portal)**

**PROPOSED DEVELOPMENT**

The proposal seeks consent for the demolition of existing structures and the construction of a five storey shop top housing development comprising of one commercial tenancy on ground floor and twenty-two (22) apartments above and two levels of basement parking. The specifics of the development are as follows:

Floor	Description
Basement Level 1	<ul style="list-style-type: none"> <li>• A ramp and parking area containing 19 car spaces total (including two accessible car spaces) and 6 bicycle spaces;</li> <li>• Car wash bay;</li> <li>• Storage units;</li> <li>• A services/pump room;</li> <li>• Electrical services room;</li> <li>• Lifts and stair access to upper levels.</li> </ul>
Basement Level 2	<ul style="list-style-type: none"> <li>• A ramp and parking area containing 21 car spaces total (including two accessible car spaces) and 6 bicycle spaces;</li> <li>• Storage spaces;</li> <li>• Lifts to upper levels.</li> </ul>
Ground Floor	<ul style="list-style-type: none"> <li>• Commercial tenancy fronting Kent Street;</li> <li>• driveway access from Kent Street;</li> <li>• Communal open space area at the rear;</li> <li>• landscaping;</li> <li>• Provision of a bin room and presentation area;</li> <li>• Communal open space area; and</li> <li>• lifts to upper levels.</li> </ul>
Level 01	<ul style="list-style-type: none"> <li>• 6 units, 5 x two bedroom units and 1 x one bedroom unit (including 1 adaptable units),</li> <li>• Lift access.</li> </ul>
Level 02	<ul style="list-style-type: none"> <li>• 6 units, 5 x two bedroom units and 1 x one bedroom unit (including 1 adaptable units),</li> <li>• Lift access.</li> </ul>
Level 03	<ul style="list-style-type: none"> <li>• 7x two bedroom units;</li> <li>• Lift access.</li> </ul>
Level 04	<ul style="list-style-type: none"> <li>• 3 x three bedroom units;</li> <li>• Second storey including bedrooms to units 3.01 to 3.04 located on level 4.</li> <li>• Lift access.</li> </ul>
Level 05	<ul style="list-style-type: none"> <li>• Second storey including bedrooms to units 4.01 to 4.03 located on level 5.</li> </ul>



**Statutory Considerations**

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

- State Environmental Planning Policy 55 – Contaminated Land (SEPP 55)
- State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development (SEPP 65)
- State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017
- State Environmental Planning Policy 2004 (Building Sustainability Index: BASIX)
- Canterbury Local Environmental Plan 2012 (CLEP 2012)
- Canterbury Development Control Plan 2012 (CDCP 2012)
- Canterbury Development Contributions Plan 2013 (Contributions Plan 2013)

**SECTION 4.15 ASSESSMENT**

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

**Environmental planning instruments [section 4.15(1)(a)(i)]****State Environmental Planning Policy 55 – Remediation of Land (SEPP 55)**

Clause 7 of SEPP 55 – Remediation of Land requires Council to consider whether the land is contaminated prior to granting consent to the carrying out of any development on that land. Should the land be contaminated, Council must be satisfied that the land is suitable in a contaminated state for the proposed use. If the land requires remediation to be undertaken to make it suitable for the proposed use, Council must be satisfied that the land will be remediated before the land is used for that purpose.

The applicant has submitted a Detailed Site Investigation report dated 20 July 2020 as prepared by Aargus Pty Ltd. The report contains recommendations with regard to future excavation, building foundations and contamination management. Council's Environmental Health Officer has reviewed the documents and is satisfied subject to the imposition of suitable conditions of consent. Accordingly, the submitted reports demonstrate that the site is suitable for the purpose of the proposed development in accordance with SEPP 55 – Remediation of Land.

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

In accordance with BASIX SEPP, a BASIX Certificate (Certificate Number 1130504M\_02 and dated 17 June 2021) accompanies this application. The Certificate makes several energy/resource commitments relating to water, energy and thermal comfort. The relevant commitments indicated on the BASIX Certificate have been shown on the plans in order to satisfy objectives of the SEPP. The BASIX Certificate requirements have been incorporated into conditions of consent.

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

This policy applies to residential apartment development and is required to be considered when assessing this application. Residential apartment development is defined under SEPP 65 as development for the purpose of a residential flat building, shop top housing or mixed use development with a residential accommodation component. The development must consist of the erection of a new building, the conversion of an existing building or the substantial redevelopment or refurbishment of an existing building. The building must also be at least 3 or more storeys and contain at least 4 or more dwellings. Residential apartment development does not include boarding houses or serviced apartments.

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

**Principle 1: Context and Neighbourhood Character**

The site is consistent with the objectives of the zone as the development consists of a shop top housing development. The proposed development will result in a building bulk and a development generally in keeping with the area. Whilst some breaches to the policies and controls exist, Council considers these breaches acceptable in this instance only, for the reasons set out in this report.

**Principle 2: Built Form and Scale**

The design ensures that the proposed development is appropriate to the existing and desired future character of the streetscape in terms of scale, bulk and height. Also, the appropriate use of materials and finishes helps to define the base of the building from the upper storey to provide articulation in the building façade.

**Principle 3: Density**

The density of the proposed development is satisfactory and a reasonable response to the existing and desired future context as it offers a high level of amenity for residents and each apartment.

**Principle 4: Sustainability**

A BASIX Certificate has been submitted, which details the resource, energy and water efficiency measures that will be incorporated into this proposal.

### Principle 5: Landscape

The Landscape design principle states that good design is recognised when landscaping and buildings operate as an integrated and sustainable system, resulting in attractive developments that contribute to the landscape character of the streetscape. It also states that good landscape design optimises usability, privacy and opportunities for social interaction, equitable access, and respect for neighbours' amenity, provides for practical establishment and long term management.

A Landscape Plan formed part of the documentation with this application which demonstrates a good landscape design that is in keeping with the nature of the Business zone. Adequate deep soil and communal open space is provided at the rear of the site. Therefore, the landscape treatment as proposed is considered satisfactory.

### Principle 6: Amenity

The proposed development offers good amenity through a combination of appropriate room dimensions, solar access, natural ventilation to at least 63% of apartments, storage contained within each apartment/basement levels and private open space. In addition to the internal amenity offered to each apartment, the overall layout of the development provides adequate parking and balance of the site in terms of the proportion of built form to landscaped areas and communal open space.

### Principle 7: Safety

The safety design principle states that good design optimises safety and security within the development and the public domain. The proposed development achieves safety through its compatibility with the Crime Prevention through Environmental Design (CPTED) principles as outlined in CDCP 2012. The proposal provides increased activation and passive surveillance to the street and the communal open space area. Additionally, residential entry and lobby areas are to be secured and well-lit and this has been confirmed with a condition.

### Principle 8: Housing Diversity and Social Interaction

This principle aims to achieve good design by providing a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets. Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents.

The proposed development offers a combination of one bedroom, two bedroom and three bedroom apartments. The location of the site is in good proximity to public transport which widens the demographic and social mix.

### Principle 9: Aesthetics

The articulation of external facades and general compliance with the relevant built form standards reduces the perceived visual bulk of the building. Also, the proposed development satisfactorily provides a ground floor that contributes to the activation of the local centre with a well-designed shop/commercial spaces on the ground floor. Together, these elements contribute to the desired future character of the locality and enhance the existing surrounding streetscapes.

### Apartment Design Guide

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

Section	Design Criteria	Proposed	Complies
<b>Part 3 Siting the Development</b>			
3C Public Domain Interface	<ul style="list-style-type: none"> <li>- Transition between private and public domain is achieved without compromising safety and security</li> <li>- Amenity of the public domain is retained and enhanced</li> </ul>	<p>The communal residential entry from Kent Street is clearly identifiable from the street.</p> <p>The floor plans were amended to ensure the floor levels at the front boundary of the site better relate to the existing street levels, which helps to maintain a better transition between the private and public domain.</p>	Yes
3D Communal and Public Open Space	Communal open space has a minimum area equal to 25% of the site. (Total site area is 962.6m <sup>2</sup> , requiring a minimum 240.6m <sup>2</sup> )	The proposed development provides 240.6m <sup>2</sup> communal open space on ground floor with at least a minimum 3m dimension.	Yes
	Communal open space should have a minimum dimension of 3m.		
	Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter).	The proposed development fails to meet the requirements of 50% of the usable part of Common Open Space.	No – See Comment 2 Below

Section	Design Criteria	Proposed	Complies									
3E Deep Soil Zones	<p>Deep soil zones are to meet the following minimum dimensions:</p> <table><tr><td>Site Area</td><td>Min. Dimensions</td><td>Deep Soil Zone (% of site area)</td></tr><tr><td>650m<sup>2</sup> 1,500m<sup>2</sup></td><td>- 3m</td><td>7%</td></tr></table>	Site Area	Min. Dimensions	Deep Soil Zone (% of site area)	650m <sup>2</sup> 1,500m <sup>2</sup>	- 3m	7%	<p>Based on a site area of 962.6m<sup>2</sup>, a minimum of 7% the site area to be deep soil which equates to 67.38m<sup>2</sup>.</p> <p>The proposed development provides total deep soil area of 69m<sup>2</sup> and is a minimum of 3.6m in dimension. The deep soil area can accommodate large canopy tree planting.</p>	Yes			
Site Area	Min. Dimensions	Deep Soil Zone (% of site area)										
650m <sup>2</sup> 1,500m <sup>2</sup>	- 3m	7%										
3F Visual Privacy	<p>Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:</p> <table><tr><td>Building Height</td><td>Habitable Rooms &amp; Balconies</td><td>Non-habitable Rooms</td></tr><tr><td>Up to 12m (4 storeys)</td><td>6m</td><td>3m</td></tr><tr><td>Up to 25m (5-8 storeys)</td><td>Up to 25m (5-8 storeys)</td><td>Up to 25m (5-8 storeys)</td></tr></table>	Building Height	Habitable Rooms & Balconies	Non-habitable Rooms	Up to 12m (4 storeys)	6m	3m	Up to 25m (5-8 storeys)	Up to 25m (5-8 storeys)	Up to 25m (5-8 storeys)	<p><u>Rear</u></p> <ul style="list-style-type: none"><li>- Minimum 6m provided from habitable room/balcony to rear boundary for level 1, level 2, level 3 and level 4.</li><li>- Minimum 9m rear setback is provided for level 5.</li><li>- In B2 zones no side setback required as stipulated in DCP assessment below.</li></ul>	Yes
Building Height	Habitable Rooms & Balconies	Non-habitable Rooms										
Up to 12m (4 storeys)	6m	3m										
Up to 25m (5-8 storeys)	Up to 25m (5-8 storeys)	Up to 25m (5-8 storeys)										

Section	Design Criteria	Proposed	Complies															
3J Bicycle and Car Parking	<p>For development within 800 metres of a railway station the minimum car parking requirement for residents and visitors is the lesser of that set out within the Guide to Traffic Generating Developments or Council requirements.</p> <p>The subject site is not located within 800m of a railway station and therefore the parking rates under Part B1 Transport &amp; Parking of the CDCP 2012 apply.</p> <p>Guide to Traffic Generating Developments Parking rates:</p> <table><tr><th>Type</th><th>Rate</th><th>Required</th></tr><tr><td>1 bed</td><td>0.4</td><td>0.8</td></tr><tr><td>2 bed</td><td>0.7</td><td>11.9</td></tr><tr><td>3 bed</td><td>1.2</td><td>3.6</td></tr><tr><td>Visitor</td><td>1 per 7 dwellings</td><td>3.14</td></tr></table>	Type	Rate	Required	1 bed	0.4	0.8	2 bed	0.7	11.9	3 bed	1.2	3.6	Visitor	1 per 7 dwellings	3.14	<p>The subject site is located within 450m to the entry of Belmore railway station, therefore the car parking requirement set out within the Guide to Traffic Generating Developments is lesser and would apply.</p> <p>Total parking required for residential part of the development = 20</p> <p>Total parking provided for residential part of the development = 28</p>	Yes
	Type	Rate	Required															
1 bed	0.4	0.8																
2 bed	0.7	11.9																
3 bed	1.2	3.6																
Visitor	1 per 7 dwellings	3.14																
	<p>The car parking needs for a development must be provided off street.</p>	<p>The proposal has provided all required car parking off street and located in the levels of the development.</p>	Yes															



Section	Design Criteria	Proposed	Complies
3G Pedestrian Access and Entries	<p>Multiple entries should be provided to activate the street edge.</p> <p>Entry locations relate to the street and subdivision pattern / existing pedestrian network.</p> <p>Building entries should be clearly distinguishable from private entries.</p> <p>Building access areas (lift lobbies, stairwells and hallways) should be clearly visible from public domain and communal spaces.</p> <p>Minimise ground floor and underground level changes along pathways and entries. Steps and ramps integrated into design.</p> <p>Provide way finding maps for large developments. Electronic access and audio/video intercoms required.</p> <p>Provide pedestrian links to streets and destinations with clear sight lines.</p>	<p>The main residential entry lobby to the development fronts Kent Street.</p> <p>The proposed driveway and pedestrian entry are welcoming and easily identifiable from the street.</p> <p>The pedestrian access and entry into the site is adequately achieved.</p>	Yes
<b>Part 4 Designing the Building</b>			
4A Solar and Daylight Access	<p>Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter.</p>	<p>Living rooms and private open space areas for a minimum of 70%, equivalent to 15.4 apartments are to receive a minimum of 2 hours direct sunlight between 9am and 3pm in mid-winter. The development provides 2 hours of solar access to 16 of the 22 apartments between 9am and 3pm (equivalent to 72.7%) receive solar access to both the living space and the private open space</p>	Yes

Section	Design Criteria	Proposed	Complies								
	A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter.	No more than 15% of the total apartments (maximum of 3.3 apartments) receive no solar access.  All units receive some solar access	Yes								
4B Natural Ventilation	At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartment at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.	60% of the total units equates to 13.2 units which are required to achieve natural ventilation.  14 apartments achieve natural ventilation which equates to 63%.	Yes								
	Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	No cross through or crossover apartments proposed.	N/A								
4C Ceiling Heights	Measured from finished floor level to finished ceiling level, minimum ceiling heights are: <table border="1"><tr><th colspan="2">Minimum Ceiling Height for Apartment and Mixed Use Buildings</th></tr><tr><td>Habitable rooms</td><td>2.7m</td></tr><tr><td>Non-habitable</td><td>2.4m</td></tr><tr><td>For 2 storey apartments</td><td>2.7m main living area floor 2.4 for second floor.</td></tr></table>  These minimums do not preclude higher ceilings if desired.	Minimum Ceiling Height for Apartment and Mixed Use Buildings		Habitable rooms	2.7m	Non-habitable	2.4m	For 2 storey apartments	2.7m main living area floor 2.4 for second floor.	The floor to ceiling heights for all residential apartments on levels 1 to level 4 (inclusive) measures a 2.7m floor to ceiling height. All apartments meet the minimum requirement.	Yes
Minimum Ceiling Height for Apartment and Mixed Use Buildings											
Habitable rooms	2.7m										
Non-habitable	2.4m										
For 2 storey apartments	2.7m main living area floor 2.4 for second floor.										

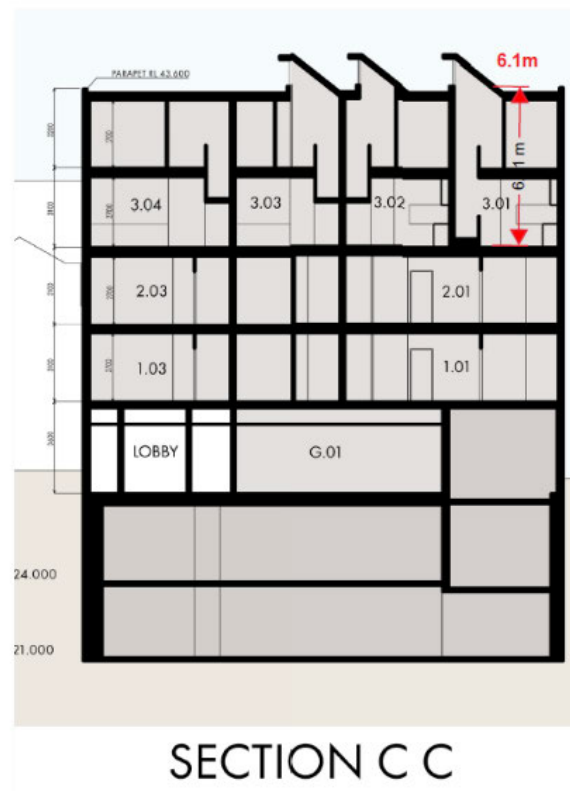
Section	Design Criteria	Proposed	Complies								
4D Apartment Size and Layout	Apartment are required to have the following minimum internal areas: <table><tr><th>Apartment Type</th><th>Minimum Internal Area</th></tr><tr><td>1 bedroom</td><td>50m<sup>2</sup></td></tr><tr><td>2 bedroom</td><td>70m<sup>2</sup></td></tr><tr><td>3 bedroom</td><td>90m<sup>2</sup></td></tr></table> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m<sup>2</sup> each.</p> <p>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m<sup>2</sup> each.</p>	Apartment Type	Minimum Internal Area	1 bedroom	50m <sup>2</sup>	2 bedroom	70m <sup>2</sup>	3 bedroom	90m <sup>2</sup>	All 22 of the proposed apartments each meet the minimum internal areas required. Any apartment with a second bathroom includes additional area and maintains compliance.	Yes
	Apartment Type	Minimum Internal Area									
	1 bedroom	50m <sup>2</sup>									
	2 bedroom	70m <sup>2</sup>									
	3 bedroom	90m <sup>2</sup>									
	Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.	Achieved	Yes								
In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.	The proposed apartments provide living room depths that are a maximum 8m depth. However, Unit 3.01 was calculated differently but still complies. See note 1 below.	Yes									
Master bedrooms have a minimum area of 10m <sup>2</sup> and other bedrooms 9m <sup>2</sup> (excluding wardrobe space).	All proposed master bedrooms have a minimum dimension of 10m <sup>2</sup> . All other bedrooms are a minimum of 9m <sup>2</sup> .	Yes									
Bedrooms have a minimum dimension of 3m (excluding wardrobe space).	The proposed apartments have a minimum bedroom dimension of 3m.	Yes									

Section	Design Criteria	Proposed	Complies												
	Living rooms or combined living/dining rooms have a minimum width of: <ul style="list-style-type: none"><li>3.6m for studio and 1 bedroom apartments</li><li>4m for 2 and 3 bedroom apartments</li></ul>	All one-bedroom apartments have a minimum living area width of 3.6m.  All two-bedroom and three bedroom apartments have a minimum living area width of 4m.	Yes												
	The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts.	No cross-over or cross-through apartments proposed.	N/A												
4E Private Open Space and Balconies	All apartments are required to have primary balconies as follows: <table><tr><th>Dwelling type</th><th>Minimum Area</th><th>Minimum Depth</th></tr><tr><td>1 bedroom apartments</td><td>8m<sup>2</sup></td><td>2m</td></tr><tr><td>2 bedroom apartments</td><td>10m<sup>2</sup></td><td>2m</td></tr><tr><td>3 bedroom apartments</td><td>12m<sup>2</sup></td><td>2.4m</td></tr></table>	Dwelling type	Minimum Area	Minimum Depth	1 bedroom apartments	8m <sup>2</sup>	2m	2 bedroom apartments	10m <sup>2</sup>	2m	3 bedroom apartments	12m <sup>2</sup>	2.4m	Each of the proposed 1 bedroom apartments (1.02 and 1.03) have a balcony with a minimum area of 12.6m <sup>2</sup> .  Each of the proposed 2 bedroom apartments have a balcony with a minimum area ranging between 12m <sup>2</sup> and 30m <sup>2</sup> .  The proposed 3-bedroom apartments (4.01, 4.02 and 4.03) have a balcony with an area ranging between 12.2m <sup>2</sup> and 13.5m <sup>2</sup> .	Yes
	Dwelling type	Minimum Area	Minimum Depth												
	1 bedroom apartments	8m <sup>2</sup>	2m												
2 bedroom apartments	10m <sup>2</sup>	2m													
3 bedroom apartments	12m <sup>2</sup>	2.4m													
	The minimum balcony depth to be counted as contributing to the balcony area is 1m.	The minimum depth is met for all private open space areas.													
	For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m <sup>2</sup> and a minimum depth of 3m.	The proposal is for a shop top housing development, therefore no apartments are located on ground floor.	N/A												

Section	Design Criteria	Proposed	Complies										
4F Common Circulation and Spaces	<p>The maximum number of apartments off a circulation core on a single level is eight.</p> <p>Where design criteria 1 is not achieved, no more than 12 apartments should be provided off a circulation core on a single level</p>	The maximum number of apartments on any level is 7, which will adequately service the development.	Yes										
4G Storage	<p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <table><tr><td>Dwelling type</td><td>Storage size volume</td></tr><tr><td>Studio apartments</td><td>4m<sup>3</sup></td></tr><tr><td>1 bedroom apartments</td><td>6m<sup>3</sup></td></tr><tr><td>2 bedroom apartments</td><td>8m<sup>3</sup></td></tr><tr><td>3+ bedroom apartments</td><td>10m<sup>3</sup></td></tr></table> <p>At least 50% of the required storage is to be located within the apartment.</p>	Dwelling type	Storage size volume	Studio apartments	4m <sup>3</sup>	1 bedroom apartments	6m <sup>3</sup>	2 bedroom apartments	8m <sup>3</sup>	3+ bedroom apartments	10m <sup>3</sup>	All apartments exceed the minimum storage requirements and provide storage both within the apartments and in storage cages within the basement levels.	Yes
Dwelling type	Storage size volume												
Studio apartments	4m <sup>3</sup>												
1 bedroom apartments	6m <sup>3</sup>												
2 bedroom apartments	8m <sup>3</sup>												
3+ bedroom apartments	10m <sup>3</sup>												
4H Acoustic Privacy	<p>Adequate building separation is provided within the development and from neighbouring buildings/adjacent uses</p> <p>Noisy areas within buildings including building entries and corridors should be located next to or above each other and quieter areas next to or above quieter areas</p> <p>Rooms with similar noise requirements are grouped together</p> <p>Noise sources such as garage doors, driveways, service areas, plant rooms, building services, mechanical equipment, active communal open spaces and circulation areas should be located at least 3m away from bedrooms.</p>	An acoustic assessment report prepared by Acoustic Noise and Vibration Solutions P/L and dated 12 August 2020 was submitted with this application and is acceptable in terms of its recommendations to achieve appropriate acoustic amenity within the site and to ensure no acoustic impacts resulting from the proposed development.	Yes										

### Note [1] - Part 4D Apartment size and Layout

Part 4D of the ADG requires that in open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window. The main intention of this design objective is to ensure there is adequate internal access to natural light. While this distance is typically calculated taking the distance/length from the kitchen to a window, for the purpose of calculating access to natural light to a window for unit 3.01 has been measured taking the vertical distance to the skylight above which is shown to be 6.1m in the extract below. It is accepted in this instance, given that the overall intention of achieving natural light internally has been achieved.



**Figure 5: Unit 3.01 proposed maximum vertical depth of 6.1m from the skylight to the habitable room floor level (extract taken from the Applicant's Response letter).**

### Canterbury Local Environmental Plan 2012

This site is zoned B2 Local Centre under the CLEP 2012. The controls applicable to this application are discussed below.

### Clause 1.2 Aims of Plan

The proposed development is consistent with the relevant aims of the CLEP 2012:

- (1) This Plan aims to make local environmental planning provisions for land in Canterbury in accordance with the relevant standard environmental planning instrument under section 3.20 of the Act.



(2) The particular aims of this Plan are as follows:

- (a) to provide for a range of development that promotes housing, employment and recreation opportunities for the existing and future residents of Canterbury,
- (b) to promote a variety of housing types to meet population demand,
- (c) to ensure that development is of a design and type that supports the amenity and character of an area and enhances the quality of life of the community,
- (d) to create vibrant town centres by focusing employment and residential uses around existing centres and public transport nodes,
- (e) to revitalise Canterbury Road by encouraging a mix of land uses that does not detract from the economic viability of existing town centres,
- (f) to retain industrial areas and promote a range of employment opportunities and services,
- (g) to promote healthy lifestyles by providing open space that supports a variety of leisure and recreational facilities and encouraging an increased use of public transport, walking and cycling,
- (h) to protect the natural environment for future generations and implement ecological sustainability in the planning and development process,
- (i) to protect and promote the environmental and cultural heritage values of Canterbury.

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

Clause 2.3(2) of CLEP 2012 outline that the consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.

The objectives of the B2 Local Centre Zone are as follows:

- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*
- *To encourage employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*
- *To facilitate and support investment, economic growth and development for active, diverse and well-designed centres.*

The proposed development satisfactorily meets the objectives of the zone as it will provide a development that contributes to the activation of the centre with a well-designed shop/commercial space on the ground floor.

Provision/ Standard	Requirement	Proposal	Complies
<b>Part 2 Permitted or Prohibited Development</b>			
2.1-2.3 Zoning	B2 Local Centre	Shop top housing development.	Yes
2.7 Demolition requires development consent	The demolition of a building or work may be carried out only with development consent.	The proposed development includes demolition of existing structures.	Yes
<b>Part 4 Principal Development Standards</b>			
4.3 Height of Buildings	18m	<p>The proposed plans show that the development complies with the maximum 18m building height.</p> <p>Council's assessment of the Section A-A, B-B, D-D and E-E plan measures the maximum RL being 45.74 (to the top of the parapet) which demonstrates that the maximum building height is 18m.</p>	Yes
4.4 Floor Space Ratio	N/A	N/A	N/A
<b>Part 6 Local Provisions</b>			
6.1 Acid Sulfate Soils	Development consent must not be granted under this clause for the carrying out of works unless an acid sulfate soils management plan has been prepared for the proposed works in accordance with the Acid Sulfate Soils Manual and has been provided to the consent authority.	The site does not contain acid sulfate soils and is not in the immediate vicinity of another site with any class of acid sulfate soil. Therefore, an Acid Sulfate Soils Report is not required for this site.	Yes

Provision/ Standard	Requirement	Proposal	Complies
6.2 Earthworks	<p>Before granting consent to development including earthworks, the following must be considered:</p> <ul style="list-style-type: none"> <li>(a) drainage patterns and soil stability</li> <li>(b) the likely future use or redevelopment of the land,</li> <li>(c) quality of the fill or the soil to be excavated, or both,</li> <li>(d) effect of development on existing and likely amenity of adjoining properties,</li> <li>(e) the source of any fill material and the destination of any excavated material,</li> <li>(f) the likelihood of disturbing relics,</li> <li>(g) the potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,</li> <li>(h) appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</li> </ul>	<p>The proposed development seeks to demolish the existing structures.</p> <p>Any potential impacts will be controlled through the inclusion of conditions of consent to ensure the construction stage is carried out in accordance with the relevant building standards.</p>	Yes
6.4 Stormwater Management	<p>Consent must not be granted unless:</p> <ul style="list-style-type: none"> <li>(a) Water permeable surfaces are maximized having regard to soil characteristics affecting on-site stormwater infiltration.</li> <li>(b) Includes on-site detention if practical as an alternative means of water supply.</li> <li>(c) Avoids significant impacts of run-off on adjoining land or the environment or minimises and mitigates impacts.</li> </ul>	<p>The application was referred to Council's Development Engineer who did not raise any objections with the proposal subject to conditions of consent.</p>	Yes

Provision/ Standard	Requirement	Proposal	Complies
6.6 Essential Services	<p>Essential services must be available or adequate arrangements have been made to make them available, including:</p> <ul style="list-style-type: none"> <li>- the supply of water;</li> <li>- the supply of electricity (substation);</li> <li>- the disposal and - management of sewage;</li> <li>- stormwater drainage or on-site conservation;</li> <li>- suitable vehicular access.</li> </ul>	<p>The proposal contains facilities and services for the function of the building.</p> <p>The applicant has not advised that a substation will be required, and a condition of consent will be included to reinforce that consent is not provided for a substation under the consent. Council's engineers are satisfied with vehicular access and stormwater drainage.</p>	Yes- condition of consent.

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

#### **Draft Canterbury Bankstown Consolidated Local Environmental Plan**

On 30 June 2020 the Canterbury Bankstown Local Planning Panel endorsed the Planning Proposal (PP\_2019\_CBANK\_005) to proceed to the Department of Planning, Industry and Environment for finalisation and making. The Planning Proposal seeks to produce a single set of planning rules and align the Bankstown LEP 2015 and Canterbury LEP 2012 into a consolidated Local Environmental Plan. The Planning Proposal however does not propose any change to the planning or development provisions relating to this site.

As the Planning Proposal has been exhibited it must be considered under Section 4.15 (1)(a)(ii) of the Environmental Planning and Assessment Act, 1979. The CBLEP also seeks to insert a Design Quality Clause which reads:

#### ***Draft Design Quality Clause***

#### **6.14 Design Quality**

- (1) *The objective of this clause is to ensure that development achieves good urban design and supports quality places for people.*
- (2) *This clause applies to the following development: residential flat buildings, multi dwelling housing, boarding houses, seniors living, mixed use development, shop top housing, commercial premises, industrial buildings, warehouse or distribution centres, centre-based child care facilities, schools, places of worship, registered clubs, community facilities, in relation to:*
  - *the erection of a new building, or*
  - *in the Council's opinion, significant alterations or additions that are visible from the public domain.*

(3) *Before granting consent for development, the consent authority must have regard to the following matters, to the extent it considers them relevant to the proposed development:*

- (a) whether the development positively contributes to the urban context and site conditions in terms of natural features, built form, streetscape, street wall height, building separation, setbacks, amenity, building bulk and modulation,*
- (b) whether the development positively contributes to the quality and amenity of the public domain in terms of landscaping, passive surveillance, visual interest and the interface of public and private domain,*
- (c) whether the development uses external materials that are good quality, durable and low-maintenance,*
- (d) whether the development achieves a high standard of architectural detailing and colours that are appropriate to the building type and location,*
- (e) whether the development achieves the principles of ecologically sustainable development,*
- (f) whether the development achieves internal layouts that are functional, efficient and fit for purpose,*
- (g) whether the development integrates a high quality landscape design with the built form,*
- (h) how the development satisfactorily addresses the following matters:*
  - impacts on heritage items, heritage conservation areas or historically significant buildings on the site or in the vicinity of the site,*
  - environmental impacts such as solar access, visual and acoustic privacy, wind, reflectivity, urban heat and water sensitive urban design,*
  - pedestrian, cycle, vehicular and service access and circulation requirements,*
  - the integration of waste management infrastructure in the site layout and building design.*

The Draft CBLEP also seeks to insert a savings provision “If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies, and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced”.

The proposed development will not impact the Draft CBLEP and is considered consistent with the CBLEP.

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

The following table provides a summary of the development application against the controls contained in Canterbury Development Control Plan 2012.

#### **Canterbury Development Control Plan 2012 (CDCP 2012)**

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

### **Part B1 – Transport and Parking**

An assessment of the proposal against the car and bicycle parking rates for the residential component of the building is provided at Part 3J of the ADG assessment table earlier within this report. An assessment against of the commercial car parking requirements in Part B1 of CDCP 2012 is provided below:

<b>Standard</b>	<b>Requirement</b>	<b>Proposal</b>	<b>Complies</b>
Car Parking – residential	<ul style="list-style-type: none"> <li>• Studio/1 bedroom: 1 space per dwelling</li> <li>• Visitor: 1 space per 5 dwellings</li> <li>• 1 Car wash bay required if 10 or more dwellings: 1 car wash bay.</li> </ul>	<p>Noted and assessment against the relevant controls in the ADG has been provided earlier within this report.</p> <p>1 car wash bay is provided in basement car park.</p>	Yes – pursuant to ADG requirements.
Bicycle Parking	<ul style="list-style-type: none"> <li>• Residents: 1 space per 5 dwellings</li> <li>• Visitors: 1 space per 10 dwellings</li> </ul>	8 bicycle spaces provided in basement levels.	Yes
Car parking-commercial	<p>Commercial – B2 Large Local Centres</p> <p>1 space per 33m2 GFA (120m2 – 1,000m2).</p>	<p>8 car spaces required.</p> <p>7 car spaces provided for retail + 4 visitor spaces</p> <p>Total 15 car spaces provided.</p>	Yes

### **Part B2 – Landscaping and Part B3 – Tree Preservation**

The applicant submitted a Landscape Plan prepared by a suitably qualified Landscape Architect in accordance with the requirements of Part B2 of CDCP 2012. The Landscape Plan will form part of the conditions of consent.

### **Part B4 – Accessible and Adaptable Design**

An access report prepared by PSE Access Consulting and dated 5 August 2020 formed part of the proposal's documentation and is acceptable. The development provides lift access from basement level to the upper storeys, two adaptable dwellings and accessible car spaces within the basement levels. Where the design includes some non-compliances, these matters can be resolved through minor design changes or BCA Performance Solutions at the relevant Construction Certificate stage. On this basis, the design is considered acceptable from an accessible and adaptable design perspective.

### **Part B5 – Stormwater and Flood Management**

The application was referred to Council's Development Engineer who raised no objection with the current design, subject to conditions of consent.

### **Part B7 – Crime Prevention and Safety**

An assessment of the proposed design against the relevant provisions of Part B7 is provided in the table below:



Standard	Requirement	Proposal	Complies
Crime Prevention through Environmental Design	Avoid blind corners	The proposal does not appear to present any blind corners	Yes
	Provide natural surveillance for communal and public areas.	Active uses and habitable rooms have been orientated towards main communal and/or public areas.	Yes
	Provide clearly visible entries.	The communal residential entry from the Kent Street frontage is clearly identifiable.	Yes
	Design the fence to maximise natural surveillance from the street to the building	The front boundary fence does not obstruct surveillance to the street.	Yes
	Avoid landscaping that obstructs natural surveillance.	The proposed landscaping balances privacy and maintains natural surveillance.	Yes
	Entrances, exits, service areas, pathways, car parks are to be well-lit after dark	To ensure appropriate lighting is incorporated within the development and ensure there is no light spillage onto adjoining properties appropriate conditions have been imposed	Yes
	Where permitted, provide appropriate mixed uses within buildings to increase opportunities for natural surveillance	The development is a residential building and is suitable for the site.	Yes
	Ensure buildings are clearly identified by street numbers.	Achieved and will be conditioned	Yes
	Use materials that reduce the opportunity for vandalism.	The proposal incorporates a variety of materials and finishes which are acceptable.	Yes
	Provide an appropriate level of security for individual dwellings and communal areas through use of intercoms, self-closing doors and signage.	Achieved and will be conditioned to ensure ongoing safety.	Yes

### **Part B9 - Waste**

The application was referred to Council's Project Officer – Resource Recovery who raised no objection with the current design, subject to conditions of consent.

**Part C5 Shop Top Housing**

This section of the DCP assessment provides controls for applications to which State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development (SEPP 65) applies. SEPP 65 applies to shop top housing three storeys or greater with four or more Dwellings.

Control	Requirement	Proposed	Complies
C5.2.1.3 Balconies and Communal Open Space	<p>Clause 6A of SEPP 65 states that development control plans that have provisions that are inconsistent with the ADG in relation to open space and balconies have no effect in the assessment of residential apartment development applications.</p> <p>Clause 5.2.1.3 of the CDCP is therefore not relevant to the assessment of this application and open space and balcony matters have been assessed only in relation to part 4E of the ADG (as detailed in the ADG table above).</p>		
C5.2.1.4 Layout and Orientation	<ul style="list-style-type: none"> <li>• Orientate development to maximise solar access and natural lighting, without unduly increasing the building's heat load.</li> <li>• Site the development to avoid casting shadows onto neighbouring dwelling's primary living area, private open space and solar cells.</li> <li>• Coordinate design for natural ventilation with passive solar design techniques</li> <li>• Site new development and private open space to avoid existing shadows cast from nearby buildings.</li> <li>• Site a building to take maximum benefit from cross-breezes and prevailing winds.</li> <li>• Do not compromise the creation of active street frontage or casual surveillance of the street, communal space and parking areas, through the required orientation.</li> </ul>	The proposed development has been designed to maximise solar access and natural ventilation.	Yes
C5.2.2.2 Floor to Ceiling Height	<p>Refer to 4C Ceiling Heights of the ADG made under SEPP 65 for objectives, design criteria and design guidance in relation to minimum ceiling heights.</p> <p>Clause C5.2.2.2 of the CDCP is therefore not relevant to the assessment of this application and the ceiling height matters have been assessed against part 4C of the ADG (as detailed in the table above).</p>		
C5.2.2.3 Setbacks	A minimum side boundary setback of 4.5m is required for the residential component in the B5 zone. SEPP 65 separation requirements will apply	N/A	N/A

Control	Requirement	Proposed	Complies
	for buildings with a height of 4 storeys and above.		
C5.2.2.4 Building Depth	<p>The ADG sets the objectives and controls for building depth in the LGA for shop top housing to which SEPP 65 relates. Refer to 4B Natural Ventilation of the ADG for objectives, design criteria and design guidance.</p> <p>Clause C5.2.2.4 of the CDCP is therefore not relevant to the assessment of this application and the ceiling height matters have been assessed against part 4B of the ADG (as detailed in the ADG table above).</p>		
C5.2.2.5 Building Separation and Visual Privacy	<p>The ADG sets the objectives and controls for building separation in the LGA for shop top housing to which SEPP 65 relates. Refer to 3F Visual Privacy of the ADG for objectives, design criteria and design guidance.</p> <p>Clause C5.2.2.5 of the CDCP is therefore not relevant to the assessment of this application and visual privacy matters have been assessed only in relation to part 3F of the ADG (as detailed in the ADG table above).</p>		
C5.2.3.1 Built Form	<ul style="list-style-type: none"> <li>Provide accessible entries for all potential use such as the transporting of furniture.</li> <li>Face habitable rooms towards the street, private open space, communal space, internal driveway or pedestrian ways in order to promote positive social interaction and community safety.</li> </ul>	<p>Ground floor main lobby is well designed and accessible for potential uses such as transporting furniture in lift.</p> <p>Habitable rooms have been designed to face the street, private open spaces and communal areas.</p>	Yes
C5.2.3.2 Roof Design and Features	<ul style="list-style-type: none"> <li>Roof terraces are permitted with consent in all business zones except the B1 Zone.</li> <li>A management strategy is required and must be approved by Council as part of the development application, for any proposed roof terrace.</li> <li>Supplement open space on roof terraces by providing space and appropriate building systems to support the desired landscape design, incorporating shade structures and windscreens to encourage use of roof top open space.</li> <li>Demonstrate that roof terrace has been designed so as to protect the privacy, solar access and amenity of adjoining buildings. Measures to minimise overlooking of adjoining properties include screening or planting between properties,</li> </ul>	Not proposed	N/A

Control	Requirement	Proposed	Complies
	and preventing rooftop users from standing at the edge of roof terraces that look into adjoining properties through planting and screens. <ul style="list-style-type: none"> <li>Allow for views and passive surveillance of streets and public open space from roof terraces.</li> </ul>		
C5.2.3.3 Dwelling Layout and Mix	The ADG sets the objectives and controls for dwelling layout in the LGA for residential flat buildings to which SEPP 65 applies. Refer to 4D Apartment Size and Layout of the ADG for objectives, design criteria and design guidance. An additional objective and control in relation to the mix of dwellings are provided below.  Refer to the ADG table above for an assessment against 4D Apartment size and layout of the ADG.		
	<ul style="list-style-type: none"> <li>10% of dwellings in any development must be accessible or adaptable to suit current or future residents with special needs.</li> </ul>	10% of 22 apartments = min 2.2  Two adaptable units are provided. Units 1.06 and 2.06 nominated as adaptable units.	Yes
C5.2.3.4 Building Services	<ul style="list-style-type: none"> <li>All letterboxes be installed to meet Australia Post standards.</li> <li>Design and provide discretely located mailboxes at the front of the property.</li> <li>Integrate systems, services and utility areas (such as plant rooms, hydrants, equipment and the like) with the design of the whole development – coordinate materials with those of the building and integrate with landscaping.</li> <li>Facilities should not be visually obtrusive and should not detract from soft-landscaped areas that are located within the required setbacks or building separations.</li> <li>Appliances that are fitted to the exterior of a building, and enclosures for service meters, do not detract from the desired architectural quality of new building, or the desired green character of streetscapes.</li> <li>Unscreened appliances and meters should not be attached to any facade that would be</li> </ul>	Letterboxes have been shown on the plans	Yes
		The proposal has incorporated the fire hydrant within the built form within a cupboard adjacent to Kent Street.	Yes
		A condition has been imposed that this application does not grant approval to a substation.  No details shown pertaining to other services. However, matters relating to services can be conditioned.	Yes

Control	Requirement	Proposed	Complies
	<p>visible from a street or driveway within the site:</p> <ul style="list-style-type: none"> <li>(a) Screen air conditioning units behind balcony balustrades;</li> <li>(b) Provide screened recesses for water heaters rather than surface- mounting them on exterior walls; and</li> <li>(c) Locate meters in service cabinets.</li> </ul> <ul style="list-style-type: none"> <li>• Screen or treat air conditioning units, TV antennae, satellite dishes, ventilation ducts and other like structures so they are not visible on the street elevation.</li> <li>• Coordinate and integrate building services, such as drainage pipes, with overall façade and balcony design.</li> <li>• Location and design of service areas should include: <ul style="list-style-type: none"> <li>(a) Screening of clothes drying areas from public and semi-public places; and</li> <li>(b) Space for storage that is screened or integrated with the building design.</li> </ul> </li> </ul> <p>Minimise visual impact of solar hot water systems by:</p> <ul style="list-style-type: none"> <li>(a) Placing the system as unobtrusively as possible, both to the street and neighbouring properties;</li> <li>(b) Using a colour that is consistent with the colour of roof materials;</li> <li>(c) Designing solar panels, where possible, as part of the roof;</li> <li>(d) Setting the solar panels back from the street frontage and position below the ridgeline; and</li> <li>(e) Separate the water storage tank from the solar collectors and place on a less visually obtrusive part of the roof, or within the building (for</li> </ul>		

Control	Requirement	Proposed	Complies
	example, the roof space or laundry).		
C5.2.4.1 Solar Access and Overshadowing	<p>Clause 6A of SEPP 65 states that development control plans that have provisions that are inconsistent with the ADG in relation to solar and daylight access, have no effect in the assessment of residential apartment development applications.</p> <p>Clause 5.2.4.1 of the CDCP is therefore not relevant to the assessment of this application and matters have been assessed only in relation to Part 4A of the ADG (as detailed in the table above).</p>		
	Daylight is to be provided to all common circulation areas (including lift wells) that are above ground.	Windows are provided to all common circulation areas which enables natural light access.	Yes
Solar Access to Neighbouring Development	<p>C1 Proposed development must retain a minimum of 3 hours of sunlight between 8.00am and 4.00pm on 21 June for existing primary living areas and to 50% of the principal private open space.</p> <p>C2 If a neighbouring dwelling currently receives less than 3 hours of sunlight, then the proposed development must not reduce the existing level of solar access to that property.</p> <p>C4 Clothes drying areas on adjoining residential properties must receive a minimum of 3 hours of sunlight on 21 June.</p>	<p>Due to the orientation of the property, it is difficult for a redevelopment to maintain solar access to the property to the south.</p> <p>The solar access diagrams submitted with the application show that the neighbouring property to the south will retain 1 hour and 45minutes of solar access to the internal living room. This is below the 3 hours required by the Control.</p>	No see comment 1 and 2 below.
C5.2.4.2 Acoustic Privacy	<ul style="list-style-type: none"> <li>• Locate sensitive rooms, such as bedrooms, from likely sources of noise such as major roads and neighbouring' living areas.</li> <li>• Above ground access to new dwellings must not include communal balconies that would be located immediately next to a bedroom window.</li> <li>• Bedroom windows in new dwellings that would be located at or close to ground level are be raised above, or screened from, any shared pedestrian pathway.</li> <li>• -Screen balconies or windows in living rooms or bedrooms that would face a driveway or basement ramp.</li> <li>• On land adjoining railway or busy roads, address all requirements in 'Development</li> </ul>	Acoustic privacy has been assessed against the requirements of SEPP 65 earlier within this report which concluded that acoustic amenity is acceptable within the site and its surrounds.	Yes



Control	Requirement	Proposed	Complies
	<p>Near Rail Corridors and Busy Roads - Interim Guideline' which has been published by the NSW Department of Planning and Environment.</p> <ul style="list-style-type: none"> <li>Design the layout of lower levels facing the road or rail to:               <ol style="list-style-type: none"> <li>The position of windows facing the noise source and ensure that total unprotected window area is minimal so as to limit the amount of airborne noise entering the built fabric;</li> <li>Ensure that the detailing of the window types addressing the corridors are designed and constructed to attenuate excessive noise - (double and triple glazing and insulated to manufacturers standards); and</li> <li>Ensure that balcony parapet walls are constructed of solid masonry or materials of similar sound attenuating qualities.</li> </ol> </li> <li>When designing the public spaces fronting busy roads and the rail corridor at ground level, consider the use of elements such as moving water and screens to achieve sound attenuation.</li> </ul>		
C5.2.5 Parking and Access	<p>Under clause 3J of the ADG, development within 800 metres of a railway station in the Canterbury Bankstown LGA must provide the minimum car parking requirement for residents and visitors that is the lesser of that set out within the RMS's Guide to Traffic Generating Developments or Council's requirements.</p> <p>Refer to discussion above relating to compliance with the minimum parking requirements (3J Car Parking of the ADG compliance table).</p> <p>In addition to the above, the application was referred to Council's Development Engineer and Team Leader Traffic and Transportation who raised issues with the application, these have formed part of the reasons for refusal.</p>		

**Part D Business Centres**

Control	Requirement	Proposed	Complies
Minimum frontage	18m	20.115m	Yes
Site isolation	Neighbouring properties are not to be isolated so that the property will be unable to reasonably accommodate redevelopment.	No isolation.	Yes
Floor to Ceiling Height	Floor to ceiling heights Ground Floor: 3.3m	Ground Floor: 3.3m provided.	Yes
	Residential Floors: 2.7m	Residential floors: 2.7m (ADG Compliant)	Yes
	Basement car parking must meet AS2890.1 requirements.	Achieved, subject to conditions of consent.	Yes
Front setback	1-3 storeys build to front boundary	Ground – Level 3 storeys nil setback on street	Yes
Side Setbacks	Fourth storey - 3m setback	Level 4-5 = 5m setback provided to predominant building line	Yes
	Greater than four storeys – 5m (all storeys to be set back this distance including the fourth storey)		
	Except where a proposed development adjoins a residential boundary, setbacks are not required in the B1 or B2 zones when the desired character is for a continuous street frontage.	Not required	Yes
Rear setbacks	<ul style="list-style-type: none"> <li>45° building height plane projected at 1.8m at the residential boundary</li> <li>Minimum 6m setback to residential boundary</li> <li>Two-storey limit on residential boundary</li> <li>A setback to a rear lane is not required.</li> </ul>	Site adjoins B2 zoning to both sides and the rear.	N/A
Building depth	Minimum 10m – commercial Maximum street frontage wall length of 50m	Commercial tenancy has a 30.9m depth	Yes

Control	Requirement	Proposed	Complies
Solar	Design and site development to avoid casting shadows onto neighbouring dwelling's primary living area, private open space and solar cells.	Development is appropriately sited.	Yes
Ground Level Interface	<p><u>Building entries</u> Locate entries so they relate to the existing street, subdivision pattern, street tree planting and pedestrian access network and are clearly visible. Provide entries to upper levels from the street front facade to encourage activities on the ground floor.</p> <p>Ground level awnings the façade of the building shall be built to the front street boundary; A cantilevered awning from the building facade shall overhang the footpath at a minimum width of 3m; Cantilevered awning height is to be in the range of 3.2m - 4.2m from natural ground level;</p> <p>Posted awnings or colonnades will not be support.</p>	<p>Achieved.</p> <p>Awning proposed with a height of 3.2m with a depth of 3m.</p>	<p>Yes</p> <p>Yes</p>
Façade treatment	<p>To encourage articulated building design to reduce the appearance of scale, enhance visual interest and ensure a diversity of built form.</p> <p>To encourage vertical and horizontal building elements that contribute to streetscape modulation and enhance the pedestrian experience.</p> <p>Define a base, middle and top.</p>	Achieved	Yes

Control	Requirement	Proposed	Complies
	<p>Period Facades:</p> <p>(a) Traditional facades should be integrated into the overall design of new development.</p> <p>(b) Pre-1950 shop front facades are to be maintained in the parts of the B2 Zone where building height is five (5) storeys or less (infill development is permitted behind so that the traditional main street character of the centres is maintained).</p> <p>(c) Where the permitted height is greater than five (5) storeys, facades do not need to be retained.</p>	The proposal seeks the demolition of the existing structures which is acceptable given they are industrial buildings.	Yes
	Adopt requirements of 'Development near rail corridors and busy roads – Interim Guideline' (NSW Dept. of Planning and Environment)	The site is not located on major road. However, an acoustic assessment report was submitted and will for part of the conditions of consent.	Yes
Roof design	Must not exceed a pitch of 10°	Proposed flat roof form is < 10°	Yes
<b>Performance controls</b>			
Visual Privacy	Clause 6A of SEPP 65 states that development control plans that have provisions that are inconsistent with the ADG in relation to visual privacy have no effect in the assessment of residential apartment development applications. The CDCP 2012 identifies SEPP 65 as the relevant control in this regard.		
Solar and daylight access	Clause 6A of SEPP 65 states that development control plans that have provisions that are inconsistent with the ADG in relation to solar and daylight access have no effect in the assessment of residential apartment development applications. The CDCP 2012 identifies SEPP 65 as the relevant control in this regard.		
Common circulation and spaces	Clause 6A of SEPP 65 states that development control plans that have provisions that are inconsistent with the ADG in relation to common circulation and spaces have no effect in the assessment of residential apartment development applications.		
Apartment size and layout	Clause 6A of SEPP 65 states that development control plans that have provisions that are inconsistent with the ADG in relation to apartment size and layout have no effect in the assessment of residential apartment development applications. The CDCP 2012 identifies SEPP 65 as the relevant control in this regard.		
Ceiling heights	Clause 6A of SEPP 65 states that development control plans that have provisions that are inconsistent with the ADG in relation to ceiling heights have no effect in the assessment of residential apartment development applications. The CDCP 2012 identifies SEPP 65 as the relevant control in this regard.		
Private open space and balconies	Clause 6A of SEPP 65 states that development control plans that have provisions that are inconsistent with the ADG in relation to private open space and balconies have no effect in the assessment of residential apartment development applications. The CDCP 2012 identifies SEPP 65 as the relevant control in this regard.		

Control	Requirement	Proposed	Complies
Natural ventilation	Clause 6A of SEPP 65 states that development control plans that have provisions that are inconsistent with the ADG in relation to natural ventilation have no effect in the assessment of residential apartment development applications. The CDCP 2012 identifies SEPP 65 as the relevant control in this regard.		
Storage	Clause 6A of SEPP 65 states that development control plans that have provisions that are inconsistent with the ADG in relation to storage have no effect in the assessment of residential apartment development applications. The CDCP 2012 identifies SEPP 65 as the relevant control in this regard.		

### **D7.2 Belmore Local Centre**

### Controls

- C1 Development in the Belmore Local Centre is to be in accordance to the structure plan shown in Figure D7.1.



Figure D7.1: Belmore Local Centre Structure Plan

The proposed development is in accordance with the structure plan for the Belmore town centre, which is demonstrated in the assessment above and given the development complies with the relevant provisions of the CDCP 2012, it will make a positive contribution to the local centre in its current form.



## **Solar Access and Overshadowing**

The proposed development does not accord with the relevant controls in relation to Solar Access for the common open space areas and No. 10 -12 Kent Street, as follows:

### **1 Common Open Space**

The proposed development fails meet the requirements of 50% of the usable part of Common Open Space receiving 2 hours of solar access between 9am and 3pm at midwinter. Solar access to the common open space is limited by two predominant factors; firstly, the orientation of the site and, secondly, the existing adjoining development to the north.

The common open space does receive some sunlight to its principal usable areas in the morning, reaching a maximum of around 25% at 11am at midwinter, before being in shadow in the afternoon.

The site to the north is yet to be redeveloped from its existing factory/warehousing use. The existing building extends the full depth of the site at two storeys in height and restricts the ability of solar access to reach part of the Common Open Space. Should the site to the north be redeveloped it would be required to comply with the setback requirements of the ADG/DCP and as such the subject application site would achieve greater solar access to the common area.

The Design Guidance, found at Point 6 of Objective 3D-1 of the Apartment Design Guide states,

*Where developments are unable to achieve the design criteria, such as on small lots, sites within business zones, or in a dense urban area, they should:*

- *provide communal spaces elsewhere such as a landscaped roof top terrace or a common room*
- *provide larger balconies or increased private open space for apartments*
- *demonstrate good proximity to public open space and facilities and/or provide contributions to public open space*

In this instance, the site is located within a business zone, and the proposed development provides the following:

- The development provides a ground floor undercover communal open space area;
- The development provides larger balconies for the proposed apartments than the minimum required as per the ADG (the balconies are as a minimum 20% larger than the minimum requirement up to over 200% larger than the minimum ); and
- The subject site is located in proximity to a number of facilities including:
  - 150m to Marie Street Reserve on Leylands Parade;
  - 290m to Canterbury Leagues Club which contains a fitness centre and other state of the art facilities; and
  - 350m(as the crow flies)/500m (walking distance) to Belmore Stadium grounds, Terry Lamb reserve, and Belmore Bowling & Recreational club.

Although the proposed development does not meet the solar access requirements for common open space as outlined in the Apartment Design Guide, in this instance and based on the reasons set out above, the proposed development is considered acceptable.

## 2 Solar Access to Nearby Property (10 and 12 Kent Street)

Part C5.2.4.1 of the Canterbury Development Control Plan has the following, relevant, controls:

*C1 Proposed development must retain a minimum of 3 hours of sunlight between 8.00am and 4.00pm on 21 June for existing primary living areas and to 50% of the principal private open space.*

*C2 If a neighbouring dwelling currently receives less than 3 hours of sunlight, then the proposed development must not reduce the existing level of solar access to that property.*

*C4 Clothes drying areas on adjoining residential properties must receive a minimum of 3 hours of sunlight on 21 June.*

The objectives of the solar access controls are:

- O1 to ensure habitable rooms have reasonable daylight access*
- O2 to minimize overshadowing of primary living areas, private open space and solar roof top systems, and*
- O3 to enable occupants to adjust the quantity of daylight to suit their needs.*

Of particular concern is the impact the proposed development would have on the properties to the south of the application site. These properties are 10 and 12 Kent Street.

10 Kent Street is a Presbyterian church and as such solar access concerns are limited, as solar access relates to residential accommodation.

12 Kent Street is a residential property, with primary living space to the front of the property.

The property at 12 Kent Street is located approximately 12 metres from the boundary with the subject application site. There will be no impact on the private open space of 12 Kent Street as a result of this development, and the private open space will retain 3 hours of solar access at midwinter. Further, there is no impact on the front living room window or the drying area of 12 Kent Street.

The properties impacted by overshadowing are R4 High Density Residential. It should also be acknowledged that these adjoining sites are likely to be developed in the future for a higher intensified use which would allow for greater setbacks from the subject site which would assist in improved solar access. Having regards to the Land and Environment Courts Planning Principle, it has been generally accepted that at higher densities, sunlight is harder to protect and the claim to retain it is not as strong.

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

The Canterbury Development Contributions Plan 2013 applies to the site and requires a contribution of **\$325,980.15**. This is included as a condition of consent.

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

There are no relevant planning agreements applicable to the proposed development.

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

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

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

- Sediment and Erosion Control**

The submitted development plans show details of sediment and erosion control measures to be installed as part of the construction of the development. Standard conditions will be included regarding the installation and maintenance of the sediment and erosion control measures as part of the pre and during construction phase of the development.

- Health, Safety & Amenity during Construction Phase**

During the construction of the development, the health and amenity of the public and adjoining properties alike needs consideration under Section 4.15 of the EP&A Act. Accordingly, all works associated with the development will be restricted to daytime hours to ensure the works will not be a nuisance to adjoining occupiers and property owners (by way of standard condition).

- Referrals**

Referral	Comments Received
Development Engineer	No objections – subject to conditions of consent.
Resource Recovery	No objections – subject to conditions of consent.
Traffic Engineer	No objections – subject to conditions of consent.
Environmental Health	No objections – subject to conditions of consent.

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

The proposed development is permissible in the subject site's current zoning and is consistent with the objectives of the zone as it provides a shop top housing development to accommodate a variety of housing needs and provide employment opportunities within the locality. The site is suitable for the development providing for the orderly and economic use of the land.

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

The subject application was advertised for a period of 21 days from 30 September 2020 to 20 October 2020. During this time, the application was notified to adjoining neighbours. Council received a total of one (1) submission which raised the following concerns:

**Concern:** Noise Pollution

*It is understood that demolition of the existing building, followed by construction of a 5 level shop top premise will create a lot of noise. Given existing work from home arrangements and location of our home office, noise pollution as a result of these ongoing work will disrupt livelihood activities currently undertaken at home. It is also a concern that ongoing noise after construction is completed from foot traffic, parties and occupants (in particular, use of the proposed communal balcony near our bedroom windows) will disturb sleep patterns (commonly 10pm - 6am).*

**Comment:** Construction noise will be limited by an hours of construction condition. This should limit noise outside of normal working hours. However, it is broadly acknowledged that during any period of construction, noise will occur during the demolition and construction phases. In relation to the ongoing noise from the development, the proposed development is predominantly residential in nature and residential noise would be associated with this type of development. Given the nature and the type of development proposed, such residential noise should not be excessive in such a manner that it would render the development unacceptable. Conditions will be placed on the communal open space which limit the hours of use to the communal area. Excessive late night or anti-social noise cannot be suitably controlled through planning mechanisms. Such matters are controlled by Council's Environmental Compliance Team or NSW Police.

**Concern:** Reduced Privacy

*Similar to item 1, the concern of the west and north facing windows in our property will be reduced privacy. Given the height of the proposed property at 8 Kent St, it is of concern that our home office will lose privacy as occupants of the property in Kent St on level 4 and 5 are likely to be able to gain a vantage into our home office. This reduces our privacy and creates security concerns.*

**Comment:** It is acknowledged that the development of this site will result in a significant change to the present situation for adjoining properties, and it is likely that this will lead to a perception of loss of privacy.. However, the proposed development is permissible within the area, does not exceed maximum height controls, and is located appropriately when considered against the relevant controls of the Canterbury Local Environmental Plan and Canterbury Development Control Plan, and other statutory controls. There are limited views in to adjoining properties from the proposed development which have been mitigated through a variety of measures, including high sill windows, orientating main living spaces to the front and rear of the site. Whilst this will have some impacts on the block to the rear of the site (known as 440 Burwood Road), there is sufficient separation between buildings to maintain a level of privacy which could be reasonably expected in a town centre location.

**Concern:** *Proposed Property Shadow*

*Our property currently relies on the windows on the Western side of our apartment for considerable sunlight to assist with warmth, mildew management and light for occupation. It is expected that the building will cast a shadow that will obscure our light at certain times of the day, in particular, during the afternoon. This could lead to losses in property value and potential mould/mildew issues in the longer term.*

**Comment:** Solar access plans have been provided with the application and have been assessed and considered in the assessment of this application. The proposed development will overshadow the property to the south at certain times of the day. However, due to the orientation of the property and the development pattern in the area and the setbacks from the property, the proposed development does not cause issues to such a level that would result in a non-compliance with Council's controls and that would warrant a refusal of consent. Further, the proposed development does not breach the maximum height controls, which may have exacerbated overshadowing issues. The orientation and street pattern, means it is unlikely there will be any significant detrimental impact on the property to the rear (east) of the site (440 Burwood Road).

The loss of property value is not a material planning consideration. There is no reason to believe that the development will result in mould/mildew issues in adjoining properties.

**Concern:** *Ongoing Light Pollution*

*We are concerned about ongoing light pollution that may be caused by communal lights or lights from properties located at 8 Kent St Belmore that may disrupt sleeping patterns at night. These include: lights in communal walkways, on the communal balcony and lights from occupant windows. The main bedroom has a window located facing directly to the proposed development site that would impose on the main bedroom of our property.*

**Comment:** The proposed development does not have significant amounts of external lighting which would result in disturbance to adjoining properties. However, a condition can be placed on a consent, which will require external lighting to be installed in such a manner to avoid disturbance to neighbours, including that on the communal open space. In particular, these conditions can require that lighting is turned off when the common open space is not in use. Council cannot control the lighting of individual units.

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

The public interest is served through the detailed assessment of this application under the *Environmental Planning and Assessment Act 1979*, *Environmental Planning and Assessment Regulation 2000*, *Environmental Planning Instruments* and *Development Control Plans*. Based on the above assessment, the proposal is in the public interest.

## **CONCLUSION**

The Development Application has been assessed in accordance with the provisions of Section 4.15 of the *Environmental Planning and Assessment Act 1979*, *Canterbury Local Environmental Plan 2012*, *Canterbury Development Control Plan 2012* and all other relevant environmental planning instruments and policies except for solar access and overshadowing, however justifiable in the circumstances of this application as detailed through this assessment report. The site is suitable for the proposed development and consistent with the objectives of the B2 Local Centre zone pursuant to Canterbury LEP 2012 by virtue, the proposal is permissible within the zone. On that basis, the application is recommended for approval subject to conditions of consent.

## **RECOMMENDATION**

It is recommended that the application DA-783/2020 be **APPROVED** subject to the attached conditions.





## CONDITIONS OF CONSENT

- 1) The proposal shall comply with the conditions of Development Consent. A Construction Certificate shall not be issued until the plans and specifications meet the required technical standards and the conditions of this Development Consent are satisfied.
- 2) Development shall take place in accordance with Development Application No.DA-783/2020, submitted by 8 Kent Street Pty Ltd, accompanied by the drawings as listed in the table below, and affixed with Council's approval stamp, except where otherwise altered by the specific amendments listed hereunder and/or except where amended by the conditions contained in this approval.

Drawing No.	Drawing Title	Revision	Dated	Prepared by
201	Basement B2	DA-C	12 June 2021	Ross Howieson Architects
202	Basement B1	DA-C	12 June 2021	Ross Howieson Architects
203	Ground Floor Plan	DA-C	12 June 2021	Ross Howieson Architects
204	Level 1 Plan	DA-C	12 June 2021	Ross Howieson Architects
205	Level 2 Plan	DA-C	12 June 2021	Ross Howieson Architects
206	Level 3 Plan	DA-C	12 June 2021	Ross Howieson Architects
207	Level 4 Plan	DA-C	12 June 2021	Ross Howieson Architects
208	Level 5 Plan	DA-C	12 June 2021	Ross Howieson Architects
209	Roof Plan	DA-C	12 June 2021	Ross Howieson Architects
210	Roof Plan with Survey	DA-C	12 June 2021	Ross Howieson Architects
301	East + West Elevation	DA-C	12 June 2021	Ross Howieson Architects
302	South Elevation	DA-C	12 June 2021	Ross Howieson Architects
303	North Elevation	DA-C	12 June 2021	Ross Howieson Architects
401	Section AA	DA-C	12 June 2021	Ross Howieson Architects
402	Section BB	DA-C	12 June 2021	Ross Howieson Architects
403	Section CC + Section DD	DA-C	12 June 2021	Ross Howieson Architects
404	Section EE	DA-C	12 June 2021	Ross Howieson Architects

901	Schedule of Colours and Finishes	-	20 August 2020	Ross Howieson Architects
902	Windows schedule	DA-C	12 June 2021	Ross Howieson Architects
1130504M_02	BASIX Certificate	-	17 June 2021	Gradwell Consulting

The development plans shall be amended as follows:

- a) One of the car parking spaces in Basement B1 is to be reallocated to commercial/retail so there is a total of 8 car spaces for the commercial tenancy.
- 3) The driveway access long sections prepared by John Romanous & Associates Pty LTD shall be amended to include the following:
  - A crest within the driveway front section to ensure OSD overflow is directed to Street.
  - Driveway percentage grades and change in grades and be in accordance with AS2890.1:2004.
- 4) The intersection of ramps with parking aisles and other intersection areas have been designed for use by one vehicle at a time. Appropriate traffic management measures, including redesign if needed, is required to prioritise one-way traffic movement at these intersection areas. The design shall be completed and certified by a suitably qualified professional engineer.
- 5) Parking spaces located in corners which do not enjoy access to a 1m blind aisle, shall be checked by a professional engineer to ensure manoeuvring in or out of the space is feasible and does not exceed 4 manoeuvres. In addition where possible these constrained spaces shall be allocated to the same dwelling as the adjacent parking space.
- 6) The acoustic report submitted in support of this application prepared by Acoustic Noise & Vibration Solutions Pty Ltd, titled Acoustic Report, reference number 2020-226, dated 12 August 2020 and the supplementary letter dated 5 March 2021 prepared by Acoustic Noise & Vibration Solutions Pty Ltd and all the recommendations stated within the report and letter, form part of the development consent.

The Principal Certifying Authority shall obtain a report from an appropriately qualified acoustic consultant, not previously involved with the development, stating that the recommendations outlined in the above-mentioned acoustic report and letter have been implemented and that the relevant noise criteria have been satisfied prior to the issue of any Occupation Certificate. A copy of the report is to be submitted to Council prior to the issue of any Occupation Certificate.

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

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

- 7) A photographic survey must be prepared of the adjoining properties detailing the physical condition of those properties, both internally and externally, including such items as walls, ceilings, roof, structural members and other similar items, shall be submitted to the Principal Certifying Authority and Canterbury Bankstown Council if Council is not the Principal Certifying Authority, prior to the issue of the relevant Construction Certificate. On completion of the excavation and building works and prior to the occupation of the building, a certificate stating to the effect that no damage has resulted to adjoining premises is to be provided to the Principal Certifying Authority and Canterbury Bankstown Council if Council is not the Principal Certifying Authority. If damage is identified which is considered to require rectification, the damage shall be rectified or a satisfactory agreement for rectification of the damage is to be made with the affected person(s) as soon as possible and prior to the occupation of the development. All costs incurred in achieving compliance with this condition shall be borne by the persons entitled to act on this Consent.
- 8) A dilapidation report prepared by an Accredited Engineer, detailing the structural adequacy of the adjoining properties and their ability to withstand the proposed excavation, and any measures required to be incorporated into the work to ensure that no damage will occur during the course of the works, shall be submitted to Council, or the Principal Certifying Authority prior to the issue of a Construction Certificate. All costs to be borne by the applicant.
- 9) The Certifying Authority must ensure that any certified plans forming part of the Construction Certificate are not inconsistent with this Development Consent and accompanying plans.
- 10) Landscaping shall be installed in accordance with the approved landscape plan.
- 11) 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.

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

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

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

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

- 15) 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.
- 16) 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.
- 17) This condition has been levied on the development in accordance with Section 7.11 of the Environmental Planning and Assessment Act 1979 and in accordance with Canterbury Development Contributions Plan 2013, after identifying the likelihood that this development will require or increase the demand on public amenities, public services and public facilities in the area.

The amount of the contribution (as at the date of this consent) has been assessed as \$325, 980.15. The amount payable is based on the following components:

Contribution Element	Contribution
2013	
• Community Facilities	\$ 29, 485.62
• Open Space and Recreation	\$ 288, 196.37
• Plan Administration	\$ 8, 298.16

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

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

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

- 18) 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.
- 19) Stormwater drainage from the development shall be designed so as to comply with Council's Canterbury Development Control Plan 2012 Part B5 and the requirements of the BASIX Certificate. A final detailed stormwater drainage design shall be prepared by a professional engineer as defined by the Building Code of Australia in accordance with the above requirements and shall generally be in accordance with the approved concept stormwater plan as shown in the table below. The final plan shall be certified by a professional engineer as defined by the Building Code of Australia that it complies with Council's Canterbury Development Control Plan 2012 Part B5, the BASIX Certificate and the relevant Australian Standards.

Drawing number	Revision	Date	Prepared By
2110- S1/4	Revision L	09-07-2021	John Romanous & Associates Pty Ltd
2110- S2/4	Revision L	09-07-2021	John Romanous & Associates Pty Ltd
2110- S3/4	Revision L	09-07-2021	John Romanous & Associates Pty Ltd
2110- S4/4	Revision L	09-07-2021	John Romanous & Associates Pty Ltd

The above listed stormwater management plans shall be amended to ensure the following:

- Stormwater harvesting devices connected to the OSD system would have a surface level 50mm higher than the OSD grated surface pits.
- Connection from the proposed boundary pit to the new kerb inlet pit is a one combined pipe.

- Overflow from the boundary pit is directed to the street and would not be directed towards the internal site areas.
  - OSD tank surface grated pits would overflow to the street and not towards the basement or the commercial component.
- 20) Where Council approved cut or fill exceeds 200mm and stable batter of 1 vertical to 3 horizontal maximum grade cannot be achieved, then a masonry or other proprietary material retaining wall, intended and suitable for that purpose, shall be constructed within the development site. Note, filling of the site needs specific approval from Council.
- The retaining wall shall be located so that it will not impede or obstruct the natural flow of stormwater. Retaining walls exceeding 600mm in height shall be designed by a qualified professional Civil/Structural Engineer. Plans and details prepared and signed by the Engineer are to be submitted to the Principal Certifying Authority (PCA) prior to the issue of the Construction Certificate.
- All works associated with the construction of the wall, including backfilling and drainage, is to be located wholly within the allotment boundaries.
- 21) An all weather pavement shall be designed to withstand the anticipated wheel loads for all areas subjected to vehicular movements. Internal pavements specification prepared and certified by all qualified professional Civil Engineer to comply with the relevant Australian Standards, shall be submitted to the Principal Certifying Authority (PCA) for approval prior to the issue of a construction certificate.
- 22) The pump out drainage system for the access ramp and basement car parking area shall be provided in accordance with Council's Development Engineering Standards. Engineering details and specifications shall be submitted to the Principal Certifying Authority (PCA) for approval prior to the issue of any Construction Certificate.
- 23) The basement of the development is located adjacent to a Council Public Road Reserve. Separate approval and Work Permit is to be obtained from Council for any temporary or permanent anchoring works under Council's Public Road.
- 24) Engineering details and manufacturers specifications for the pumps, switching system and sump pit shall be submitted to the Principal Certifying Authority (PCA) for approval prior to issue of any Construction Certificate.
- 25) The Construction Certificate plans shall include details of the garbage receptacle area. The garbage receptacle area shall not be visible from the street. The garbage receptacle area shall be located within the building or screened from the street by dense landscaping.

- 26) Prior to the issue of any Construction Certificate for this development, the applicant must obtain approval from Council's Traffic Section for a Site, Pedestrian and Traffic Management Plan (SPTMP). This Plan must address the measures that will be implemented for pedestrian safety and traffic management as specified below.

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

This plan shall include details of the following:

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

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

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

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

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



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

This plan shall include details of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

- 29) Dimensions of the pedestrian sight lines are to be shown on the plans. Sight triangles are to be provided on both sides of the driveway, in accordance with *AS 2890.1:2004 Figure 3.3 – Minimum Sight Lines for Pedestrian Safety*. The sight triangles shall extend 2m from the driveway edge along the front boundary and 2.5m from the boundary along the driveway and is to be kept clear of any obstructions on either side of the driveway.
- 30) A Construction Traffic Management Plan (CTMP) shall be required to be submitted six months prior to the commencement of works on the site, for both demolition and construction phases of the development / project.
- 31) The person having benefit of this Determination Notice shall apply for a Work Permit and obtain approval from Council, for any of the following applicable engineering works in front of the site, at their own expense:
  - a) Heavy duty VFC of maximum width of 6.0metres at the property boundary.
  - b) Foot path reconstruction fronting the subject property.
  - c) New stormwater pit with 1.8m lintel and associated 375 RCP pipe extension.
  - d) Removal of all redundant 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 building works, and
  - 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 person having benefit of this Determination Notice should make application and payment for the Work Permit at least twenty-one (21) days prior to the information being required and prior to the issue of the Construction Certificate. The Work Permit must be approved prior to any works commencing within the Council Road Reserve or on Council's assets.

- 32) For internal driveways with a gradient exceeding 10% (1 in 10), longitudinal profiles of all vehicular driveways and ramps shall be submitted for approval by the Principal Certifying Authority (PCA) prior to the issue of the Construction Certificate. The maximum grade of the driveway/ramp shall not exceed **25%** and shall comply with AS 2890.1. The profile shall be drawn at a reduction ratio of 1 to 25 vertical and horizontal and shall be related to the datum used for the issue of the footway design levels and shall also show the road centre line levels, Council issued footway design levels and gutter levels. Council's Car Clearance Profile in Council's Development Engineering Standards, (Plan No. S 006) shall be used to design the profile.
- 33) The route for transportation to and from the development site of bulk and excavation materials shall generally be by the shortest possible route to the nearest "regional road", with every effort to avoid school zones on public roads. The applicant shall nominate the route for approval by Council prior to commencement of any work on the site. An Agreement to Council's satisfaction, signed by the applicant/owner specifying the approved route and acknowledging responsibility to pay Council for damages to public property adjacent to the site shall be lodged with Council prior to release of any Construction Certificate. All damage must be rectified upon completion of work.
- 34) An amended Waste Management Plan (WMP) reflecting the current allocation of bins and service arrangements is to be submitted to the PCA prior to the issue of a construction certificate.
- 35) A vacant land charge form is to accompany any Construction Certificate (CC) application for the removal of all domestic garbage and recycling bins.  
<https://www.cbcity.nsw.gov.au/council/forms/waste-recycling>
- 36) A design certificate and detailed plans are to accompany any CC application which demonstrate that the waste storage room has been designed to be constructed in accordance with the following requirements:
  - i. Floors must be constructed of concrete at least 75mm thick and graded and drained to a Sydney Water approved drainage fitting.
  - ii. The floors must be finished so that is non-slip and has a smooth and even surface.
  - iii. The room is to be integrated within the building, a minimum 2.1m unobstructed room height is required in accordance with the Building Code of Australia;

- iv. The walls must be constructed of solid impervious material.
  - v. The ceilings must be finished with a smooth faced non-absorbent material capable of being cleaned.
  - vi. Walls, ceiling and floors must be finished in a light colour.
  - vii. Is to be provided with an adequate supply of hot and cold water mixed through a centralised mixing valve with hose cock.
  - viii. A self-closing door openable from within the room.
  - ix. Must be constructed to prevent the entry of birds and vermin.
  - x. Be provided with adequate light and ventilation. Light source must be through controlled light switches located both outside and inside the room.
  - xi. An aisle of at least 1.5m between bins.
  - xii. Any doorways must be 2m wide.
  - xiii. 3 x 1,100L bulk garbage bins (collected weekly)
  - xiv. 2 x 1,110L bulk garbage bins are to remain under the chute at all times.
  - xv. 5 x 1,100L bulk recycling bins (collected fortnightly)
  - xvi. 2 x 240L garden organic bins (collected fortnightly)
  - xvii. 2 x 240L recycling bin for each floor (8 total)
- 37) All waste and recycling bins are collected by Council from the Residential Collection Area (Temporary Holding Area) as a collect and return service.
- 38) It is the responsibility of the property manager to present any provided garden waste bins to the kerbside for collection by Council the evening before the designated collection day. An area of at least 2m (l) x 1m (w) needs to be provided for this purpose.
- 39) A design certificate and detailed plans are to accompany any CC application which demonstrate that the bulky waste storage room has been designed to be constructed in accordance with the following requirements:
- i. Floors must be constructed of concrete at least 75mm thick and graded and drained to a Sydney Water approved drainage fitting.
  - ii. The floors must be finished so that is non-slip and has a smooth and even surface.
  - iii. The walls must be constructed of solid impervious material.
  - iv. The room is to be integrated within the building, a minimum 2.1m unobstructed room height is required in accordance with the Building Code of Australia;
  - v. The ceilings must be finished with a smooth faced non-absorbent material capable of being cleaned.
  - vi. Walls, ceiling and floors must be finished in a light colour.
  - vii. Is to be provided with an adequate supply of hot and cold water mixed through a centralised mixing valve with hose cock.
  - viii. A self-closing door openable from within the room.
  - ix. Must be constructed to prevent the entry of birds and vermin.
  - x. Be provided with adequate light and ventilation. Light source must be through controlled light switches located both outside and inside the room.
  - xi. Any doorways must be 2m wide.
  - xii. Designed with a minimum floor space of 4m<sup>2</sup>

- 40) A design certificate and detailed plans are to accompany any CC application which demonstrate that the bin carting route has been designed to be constructed in accordance with the following requirements:
- a. Direct and less than 15 metres,
  - b. Minimum 2m wide hard surface;
  - c. Non-slip, free from obstacles and steps;
  - d. Not within a driveway or carpark, this is considered a conflict point for vehicles and collection staff; and
  - e. A maximum grade of 1:30 (3%);
  - f. Layback installed at the nominated collection point.
- 41) The residential and commercial bin areas are separated from each other and access to each is to be restricted.
- 42) The bin carting route for the commercial bins must not be through the commercial tenancy.

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

- 43) Requirements of the approved WMP shall be complied with during all site preparation works, demolition (if proposed) and throughout all construction works.

When implementing the WMP the developer is to ensure:

- (a) The disposal of any demolition and construction waste must be undertaken in accordance with the requirements of the *Protection of Environment Operations Act 1997*
- (b) All waste on site is to be stored, handled and disposed of in such a manner as to not create air pollution, offensive noise or pollution of land and water as defined by the *Protection of Environment Operations Act 1997*
- (c) Generation, storage, treatment and disposal of hazardous waste is conducted in accordance with the relevant waste legislation administered by the EPA and relevant Occupational Health and Safety legislation administered by WorkCover NSW
- (d) All waste generated (including excavated materials) which cannot be reused or recycled must be transported to a facility which can lawfully accept it
- (e) Records are required regarding the details and location of the disposal of all demolition and construction waste (including excavated material), description of waste and are to be kept on site as evidences of lawful disposal. Records are to include receipts and weighbridge dockets which verify material types and volumes, time and date of disposal, waste vehicle rego, and confirmation of the waste disposal facility. Records/ details are also to be kept of person removing the waste.

- (f) All materials and resources that are to be stored on site during construction works are contained on the site, The provisions of the *Protection of Environment Operations Act 1997* must be complied with when placing/stock piling loose material, disposal of concrete waste or activities which have potential to pollute drains and water courses
  - (g) The storage of waste and recycling containers must be within the boundaries of the development site at all times. Public footways and roads must not be used for the storage of any waste and must be kept clear of obstructions during all construction works
- 44) The applicant shall apply to the Canterbury Bankstown Traffic Committee for the installation of a Works Zone at the site's frontage in Kent Street, 8 weeks in advance of when construction is scheduled to begin, including payment of the relevant fees & charges. This is subject to recommendation by the Traffic Committee, and must be approved and paid for prior to issuance of a Construction Certificate.
- 45) Prior to demolition, the entire site (includes any structures) is to be assessed for hazardous materials, especially asbestos. A Hazardous Materials (HAZMAT) Report is to be prepared by a Type "A" inspection body accredited by NATA. All recommendations contained within this report are to be implemented and a clearance certificate issued by an appropriately qualified Occupational Hygienist is to be submitted to Council prior to the issue of a Construction Certificate.
- 46) In the instance works cause the generation of odours or uncovering of unexpected contaminants works are to immediately cease, Council is to be notified and a suitably qualified environmental consultant appointed to further assess the site. The exposed material/excavation is to be evaluated by the supervising environmental consultant and an appropriate response determined in consultation with the applicant, which is agreed to by Council.
- Council may also request that an NSW EPA Accredited Site Auditor is involved to assist with the assessment of any unexpected finds, review any contamination information and prepare a Site Audit Report and Site Audit Statement. The applicant must adhere to any additional conditions which may be imposed by the NSW EPA Accredited Site Auditor.
- 47) All soils to be excavated and disposed of from the site must be analysed and classified by a suitably qualified environmental consultant, in accordance with relevant NSW EPA guidelines including the 'Waste Classification Guidelines' (NSW EPA, 2014) prior to off-site disposal.

All waste material for disposal to be transported to an appropriately licensed waste facility by an EPA licensed waste contractor in accordance with relevant NSW EPA guidelines. Receipts for the disposal of the waste must be submitted to Council prior to issuing of an Occupation Certificate.



- 48) Any fill imported onto the site must be virgin excavated natural material or excavated natural material, classified as such in accordance the 'Waste Classification Guidelines' (NSW EPA, 2014) or excavated natural material meeting the requirements of the Excavated Natural Material Exemption (NSW EPA, 2014).

Certificates verifying that imported fill is virgin excavated natural material or excavated natural material must be provided to Council prior to the issue of an Occupation Certificate.

All imported fill must be compatible with the existing soil characteristics of the site.

- 49) If the Duty to Report contamination to the NSW EPA under Section 60 of the Contaminated Land Management Act 1997 is triggered, Council must be notified within seven (7) days of the notification to the NSW EPA.
- 50) The building work in accordance with the development consent must not be commenced until:
- a. a construction certificate for the building work has been issued by the council or an accredited certifier, and
  - b. the person having benefit of the development consent has:
    - i. appointed a principal certifying authority for the building work, and
    - ii. notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
  - c. the person having the benefit of the development consent, if not carrying out the building work as an owner-builder, has:
    - i. appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential building work is involved, and
    - ii. notified the principal certifying authority of any such appointment, and
    - iii. unless the person is the principal contractor, notified the principal contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
  - d. the person having the benefit of the development consent has given at least 2 days' notice to the council of the person's intention to commence the building work.
- 51) 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.

- 52) 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.
- 53) 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.
- 54) 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.
- 55) A section 73 compliance certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation. Make early application for the certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design.

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

- 56) 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.

- 57) 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.
- 58) 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.
- 59) 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.

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

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

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

- 61) Construction may only be carried out between 7.00 am and 5.00 pm on Monday to Saturday and no construction is to be carried out at any time on a Sunday or a public holiday.
- 62) The building work must be carried out in accordance with the requirements of the Building Code of Australia.
- 63) 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.

- 64) 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.
- 65) All excavations and backfilling must be executed safely and in accordance with the relevant Australian Standards.
- 66) 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.
- 67) 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.
- 68) 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.
- 69) 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.
- 70) The wastewater from the car wash bay shall be collected and disposed of, in accordance with the requirements contained in Council's Development Engineering Standards.
- 71) 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.

- 72) Redundant driveways along Kent Street fronting the development to be removed and reinstated with kerb and gutter and verge to match with remaining.
- 73) If waste is to be collected from the kerbside, then signage may need to be installed subject to obtaining approval from the Traffic Committee, three months prior to the occupation of the site. All costs associated with the installation of the stems and signs are to be borne by the Applicant.

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

- 74) The occupation or use of the building must not be commenced unless an occupation certificate has been issued for the building.
- 75) An Occupation Certificate for the completed development must 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 (where applicable).
- 76) Prior to the issue of any Occupation Certificate a design verification from a qualified designer shall be submitted to the Principal Certifying Authority. The design verification is a statement in which the qualified designer verifies that the development has been constructed as shown in the plans and specifications in respect of which the Construction Certificate was issued, having regard to the design quality principles set out in Schedule 1 of SEPP No. 65.
- 77) 40 off street car spaces being provided in accordance with the submitted plans. This shall comprise a minimum allocation to each of the following:
  - 1x car wash bay
  - 17x residential spaces
  - 4x residential visitor spaces
  - 8x business / commercial spaces
  - 8x bicycle spaces
  - 4x of the above car parking spaces are to be provided for people with mobility impairment in accordance with AS 2890.1. All car parking spaces shall be allocated and marked according to these requirements.
- 78) Landscaping is to be installed in accordance with the approved Landscape plan prepared by Isthmus Pty Ltd, drawing number IS0284DA1 and IS0284DA2, Rev E and dated 8 July 2021. 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.

- 79) All scheduled plant stock shall be pre-ordered, prior to issue of Construction Certificate or 3 months prior to the commence of landscape construction works, whichever occurs sooner, for the supply to the site on time for installation. Written confirmation of the order shall be provided to Council's Landscape Architect, prior to issue of any Construction Certificate. The order confirmation shall include name, address and contact details of supplier; and expected supply date.
- 80) 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.
- 81) 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.
- 82) 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.
- 83) 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.
- 84) 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.
- 85) 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.
- 86) 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.
- 87) 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.

- 88) Prior to the issue of any Occupation Certificate (OC), an authorised Council waste officer is to inspect and approve all waste management facilities to ensure they comply with the development approval, Waste Management Plan. Specifically, the path of travel for all waste, from unit to point of waste collection, waste storage room sizing, access to water and sewer connections, finished materials, access and door way dimensions, truck turntables, and that all waste facilities are fit for purpose.
- 89) Prior to the issue of any OC, the developer is to enter into a formal agreement with Council for the utilisation of Council's Domestic Waste Collection Service. This is to include Council being provided an easement for unimpeded access to and from the waste collection locations for council and its contractors to enter and exit for the purpose of waste and recycling collection. The development is also required to indemnify council and its contractors against claims for loss or damage or wear and tear of access roads or to other parts of the building. A positive covenant shall be placed on the property title, such as section 88B certificate.

Note: By entering into an agreement with Council for waste collection, the development will be required to operate in full compliance with Council's Waste Management collection requirements.

- 90) The provision of Council's waste collection service will not commence until formalisation of the agreement.

#### **USE OF THE SITE**

- 91) Following occupation of the building/premises, should it be found that the measures recommended in the acoustic assessment are not sufficient, or have been incorrectly installed or a noise issue (relating to the development) not previously identified arises (through complaint or otherwise), the owner/ occupier must, upon request by Council, employ the services of a qualified acoustic consultant who has not previously been involved with the development to undertake a post-occupation assessment of the development and complete an acoustic report with recommendations to rectify the situation. A copy of this acoustic assessment report must be submitted to Council for approval and from there noise attenuation works must be implemented. Submission of the acoustic report must be within 30 days from the date requested by Council.
- 92) The applicant must ensure that all activities within the premises comply with the relevant sections of the Protection of the Environment Operations Act 1997 and Regulations and the Noise Policy for Industry (NSW EPA, 2017).
- 93) The use of the premises and the operation of plant and equipment must not give rise to the transmission of a vibration nuisance or damage to other premises as defined in the 'Assessing Vibration: A Technical Guideline' (NSW Department of Environment and Conservation, 2006).



- 94) The plan of management submitted in support of this application prepared by Planzone Pty Ltd, dated, 27 August 2020, reference POM.200527.AH.AH forms part of the development consent. In the event of any inconsistency, the conditions of this consent will prevail over the plan of management.
- 95) Any activity carried out in accordance with this approval must not give rise to offensive odour, offensive noise or pollution of air, land or water as defined in the Protection of the Environment Operations Act 1997 and Regulations.
- 96) The operation of the development must not adversely affect the amenity of the neighbourhood or interfere unreasonably with the comfort or repose of a person who is outside the premises by reason of the emission or discharge of noise, fumes, vapour, odour, steam, soot, ash, dust, waste water, waste products, grit, oil or other harmful products.
- 97) Any lighting of the premises must be installed in accordance with AS/NZS 4282-2019, 'Control of the obtrusive effects of outdoor lighting', to avoid annoyance to the occupants of adjoining premises or glare to motorists on nearby roads. Flashing, moving or intermittent lights or signs are prohibited. The intensity, colour or hours of illumination of the lights must be varied at Council's discretion if Council considers there to be adverse effects on the amenity of the area.
- 98) No approval is granted or implied for the use of the retail and commercial tenancies. Separate development consent is to be obtained for the use of these premises.
- 99) Signage can be provided by Council that clearly identifies which bins (and containers) are to be used for general waste and recycling and what materials can be placed in each bin. The signs provided must be maintained by the site manager.
- 100) No waste storage bins are to be located or placed outside the approved waste storage room at any time except for collection purposes.
- 101) Contracts (or agreements) with cleaners, building managers and tenants must clearly outline the waste management and collection system and must clearly identify everyone's role and responsibility. This is to include:
- (a) Responsibility for cleaning and maintaining waste storage bins and containers
  - (b) Responsibility for cleaning and maintaining waste storage room
  - (c) Responsibility for the transfer of bins to the nominated collection point
  - (d) Method of communication to new tenants and residents concerning the developments waste management system.
  - (e) Cleaning up and management of bulky waste
  - (f) Responsibility for maintaining the compost bin or worm farm

Where the development incorporates strata title subdivision, the by-laws are to clearly set out the management responsibilities for the developments waste and recycling system.

- 102) The nominated kerbside collection point is to be utilised to facilitate the collection of all bins for the development. All mobile garbage bins that are left kerbside for collection must be taken back within the property boundary on the same day of service.
- 103) The development must operate in full compliance with Council's Waste Management collection requirements.
- 104) The ongoing management section of the WMP are to be included in the by-laws of the strata property. This will ensure that the approved WMP is fully implemented and followed by residents and property managers.
- 105) Waste Chute system- Waste and Recycling Rooms have been provided on each floor for the chute hopper and to store 2 x 240L bins for recycling only, which allows for three days of recycling generated by the number of dwellings on that floor. The property manager is responsible for emptying the 240L recycling bins into 1,110L bulk bins, which would be emptied by Council. Council will not collect 11 x 240L bins. Bin lifting equipment is required to empty 240L recycling bins into 1,100L bulk bins for collection.

-END-