

JOINT REGIONAL PLANNING PANEL (Sydney West)

JRPP No	2010SYW095
DA Number	DA-1236/2010
Local Government Area	Bankstown
Proposed Development	Demolition of the existing structures and construction of a residential flat building containing thirty six (36) residential units over six (6) levels with basement car parking and associated site works under State Environmental Planning Policy (Affordable Rental Housing) 2009.
Street Address	1, 3 and 5 The Crescent, Yagoona
Applicant	Mackenzie Architects
Owner	Gehad Elgalada, Fayez Tawil, Jisel Tawil and Noha Elgalada
Number of Submissions	7 (including two (2) from the same property)
Recommendation	Approval (on a deferred commencement basis)
Report by	Stephen Arnold Team Leader - Development Assessment

SUMMARY REPORT

Mackenzie Architects have submitted a development application seeking approval for the demolition of the existing structures occupying Nos 1, 3 and 5 The Crescent, Yagoona and for the construction of a residential flat building containing thirty six (36) dwellings (5 x 1 bedroom and 31 x 2 bedroom dwellings) over six (6) levels, basement car parking containing thirty six (36) car parking spaces and associated site works. The application has been lodged under the provisions of *State Environmental Planning Policy (Affordable Rental Housing) 2009*.

The application was lodged with Council on 14 December 2010 when 'Part 3 – Regional Development' of the Major Development SEPP was in force. Clause 13B of the SEPP provided that for development that had a capital investment value of more than \$10 million the consent authority function was to be exercised by the Joint Regional Planning Panel.

Recent changes to the Act have repealed this provision from the SEPP. The Environmental Planning and Assessment Amendment (Part 3A Repeal) Act 2011 (the Repeal Act) commenced on 1 October 2011. New classes of regional development are now set out in Schedule 4A of the EP&A Act 1979. This Schedule replaces the former classes of regional development set out in Part 3 of the Major Development SEPP. Under the amended provision, development that has a capital investment value of more than \$20 million is to be determined by the regional panel.

Clause 15(3) of Schedule 6A – Transitional arrangements of the Repeal Act provides that *"... the applicable regional panel continues to exercise the consent authority functions of a Council for the following types of development applications ...*

- (a) a development application for development that has a capital investment value of more than \$10 million if the development application was made, but not determined by the panel, before the commencement of Schedule 4A."*

Based on the transitional arrangements, the application is to be determined by the Joint Regional Planning Panel (Sydney West Region).

The application was advertised for a period of twenty eight (28) days from 12 January 2011 until 8 February 2011. At the conclusion of the exhibition period Council was in receipt of seven (7) submissions (with two (2) of these submissions being received from the one property).

The issues raised in the submissions include:

- The size, scale, bulk and density of the development, and the resulting adverse impacts on neighbouring properties.
- Overshadowing and loss of sunlight access to neighbouring properties.
- Overlooking and privacy impacts, in particular resulting from elevated terraces and courtyards and from western and southern elevation balconies and windows

- Traffic and parking impacts and in particular adverse impacts of additional traffic resulting from the development on the intersection of The Crescent and Little Road.
- Noise and amenity impacts, in particular due to the location of the driveway access and its proximity to neighbouring properties.

In response to the above concerns, particularly in relation to the relationship of the development to the adjoining residential sites to the immediate west, the applicant modified the development as follows:

- Removed the raised podium / courtyard proposed immediately adjacent the boundary with No 7 The Crescent.
- Additional excavation of the site resulting in a lower basement car parking level (from a previous RL of 45.05AHD to an RL of 43.05AHD).
- Reconfiguration of the basement car parking level (i.e. lift access, location of the storage rooms, bicycle storage areas and car parking spaces, etc).
- The inclusion of a second car parking area (again provided below ground) with Units 1 and 2 included on this level (above ground) to the rear of the development.
- The lowering of the rear communal area so as now to be essentially flush with the natural ground level.
- The inclusion of a number of privacy measures, particularly to the western elevation of the development, introduced so as to protect the visual privacy of the immediately adjoining residents.

The report demonstrates that the above changes will provide for improved amenity for the adjoining residents particularly with respect to improving their visual amenity and protecting their visual privacy. Issues and concerns relating to the development contributing to adverse traffic impacts and motorist safety were not found to be justified in this case.

The application was referred to:

- Railcorp for their concurrence pursuant to clauses 85 and 86 of *State Environmental Planning Policy (Infrastructure) 2007*
- Bankstown Airport Limited pursuant to clause 24 of the *Bankstown Local Environmental Plan 2001* in relation to the obstacles limitations for the airport

Council is in receipt of correspondence from Railcorp and Bankstown Airport Limited in response to our referrals. No objections were raised to the development proceeding.

The application was made under the provisions of *State Environmental Planning Policy (Affordable Rental Housing) 2009*. The assessment report identifies that the development satisfies the provisions contained within this SEPP however in the absence of the applicant identifying which of the units will be used as affordable housing it is recommended that such details be provided prior to the issuing of an operative consent. This is to ensure that a minimum of 50% of the gross floor area of the development is allocated as affordable housing thereby allowing for the bonus floor area to be applied to the development.

The application has also been assessed against the relevant provisions contained within the following:

- State Environmental Planning Policy (Major Development) 2005
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy No 65 – Design Quality of Residential Flat Buildings (and the Residential Flat Design Code)
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment (deemed SEPP)
- Bankstown Local Environmental Plan 2001
- Bankstown Development Control Plan 2005 (Parts D2 and D5)

In each case the development was found to have satisfied each of the controls, standards and objectives contained within these planning instruments and council policies.

RECOMMENDATION

It is recommended that the application be approved, on a deferred commencement basis, subject to the applicant confirming which of the units will be used as affordable rental housing.

DA-1236/2010 ASSESSMENT REPORT

SITE & LOCALITY DESCRIPTION

The subject site is known as Nos 1, 3 and 5 The Crescent, Yagoona comprising Lots 4, 5 and 6 in Deposited Plan 19650. The combined site provides for an irregular shaped allotment with a site area of 2356.3sqm, a 31.94 metre frontage to The Crescent (to its southern boundary) and a 58.62 metre frontage to a public walkway and the adjacent Bankstown – Yagoona railway line along its eastern boundary.

No 1 The Crescent

The site is occupied by a single storey fibro dwelling with a hipped tiled roof. An attached carport is situated within the front setback while a detached fibro outbuilding is located to the rear of the dwelling. The site has an area of 559.8sqm.

No 3 The Crescent

The site is occupied by a single storey PVC clad dwelling with a hipped tiled roof. The site is likewise occupied by a number of detached outbuildings both adjacent the dwelling and to the rear. The site has an area of 591sqm.

No 5 The Crescent

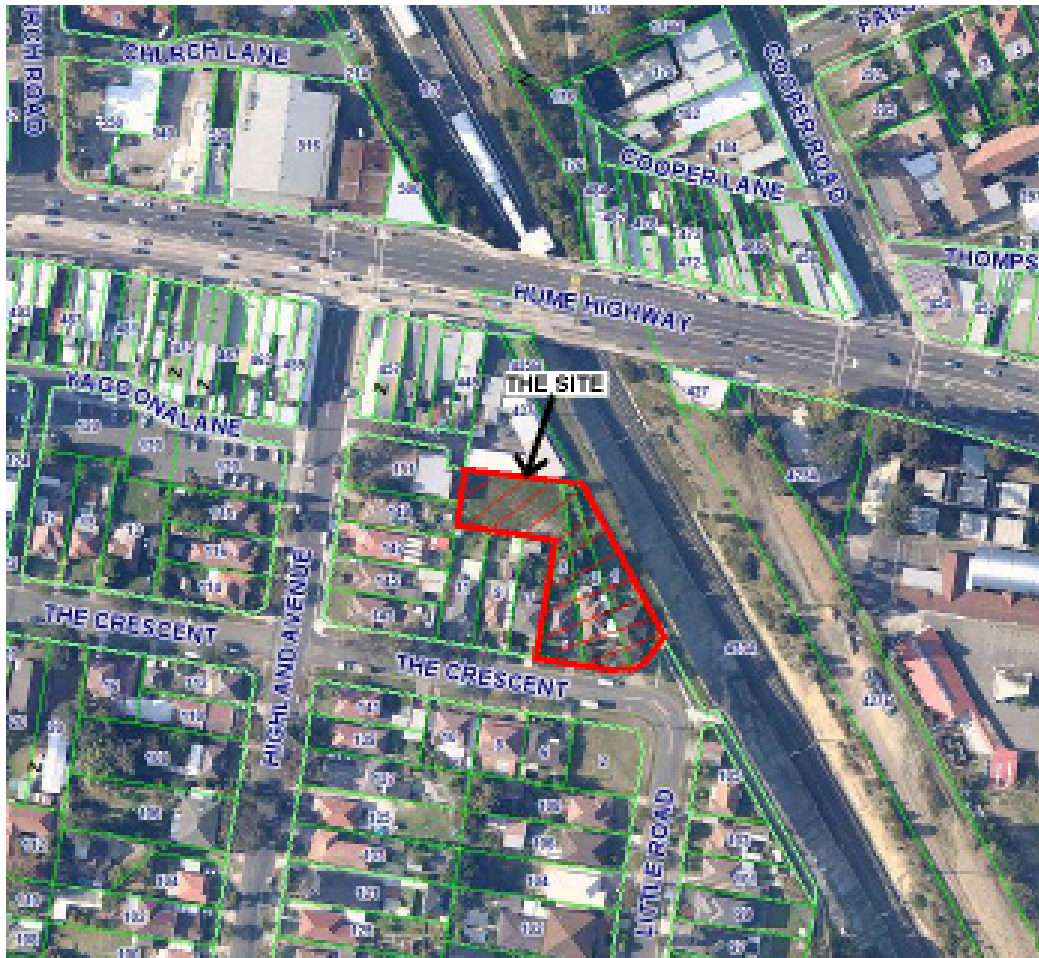
The site is occupied by a single storey fibro dwelling with a hipped tiled roof with a detached fibro outbuilding to the rear. The site has an area of 1205.5sqm.

The subject site is located just to the south of the Yagoona town centre and shops along the Hume Highway, being approximately 280 metres walking distance from the Yagoona Railway Station. Adjoining the sites eastern boundary is the Bankstown - Yagoona railway line with the site being separated from the rail corridor by a pedestrian / bicycle path which provides access between The Crescent and the Hume Highway. The subject site is located to the immediate north west of the intersection of Little Road and The Crescent.

The subject site has a moderate fall from the street (at RL of approximately 48.85 AHD) towards the north western rear corner of the site (at RL of 45.28 AHD). Existing vegetation on the site is, in the most part, confined to along the sites frontage to The Crescent.

Development in the immediate vicinity of the site generally comprise of single and two storey dwellings to the south and west and one and two storey commercial / retail developments to the north and north west of the site.

The site is currently zoned 2(b) - Residential B under the Bankstown Local Environmental Plan 2001.



PROPOSED DEVELOPMENT

The Development Application proposes:

- The demolition of all existing site structures occupying Nos 1, 3 and 5 The Crescent, Yagoona;
- The construction of a six (6) storey residential flat building containing a total of thirty (36) dwellings in which 5 x 1 bedroom dwellings and 31 x 2 bedroom dwellings are to be provided;
- Basement car park levels containing a total of thirty six (36) car parking spaces, bicycle parking and storage areas; and
- Associated site works including site landscaping, driveway access, etc.

A total of 50% of the units (18 units) are to be provided as affordable rental housing. A copy of correspondence from Affordable Community Housing Ltd was submitted with the application confirming that preliminary discussions had been held with the developer about the use of these units as affordable housing.

Particulars of the development include:

Basement Car Park Level (at RL 43.05 AHD)

- Twenty three (23) car parking spaces, two of which provided as disabled parking
- Storage units
- Bicycle storage areas
- Fire stairs and lift access

Carpark / Ground Level (at RL 46.05 AHD)

- Thirteen (13) car parking spaces
- Storage units
- Garbage Room
- Fire stairs and lift access
- 2 x 2 bedroom units
- Communal BBQ and clothes drying area

Ground Floor Level (at RL 49.05 AHD)

- 6 x 2 bedroom units

First Floor Plan (at RL 52.05 AHD)

- 6 x 2 bedroom units

Second Floor Plan (at RL 55.05 AHD)

- 6 x 2 bedroom units

Third Floor Plan (at RL 58.05 AHD)

- 5 x 2 bedroom units and 1 x 1 bedroom unit

Fourth Floor Plan (at RL 61.05 AHD)

- 4 x 2 bedroom units and 2 x 1 bedroom units

Fifth Floor Plan (at RL 64.05 AHD)

- 2 x 2 bedroom units and 2 x 1 bedroom units

In summary:

- One (1) bedroom units range in floor area from 60.66sqm to a maximum of 63.05sqm.
- Two (2) bedroom units range in floor area from 80.63sqm to a maximum of 96.88sqm.
- Unit 32 (on the fourth floor) and Unit 36 (on the fifth floor) have been identified as adaptable units.

SECTION 79C ASSESSMENT

The proposed development has been assessed pursuant to section 79C(1) of the *Environmental Planning and Assessment Act, 1979*.

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

State Environmental Planning Policy (Major Development) 2005

The application was lodged with Council on 14 December 2010 when 'Part 3 – Regional Development' of the Major Development SEPP was in force. Clause 13B of the SEPP provided that for development that had a capital investment value of more than \$10 million the consent authority function was to be exercised by the Joint Regional Planning Panel.

Recent changes to the Act have repealed this provision from the SEPP. The Environmental Planning and Assessment Amendment (Part 3A Repeal) Act 2011 (the Repeal Act) commenced on 1 October 2011. New classes of regional development are now set out in Schedule 4A of the EP&A Act 1979. This Schedule replaces the former classes of regional development set out in Part 3 of the Major Development SEPP. Under the amended provision, development that has a capital investment value of more than \$20 million is to be determined by the regional panel.

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Based on the transitional arrangements, the application is to be determined by the Joint Regional Planning Panel (Sydney West Region).

State Environmental Planning Policy (Infrastructure) 2007

The application was referred to Railcorp for their comment and concurrence pursuant to clauses 85 and 86 of *State Environmental Planning Policy (Infrastructure) 2007* as the development site is located immediately adjacent a rail corridor and significant excavation of the site is proposed as part of this development.

In correspondence to Council dated 17 August 2011, Railcorp granted its concurrence (subject to the imposition of certain conditions) in accordance with clause 86(1) of the Infrastructure SEPP. These conditions have been included in this report.

State Environmental Planning Policy (Affordable Rental Housing) 2009

State Environmental Planning Policy (Affordable Rental Housing) 2009 (SEPP ARH) came into force in July 2009. The planning instrument was later amended on 20 May 2011 providing for a number of changes to the nominated development standards and to the permissibility criteria for these types of development.

The application was lodged with Council on 14 December 2010 under the provisions of Division 1 'In-fill affordable housing' of this SEPP (i.e. the repealed SEPP).

Clause 54A of the amended SEPP reads:

If a development application (an existing application) has been made before the commencement of the amending SEPP in relation to development to which this SEPP applied before that commencement, the application may be determined as if the amending SEPP had not been made.

Council has received legal advice confirming that Clause 54A of the SEPP allows for an application, where it has been lodged with Council before the commencement of the amended SEPP, to be determined either against the provisions contained within the repealed SEPP or against the provisions contained within the amended SEPP.

Council has chosen, in the past, to determine applications against the provisions contained within the amended SEPP hence an assessment of the application against the amended SEPP has been provided below:

Clause 10 - Development to which this Division applies

The proposal satisfies the provisions contained within clause 10 of the amended SEPP ARH as follows:

- The construction of a residential flat building on this parcel of land represents a permissible form of development under clause 11 of the Bankstown Local Environmental Plan 2001.
- The site, being located approximately 280 metres walking distance from the Yagoona Railway Station, is deemed to be within an 'accessible area' as defined by the SEPP ARH.
- The development is not proposed on a site that contains a heritage item identified in an environmental planning instrument, an interim heritage order nor is the site on the State Heritage Register.

Clause 13 - Floor Space Ratios

The applicant has indicated that eighteen (18) of the thirty six (36) units will be used or allocated as affordable housing. While the applicant has not identified which of the units will be used for affordable housing, should the applicant choose eighteen of the smallest residential units, in excess of 20% of the gross floor area of the development would be used as affordable housing as required by clause 13(1) of the SEPP.

Clause 13(2) allows for, in this case, the floor space ratio of the development to a maximum of 1.5:1 should the percentage of the gross floor area of the development that is used for affordable housing be at least 50%.

As indicated above the applicant intends to provide eighteen of the thirty six units as affordable housing however has not identified which of these units will be used. It is therefore recommended that the applicant be required to confirm that the combined floor area of the units to be used as affordable housing exceed 50% of the gross floor area of the development. It is appropriate that this matter be required as a deferred commencement matter ensuring that the applicant is entitled to the 'bonus' FSR.

Clause 14 - Standards that cannot be used to refuse consent

Part 2 Division 1 of SEPP ARH provides for specific controls relating to residential flat buildings. Clause 14 of SEPP ARH contains standards that where, if satisfied, cannot be used as reasons to refuse the development application. The following table provides for an assessment of the development against these standards:

STANDARD	PROPOSED	SEPP ARH 2009		LEP 2001 COMPLIANCE
		REQUIRED / PERMITTED	COMPLIANCE	
Site Area	2356.3sqm	Minimum site area of 450sqm	Yes	Yes (minimum lot size is 1500sqm - pursuant to clause 46(7(a))
Landscaped Area	35% provided (824sqm)	Minimum 30% of the site area	Yes	N/A
Deep soil zones	21.7% provided (512sqm)	A minimum of 15% of the site area (with a minimum 3 metre dimension)	Yes	N/A
Solar access	72% of the dwellings receive solar access to their living rooms and private balconies	A minimum of 70% of the living rooms and private open spaces of the dwellings of the development receive a minimum of 3 hours of solar access between 9am and 3pm in mid winter	Yes	N/A
Car Parking	36 spaces provided on site	Each 1 bedroom dwelling - 0.5 spaces Each 2 bedroom dwelling - 1 space For 5 x 1 bedroom and 31 x 2 bedroom dwellings a minimum of 34 spaces are required on site	Yes	N/A
Dwelling size	One bedroom dwellings range from 60.66sqm to 63.05sqm' Two bedroom dwellings range from 80.63sqm to 96.88sqm	Each dwelling has a minimum floor area of: 50sqm - for a 1 bedroom dwelling 70sqm - for a 2 bedroom dwelling	Yes	N/A

As demonstrated by the above table the proposal complies with each of the standards contained in clause 14 of the SEPP ARH.

Clause 15 - Design Requirements

Under the provisions of clause 15(1) of the SEPP ARH the provisions of the Seniors Living Policy: Urban Design Guidelines for Infill Development (Guidelines) are to be taken into consideration. The Guidelines were prepared to assist in the design and assessment of infill development under *State Environmental Planning Policy (Seniors Living) 2004* (SEPP Seniors Living) and to provide a 'contextual approach' which is also relevant to infill affordable housing. The objectives of the guidelines are as follows:

- *To minimise the impact of new development on neighbourhood character.*
- *To retain existing natural features of the site that contribute to neighbourhood character.*
- *To provide high levels of amenity for new dwellings.*
- *To maximise deep soil and open space for mature tree planting, water percolation and residential amenity.*
- *To minimise the physical and visual dominance of car parking, garaging and vehicular circulation.*
- *To provide housing choice through a range of dwelling sizes.*

The development meets the objectives of the guidelines in that the proposal provides for a surfeit of deep soil zones and areas of open space, provides for on-site car parking that does not dominate the streetscape while the orientation, design and layout of the units will provide for a high degree of residential amenity for the future occupants of the development.

Clause 16 - Continued application of SEPP 65

An assessment of the development has been undertaken against the provisions contained within State Environmental Planning Policy No 65 and the Residential Flat Design Code and has been found to be satisfactory.

Clause 16A - Character of the local area

The SEPP ARH requires the consent authority to take into consideration whether the design of the development is compatible with the character of the local area.

Adjoining sites to the west are typically occupied by single and two storey dwellings. These sites, along with the development site itself, are located within the Yagoona Town Centre (Hume Highway Corridor) and are zoned 2 (b) - Residential B. These sites have been identified as being suitable to accommodate higher density residential development as reflected through the gazettal of Amendment No 35 to the *Bankstown Local Environmental Plan 2001* which had the effect of increasing the maximum permissible FSR from 0.6:1 to 1:1.

On the opposite side of The Crescent (to the south of the site) sites are zoned 2(a) - Residential A. In order to respond to the imbalance between the development opportunities afforded to the residents along the northern side of The Crescent as compared to those along the southern side, height controls were introduced so as to ensure a transition in building mass occurs. As the report later demonstrates the height controls that apply to the site have been satisfied.

While the character of the area is typically of low scale residential development to the south and modest low scale commercial development to the north and north west, the development is consistent with the envisaged character of the area and that which has been promoted through the gazettal of Amendment No 35 to the LEP. The resultant design suitably responds to the lower scale developments that adjoin the site and will provide a positive benchmark to encourage future intensification of the adjoining 2(b) - Residential B sites. Accordingly the development is considered to have satisfied the character test as provided by clause 16A of the SEPP.

Clause 17 - Must be used for affordable housing for 10 years

A condition is recommended to be imposed satisfying clause 17 of the SEPP.

Clause 18 - Subdivision

The applicant has not sought to subdivide the development.

Repealed SEPP

As the determining authority the Joint Regional Planning Panel may choose to determine the application as if the amending SEPP had not been made (i.e. under the repealed SEPP). Accordingly an assessment of the development against the provisions contained within the repealed SEPP is provided at **Attachment A**.

State Environmental Planning Policy No 65 - Design Quality of Residential Flat

Development

SEPP 65 aims to improve the design quality of residential flat buildings and provides an assessment framework, the Residential Flat Design Code, for assessing 'good design'.

An assessment of the development against the design principles contained within SEPP 65 is provided below:

Context

The site is located within an area identified as the Yagoona Town Centre (Hume Highway Corridor) and therefore is required to be assessed against the specific controls contained within Part D5 of the Bankstown Development Control Plan 2005. As the report later indicates the development was found to have suitably addressed these controls.

The broader Yagoona Town Centre Urban Renewal Strategy outlines Council's vision to renew the town centre, to allow Yagoona to play a district shopping and service role, to provide the opportunity for population growth and to provide funding to support the upgrade of infrastructure and facilities.

Having regard to both the controls contained in Part D5 of Council's DCP and the broader vision of the Renewal Strategy, the development is found to be in context with the character of the locality having regard to Council's future plans for the immediate area.

Scale and Built Form

The built form characteristics of the development are, in part, largely governed by the building envelope controls established under Part D5 of the Bankstown Development Control Plan 2005. As the report later demonstrates the development satisfies the applicable building envelope controls providing for a transition in the building form to neighbouring single and two storey dwellings occupying sites to the south in The Crescent and Little Road.

Density

The density, measured in terms of the FSR, has been found to be compliant with the standards contained and permitted within *State Environmental Planning Policy (Affordable Rental Housing) 2009*.

Resources, energy and water efficiency

The development satisfies the minimum solar access and cross ventilation requirements while BASIX certificates accompanying the application demonstrated required water and energy targets being met. The proposal also allows for the retention of solar access to the adjoining dwellings for considerable periods of the day thereby reducing the likelihood of the residents of these dwellings relying on non renewable resources.

Landscape

A detailed Landscape Plan accompanied the development application. The plan provided for the introduction of a large number of native and deciduous canopy trees to the site. In short the plantings and landscape environment proposed provides for an improved landscaped outcome for the site as compared to that which currently exists.

Amenity

The amenity for the adjoining residents has been retained. Each of the adjoining dwellings receive in excess of the minimum solar access requirements as provided for in Council's development control plan and, following the changes undertaken by the applicant, both their visual amenity and visual privacy is deemed to have been retained.

With respect to the amenity of the occupants of the development, minimum solar access and cross ventilation requirements have been met while functional private and communal open space areas have been provided.

Safety and Security

The application was referred to Council's Community Safety and Crime Prevention Officer who subsequently forwarded the application to the Bankstown Local Area Command of the NSW Police Force. The following comments were received from the Local Area Command.

*The result of this Safer by Design Crime Risk Evaluation for this development has identified as overall crime risk rating as **medium**, on a sliding scale of low, medium and high crime risk.*

The proposed development may introduce new (potential) victims, crime opportunities and offenders to the development site and its surroundings. Therefore, reported crime may increase in the future.

*With this in mind **Technical / Mechanical** (Crime Prevention through Environmental Design – CPTED) treatment options should be considered for the proposed development in order to reduce opportunities for crime.*

Namely;

Lighting

Graffiti resistant fencing

Access

CCTV

Within the correspondence provided by the Local Area Command conditions of consent were recommended to be imposed. These conditions have been incorporated into the conditions.

Social Dimensions

The proposal provides for eighteen (18) residential units as affordable housing. These units will be made available to low and moderate income households. Furthermore the proposal provides for the development of a site which will promote the use of alternative public transport options given the sites proximity to the Yagoona Railway Station and public transport alternatives along the Hume Highway.

Aesthetics

The applicant has provided sufficient articulation to the design so as to successfully break up the building form in addition to introducing a number of building materials and finishes that contribute to a positive impact to the streetscene.

Residential Flat Design Code

An assessment of the proposal under the provisions and 'rules of thumb' in the Residential Flat Design Code is provided below:

Solar access

As indicated earlier in the report, 72% of the dwellings achieve 3 hours of direct sunlight between 9am and 3pm thus satisfying the minimum 70% requirement under the Flat Design Code.

Communal open space

The Design Code recommends that at least 25% to 30% of the site is provided as communal open space. The development provides for an extensive functional, practical and useable communal open space for the future residents of the site in the form of a large open landscaped area to the north west of the site. This area is also suitable for deep soil plantings.

Natural ventilation

The Design Code recommends that at least 60% of the dwellings achieve cross ventilation. The proposal provides for 67% of the dwellings satisfactorily achieving cross ventilation.

Setback

In relation to the side and rear setbacks the Design Code reads as follows:

Objectives

Side setbacks:

- *To minimise the impact of development on light, air, sun, privacy, views and outlook for neighbouring properties, including future buildings.*
- *To retain or create a rhythm or pattern of development that positively defines the streetscape so that space is not just what is left over around the building form.*

Rear setbacks:

- *To maintain deep soil zones to maximise natural site drainage and protect water table.*
- *To maximise the opportunity to retain and reinforce mature vegetation.*
- *To optimise the use of land at the rear and surveillance of the street at the front.*
- *To maximise building separation to provide visual and acoustic privacy.*

The Design Code goes on to identify, as a 'rule of thumb', the following:

- Relate side setbacks to existing streetscape patterns.
- Test side and rear setbacks with building separation, open space and deep soil zone requirements
- Test side and rear setbacks for overshadowing of other parts of the development and/or adjoining properties, and of private open space.

The development provides for minimum setbacks of between 6 and 9 metres to the sites western boundary (that boundary it shares with No 7 The Crescent). These setbacks allow for solar access to be retained to the adjoining sites, allow for privacy to be preserved, ensure opportunity exists for some deep soil plantings in addition to ensuring adequate building separation exists with the future development of the adjoining sites.

Storage space

The Design Code recommends that in addition to kitchen cupboards and bedroom wardrobes accessible storage facilities are provided at the following rates:

- Studio and 1 bedroom apartments = 6m³
- Two bedroom apartments = 8m³

Storage units provided within the basement car parking levels will adequately cater for the storage needs of the future residents with all but three of these storage units exceeding 7m³.

Major Development Design Assessment Panel

Plans originally submitted to Council were considered by Council's Major Development Design Assessment Panel. The following comments were made in relation to the development:

- (a) *The proposal must adapt to the topography of the site. The preferred option is to step the basement car park to ensure the basement level is below natural ground level. The ground floor of the building and any outdoor courtyards, terraces or walkways should sit at the natural ground level to eliminate privacy and amenity impacts, and to enhance the connections between the dwellings and open space areas.*
- (b) *The proposal must consider reducing the bulk of the building when viewed from the Hume Highway, particularly at the rear of the site where the natural ground level drops gradually of around 2 metres from the front boundary. Options to reduce the bulk of the building may include:*
 - (i) *stepping the building height to follow the topography as it slopes down towards the rear of the site*
 - (ii) *relocating some of the dwellings on the top 2 floors to the hard paved area of the rear outdoor area*
 - (iii) *introducing articulating features that project beyond the building wall.*
- (c) *The proposal should consider maximising the northern aspect and reduce overlooking into the adjoining properties along the western elevation by reducing the side setback and redesigning the unit balconies to be directed towards the north.*

- (d) *The proposal should provide additional articulation of the eastern and southern elevation of the building to reduce the bulk of the building when viewed from the public domain.*

The amendments made to the development go towards providing for a suitable response to the concerns raised by the Panel. The lowering of the communal areas and the deletion of the podium features ensures a much improved relationship to the adjoining site to the west in addition to ensuring a much more suitable response to the topography of the site. The introduction of fixed privacy screens to the western elevation will aid in preserving privacy for the adjoining residents.

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

The subject site is within the area covered by the REP. The REP 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 it 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 REP.

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

BASIX certificates have been submitted with the application in accordance with the requirements of this SEPP.

Bankstown Local Environmental Plan 2001

On 9 November 2009 Amendment 35 to the Bankstown Local Environmental Plan 2001 (BLEP) was gazetted. It had the effect of:

- retaining the existing 2(b) - Residential B zone for the site
- increasing the maximum permitted floor space ratio from 0.6:1 to 1:1
- increasing the storey limit* from 3 storeys (plus loft) to 6 storeys (no loft), equating to a maximum building height of 20 metres.

* A 3 storey limit (11 metre building height) continues to apply within a 10 metre setback to The Crescent to provide a height and built form transition to neighbouring houses.

The relevant aim of Amendment No 35 is as follows:

To rezone certain land in the Yagoona Town Centre to Zone 2(b) - Residential B to allow the redevelopment of the residential neighbourhood within easy walking distance of the Centre for a mix of medium density development

The following clauses of the BLEP were taken into consideration in the assessment of this application:

Clause 2 - Objectives of this plan

The development is consistent with the objectives of the plan providing for an appropriate urban design and a development of a scale and intensity that is consistent with the controls and standards provided within Part D2 and Part D5 of Council's supporting development control plan.

Clause 11 - Development which is allowed or prohibited within the zone

The development is permissible with the consent of Council in a 2(b) - Residential B zone pursuant to the table provided in clause 11 of the BLEP 2001.

Clause 19 - Ecologically sustainable development

The high density residential development is within easy access to a number of public transport options or alternatives. The site is within easy walking distance of the Yagoona Railway Station while regularly serviced bus routes are provided along the Hume Highway. Furthermore a sizeable and functional landscaped area has been provided in the western portion of the site promoting deep soil plantings.

Clause 20 - Trees

Council's Tree Management Officer has undertaken an assessment of the application and has identified the trees to be removed as not being significant hence no objection was raised to their removal. Standard conditions of consent were recommended to be imposed.

Clause 24 - Airports

The site is located within an area where the maximum building height limit is specified as 15.24 metres (in relation to the Bankstown Airport and the obstacle height limits).

The application was referred to Bankstown Airport Limited who subsequently forwarded the application to the Civil Aviation Safety Authority (CASA) and later the Department of Infrastructure and Transport for comment due to the proposed height of the development and its penetration of the Obstacle Limitation Surface.

Council is in receipt of approval from the Department of Infrastructure and Transport, exercisable under paragraph 14(1)(b) of the Airports (Protection of Airspace) Regulations 1996, allowing for the penetration of the development into the Inner Horizontal Surface of the Obstacle Limitation Surface for Bankstown Airport. Approval was granted subject to conditions. These conditions have been included in the development consent.

Clause 32 - Access for People with disabilities

This clause requires the development to comply with the requirements of the Building Code of Australia in relation to access. A preliminary BCA assessment of the application did not reveal any issues relating to accessibility.

Clause 44 - Objectives of the Residential Zones

The development is considered to be consistent with the objectives of the 2(b) Residential B zone in so far as the proposal provides for a medium to high density residential development on a site that is in close proximity to a district shopping centre while also in the immediate vicinity of the Yagoona Railway Station. The

development provides for an orderly and economic use of the land successfully retaining the amenity of the adjoining and nearby residents.

Clause 45 - General restrictions on development

The development suitably satisfies the criteria contained in clause 45 of the LEP.

Clause 47 - Isolation of allotments

The adjoining sites, specifically Nos 7, 9 and 11 The Crescent, when combined provide for a site area exceeding 1200sqm and a frontage to The Crescent that exceeds 30 metres. Approval of the subject development proposal would therefore not preclude the reasonable development of the adjoining land to the west consistent with the objectives established by clause 47 of the BLEP.

Schedule 9 - Special requirements for specific sites

Column 2 to Schedule 9 of the BLEP requires that for developments proposed on Lots 1 - 6 in DP 19650 (Nos 1 - 11 The Crescent, Yagoona) the following must be satisfied:

The consent authority must be satisfied that the height of any building on the land will not exceed the height controls on the height control map.

The height control map identifies the maximum permitted building height of 11 metres at the front of the site and 20 metres towards the rear of the site. The development is found to have satisfied these height controls.

An assessment of the Development Application has revealed that the proposal complies with the matters raised in each of the above clauses of the Bankstown Local Environmental Plan 2001.

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

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

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

The development has been assessed against the following parts of the Bankstown Development Control Plan 2005 (BDCP 2005):

- Part D5 – Key Development Sites in Business Zones
- Part D2 – Residential Zones

Part D5 – Key Development Sites in Business Zones

Although the site is zoned 2(b) Residential B, the site is identified as a Key Development Site under Part D5 of the BDCP 2005.

Section 7 of Part D5 of the BDCP 2005 provides for objectives and standards relating to development within the Yagoona Town Centre (Hume Highway Corridor). The site is located within Precinct E of the Yagoona Town Centre with the following controls / standards applying:

STANDARD	PROPOSED	BDCP 2005 Part D5		LEP 2001 COMPLIANCE
		REQUIRED / PERMITTED	COMPLIANCE	
Height Limit	Six (6) storey residential flat building	A maximum of six (6) storeys (no lofts) provided the site is at least 30 metres wide at the front building line	Yes	N/A
Minimum setback to The Crescent	Minimum front setback of 6 metres	6 metres	Yes	N/A
Minimum setback to the side and rear boundaries	Setbacks to the adjoining properties, particularly to the north and west of the site, are appropriate	Comply with the Residential Flat Design Code*	Yes	N/A
Built form characteristics	The ground, first and second storeys observe a minimum 6 metre setback while the third, fourth and fifth storeys observe a minimum 10 metre setback	3 storey height limit applies to any part of a development within a 10 metre setback to The Crescent to provide a height and built form transition to neighbouring houses	Yes	N/A

* The Residential Flat Design Code does not provide for prescriptive side and rear setback controls but rather encourage setbacks to be provided where they allow for solar access to be retained to the adjoining sites, allow for privacy to be preserved, ensure opportunity exists for some deep soil plantings in addition to ensuring adequate building separation exists with the future development of the adjoining sites. This is considered to have been achieved in this instance.

As the above table indicates the development satisfies the controls / standards applying to Precinct E of Part D5 of the BDCP 2005.

Part D2 – Residential zones

In light of the fact that the application has been assessed against the provisions contained within, in particular, the SEPP ARH, SEPP 65 (and the Residential Flat Design Code) and the site specific controls contained in Part D5 of the Bankstown Development Control Plan 2005, the vast majority of the elements of the development requiring consideration have already been discussed.

An assessment of the application against the controls contained within Part D2 is therefore confined to the following:

Waste

The development requires 4 x 1100L rubbish bins and 4 x 1100L yellow lid recycling bins. The bin storage area provided within the basement is of adequate size to cater for the storage of these bins.

The applicant intends installing a vertical lift platform in order to transport the bins to the road reserve for collection. The lift platform will be required to be of sufficient size to accommodate the bins (1370mm width, 1230mm depth and 1460mm height). Additional conditions of consent are recommended to be imposed ensuring that the bin collection arrangements provide for an efficient collection of waste in addition to minimising any impacts on the adjoining residents.

Solar Access

The DCP requires that solar access is achieved to the adjoining dwellings and to their private open spaces for a minimum of 3 hours in mid winter. While overshadowing of the eastern elevation and portion of the northern elevations of the adjoining dwellings to the west will occur in the morning, solar access would be uninterrupted to these dwellings and their rear open space after midday. The development therefore satisfies Council's minimum solar access requirements.

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

There are no planning agreements relevant to this development application.

The Bankstown Section 94A Contribution Plan requires a levy of 1% of the cost of carrying out of the development.

The Direction by the Minister under section 94E dated 10 November 2006 in regard to levies under section 94A indicates that such a levy can not be imposed on development "for the sole purpose of affordable housing".

Clause 25J(3) of the Environmental Planning and Assessment Regulation 2000 indicates that in determining the cost of development for the purpose of a section 94A levy, the cost and expenses are not to be included in relation to the cost of any development that is provided as affordable housing.

The proposed development is not for the sole purpose of affordable housing but will include only 50% of the development as affordable rental housing, which will be excluded from the section 94A levy.

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

In accordance with clause 92(1)(b) demolition of existing structures on the development site will be required to be undertaken in accordance with the provisions of Australian Standard AS 2601 - 1991: The Demolition of Structures, which is specified in Council's standard condition/s regarding demolition works.

Any coastal zone management plan

The development site is not within the coastal zone, and there is no relevant coastal management plan.

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

The likely impacts of the development have been largely discussed throughout the report. The development will not provide or cause any foreseeable adverse impacts on the adjoining residents nor on the occupants of dwellings in Little Road or The Crescent beyond that which would be expected of a development of this scale and intensity on a site that allows such a development.

With respect to comments received following internal referrals:

Engineering

Standard engineering conditions were recommended to be imposed.

Building

Following a preliminary BCA assessment it was found that the proposed building work is capable of complying with the requirements of the Building Code of Australia. Accordingly conditions of consent were recommended to be imposed. These conditions have been provided within this report.

Traffic / Access

Comments were sought from Council's Traffic Engineer in relation to whether issues relating to traffic and the proposed access / egress arrangements from the site are satisfactory.

At the intersection of The Crescent and Little Road there exists a central median island, a traffic measure aimed at managing vehicle movements in and around the intersection. A number of the nearby residents were concerned that the development would exacerbate existing traffic and parking problems in this area.

Council's traffic engineer had no objection to the development proceeding confirming that 'no additional traffic measurement is required.'

Trees / Vegetation

Existing vegetation on the site was not deemed to be significant hence there was no objection to the site being cleared.

Acoustic Assessment

An Acoustic Report was prepared by Acoustic Solutions Pty Ltd addressing road and rail noise. No objections were raised to the recommendations provided in the report.

Accordingly conditions of consent have been imposed requiring the development to be constructed in accordance with the recommendations of the report.

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

The site has been identified as being suitable to accommodate a medium to high density residential development as reflected by the recent amendment to the LEP (where it allowed for an FSR of 1:1). In light of the fact that the development satisfies the provisions contained within each of the relevant planning instruments and Council plans, the site is considered suitable for this form of development.

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

The application was advertised for a period of twenty eight (28) days. A total of seven (7) submissions were received, two being from the one property.

The submissions raised the following concerns:

Objection: *The size, scale, bulk and density of the development, and the resulting adverse impacts on neighbouring properties.*

Comment: The size, bulk and scale of the development reflect that as envisaged for the site following the gazettal of Amendment 35 to the BLEP. Both the building envelope controls (as contained in Part D5 of the BDCP) and the floor space ratio control (as provided in SEPP ARH) have been satisfied.

Objection: *Overshadowing and loss of sunlight access to neighbouring properties.*

Comment: The footprint of the development, being in the most part to the north east of the dwelling that adjoins the site on No 7 The Crescent, means that solar access to the eastern façade of the adjoining dwelling will be impacted upon by this development. However in the event that the development does not extend around the corner of the site, solar access to the rear of the dwelling at No 7 The Crescent will be maintained for a minimum of 3 hours in mid winter. Solar access will also be suitably maintained to the rear elevation of the dwellings occupying No 9 and No 11 The Crescent and their respective rear private open space areas.

Objection: *Overlooking and privacy impacts, in particular resulting from elevated terraces and courtyards and from western and southern elevation balconies and windows.*

Comment: The modified plan provides for the removal of the elevated podiums and terraces / courtyards ensuring that the visual amenity of the adjoining residents is retained. Furthermore the rear communal area has also been provided at or close to natural ground level again sufficiently reducing the opportunity for overlooking. With respect to the units on the upper floors fixed louvers and privacy screens have been included as a means of reducing the incidence of overlooking.

Objection: Traffic and parking impacts and in particular adverse impacts of additional traffic resulting from the development on the intersection of The Crescent and Little Road.

Comment: Council's Traffic Engineer was consulted in relation to whether the development, particularly the traffic generated by the occupants of the development, would have an adverse impact on the intersection of The Crescent and Little Road specifically in relation to motorist and pedestrian safety. Acknowledging that a median island exists currently at this intersection it was concluded that no additional traffic measurement would be required. The Crescent is capable of accommodating the additional vehicle movements generated by the development with sufficient sight lines being available for motorists exiting the site to access The Crescent Road in a safe and efficient manner.

Objection: Noise and amenity impacts, in particular due to the location of the driveway access and its proximity to neighbouring properties.

Comment: The driveway crossing is proposed adjacent the crossing that currently provides access to No 7 The Crescent. Vehicle movements generated by the occupants of the development will contribute to increased noise for the adjoining residents however as the driveway drops quickly away (to gain access to the basement level) noise will be confined to emanating from the front portion of the site only. This increase will not be significant so as to warrant a re-design or a relocation of the driveway crossing and access arrangements.

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

The public interest is best served by the consistent application of the requirements of the relevant environmental planning instruments, and by the consent authority ensuring that any adverse impacts on the surrounding area are avoided. The public interest is considered to have been served in so far as the development satisfies the regulatory controls applying to the site and provides for an orderly and economic use of the land.

CONCLUSION

The Development Application has been assessed in accordance with the matters for consideration contained in Section 79C of the Environmental Planning and Assessment Act 1979 and was found to be satisfactory.

The application has been assessed against the relevant provisions contained within the following:

- State Environmental Planning Policy (Major Development) 2005
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy 65 – Design Quality of Residential Flat Buildings (and the Residential Flat Design Code)
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

- Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment (deemed SEPP)
- Bankstown Local Environmental Plan 2001
- Bankstown Development Control Plan 2005 (Parts D2 and D5)

The development was found to have satisfied each of the controls, standards and objectives contained within these planning instruments and council policies.

It is recommended that the application be approved, on a deferred commencement basis, subject to the applicant confirming which of the units will be used as affordable rental housing.

RECOMMENDATION

It is recommended that the Development Application No 1236/2010 be approved, on a deferred commencement basis, subject to the following conditions:

DEFERRED COMMENCEMENT REQUIREMENT (Schedule A)

The following deferred commencement condition must be complied with to the satisfaction of Council within 6 months of the date of this deferred commencement consent, prior to the issue of an operational development consent:

1. The applicant is to identify which of the residential units within the development are to be used as affordable housing, such that a minimum of 50% of the gross floor area of the development is used as affordable housing, thereby satisfying clause 13(2)(a)(i) of State Environmental Planning Policy (Affordable Rental Housing 2009).

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 79(C) of the Environmental Planning & Assessment Act, 1979 and other relevant Acts and Regulations.

Notes:

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

Any application for a review of determination pursuant to Section 82A must be received, assessed and determined by Council within 6 months after the date of receipt of this Notice.

4. Section 125 of the Environmental Planning and Assessment Act, 1979 confers the authority to direct any person to comply with the terms and conditions of any Consent and any person failing to comply with such a direction shall be guilty of an offence under that Act.
 5. This consent will lapse 5 years from the endorsed date of consent unless the use has commenced, or any building works have physically commenced.
 6. The applicant or any other person entitled to act on this Consent may apply to modify the Development Consent in accordance with Section 96 of the Environmental Planning and Assessment Act, 1979.
 7. Failure to comply with a condition contained within this Development Consent may result in a fine or prosecution by Council.
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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-1236/2010, submitted by Mackenzie Architects, accompanied by Drawing No's. SK001B, SK01B and SK02B (all three drawings being Revision B and dated 15 November 2011) and Drawing No's SK03A, SK04A, SK05A, SK06A, SK07A and SK08A (all six drawings being Revision A and dated 26 May 2011) all as prepared by Mackenzie Architects, and affixed with Council's approval stamp, except where otherwise altered by the specific amendments listed hereunder and/or except where amended by the conditions contained in this approval.
- 3) 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.

A restriction will be registered, before the date of the issue of the occupation certificate, against the title of the property on which development is to be carried out, in accordance with section 88E of the Conveyancing Act 1919, that will ensure that the requirements of this condition are met.

- 4) The dimensions of the 'vertical lift platform' are to be of sufficient size to accommodate the dimensions of a 1100L bin being (w) 1370mm X (d) 1230mm X (h) 1460mm while the dimension of the lift entrance is to exceed 910mm.
- 5) Details as to where the bins will be stored/placed the night before collection are to be provided to and approved by Council prior to the issue of the Construction Certificate.
- 6) The pathway from the overnight bin storage area to the bin collection area must be a flat paved path/roadway with a layback at the roadway (the collection area) and be greater than 2500mm in width.
- 7) The building must not exceed a maximum height of 67.15 metres AHD, inclusive of all lift over-runs, vents, chimneys, aerials, antennae (of whatever type), any roof top garden plantings, construction cranes etc.
- 8) Fencing along the adjacent walkway is to be made or coated with a graffiti resistant material.

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

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

- 9) The Certifying Authority must ensure that any certified plans forming part of the Construction Certificate are not inconsistent with this Development Consent and accompanying plans.
- 10) A detailed landscape plan prepared by a qualified landscape architect or designer is to be approved prior to the issue of a Construction Certificate. The landscape plan is to be prepared in accordance with the relevant DCP and is to show all features, built structures including retaining walls, irrigation, mulch and natural features such as significant gardens, landscaping, trees, natural drainage lines and rock outcrops that occur within 3 metres of the site boundary. The landscape plan shall consider any stormwater, hydraulic or overland flow design issues where relevant.
- 11) The landscape plan shall include the provision for the replacement of all boundary fencing. 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 the trees identified 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 Sedimentation Control Plan shall be prepared in accordance with Council's relevant DCP. The plan shall be prepared by a suitably qualified professional and approved by the Principal Certifying Authority, prior to the issue of the Construction Certificate.
- 14) A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Coordinator. Please refer to the Building Developing and plumbing section of the web site www.sydneywater.com.au then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.

Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Coordinator, as it can take some time to build water/sewer pipes and this may impact on other services and building, driveway or landscape design.

The Section 73 Certificate must be submitted to the Principal Certifying Authority before occupation of the development/release of the plan of subdivision.

- 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) Prior to issue of a Construction Certificate, a Long Service Levy payment of \$37,275, which is 0.35% of the value of the work being \$10,650,000, is required to be paid to Council on behalf of the Long Service Levy Corporation prior to issue of the Construction Certificate.
- 17) Pursuant to section 80A(1) of the Environmental Planning and Assessment Act 1979, and the Bankstown City Council Section 94A Development Contributions Plan 2009 (Section 94A Plan), a contribution of \$53,250 shall be paid to Council.

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

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

- 18) The subject sites shall be consolidated in accordance with the approved plan. The plan for consolidation is to be registered prior to the release of the Construction Certificate.
- 19) Finished surface levels of all internal works and at the street boundary, including driveways, landscaping and drainage structures, must be as shown on the approved plans. The levels at the street boundary must be consistent with the Street Boundary Alignment Levels issued by Council.
- 20) A Work Permit shall be applied for and obtained from Council for the following engineering works in front of the site, at the applicant's expense:
- a) A heavy duty VFC of maximum width of 5.5 metres at the property boundary.
 - b) Drainage connection to Council's system.
 - c) A full width concrete footway paving along the sites entire frontage to The Crescent.
 - d) Concrete kerb and gutter along the sites entire frontage to The Crescent.
 - e) Removal of all driveway surfaces, reinstatement of laybacks to kerb and gutter and reshaping of the footway, all associated with redundant VFCs.
 - f) Repair of any damage to the public road including the footway occurring during development works.
 - g) Reinstatement of the footway reserve and adjustment or relocation of existing public utility services to match the footway design levels as proposed on the approved Work Permit. Adjustment or relocation to any public utility services shall be carried out to the requirements of the public utility authority.

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

- 21) Stormwater drainage from the development shall be designed so as to comply with Council's Development Engineering Standards and the requirements of the BASIX Certificate. A final detailed stormwater drainage design shall be prepared by a qualified Professional Civil Engineer in accordance with the above requirements and shall generally be in accordance with the concept stormwater plan No. 2010291 H1, H2, H3 & H4, all of Rev 3 prepared by ANA Civil & Structural Engineers P/L.

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

- 22) 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.

- 23) 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.
- 24) The development is to be carried out in accordance with the commitments shown on the BASIX Certificate. The BASIX commitments approved with this Development Application are to be reflected in the Construction Certificate plans and specifications. Any proposed changes to the BASIX commitments after the Construction Certificate has been issued will require an updated BASIX Certificate and a new Construction Certificate.
- 25) An Acoustic Report, prepared by a suitably qualified acoustics consultant demonstrating that the proposed development can comply with the requirements of the State Rail Publication "Rail related Noise and Vibration Guidelines", shall be prepared and submitted to Council or the PCA prior to the release to the Construction Certificate. The Construction Certificate plans shall include all of the attenuation measures recommended in the Acoustics Report. The development shall be constructed to include all of the recommended attenuation measures and the acoustic consultant shall certify that all recommendations have been incorporated into the development prior to the issue of the Occupation Certificate. The Acoustic Report is to be consistent with the recommendations contained with Part 5 of the Acoustic Report prepared by Acoustic Solutions Pty Ltd dated as amended on 10 June 2011 (Reference No. 2010-291) entitled Acoustic Noise and Vibration near Railways and Busy Roads for new development at No's 1, 3 & 5 The Crescent, Yagoona.
- 26) 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.
- 27) Prior to the issue of any Construction Certificate for this development, the applicant must obtain approval from Council for a Site, Pedestrian and Traffic Management Plan. This Plan must address the measures that will be implemented for the protection of adjoining properties, pedestrian safety and traffic management and other requirements 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 hoardings, scaffolding and/or fencing to secure the construction site;
- d) Proposed pedestrian management whilst vehicles are entering/exiting the construction site;
- e) Proposed measures to be implemented 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;
- f) Proposed method of loading and unloading excavation machines, building material, construction materials and waste containers during the construction period;
- g) 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 Traffic Authority's requirements and AS1742.3.
- h) 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.
- i) 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.
- j) Proposed measures for protection of the environment 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.

The approved Site, Pedestrian and Traffic Management Plan is to be implemented prior to the commencement of any works on the construction site. The applicant will be required to pay for inspections by Council Officers in accordance with Council's adopted fees and charges.

In addition a RTA 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.

- 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, evidence of lodgement of an application for a Works Permit and or a Roadway/Footpath Building Occupation Permit shall be obtained where one or

more of the following will occur, within, on or over the public footway or public road:

A PRIVATE CERTIFIER CANNOT ISSUE THESE PERMITS

WORKS REQUIRING A 'WORKS PERMIT'

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

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.bankstown.nsw.gov.au

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

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

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

- 29) 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.
- 30) 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.
- 31) Documentary evidence of Sydney Water's approval of the proposed connection to its drainage system is required to be submitted to the Principal Certifying Authority (PCA) prior to issue of the Construction Certificate. All conditions imposed by Sydney Water shall be strictly complied with and incorporated into the approved drainage plan.
- 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 20% and shall comply with AS 2890.1. The profile shall be drawn at a reduction ratio of 1 to 20 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 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.

- 34) 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.

CONDITIONS TO BE SATISFIED PRIOR TO CONSTRUCTION

- 35) The erection of a building in accordance with a 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 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 erection of the building.
- 36) Existing trees within the vicinity of the construction works or paths of travel for construction vehicles accessing the development that are to be retained shall be protected with temporary fencing of a style non injurious to tree roots, placed 2m from the trunk base of the existing tree to prevent damage during construction, and retained in accordance with Council's Tree Preservation Order. There is to be no stockpiling of materials within the 2m fenced zone.

Procedural Conditioning of Developments

- No fill, excavated material, building material or other items are to be placed around retained trees.
- No excavation is to take place around the root zone or canopy of retained trees.
- All preservation zones are to be mulched to a depth of no less than 70-100mm using a suitable organic mulch or sand around the trees to be retained, i.e.; around the root zone or canopy of trees.
- Fencing around retained trees is to be in place prior to commencement of site works and is to be kept in place during all construction, until final inspection is undertaken.
- Fences should be signposted to warn contractors of their purpose.
- Treatment and pruning of trees may only be undertaken by qualified arborists after approval of Council.
- Any tree removal carried out on Saturdays is permitted only between the hours of 7am and 1pm inclusive, Sunday removals **not** permitted.
- Construction to begin only when the above procedures are in place.

Failure to comply with the above conditions will result in an on-the-spot fine.

- 37) Suitable erosion and sediment control measures shall be erected in accordance with the plans accompanying the Construction Certificate prior to the commencement of construction works and shall be maintained at all times.
- 38) Council warning sign for Soil and Water Management must be displayed on the most prominent point of the site, visible to both the street and site works. The sign must be displayed throughout the construction period.
- 39) Prior to commencement, the applicant must provide a temporary on-site toilet if access to existing toilets on site is not adequate.
- 40) Prior to the commencement of work, a fence shall 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 shall be constructed appropriate to the works proposed. An application for a Work Permit for such hoardings shall be submitted to Council for approval prior to the issue of a construction certificate.

- 41) A sign shall be displayed on the site indicating the name of the person responsible for the site and a telephone number of which that person can be contacted during and outside normal working hours or when the site is unattended.
- 42) In the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with part 6 of

that Act, such a contract of insurance must be in force before any building work authorised to be carried out by this consent commences.

- 43) Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the Principal Certifying Authority (PCA) for the development to which the work relates (not being council) has given the Council written notice of the following information:
- a) in the case of work for which a principal contractor 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 that 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.

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

This clause does not apply in relation to Crown building work that is certified, in accordance with Section 116G of the Act, to comply with the technical provisions of the State's building laws.

- 44) For development that involves any building work, subdivision work or demolition work, a sign must be erected in a prominent position on any site on which building work, subdivision work or demolition 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 during and 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.

Note: This clause does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building, or in relation to Crown building work that

is certified, in accordance with Section 116G of the Act, to comply with the technical provisions of the State's building laws.

- 45) The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre to determine whether the development will affect any Sydney Water asset's sewer and water mains, stormwater drains and/or easement, and if further requirements need to be met. Plans will be appropriately stamped.

Please refer to the website www.sydneywater.com.au for:

- Quick Check agent details - see Building Developing and Plumbing then Quick Check; and
- Guidelines for building Over/Adjacent to Sydney Water Assets - see Building Developing and Plumbing then Building and Renovating or telephone 13 20 92.

- 46) Permission is granted for the demolition of structures currently existing on the property, subject to strict compliance with the following: -

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

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

- c) Prior to demolition, the applicant must erect a sign at the front of the property with the demolisher's name, license number, contact phone number and site address.
- d) Prior to demolition, the applicant must erect a 2.4m high temporary fence or hoarding between the work site and any public place. Access to the site

shall be restricted to Authorised Persons Only and the site shall be secured against unauthorised entry when the building work is not in progress or the site is otherwise unoccupied. Where demolition is to occur within 3m of a public place a Work Permit application for the construction of a Class A or Class B hoarding shall be submitted to Council for approval.

- e) The demolition plans must be submitted to the appropriate Sydney Water Office to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements. If the development complies with Sydney Water's requirements, the demolition plans will be stamped indicating that no further requirements are necessary.
- f) Demolition is to be carried out in accordance with the appropriate provisions of Australian Standard AS2601-2001.
- g) The hours of demolition work shall be limited to between 7.00am and 6.00pm on weekdays, 7.00am and 1.00pm on Saturdays and no work shall be carried out on Sundays and public holidays, and weekends (Saturdays and Sundays) adjacent to public holidays.
- h) Where materials containing asbestos cement are to be removed, demolition is to be carried out by licensed contractors who have current Workcover Accreditation in asbestos removal.
- i) Hazardous or intractable wastes arising from the demolition process shall be removed and disposed of in accordance with the requirements of WorkCover NSW and the Department of Environment and Conservation.
- j) Demolition procedures shall maximise the reuse and recycling of demolished materials in order to reduce the environmental impacts of waste disposal.
- k) During demolition, the public footway and public road shall be clear at all times and shall not be obstructed by any demolished material or vehicles. The public road and footway shall be swept (NOT hosed) clean of any material, including clay, soil and sand. (NOTE: If required, Council will clean the public road/footway at the applicant's expense). On the spot fines may be levied by Council against the demolisher and or owner for failure to comply with this condition.
- l) All vehicles leaving the site with demolition materials shall have their loads covered and vehicles shall not track soil and other material onto the public roads and footways and the footway shall be suitably protected against damage when plant and vehicles access the site. All loading of vehicles with demolished materials shall occur on site.

- m) The burning of any demolished material on site is not permitted and offenders will be prosecuted.
- n) Care shall be taken during demolition to ensure that existing services on the site (i.e. sewer, electricity, gas, phone) are not damaged. Any damage caused to existing services shall be repaired by the relevant authority at the applicant's expense.
- o) Suitable erosion and sediment control measures shall be erected prior to the commencement of demolition works and shall be maintained at all times.
- p) Prior to the demolition of any building constructed before 1970, a Work Plan shall be prepared and submitted to Council in accordance with Australian Standard AS2601-2001 by a person with suitable expertise and experience. The Work Plan shall outline the identification of any hazardous materials, including surfaces coated with lead paint, method of demolition, the precautions to be employed to minimise any dust nuisance and the disposal methods for hazardous materials.

CONDITIONS TO BE SATISFIED DURING CONSTRUCTION

- 47) The hours of site works shall be limited to between 7.00am and 6.00pm on weekdays and 7.00am and 1.00pm on Saturdays. No work shall be carried out on Sundays and public holidays, and weekends (Saturdays and Sundays) adjacent to public holidays.
- 48) The building work must be carried out in accordance with the requirements of the Building Code of Australia, the provisions of the relevant Australian Standards and the approved plans.
- 49) Prior to the ground floor slab being poured, an identification report prepared by a registered surveyor shall be submitted verifying that the proposed slab's finished ground floor level and siting to the property boundary conforms with the approved plans.
- 50) 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.
- 51) All excavations and backfilling must be executed safely and in accordance with the relevant Australian Standards.
- 52) If the 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.

- 53) If an excavation extends below the level of the base of the footings of an adjoining building or a building on an adjoining allotment of land, the person causing the excavation to be made:
- a) if necessary, must underpin and support the building in an approved manner, and
 - b) must, at least 7 days before excavating below the level of the base of the footings of a building give notice of intention to do so to the owner of that building and furnish particulars of the excavation to the owner of the building being erected or demolished.
 - c) must take all precautions to protect all of the structures from damage.

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.

- 54) 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.
- 55) 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).
- 56) 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.
- 57) Works on downstream properties is to be carried out in accordance with the following:
- a) The owners of downstream property of Lot 1 DP 617441 shall be given at least seven (7) days notice in writing of intention to commence work within their property, together with particulars of the proposed work.
 - b) Where drainage excavation works extend below the level of the base of the footings of buildings the Applicant shall, at his own expense: -
 - (i) Preserve and protect such building from damage; and
 - (ii) If necessary underpin and support such buildings.

- c) Restoration of drainage works in Lot 1 DP 617441 shall be to the satisfaction of the owners of the property/these properties.
- 58) 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.
- 59) The development is to be carried out in accordance with the commitments shown on the BASIX certificate.

CONDITIONS TO BE SATISFIED PRIOR TO OCCUPATION

- 60) The use of a building in accordance with this Development Consent must not be commenced until Council or the PCA has issued an Occupation Certificate for the building and site works.
- 61) A final Occupation Certificate shall not be issued until all conditions relating to demolition, construction and site works of this development consent are satisfied and Council has issued a Work Permit Compliance Certificate.
- 62) 36 off street car spaces are to be provided in accordance with the submitted plans. Two of the car parking spaces are to be provided for people with mobility impairment in accordance with AS 2890.1. All car parking spaces shall be allocated and marked according to these requirements.
- 63) Landscaping is to be installed in accordance with the approved landscape plan. All works and methods nominated and materials and plants specified on the approved landscape plan are to be completed prior to the issue of an occupation certificate. The landscaping shall be maintained for the life of the development.
- 64) A suitably qualified Professional Civil Engineer shall certify that the driveways, parking bays, and service areas have been constructed in accordance with the approved plans and specifications. Such Certification shall be submitted prior to the issue of the Occupation Certificate or occupation of the site.
- 65) Lighting must be provided to the entries of the dwellings, driveways and parking areas to promote a high level of safety and security at night and during periods of low light. Lighting provided should be hooded, shielded or directed away from neighbouring dwellings to minimise glare and associated nuisances to residents.
- 66) Lighting is to meet the minimum Australian and New Zealand Lighting Standards, particularly adjacent the walkway that leads to the Hume Highway/Yagoona Railway Station.

- 67) A CCTV system is to be installed focusing on access points with the ability to capture and store motion video for a period of two weeks. Signage is to be placed throughout the premises alerting to the presence of the CCTV system.
- 68) Access to the garage is to be restricted to resident use only.
- 69) 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.
- 70) 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 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 Part 2 of SEPP No. 65.
- 71) A registered surveyor shall prepare a Work As Executed Plan, and a suitably qualified Hydraulic Engineer shall provide certification of the constructed on-site stormwater detention system.

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

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

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

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

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

Instrument and registered on the title prior to the issue of the final occupation certificate.

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

- 73) Final registration of the proposed drainage easement shall be finalised prior to the issue of the Occupation Certificate or occupation of the site.
- 74) A Copy of the Work Permit Compliance Certificate shall be submitted to the PCA Prior to the issue of the Occupation Certificate.
- 75) The Bin Storage Area must be clearly signposted with 'Waste & Recycling' on the entrance doors.
- 76) Signage is to be placed on the internal walls of Bin Storage Area. This will comprise of fixed and changeable signage and will be provided by Council.
- 77) The building is to be obstacle lit with red low intensity obstacle lights at all times in accordance with the Manual of Standards for Part 139 of the Civil Aviation Safety Regulations 1998 (Part 139 MOS) Chapter 9, Section 9.4 issued by CASA. The proponent should refer to subsection 9.4.6 for the light characteristics.
- 78) The applicant must notify Bankstown Airport Limited (BAL) upon completion of construction of the building.
- 79) The applicant must provide BAL with the finished building height (in metres AHD) upon completion, so that BAL can update its plans and other records for Bankstown Airport and its surrounds.
- 80) The applicant must provide BAL with the location of obstruction lighting.

RAILCORP CONDITIONS

- 81) All excavation and construction works are to be undertaken in accordance with the methodology and recommendations detailed in the Geotechnical Investigation Report prepared by Auswide Geotechnical dated 11/02/2011, Shoring Details S1 and S2 prepared by ANA Civil and Structural dated 24/03/2011 subject to the following modification:
 - The excavation wall facing the rail corridor to be supported by properly designed contiguous piles, extending to at least 2m in depth below track level.
 - No rock anchors/bolts are to be installed into RailCorp's property (which includes the adjoining pedestrian walkway leased to Council).

A Construction Certificate shall not be issued until the measures detailed in this condition of consent have been incorporated into the construction drawings and

specifications. Prior to the commencement of works the Principal Certifying Authority shall provide verification to RailCorp that this condition has been complied with.

- 82) The applicant is to submit to RailCorp for endorsement, a track monitoring plan detailing the proposed method of track monitoring during excavation and construction phases.

The Principal Certifying Authority shall not issue the Construction Certificate until it has received written confirmation from RailCorp that this condition has been complied with.

- 83) The applicant shall provide an updated accurate survey to the survey plan prepared by Goran Mladenovski dated 01/08/2011 locating the development with respect to the rail boundary and rail infrastructure, and any easements etc. This work is to be undertaken by a registered surveyor, to the satisfaction of RailCorp's representative.

- 84) There shall be no direct access from the development to the adjoining pedestrian walkway that is owned by RailCorp and leased to Council. The applicant is to submit revised drawings to RailCorp to indicate compliance with this condition.

The Principal Certifying Authority shall not issue the Construction Certificate until it has received written confirmation from RailCorp that this condition has been complied with and that this requirement has been incorporated into the construction drawings and specifications.

- 85) An acoustic assessment is to be submitted to Council prior to the issue of a Construction Certificate demonstrating how the proposed development will comply with the Department of Planning's document titled "Development Near Rail Corridors and Busy Roads – Interim Guidelines".

- 86) Prior to the issue of a Construction Certificate the applicant is to engage an Electrolysis Expert to prepare a report on the Electrolysis Risk to the development from stray currents. The applicant must incorporate in the development all the measures recommended in the report to control that risk. A copy of the report is to be provided to the Principal Certifying Authority with the application for a Construction Certificate.

- 87) Given the possible likelihood of objects being dropped or thrown onto the rail corridor from balconies, windows and other external features (e.g. roof terraces and external fire escapes) that face the rail corridor, the applicant is required to install measures (e.g. awning windows, louvres, enclosed balconies etc) which prevent the throwing of objects onto the rail corridor. The Principal Certifying Authority shall not issue the Construction Certificate until it has confirmed that these measures are to be installed and endorsed by RailCorp and have been indicated on the Construction Drawings.

- 88) Prior to the commencement of works and prior to the issue of the Occupation Certificate, a joint inspection of the rail infrastructure and property in the vicinity of the project is to be carried out by representatives from RailCorp and the applicant. These dilapidation surveys will establish the extent of any existing damage and enable any deterioration during construction to be observed. The submission of a detailed dilapidation report will be required unless otherwise notified by RailCorp.
- 89) The design, installation and use of lights, signs and reflective materials, whether permanent or temporary, which are (or from which reflected light might be) visible from the rail corridor must limit glare and reflectivity to the satisfaction of RailCorp.

The Principal Certifying Authority shall not issue the Construction Certificate until written confirmation has been received from RailCorp confirming that this condition has been satisfied.

- 90) Prior to the issue of a Construction Certificate a Risk Assessment/Management Plan and detailed Safe Work Method Statements (SWMS) for the proposed works are to be submitted to the Rail Authority for review and comment on the impacts on rail corridor. The Principal Certifying Authority shall not issue the Construction Certificate until written confirmation has been received from the Rail Authority confirming that this condition has been satisfied.
- 91) No metal ladders, tapes and plant/machinery, or conductive material are to be used within 6 horizontal metres of any live electrical equipment. This applies to the train pantographs and 1500V catenary, contact and pull-off wires of the adjacent tracks, and to any high voltage aerial supplies within or adjacent to the rail corridor.
- 92) No scaffolding is to be used within 6 horizontal metres of the rail corridor unless prior written approval has been obtained from the rail authority. To obtain approval the applicant will be required to submit details of the scaffolding, the means of erecting and securing this scaffolding, the material to be used, and the type of screening to be installed to prevent objects falling onto the rail corridor.
- 93) Prior to the issuing of a Construction Certificate the applicant is to submit to RailCorp a plan showing all craneage and other aerial operations for the development and must comply with all Railcorp requirements. The Principal Certifying Authority shall not issue the Construction Certificate until written confirmation has been received from RailCorp confirming that this condition has been satisfied.
- 94) During all stages of the development, environmental legislation and regulations will be complied with.
- 95) During all stages of the development extreme care shall be taken to prevent environmental harm within rail corridor. Any form of environmental harm to areas within the rail corridor or legislative non-compliance that arises as a

consequence of the development activities shall remain the full responsibility of the applicant.

- 96) During all stages of the development extreme care shall be taken to prevent any form of pollution entering the rail corridor. Any form of pollution that arises as a consequence of the development activities shall remain the full responsibility of the applicant.
- 97) Given the site's location next to the rail corridor, drainage from the development must be adequately disposed of/managed and not allowed to be discharged into the corridor unless prior approval has been obtained from RailCorp (i.e. no water discharge into RailCorp land which includes the pedestrian walkway leased to Council.)
- 98) No work is permitted within the rail corridor, or its easements, at any time unless prior approval or an Agreement has been entered into with RailCorp.

Where the applicant proposes to enter the rail corridor, the Principal Certifying Authority shall not issue a Construction Certificate until written confirmation has been received from RailCorp confirming that its approval has been granted.

- 99) To ensure that graffiti can be easily removed, the applicant is to ensure that fencing facing the rail corridor is coated with anti-graffiti paint or other coating.
- 100) The applicant is required to enter into an agreement with RailCorp defining the controls to be implemented in managing the access required (i.e. for installation of track monitoring) and/or the potential impacts of the development on RailCorp, and the involvement of RailCorp staff in ensuring the appropriate safety and technical standards are complied with throughout the development.

Attachment A – Repealed SEPP ARH 2009 Assessment

Clause 10 - Land to which this Division applies

Clause 10 of the repealed SEPP (ARH) reads as follows:

- (1) *This Division applies to a development site on land if the development site is within any of the following land use zones or within a land use zone that is equivalent to any of those zones, but only if development for the purposes of dwelling houses, multi-dwelling housing or residential flat buildings is permissible within the zone:*
 - (a) *Zone R1 General Residential,*
 - (b) *Zone R2 Low Density Residential,*
 - (c) *Zone R3 Medium Density Residential,*
 - (d) *Zone R4 High Density Residential.*
- (2) *Despite subclause (1), this Division does not apply to a development site in the Sydney region unless all or part of the development site is within:*
 - (a) *800 metres walking distance of a public entrance to a railway station or a wharf from which a Sydney Ferries ferry service operates, or*
 - (b) *400 metres walking distance of a public entrance to a light rail station or in the case of a light rail station with no entrance, 400 metres walking distance of a platform of the light rail station, or*
 - (c) *400 metres walking distance of a bus stop used by a regular bus service (within the meaning of the Passenger Transport Act 1990) that has at least one bus per hour servicing the bus stop between 06.00 and 18.00 each day from Monday to Friday (both days inclusive).*
- (3) *Despite subclauses (1) and (2), this Division does not apply to land identified in an environmental planning instrument as being within a scenic protection area unless development with a building height of 8.5 metres or more is permitted on the land.*
- (4) *In this clause:*

walking distance means the shortest distance between 2 points measured along a route that may be safely walked by a pedestrian using, as far as reasonably practicable, public footpaths and pedestrian crossings.

The development is proposed on a parcel of land within a land use zone deemed to be equivalent to a land use zone provided in clause 10(1) (where residential flat buildings are permissible).

The site is located within 800 metres walking distance to the entrance to the Yagoona Railway Station as required by clause 10(2)(a). The site is not identified in an EPI as being within a scenic protection area.

Clause 11 – Development to which Division applies

Clause 11 of the repealed SEPP (ARH) reads as follows:

- This Division applies to the following development on land to which this Division applies:*
- (a) *development for the purposes of dual occupancies, multi dwelling housing or residential flat buildings where at least 50 per cent of the dwellings in the proposed development will be used for affordable housing, but only if:*
 - (i) *the development does not result in a building on the land with a building height of more than 8.5 metres, and*
 - (ii) *in the case of development for the purposes of a residential flat building—residential flat buildings are not permissible on the land otherwise than because of this Policy,*

- (b) development for the purposes of residential flat buildings where at least 20 per cent of the dwellings in the building will be used for affordable housing, but only if:*
 - (i) residential flat buildings are permissible on the land otherwise than because of this Policy, and*
 - (ii) the land does not contain a heritage item that is identified in an environmental planning instrument or an interim heritage order or on the State Heritage Register.*

The applicant has nominated 18 of the 36 units (50%) as affordable housing exceeding the minimum 20% as required by clause 11(b) above.

Note – the land permits the construction of residential flat buildings (as required by clause 11(b)(i)) and the site does not contain a heritage item that is identified in an EPI or an interim heritage order or on the State Heritage Register (as required by clause 11(b)(ii)).

Clause 12 – Development may be carried out with consent

Clause 12 of the repealed SEPP reads ‘Development to which this Division applies may be carried out with consent’.

Clause 13 – Residential flat buildings where such buildings permissible

Clause 13(2)(a)(i) allows for the site to accommodate a residential flat building to a maximum floor space ratio of 1:5:1 in the event that the percentage of the dwellings in the flat building, that are to be used as affordable housing, is 50%. The development satisfies the criteria contained in clause 13(2)(a)(i) of the repealed SEPP with a maximum floor space ratio of 1.48:1 proposed.

Note – the difference between the repealed SEPP and the amended SEPP is that the bonus floor area under the repealed SEPP relates to 50% of the number of units whereas the amended SEPP requires 50% of the gross floor area of the development.

Clause 14 - Standards that cannot be used to refuse consent

Part 2 Division 1 of the repealed SEPP (ARH) provides for specific controls relating to residential flat buildings. Clause 14 of repealed SEPP (ARH) contains standards that where, if satisfied, cannot be used as reasons to refuse the development application. The following table provides for an assessment of the development against these standards:

STANDARD	PROPOSED	SEPP ARH 2009		LEP 2001 COMPLIANCE
		REQUIRED / PERMITTED	COMPLIANCE	
Density and scale	1.48:1	1.5:1	Yes	N/A
Site Area	-	The minimum site area requirement was not changed	Yes	N/A
Landscaped Area	-	The minimum required landscaped area was not changed	Yes	N/A
Deep soil zones	-	The minimum required deep soil zone areas were not changed	Yes	N/A
Solar access	-	The minimum solar access requirements were not changed	Yes	N/A
Parking	36 spaces provided on site	0.5 spaces per dwelling 36 x 0.5 = 18 spaces	Yes	N/A
Dwelling size	-	The minimum dwelling sizes were not changed	Yes	N/A

Clause 15 - Design Requirements

Clause 15 was not changed.

Clause 16 – Continued application of SEPP 65

Clause 16 was not changed.

Clause 17 – Must be used for affordable housing for 10 years

Clause 17 was not changed.

Clause 18 - Subdivision

Clause 18 was not changed.