

## **DA-462/2011 Section 79C ASSESSMENT REPORT**

### **SITE & LOCALITY DESCRIPTION**

The site is an irregular shaped allotment, narrowing towards Raymond Street with a combined frontage of 51.28 metres to Cross Street and 20.17 metres to Raymond Street. The site has a combined area of 1429.1m<sup>2</sup> and is located within the Bankstown CBD.

The site currently contains three (3) detached single storey dwelling houses, which are proposed to be demolished. The highest point of the site is located at the south western corner, with the land sloping from this point by 520mm directly to the north to Raymond Street and 980mm directly to the east to Cross Street. The site contains a row of palm trees along the frontage of Cross Street.

To the west of the site is a four (4) storey residential flat building. To the south east, a three (3) storey residential flat building exists, with single detached dwelling houses to the south west extending to the corner of Stanley Street. Opposite the site on Raymond Street to the north an eight (8) storey residential flat building and Raymond Reserve exist. To the east, opposite Cross Street is “ Maxim’s “ restaurant and wedding reception centre, with the nine (9) storey Cinta Centre building located at the intersection of Cross Street and Stanley Street. Within the vicinity of the development site, other tall residential flat buildings exist within Raymond Street and South Terrace. The development site is located a short distance to Bankstown Railway Station and to the centre of the Bankstown CBD. The surrounding area is characterized by high rise residential development, with low density detached housing to the south of Stanley Street.

The site is located entirely within the 3(a) Business CBD zone, which extends to the north to the Bankstown Railway Line and is bordered by Stacey Street to the east, Stanley Street to the south and Chapel Road to the west. Opposite Stanley Street to the south east, land is zoned 2(a) Residential A with land to the south west, opposite Stanley Street zoned 2(b) Residential B.



## **PROPOSED DEVELOPMENT**

The Development Application proposes the demolition of existing structures and construction of a forty three (43) unit, nine (9) storey residential flat building with associated basement car parking and will involve the following works:

- Site preparation works and site excavation to provide four (4) levels of basement parking for a total of fifty nine (59) parking spaces comprising fifty (50) spaces for residents and nine (9) spaces for residential visitor parking. In addition, a total of seventeen (17) bicycle spaces within basement levels three (3) and four (4) are also proposed.
- Construction of a nine (9) level building containing forty three (43) units. The ground floor will contain three (3) units, including two (2) adaptable units and a community room. From levels two (2) to nine (9), five (5) units per each floor are proposed. Each level from two (2) to nine (9) will contain one x three (3) bedroom unit, three (3) x two (2) bedroom units and one adaptable unit containing a single bedroom.
- A common roof terrace.
- Landscaping and paving at ground level.

Vehicular access to the basement car park is provided from Cross Street via an entry/exit driveway ramp located at the south eastern corner of the site. A bin enclosure room is located adjacent to the basement ramp, with ramps leading from the bin enclosure room to Cross Street for collection.

Within the Statement of Environmental Effects, the building has been described in the following terms:

*“ The design seeks to provide an aesthetically pleasing development of architectural merit. Careful consideration has been given to the building bulk, scale and the relationship of the building to the existing and likely future streetscape, which has been identified for primarily high rise residential housing, with a “cosmopolitan” nature. The proposed development meets these criteria, providing a modern, unique looking curved high rise residential building. The proposal has a similar built form to other existing apartment buildings in the immediate vicinity in particular in terms of height, however is very modern in appearance and has responded to the constraints and shape of the site, as well as providing a unique development on a corner allotment. “*

The development seeks to consolidate three parcels of land being No. 6 and 8 Cross Street and No. 12 Raymond Street, which results in three allotments being No. 4 Cross Street and No. 13 and 15 Stanley Street adjoining the development remaining to the south of the development site. At present, each of these remaining singular lots contains a single detached dwelling.

A perspective of the proposed development from the street corner of Cross Street and Raymond Street viewed from the south west is produced below.



### **Amendment to the Development**

The application plans have been amended several times with submissions received on 2 September 2011, 21 November 2011 and 8 March 2012. The amendments received have largely been submitted to address manoeuvrability deficiencies of the access ramp, radii of ramps and internal circulation within the basement levels. As the issue of internal manoeuvrability and deficiency against AS2890.1 has not been addressed by the applicant, the amended plans have not been re-notified. This issue is discussed separately further within the report.

## **SECTION 79C ASSESSMENT**

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

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

#### **State Environmental Planning Policy ( Major Development ) 2005 ( MD SEPP )**

The application was lodged on 26 May 2011 when 'Part 3 - Regional Development' of the MD 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 MD 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 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.

#### **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 (RFDC) for assessing 'good design'.

The SEPP requires the assessment of any Development Application for residential flat development against the ten (10) design quality principles and the matters contained in the publication " Residential Flat Design Code ". As such, the following consideration has been given to the requirements of the SEPP.

## 1. Context

The site is located within the ' South Terrace Precinct ' in the Bankstown CBD as identified in Part D4 of the Bankstown Development Control Plan 2005. The precinct vision as outlined in the DCP is for an *' opportunity precinct with a variety of land use possibilities that in the long term establishes as a cosmopolitan, predominantly high-rise residential neighbourhood with a diverse range of street front activities. '*

The proposed residential flat building is considered to be consistent with the precinct vision of establishing a cosmopolitan high rise residential neighbourhood, and will contribute to the quality and identity of the immediate area.

## 2. Scale

Whilst the development adjoins existing development of three (3) and four (4) storeys in height to the south and west, the development is opposite an eight (8) storey building to the north and a nine (9) storey building to the south east. Construction of a nine (9) storey residential flat building and 31.6 metres in height, is considered to be consistent with other structures within the immediate vicinity of the proposed development and the emerging scale of the area.

## 3. Built form

The proposed development is considered to have an acceptable built form, bulk, scale and height for the site context.

## 4. Density

In this part of the CBD a floor space ratio (FSR) of 3:1 applies where the site has a minimum primary frontage of 30m. The site has a width of 51.28 metres to Cross Street and 20.17 metres to Raymond Street. On a corner lot, the shortest frontage is regarded as the primary frontage and in this instance Raymond Street is taken as the primary frontage. It is worth acknowledging that no road hierarchy exists defining whether Raymond or Cross Street is the primary frontage.

The development proposes an FSR of 2.7:1, which exceeds the maximum FSR of 2:1 on this site. The FSR variation in this instance is reliant on the use of the longer street frontage of Cross Street. However, as a consequence of not satisfying the development control relating to frontage, the narrowness of the site at the northern end of Raymond Street constrains the ability of the development to satisfy Australian Standard 2890.1:2004 Parking Facilities Part 1: Off-street car parking. Although the development may be reasonable in terms of its form and function above ground level, it is incapable of providing adequate access and manoeuvrability throughout the basement. Accordingly, the development site in its current layout does not have capacity to achieve a greater FSR and is considered unsuitable in this instance.

There are no plans or LEP/DCP controls for massing or density or to increase FSR greater than 3:1 within the immediate area for the CBD. The existing development controls of height and setback within BDCP 2005 and FSR determine the density yield of development.

## 5. Resources

The development is subject to State Environmental Planning Policy ( *Building Sustainability Index : BASIX* ) 2004 and requires a BASIX Certificate to be obtained. The development achieves satisfactory performance in respect to BASIX measures of energy efficiency, water conservation and thermal comfort.

The development satisfies open space, deep soil zones, natural ventilation and solar access requirements and provides a mix of bedroom sizes consisting of one (1), two (2) and three (3) bedroom units, including ten (10) adaptable units, providing a range of choice and housing affordability.

## 6. Landscape

The development provides approximately 310.47m<sup>2</sup> of common open space at ground level upon the north western side of the building and approximately 372.43m<sup>2</sup> of common open space upon the roof terrace. Areas of deep soil planting exist around the perimeter of the building in all directions, with the area of greatest width and depth located at the north western corner of the site, which is in excess of 100m<sup>2</sup>.

Perimeter planting is proposed along the western and southern boundaries, with areas of landscaping along both street frontages of Cross Street and Raymond Street. Planter beds are proposed upon the roof terrace, which are recessed from the outer edges of the roof terrace. Despite the shape of the site, which narrows towards the north, a reasonable landscape solution has been able to be achieved.

## 7. Amenity

The development satisfies natural ventilation and solar access requirements and provides a mix of bedroom sizes consisting of one (1), two (2) and three (3) bedroom units, including ten (10) adaptable units, providing a range of choice and housing affordability.

Dual common space areas are proposed, one at ground upon the north west of the building and upon a roof terrace.

## 8. Safety and security

A Safer by Design Crime Risk Evaluation of the proposal was conducted by Bankstown Local Area Command who identified an overall crime risk of *medium*, based on a sliding scale of low, medium and high crime risk. The Police have recommended conditions that cover the following Technical/Mechanical (CEPTED) treatment options for the development in order to reduce opportunities for crime.



- CCTV (Closed Circuit Television)
- Lighting
- Signage
- Access Control

These matters are such that it could be dealt with during the building design/construction phase.

#### 9. Social dimensions

The development proposes forty three (43) units with a mix of one (1), two (2) and three (3) bedroom units, including ten (10) adaptable units, providing a range of choice and housing affordability.

#### 10. Aesthetics

Building materials proposed include cement render walls, horizontal metal external louvers, colourbond roofing, frameless glass balustrades, a sandstone wall feature upon the lower levels, aluminium powder coated sliding balcony screens and vertical architectural elements of timber appearance proposed to be aluminium powder coated.

In respect to the use of the vertical architectural elements upon the façade of the development, concern was raised with the applicant whether the façade elements ‘worked’. The applicant was also questioned whether the façade elements extending over the proposed openings were appropriate in promoting and maintaining solar access to units. In addition, consideration needs to be given as to whether the inclusion of those architectural features would be welcomed by future occupiers of the development.

In response to the use of the architectural features, the applicant has advised:

*“ With external feature timber blades; the feature was changed to steel with powdercoating to minimise any future maintenance. “*

No discussion about the appropriateness in promoting and maintaining solar access to the units or whether the inclusion of those architectural elements would be welcomed by future occupiers of the development was discussed by the applicant.

Bankstown Council’s Design Review Panel raised no objections to the proposed vertical architectural elements. Whilst the elements do provide visual interest to the streetscape, the elements are considered not critical architectural features of the development if they were to be removed. In addition, the minimum width of the vertical elements is likely to not interfere with solar access being obtained.



### **Design Review Panel**

Prior to lodgement of the application, the proposal was presented to Council's internal Design Review Panel for review. The Panel raised four (4) issues with the design, advising that:

- *The proposal should relocate the residential flat building to the front building line on Cross Street. The advantage is that it increases the size of the ground level communal open space, increases the separation distance to the neighbouring building and reduces the overshadowing impact. The discussion highlighted the relocation may result in some articulation features (e.g. entry canopy ) projecting beyond the front building alignment and setback.*
- *The proposal should consider increasing the solar access to dwellings by having the living area windows of the south-west units ( all floors ) orientated to the north.*
- *The proposal should have a Traffic Engineer confirm whether the basement ramps and disabled parking spaces have appropriate gradient, clearances and manoeuvring space.*
- *The proposal should detail the roof feature ( e.g. balustrade and pergolas ) should the roof level contain communal open space. The roof features would need to be contained within the height limitations prescribed.*

The Panel advised that a Development Application may be lodged, provided that the applicant amend the proposal to address the issues raised in the Panel's discussion.

At the Panel meeting held on 29 March 2012, the Panel reviewed the amended proposal, which is the subject of this report advising that:

- *The basement car park does not include a disabled car space*
- *The design of the car park ramp is excessive and should be reconsidered.*

The applicant has addressed the majority of the original issues raised by the Panel, except for internal manoeuvrability.

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

It is considered that the proposed development will not significantly impact on the environment of the Georges River either in a local or regional context and that the development is not inconsistent with the general and specific aims, planning principles, planning considerations and policies and recommended strategies.

The proposal is consistent with the aims and objectives of the Georges River Catchment ( SEPP ).

### **Bankstown Local Environmental Plan 2001**

The following clauses of the Bankstown Local Environmental Plan 2001 were taken into consideration:

Clause 2 – Objectives of this plan  
Clause 11 – Development which is allowed or prohibited within a zone  
Clause 13 – Other development which require consent  
Clause 16 – General objectives of the special provisions  
Clause 19 – Ecologically sustainable development  
Clause 20 - Trees  
Clause 24 - Airports  
Clause 26 – Flood liable land  
Clause 30 – Floor space ratio  
Clause 32 – Access for people with disabilities  
Clause 48 – Objectives of the Business zones

An assessment of the Development Application revealed that the proposal complies with the matters raised in each of the above clauses of *Bankstown Local Environmental Plan 2001*, with the exception to clause 30 floor space ratios.

#### **Clause 30 - Floor space ratio**

An assessment of the development application revealed that the proposal fails to comply with the provisions of *Bankstown Local Environmental Plan 2001* relating to maximum floor space ratios under clause 30 of Bankstown LEP 2001 and as indicated on the floor space ratio maps.

In this part of the CBD a floor space ratio (FSR) of 3:1 applies where the site has a minimum primary frontage of 30m. The site has a width of 51.28 metres to Cross Street and 20.17 metres to Raymond Street. On a corner lot, the shortest frontage is regarded as the primary frontage. Accordingly, Raymond Street is taken as the primary frontage in this instance. Based on this a FSR of 2:1 applies to the whole site.

The proposed development has a total floor space ratio of 2.7:1 and does not comply with Clause 30 of the Bankstown LEP 2001.

#### **Applicant's objection under State Environmental Planning Policy No. 1 seeking variation of maximum FSR**

Pursuant to the Environmental Planning and Assessment Act, 1979, the applicant has submitted an Objection under State Environmental Planning Policy No. 1 (SEPP 1) with regard to the variation to FSR for the JRPP's consideration on the basis that strict compliance with the development standard is, in this particular case, unreasonable and unnecessary.

In particular, the following arguments have been provided by the applicant in support of the variation:

- *The subject site is unusual in shape in that it has a frontage of 51.28m to Cross Street, 14.04m to Raymond Street and a splay corner of 6.03m. The site has an area of 1,428 square metres.*

*The proposed development will, as demonstrated on the submitted drawings, front Cross and Raymond Street is by far the secondary street frontage. The shape of the site is unusual and due to the Cross Street frontage being the major component of the site it is natural that the development fronts Cross Street. The subject site is the result of site consolidation and hence complies with one of the deemed objectives of this standard.*

*The proposed development is consistent with the assumed objectives of the subject development standard, in that the development site is a key site in the Bankstown CBD, and to ensure the site is appropriately developed, it is appropriate that the rating of the site not be to Raymond Street, but rather Cross Street. This arrangement will ensure the site benefits from the increased floor space ratio of 3:1. However, street names are not development standards, and for the purpose of this SEPP 1 objection, all discussion needs to focus on the width of the Raymond Street frontage.*

*It has been detailed that compliance with the provisions of 30m minimum principal frontage provisions the Floor Space Ratio Map, in respect of the subject application, would be both unreasonable and unnecessary for the following reasons:*

- a) The opportunity to provide development of a key site in the Bankstown CBD.*
- b) The proposal in the submitted form complies with the objectives contained in Clause 30 of the BLEP.*
- c) The lack of any planning merit in insisting that Raymond Street is the principal frontage of the suite when the largest, and most reasonable principal frontage is Cross Street.*
- d) The proposal utilizing a floor space ratio of 3:0:1 is able to offer an increased range of housing options; and*
- e) No identifiable adverse impact is likely to occur on the adjoining residential properties.*

*The unusual circumstances of this case should be balanced against the unusual presumption of public benefit in maintaining a planning control. Maintaining the subject development standard at 2:1 will result in a development of much less residential units. This action will deny the public an increased range of housing options and as such would not attract any public benefit. It may also detract from the attractiveness of the Bankstown CBD to owners who may be contemplating redevelopment of city centre sites.*

#### Comments

Pursuant to SEPP 1, the JRPP may vary a development standard if it is satisfied that the objection lodged by the applicant is well founded and is also of the opinion that granting consent to the development application is consistent with the aims of this policy.

The aims and objectives of the policy, as set out in Clause 3 of SEPP 1, are to provide “... *flexibility in the application of planning controls operating by virtue of development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the Act*”.

The objects of the Act are:

- 5(a) (i) *to encourage the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment.*
- (ii) *to encourage the promotion and coordination of the orderly and economic use and development of land.*

In considering a SEPP 1 objection, JRPP is required to assess the objection having particular regards to the following matters:

- *Is the planning control in question a development standard?*

The floor space ratio is a numerical control contained within an environmental planning instrument and is therefore a development standard.

- *What is the underlying object or purpose of the standard?*

As a matter of general principle, an FSR standard is imposed to control bulk, scale and built form of structures. Notwithstanding the general principle, in the absence of other controls it can be also regarded as a control on density.

The relevant objectives of the floor space ratio clause in the Bankstown LEP are:

- (a) *to generally regulate the scale and bulk of development consistently with the capacity and character of the area of the development site.*
- (b) *to regulate the intensity of development in business zones consistently with the role and function of the particular business centre, the capacity of the road network to accommodate business related traffic, and the availability of public transport.*
- (c) *to provide an incentive for redevelopment of key sites in the Bankstown CBD.*

The FSR control is one of the core development standards in the LEP which provides control over not only the physical bulk of a development but also the density and intensity of the land use with impacts on utility services and infrastructure. In this regard, compliance with the FSR standard is seen as a primary tool to control both the physical form of the city and ensuring the adequacy of the infrastructure and utility services.

The development proposes an FSR of 2.7:1, which exceeds the maximum FSR of 2:1 on this site. The FSR variation in this instance is reliant on the use of the longer street frontage of Cross Street. However, as a consequence of not satisfying the development control relating to frontage, the narrowness of the site at the northern end of Raymond Street constrains the ability of the development to satisfy AS2890.1:2004. Although the development may be reasonable in terms of its form and function above ground level, it is incapable of providing adequate access and manoeuvrability throughout the basement. Accordingly, the development site in its current layout does not have capacity to achieve a greater FSR and the use of SEPP No.1 is considered unsuitable in this instance.

- *Is compliance with the development standard consistent with the aims of the Policy, and in particular does compliance with the development standard tend to hinder the attainment of the objects specified in section 5(a) (i) and (ii) of the EP & A Act?*

Compliance with the FSR standard is one of the ways to ensure the orderly development of the land. With consideration of the deficiencies of AS2890.1:2004, there is no overriding reason to support that compliance with the development standard in this instance will tend to hinder the attainment of the objects of the Act.

- *Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case? and*

The proposed development has been unable to satisfy AS2890.1:2004, which is a consequence of the shortfall to frontage. In this instance, strict compliance with the standard is not considered unreasonable or unnecessary in the present context.

- *Is the objection well founded?*

A summary of the grounds of objections has been provided above. These include:

- The lack of planning merit in insisting that Raymond Street is the principal frontage of the site.
- The higher FSR offers an increased range of housing options.
- No identifiable adverse impact.
- Unusual shape of the site.

Although the development may be reasonable in terms of its form and function above ground level, it is incapable of providing adequate access and manoeuvrability throughout the basement. Accordingly, the development site in its current layout does not have capacity to achieve a greater FSR and the use of SEPP No.1 is considered unsuitable in this instance.

In conclusion, the SEPP 1 objection is not considered well founded and it is recommendation of this report that the objection not be supported.

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

There are no draft environmental planning instruments applicable to the proposed development.

Preparation of the new Local Environmental Plan to convert the existing instrument into the Standard Instrument is currently awaiting a gateway to determination by the Department of Planning to enable the new instrument to be exhibited.

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

The development has been assessed against the following provisions of Bankstown Control Plan 2005 ( BDCP 2005 ).

- Part D4 – Business Zones
- Part D8 – Parking
- Part E1 – Demolition and Construction
- Part E2 – Tree Preservation Order
- Development Engineering Standards

The development is within the South Terrace planning precinct. The objectives of this precinct are to create an opportunity precinct with a variety of land use possibilities that in the long term establishes as a cosmopolitan, predominantly high rise residential neighbourhood with a diverse range of street front activities.

BDCP 2005 Part D4 Figure 2.1 indicates the sites within the business core area in Bankstown CBD, which must have retail or business uses to create an active street frontage. The proposed development site is located to the south east of the Bankstown CBD and is not required to contain retail or business uses upon the first two floors of the development by the DCP.

Part D4 of the DCP provides detailed guidelines for developments generally in the business zones and specifically in the CBD. The following table provides a summary of the development application against the controls contained in Part D4 and D8 of Bankstown Development Control Plan 2005.

Standard	Proposed	BDCP 2005 Part D4		LEP 2001 Compliance
		Required/Permitted	Compliance	
FSR	2.7:1	2.1	NO	NO (This FSR variation is discussed above)
Frontage	20.17m Raymond Street 51.28m Cross Street	30m	NO	
Car Parking	Residential: 50  Visitor - 9 Total - 59 spaces  Bicycle: 17	Residential - minimum 43 spaces up to maximum 129 spaces (1 per unit up to 3 per unit). 9 (@ 1 per 5 units) Total - 52 spaces  Not required by DCP	Yes	
Height	31.6m	30m	NO	
Setbacks:	Raymond Street Ground floor : 1.8m Upper floors: 1.8m  Cross Street Ground floor: 1.83 Upper floors: 5m	3m  3m  5m 5m	NO  NO  NO Yes	
Solar Access	100% ( 43 of 43 units )	70% of units to receive 3 hours to a living area window	Yes	
Solar Access	Unable to be qualified	The windows to at least one living area of a dwelling on an allotment must receive a minimum 3 hours of sunlight. Where this requirement cannot be met, the development must not result with additional overshadowing on the affected living area of the dwelling.	NO	
Balconies	All units achieve a minimum area of 15m <sup>2</sup> and a minimum depth of 3 metres	15m <sup>2</sup> and minimum depth of 3m (RFDC has no specific area requirement for upper level balconies but recommends that they be at least 2m wide)	Yes	
Adaptable units	10	1	Yes	
Residential storage areas	>=8m <sup>3</sup> /unit in basement and inside the apartments	8m <sup>3</sup> /dwelling	Yes	



As the table demonstrates, the application is seeking variation to the following requirements:

#### Floor Space Ratio

The non-compliance with the floor space ratio has been discussed previously in this report.

#### Frontage

Clause 4.4 of Part D4 Business Zones specifies that the minimum primary frontage for a residential flat building with 3 or more storeys is 30 metres. In this instance, the development achieves a combined frontage of 51.28 metres to Cross Street and 20.17 metres to Raymond Street.

As per BDCP 2005 Part C definitions, primary frontage is defined as:

- a) *The single frontage where an allotment has a single frontage to the street; or*
- b) *The shortest frontage where a corner allotment has two or more frontages to the street; or*
- c) *The two frontages where an allotment ( not including a corner allotment ) runs between two streets.*

As the site has dual frontages to both Cross Street and Raymond Street, the primary frontage is considered to be Raymond Street.

The applicant has prepared a planning justification to the variation to frontage requirements, arguing on the following grounds:

- *The shape of the site is not rectangular, due to the shorter frontage to Raymond Street. This unusual shape creates challenges and opportunities for the project architect. Cross Street is the longest of the two frontages and is greater than the minimum 30m stipulated within the LEP to allow the bonus floor space.*

*The proposed curved building design creates a streetscape impact which continually flows along Cross Street around the corner and along the Raymond Street frontage. In the design neither Cross Street or Raymond Street are subservient to the other, and apart from the obvious intersection it would be easy to form the view that the frontage of the site was one continuous street. The non-rectangular shaped site has produced the opportunity for the project architect to visually flow the building from Cross Street to Raymond Street.*

*It is clear that Cross Street is the primary street frontage. The design could exist without addressing Raymond Street, but due to the length of its frontage, the design could not exist by not addressing Cross Street. The proposed design identifies Cross Street as the primary frontage, but addresses both streets, as well as the corner.*

The applicant seek to establish that no road hierarchy exists between Raymond and Cross Street to define the primary frontage of the development, to facilitate a higher density development. However, the applicant has failed to address the constraints of a narrow frontage, which contributes to the curved/circular driveways within the basement at the northern end of the development failing to achieve the minimum radius for a circulation roadway, with inadequate clearances and no separator between the proposed two-way traffic. The outcome of this is that, although the development may be reasonable in terms of its form and function above ground level, it is incapable of providing adequate access and manoeuvrability throughout the basement design. Accordingly it is considered that the frontage is insufficient to support the development proposed.

### Height

Clause 3.10.2 of Part D4 Business Zones specifies that a development must comply with the building height plan in figure 3.2. For this site, a maximum building height of 30 metres applies. The development satisfies this height control, with the exception of a lift shaft, a roof top stair well and safety fencing adjacent to the communal roof top open space area. At the highest point above the lift shaft, the development achieves a maximum height of 31.6 metres.

The applicant has prepared a planning justification to the variation to height requirements, arguing on the following grounds:

- *The maximum height for this precinct is 30m. The proposed building complies with this requirement, with the exception of the lift shaft and upper tips of the architectural features on the face of the building. The DCP contains the following definition:*

*“ Building height means the distance measured vertically from the highest point on the roof of a building ( not including a chimney, vent, or other service installation ) to the natural ground level immediately below that point. “*

*The lift shaft is considered to be excluded from the definition and the architectural features do not form part of the building itself, but rather are a feature to enhance the appearance of the building, in keeping with the DCP.*

Whilst the development fails to comply in respect to height requirements, the additional height is not considered to result in a poor visual outcome. The elements that exceed the height limit are limited to a lift shaft, a roof top stair well and safety fencing, which are considered to be point encroachments. As such, these elements are considered to reinforce the architectural style of the building.

In respect to overshadowing impacts, the additional height does not reduce solar access to adjoining neighbours and to development located opposite Stanley Street. The overshadowing created is largely the result of the nine (9) storey element of the development. At 9am, overshadowing occurs to the south west, with shadows extending across Stanley Street to the south. Overshadowing of No.'s 18 and 20 Stanley Street exists within the mid morning period, with the shadows retreating back across Stanley Street prior to midday.

In respect to overshadowing extending across Stanley Street, the shadows fall across the front yard of No.'s 18 and 20 Stanley Street. The solar access provisions contained within BDCP 2005 Part D2 Residential Zones specify that a private open space area must achieve a minimum of 3 hours, with 50% of this area achieving 3 hours of solar access. Private open space areas are generally located behind the front building line, which is such the case in this situation. As such, the shadow cast from the increased height of the development does not generate additional impact with the existing dwelling development still able to receive BDCP 2005 solar access requirements.

The proposed height of 31.6 metres is considered satisfactory, as it does not generate additional impact in respect to overshadowing or significant bulk or scale being added to the building, as the additional height sought is from point encroachments related to the architectural design of the building. In addition, the proposed height will be consistent with the emerging scale of the area, which is proposed to be increased to 35 metres within the CBD area within the CBD planning proposal.

### Setback

Clause 3.10.3 of Part D4 Business Zones specifies that the minimum setback for a development to the street boundary of an allotment is 5 metres to Cross Street and 3 metres to Raymond Street. The development seeks setbacks of 1.8m from the ground and upper floors addressing Raymond Street and 1.8m from the ground and 5m from the upper floors addressing Cross Street. Setback encroachments within the Raymond Street setback area are limited to balconies only, with encroachments within the Cross Street setback area generated only on the ground floor by the community room terrace area and a bin enclosure room adjacent to the basement entrance.

The applicant has prepared a planning justification to the variation to setback requirements, arguing on the following grounds:

- *The DCP control requires a minimum building setback of 5m to Cross Street and 3m to Raymond Street. The proposal meets these requirements, with the exception of a small portion of the tip of the balconies in the north west corner of the building, which encroaches into the setback to Raymond Street by approximately 0.2m. These two encroachments are insignificant and would not be discernible to the general public when viewing the development from the street. The bin enclosure is historically provided within the front setback and the proposal has butted the enclosure against the building and incorporated it within the landscape design. These two minimal encroachments will not adversely impact upon the streetscape and any amendment to comply with the requirement would alter the circular lines that are integral to the design of the building.*

The point encroachment into the setback area of Raymond Street is limited to the north western tip of the balcony, which increases in width further into the site. Despite, the encroachment of the north western tip of the balcony, no amenity impacts are experienced, with the development otherwise substantially behind the 3 metre setback from Raymond Street.

The proposed variation to the setback requirement to Raymond Street is not related to the frontage non-compliance, as the non-compliance relates to balcony encroachments, which are a consequence of their design. At the Raymond Street frontage, the balconies are triangular in shape, forming a point at the outer edge, before mirroring the curved walls of the development. Had the architect designed rectangular balconies in lieu of triangular shaped balconies, the point encroachment into the setback area is likely to disappear.

The setback non-compliance to Cross Street is also a point encroachment, with the encroachment generated solely on the ground floor with the remainder of the development substantially setback behind the 5 metre setback. The bin enclosure room has been designed to ensure that it is sufficiently screened and shielded from the street, but also for ease of access for the collection of waste. Whilst it is a walled element, it reinforces the street edge.

## Solar access

The development proposes to construct a forty three (43) unit, nine (9) storey residential flat building which has a north to south axis facing Raymond Street. Therefore, at 9am, the development overshadows the adjoining residential flat building to the west ( No. 18-20 Raymond Street ) and south ( No. 17-21 Stanley Street). As the path of travel of the sun rises and moves west across the sky, the cast of shadows rotate to the east and will overshadow a cluster of detached dwelling houses at the corner intersection of Cross and Stanley Street. In the late afternoon, the development will begin to overshadow across Cross Street to the east. The proposed development will interrupt solar access to the eastern facing units of the western adjoining development at No. 18-20 Raymond Street and to north facing units at 17-21 Stanley Street. As such, the proposed development fails to comply with the requirements of Bankstown Development Control Plan ( BDCP ) 2005 Part D4 Business Zones Clause 6.2 which specifies:

*The windows to at least one living area of a dwelling on an adjoining allotment must receive a minimum 3 hours of sunlight between 9am and 3pm at the mid-winter solstice.*

*Where this requirement cannot be met, the development must not result with additional overshadowing on the affected living area of the dwelling.*

The applicant has provided justification for this proposed variation arguing that:

*Our development does not impact residences to the south, as the existing building No: 10 Raymond Street and existing extensive large trees to rear of site and between boundaries of 12 to 10 Raymond Street, significantly overshadow the existing building to south. Therefore our development does not impact in terms of loss amenities to existing units to south of our site as it is an existing site conditions. Our proposed building casts shadow from No: 9-12 to south building and then the shadow moves totally away from this building towards Cross Street.*

In respect to solar access requirements, consideration needs to be given to the Land and Environment Court Judgement of *The Benevolent Society v Waverley Council* [ 2010 ] NSWLEC 1082, whereby Commissioner Tim Moore established a new planning principle on solar access in the following terms:

*Where guidelines dealing with the hours of sunlight on a window or open space leave open the question what proportion of the window or open space should be in sunlight, and whether the sunlight should be measured at floor, table or a standing person's eye level, assessment of the adequacy of solar access should be undertaken with the following principles in mind, where relevant:*

- *The ease with which sunlight access can be protected is inversely proportional to the density of development. At low densities, there is a reasonable expectation that a dwelling and some of its open space will retain its existing sunlight. ( However, even at low densities there are sites and buildings that are highly vulnerable to being overshadowed. ) At higher densities sunlight is harder to protect and the claim to retain it is not as strong.*
- *The amount of sunlight lost should be taken into account, as well as the amount of sunlight retained.*
- *Overshadowing arising out of poor design is not acceptable, even if it satisfies numerical guidelines. The poor quality of a proposal's design may be demonstrated by a more sensitive design that achieves the same amenity without substantial additional cost, while reducing the impact on neighbours.*
- *For a window, door or glass wall to be assessed as being in sunlight, regard should be had not only to the proportion of the glazed area in sunlight but also to the size of the glazed area itself. Strict mathematical formulae are not always an appropriate measure of solar amenity. For larger glazed areas, adequate solar amenity in the built space behind may be achieved by the sun falling on comparatively modest portions of the glazed area.*
- *For private open to be assessed as receiving adequate sunlight, regard should be had of the size of the open space and the amount of it receiving sunlight. Self – evidently, the smaller the open space, the greater the proportion of it requiring sunlight for it to have adequate solar amenity. A useable strip adjoining the living area in sunlight usually provides better solar amenity, depending on the size of the space. The amount of sunlight on private open space should ordinarily be measured at ground level but regard should be had to the size of the spaces, in a smaller private open space, sunlight falling on seated residents may be adequate.*
- *Overshadowing by fences, roof overhangs and changes in level should be taken into consideration. Overshadowing by vegetation should be ignored, except that vegetation may be taken into account in a qualitative way, in particular dense hedges that appear like a solid fence.*
- *In areas undergoing change, the impact on what is likely to be built on adjoining sites should be considered as well as the existing development.*

It is recognised that the site is located within the 3(a) Business – CBD zone, which permits high density developments such as residential flat buildings and mixed use developments. The orientation of the site ( North to south from Raymond Street ) dictates that overshadowing will occur to the south and to the east of the development site as a result of the redevelopment and is unavoidable in this instance.

Whilst acknowledging the higher density of the area and the claim from neighbouring developments to retain solar access is not as strong as in a low density area, the applicant has failed, despite repeated requests to detail how many neighbouring units will receive solar access and how many will not as a result of the proposed development.

In this absence, the planning principle of; 'the amount of sunlight lost should be taken into account, as well as the amount of sunlight retained', can not be qualified. As a consequence of this, the design principle related to design can not be explored, as it is unknown what level of solar access will be retained and lost.

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

There are no planning agreements applicable to the proposed development.

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

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

**Any Coastal zone management plan - section 79C(1)(a)(v)**

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)]**

An assessment of the likely impacts of the proposed development has revealed the following issues that require particular attention:

**Car Parking**

Off-street car parking for the development has been provided as follows:

Residential parking:	50 spaces
Residential visitor parking:	9 spaces
Total	59 spaces

The parking requirement under the DCP is as follows:

Residential units:	1 to 3 spaces per unit -	50 spaces
Residential visitors:	1 per 5 units -	9 spaces
Total		59 spaces

The proposal satisfies the minimum parking requirements under the DCP. Additionally bicycle parking has been provided for seventeen (17) bicycles based on Austroads Guide to Traffic Engineering Practice.



### **Lot Isolation**

The proposed development is not considered to cause or contribute to the isolation of the three adjoining allotments to the south known as No. 4 Cross Street and No.'s 13 and 15 Stanley Street for future development as if they were to be consolidated, they would achieve an area approximately 1523m<sup>2</sup> in total, with frontages of 41.631 metres to Stanley Street and 54.965 metres to Cross Street, thus enabling the possibility of developing a residential flat building in the future. No minimum area requirements for residential flat building development exist within land zoned 3(a) or 3(b) business. The consolidation of the three remaining allotments would achieve sufficient frontage to permit a development greater than three (3) storeys in height, with a floor space ratio of 3:1.

### **Design of circulation roadways**

The circulation roadways throughout all basement levels consists of curved/circular access/driveway ramps and are therefore assessed in accordance with Clause 2.5.2(b) of AS2890.1:2004, which refers to Figure 2.9 of the standard.

<b>Two way traffic limiting dimensions</b>			
<b>Characteristic</b>	<b>Proposed</b>	<b>Minimum Required</b>	<b>Complies with AS</b>
Outside Radius	7.96m – 9.74m	11.8m	NO
Clearance to obstruction			
(a) Inside, C <sub>i</sub>	< 0.3m	0.3m	NO
(b) Outside, C <sub>o</sub>	<0.5m	0.5m	NO
(c) Between paths	Nil	0.6m	NO

For a two-way traffic driveway, as in this case, a minimum outside radius (R<sub>o</sub>) of 11.8m is required and clearances to obstruction, such as 300mm along the inside radius (C<sub>i</sub>), 600mm between the opposing two-way (C<sub>c</sub>) and 500mm along the outside radius (C<sub>o</sub>) are also required. Assessment has found that the outside radius for the circulation roadways measure 7.96m and at best 9.74m as opposed to the required 11.8m with inadequate clearances to obstructions and no separator or median provided between the proposed two-way traffic. Therefore, the submitted basement layouts fail against these standard controls.

### **Swept paths**

Swept paths, with their clearances to obstructions have been incorporated in the submitted basement layout illustrating the two-way vehicular movement throughout all basement levels. These have been assessed in accordance with Paragraph B3 of the standard.

It is noted that the submitted swept paths consists of a B85 (**custom**) vehicle. While the base dimension of the custom vehicle is consistent with the standard B85 vehicle, the radius turns of the submitted swept paths were found to be inconsistent with the minimum permissible radius turn for the standard B85 swept path as shown in Figure B5 of the AS 2890.1.

Swept Paths			
Vehicle Type	Proposed Radius of turn	Minimum Radius of turn	Complies with AS
B85	3.3m - 4.9m	5.8m	NO

The minimum dimensional requirement of the radius turn for the standard B85 vehicle is 5.8m (Figure B5). However, the proposed swept paths in basement 1 along the two sharpest turns, measure between 3.3m and 4.9m at best. The result is that the basement ramps appear compliant when they would not be if the correct templates were used.

Further more, for a proposed design of two-way traffic movement Clause 2.5.2(c) of the standard requires a B85 vehicle to safely pass a B99 vehicle with their respective swept paths templates and clearances, which must be clear of any kerbs at boundaries.

Swept Path Clearances			
Clearance	Proposed	Required minimum	Complies with AS
Manoeuvring clearance	< 0.3m	300mm required both sides ( inside and outside radius )	NO
Circulation clearance	<0.6m	Additional 300mm added to one side only ( total 600mm ) ( outside radius )	NO

The swept path clearances for manoeuvring and circulation require a 300mm clearance ( upon the inside swept path ) to be added to the B99 vehicle swept path on both sides, and an additional 300mm circulation clearance ( 600mm in total upon the outside swept path ). Assessment has found that the swept paths fail to provide adequate clearances in accordance with Paragraph B3.2 and Clause 2.5.2(c) of the standards.

The latest basement design plans accepted by Council indicate that, at some points, the building's substructure footprint (basement walls) are only set at 100mm setback from the boundary line.

Therefore, the final basement layout with respect to the internal dimension of the driveway, ramps and circulation roadways, which is critical, can not accurately be represented without a detailed structural design of the foundation, to determine piling diameter and/or basement wall thickness and subsequent encroachments ( if any ) on the ramp design.

### **Safety, security & crime prevention**

The development requires a formal crime risk assessment given the number of apartments exceeding the trigger of 20 units under the RFDC. However, no assessment was provided.

Given its location and scale of the development, the Development Application was referred to Council's Community and Development Unit and Bankstown Police.

The Bankstown Local Area Command has advised that it has conducted a Safer by Design Crime Risk Evaluation and identified an overall crime risk as *medium*, on a sliding scale of low, medium and high crime risk. The Police have recommended conditions that cover the following Technical/Mechanical (CEPTED) treatment options for the development in order to reduce opportunities for crime.

- CCTV (Closed Circuit Television)
- Lighting
- Signage
- Access Control

These matters are such that they could be dealt with as conditions of consent.

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

Due to the narrowness of the site at the Raymond Street frontage, the curved/circular driveways within the basement at the northern end of the development fail to achieve the minimum radius for a circulation roadway, with inadequate clearances and no separator between the proposed two-way traffic. In addition, the swept path used by the applicant has not been prepared for a two-way traffic movement in accordance with the standard. As such, in its current layout, the basement design is inadequate and the site constrains the ability of the development to satisfy AS2890.1:2004. Accordingly, the site is considered unsuitable for this development in its current form.

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

The application was advertised and notified for a period of 21 days. Eight (8) objections were received during this period, which raised concerns relating to height, overshadowing/health related issues, sewage, traffic congestion, increased crime risk, loss of property value, increased dust storms, removal of trees and loss of views.

*Objection:*

*I strongly object to this proposal and recommend reassessment of the height of the proposed building. I recommend that the structures not be higher than 4 - 5 levels.*

*I think a nine storey building on this corner would look out of place.*

*I think that the height of the units now in Stanley Street should continue with the same height around to this block.*

*Applicant Comment:*

*The adjoining building scale is generally 8 to 9 storeys which is compatible with the desired future character of the area and adopts a similar setback alignment to the adjacent properties. The site also allows 30m height limit, which our building complies to this standard. It is unreasonable to ask of less as it would not be practically feasible for developers within the local area.*

*Council Comment:*

The assessment of height in earlier sections of this report found the proposal to be compliant with the height limits except for the lift shaft, a roof top stairwell and safety fencing adjacent to the communal roof top open space area, but concluded overall that the proposed height was acceptable. BDCP 2005 permits developments within the South Terrace Precinct to stand greater than three (3) storeys and up to 30 metres in height.

*Objection:*

*Both Cross and Raymond Streets are quiet and narrow ones, which are easily congested at average days. If the building was constructed, construction trucks would become a nightmare for local residents, esp. in the peak hours.*

*Applicant Comment:*

*Construction hours and works will be done in accordance to Council requirements and the local government acts. This will be managed by onsite foreman and traffic management plan which will be provided during construction to Council. Limit of on street parking is a Council issue and should be addressed with Council traffic department.*

*Council Comment:*

Conditions of consent would typically require the submission of a traffic management plan to address this issue.

*Objection:*

*With the new apartment, they will be more residents, which could lead to more traffic jams and crimes in the area too.*

*Applicant comment:*

*No comment provided.*

Council comment:

The applicant has submitted a traffic and parking statement which concludes that the increase in peak hour trips ( eighteen (18) during weekdays and twenty two (22) during weekends ) in the local road network will not lead to a noticeable increase in congestions, queues or delays.

The Bankstown Local Area Command has advised that it has conducted a Safer by Design Crime Risk Evaluation and identified an overall crime risk as *medium*, on a sliding scale of low, medium and high crime risk. The Police have recommended conditions that cover lighting, access control, CCTV ( closed circuit television ) and signage for the development in order to reduce opportunities for crime.

*Objection:*

*Curb site parking is harder and harder to find nowadays. Residents of the new buildings would increase their cars which would worsen the problems. Some families have 2 cars and only one car park per family is provided by the building.*

*Applicant comment:*

*Our development provides full onsite parking for all residents and visitors.*

Council comment:

The development provides for fifty nine (59) carspaces for the residents and visitors of the proposed development, which achieves numerical compliance in respect to the provisions of BDCP 2005 Part D8 Parking.

*Objection:*

*It could cause more dust storms than present to local residents.*

*Applicant comment:*

*No comment provided.*

Council comment:

The development itself can not create a dust storm.

There will be a short term increase in air (dust and exhaust) and noise emissions as a result of construction, trucks and earthmoving machinery manoeuvring within the site. However, given the short term nature of the work it is considered that the air and noise impacts will not

be significant. Any period of construction activities permitted to operate would be typically controlled by way of appropriate conditions.

*Objection:*

*Trees on the current premises would be removed.*

*Applicant comment:*

*New trees will be proposed and full onsite landscaping planning will be implemented as proposed.*

*Council comment:*

Existing tree species which are evident on site consist of frangipani's and palm trees, which do not form an ecological community or hold ecological significance.

*Objection:*

*The views of our building would be blocked if the new storey was constructed. My unit would also likely to decrease in value because sunlight will be blocked causing my unit to become very dark and also lose the current views from my balcony.*

*Applicant comment:*

*Depending on which level you live on. The building complies with proposed setbacks and is designed in narrow form with orientation to north giving maximum sunlight to rear south units. The existing building to No. 10 Raymond Street and existing extensive large trees to rear of site and between boundaries of 12 to 10 Raymond Street, significantly overshadow the existing building to the south. Therefore our development does not impact in terms of loss amenities to existing units to south of our site as it is an existing site conditions. Our proposed building casts shadow from No.'s 9-12 to south building and than the shadow moves totally away from this building towards Cross Street.*

*Council comment:*

The building is slender in design, which enables existing views to largely be retained. As no iconic views are visible from this site, no significant view loss is expected to occur.

*Objection:*

*I live in a unit whose bedrooms, living area and balcony are facing towards the east side of our apartment. We get natural sunlight to all of the above rooms every morning from 6.00am to 12 noon, which will be blocked if the proposed site apartment gets approved. There is a lot of concern already in Australia that a high number of people are at risk of vitamin D deficiency, mainly because they do not get much sunlight. Also there can be other risks such as spreading of germs and diseases due to the lack of sun rays. Myself and others who live on the same east side of the apartment, have family which includes newborn babies and also small kids, etc who will be affected directly in this case. In order to prevent future health risks and deficiency of vitamin D, we request you to think about the proposal again.*

*Applicant comment:*

*I suggest and many doctors will too, for people to get out of their units and go to local park for a jog and enjoy the fresh air. Units are designed to stay indoors during rain and night sessions. Any other day people are expected to be outdoors and enjoy life to the fullest. Again I point out, the existing building to No. 10 Raymond Street and extensive large rear trees to rear of site and between boundaries of 12 to 10 Raymond Street, significantly overshadow the existing buildings to South. Therefore our development does not impact in terms of loss amenities to existing units to south of our site as it is an existing site conditions. Our proposed building casts shadow from 9:s-12 to south building and then the shadow moves totally away from this building towards Cross Street.*

*Council comment:*

The impact of overshadowing experienced to adjoining neighbours is acknowledged and has been discussed in detail within the earlier previous sections of this report.

*Objection:*

*We get a lot of sewerage overflow issues in our apartment if there is a blockage / clogging. We lodge complaints to the Water Board quite often. So if the proposed apartment plans go further, the clogging will happen frequently at the junction, which will cause sewerage to shoot backwards and will overflow in our basement / parking area of our apartment. This will become a very harmful and unhealthy environment which can also cause significant numbers of gastrointestinal illness and different diseases for all the residents.*



*Applicant comment:*

*This seems to be Local Council and water board issues. Please refer to them on this matter, and request to upgrade your sewer pipe systems to a larger diameter. This is not our developers issue.*

Council comment:

Sewerage and associated piped infrastructure are the property of Sydney Water to service and manage. In addition, any consent granted would impose the requirement to obtain a Section 73 Certificate from Sydney Water.

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

In the circumstances, the public interest would not be served as there would be no apparent public benefit from a development which fails to comply with the minimum Australian Standards.

**CONCLUSION**

The Development Application has been assessed in accordance with the provisions of Section 79C of the *Environmental Planning and Assessment Act 1979*, which requires amongst other things an assessment against the provisions contained in *State Environmental Planning Policy ( Major Development ) 2005*, *State Environmental Planning Policy No 65 - Design Quality of Residential Flat Development*, *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* and *Bankstown Development Control Plan 2005*.

The development fails to comply with the floor space ratio, frontage, height, setback and overshadowing requirements. The applicant seek to establish that no road hierarchy exists between Raymond and Cross Street to define the primary frontage of the development, to facilitate a higher density development.

However, a frontage control linked to permitted floor space ratio does apply, and the proposal fails to comply with this control. The applicant has failed to address the constraints of a narrow frontage, with contributes to the curved/circular driveways within the basement at the northern end of the development failing to achieve the minimum radius for a circulation driveway, with inadequate clearances and no separator between the proposed two-way traffic. In addition, the swept path used by the applicant has not been prepared for a two-way traffic movement in accordance with the standard. The outcome of this is that, although the development may be reasonable in terms of its form and function above ground level, it is incapable or providing adequate access and manoeuvrability in accordance with AS2890.1:2004, throughout the basement design. Accordingly, it is considered that the frontage is insufficient to support the development proposed.

It is therefore recommended that DA462/2011 ( 2011SYW071) be refused for the following reasons:

- 1) The application fails to comply with the floor space ratio standard contained in Bankstown Local Environmental Plan 2001 resulting in a development that exceeds the density and scale as envisaged for the site. (Pursuant to Section 79C(1)(a)(i) Environmental Planning and Assessment Act, 1979).
- 2) The development does not comply with Bankstown Development Control Plan 2005 Part D4 – Business Zones Clause 4.4, as the development fails to achieve the minimum primary frontage of 30 metres at Raymond Street. ( Pursuant to Section 79C(1)(a)(iii) Environmental Planning and Assessment Act, 1979. )
- 3) Insufficient information has been submitted to demonstrate compliance with Bankstown Development Control Plan 2005 Part D4 – Business Zones Clause 6.2 in respect to overshadowing impacts. ( Pursuant to Section 79C(1)(a)(iii) & (b) Environmental Planning and Assessment Act, 1979. )
- 4) The Development Application fails to satisfy the requirements of Australian Standard 289.1:2004 Part 1: Off-street car parking, in relation to providing satisfactory circular roadway radius, adequate clearances and no separators. In addition, the swept path has not been designed for two-way traffic movement in accordance with AS2890.1:2004. ( Pursuant to Section 79C(1)(b) Environmental Planning and Assessment Act, 1979. )
- 5) The development site in it's current layout is unsuitable for development, given the narrow frontage limits the ability of the site to comply with Australian Standard 2890.1:2004 Part 1: Off-street car parking. ( Pursuant to Section 79C(1)(c) Environmental Planning and Assessment Act, 1979. )
- 6) Insufficient information was supplied to enable a full assessment of the application, as requested by Council's letters dated 21 July 2011, 24 August 2011 and 31 October 2011, as per Section 54 of the Environmental Planning and Assessment Regulation, 2000. ( Pursuant to Section 79C(1)(a)(iv) Environmental Planning and Assessment Act, 1979. )
- 7) Due to the above reasons, and the objections received during the neighbour notification period, the proposal is not considered to be in the public's wider interest. ( Pursuant to Section 79C(1)(d)&(e) Environmental Planning and Assessment Act, 1979.

