

<b>ITEM</b>	<b>18 George Street, Yagoona and 350 Hume Highway, Bankstown</b>
	<b>Consolidation of lots, demolition of existing site structures, construction of 182 residential units, commercial floor space (retail showrooms), basement car parking, extension to Kearns Lane and associated landscaping and civil works</b>
<b>FILE</b>	<b>DA-420/2012 (JRPP Ref. 2012SYW066)</b>
<b>ZONING</b>	<b>3(c) - Business - Enterprise</b>
<b>DATE OF LODGEMENT</b>	<b>6 June 2012</b>
<b>APPLICANT</b>	<b>Omada Property Group Pty Ltd</b>
<b>OWNERS</b>	<b>Colin Neville Swadling and Renato Gattone and Daniel Patrick Gattone and Paul Amore Gattone and Gary Anthony Attard and Phillip Screpis</b>
<b>ESTIMATED VALUE</b>	<b>\$46.57 million</b>
<b>SITE AREA</b>	<b>11,722m<sup>2</sup></b>
<b>AUTHOR</b>	<b>Development Services</b>

### **SUMMARY REPORT**

This matter is reported to the Sydney West Joint Regional Planning Panel in accordance with the provisions of *State Environmental Planning Policy (State and Regional Development) 2011*. The proposed development has an estimated value of \$46.57 million and exceeds the capital investment threshold for '*general development*'.

DA-420/2012 proposes to consolidate existing lots, demolish existing structures and remove existing trees, construct a residential flat development containing 182 apartments across 3 separate buildings with ground floor showrooms fronting Hume Highway, basement carparking, civil and landscaping works, and the extension of Kearns Lane as a public road.

The Development Application has been assessed against *Bankstown Local Environmental Plan 2001* and *Part D5 of Bankstown Development Control Plan 2005*. The application fails to comply in regards to building height, setbacks, and building separation. However, these variations only occur at some points of the development and in the context of the overall development, are considered to be minor departures from the planning controls.

The application was advertised and notified on lodgement of the development application for a period of 21 days. A total of 22 objections were received during this period. The application was then readvertised and renotified on the lodgement of amended plans and additional information, again for 21 days. A total of 8 objections were received during this period, including 2 petitions containing a total of 91 signatures. The objections made against the proposed development raise concerns relating to built form, traffic and parking, amenity impacts, privacy, safety and crime, heritage, impacts from the existing neighbouring hotel, and economic and property impacts.

The proposed development responds appropriately to the relevant planning controls. There are some minor issues outstanding however they are able to be addressed without impacting significantly on the overall development scheme. Accordingly a deferred commencement consent is recommended.

### **POLICY IMPACT**

This matter has no direct policy implications. The proposed variations to building height, setbacks and building separation are appropriate in the context of the site, and would not set precedent for development elsewhere in the LGA.

### **FINANCIAL IMPACT**

This matter has no direct financial implications.

### **RECOMMENDATION**

It is recommended that:

- A – The objection lodged pursuant to *State Environmental Planning Policy No. 1 – Development Standards* to the maximum building heights prescribed by Clause 36A of the *Bankstown Local Environmental Plan 2001* be supported; and
- B – The application be approved on a deferred commencement basis, subject to the attached conditions, and the following specific deferred commencement requirements:
  - 1. Documentary evidence of Bankstown Airport Limited's approval of the proposed development is to be submitted to Council.
  - 2. A Detailed Site Contamination Investigation must be undertaken by a suitably qualified and experienced environmental consultant. The investigation and reporting must be undertaken in accordance with relevant guidelines including, but not limited to, the EPA "Guidelines for Consultants Reporting on Contaminated Sites 2011" and "Sampling Design Guidelines 1995".

Following the detailed site investigation, a report outlining the results of the assessment must be submitted to the satisfaction of Council. This report must also consider and provide an indication of remedial action required to ensure that the site will be suitable for the proposed residential and commercial use.

Note: This Detailed Site Contamination Investigation will form part of the review of the Remedial Action Plan which is to be undertaken by a NSW EPA accredited site auditor.

3. Following the completion of the Detailed Site Contamination Investigation, a Remedial Action Plan (RAP) must be prepared by a suitably qualified and experienced environmental consultant. The RAP must be prepared in accordance with relevant guidelines including, but not limited to, the EPA "Guidelines for Consultants Reporting on Contaminated Sites 2011". The RAP must set the remediation objectives and determine the most appropriate remedial strategy to ensure that the site will be suitable for the proposed residential and commercial land use. The RAP must be submitted to the satisfaction of Council and must also be reviewed by a NSW EPA accredited site auditor to determine the appropriateness of the RAP.

The accredited site auditor shall prepare an Interim Site Audit Advice or a Section B Site Audit Statement and submit the document to Council. The Site Audit Advice or Site Audit Statement shall indicate that the RAP is appropriate for the purpose of remediating the site to ensure that it is suitable for residential and commercial use. If the RAP cannot be determined as appropriate, then the accredited site auditor shall provide further requirements or conditions. The applicant must adhere to any additional requirements or conditions imposed by the accredited site auditor.

## **DA-420/2012 ASSESSMENT REPORT**

### **SITE & LOCALITY DESCRIPTION**

The subject site is known as 18 George Street, Yagoona and 350 Hume Highway, Bankstown. The consolidated development site is an irregular allotment that is currently zoned 3(c) - Business - Enterprise. It has an area of 11,722m<sup>2</sup>, and frontages of 103.4m to Hume Highway and 61.5m to George Street.

The site contains an existing warehouse/showroom building that is occupied by a building supply business. There is a primary vehicle access point from the western end of the Hume Highway frontage. There is a secondary access point from George Street which connects to an at-grade hard stand parking area. The balance of the George Street end of the development site is an open, grassed area containing a number of existing trees.

Development surrounding the site comprises a mix of residential and commercial/industrial uses. Residential development is located west and north of the site, and is predominantly detached dwellings except for some villa units north of the site on George Street. Commercial developments are located east of the site, and include a warehouse/showroom building containing Rebel Sports and Barbeques Galore. The Three Swallows Hotel (licensed premises) is located further east, in addition to a cluster of local shops and food premises. South of the site, across Hume Highway, is a school, a fire station, some detached dwellings, and a vacant land parcel which is the subject of another development application (JRPP Ref. 2012SYW103) which seeks approval to construct 100 residential units across 5 separate buildings up to 4 storeys high. There are a number of heritage buildings in the vicinity of the site, including 2 former corner stores opposite the site at the Hume Highway and Meredith Street / The Boulevard intersection.



## **PROPOSED DEVELOPMENT**

DA-420/2012 proposes the following works over the consolidated development site:

- Demolition of existing buildings and removal of existing trees.
- Construction of a 2-storey building fronting George Street containing 12 apartments.
- Construction of a 5, 6 and 7-storey 'Central' building containing 82 apartments, with basement parking for 134 cars.
- Construction of a 6 and 7-storey building fronting Hume Highway containing 88 apartments, with at-grade and basement parking for 156 cars.
- Extension of Kearns Lane to the eastern property boundary as public road.
- Landscaping and civil works.

## **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 No. 55 – Remediation of Land**

SEPP No. 55 requires Council to consider whether the development site is contaminated and, if it is, whether it is suitable for the proposed development either in its contaminated state or following remediation works.

The Hume Highway end of the development site contains a warehouse building and has a history of occupation by non-residential uses (including a suggestion in the applicant's documentation that it might have been used as a service station in the late 1950's and early 1960's). The George Street end of the development site is a vacant, grassed area with a stand of trees separating it from a paved, at-grade carpark. Preliminary Environmental Site Assessments were undertaken to determine whether the site is suitable for the proposed development. These assessments were reviewed by Council's Contaminated Lands Officer who advised that further, detailed investigations were required.

Further sampling and testing was subsequently undertaken and the results reviewed by Council's Contaminated Lands Officer, who advised that:

- *The report does not meet the minimum criteria in relevant guidelines to be considered as a preliminary report. However the results do give an indication of the contaminated land status of the site i.e. no soil contamination and groundwater was not encountered.*
- *The report that has been submitted provides an indication that widespread and extensive contamination is unlikely. The indication that the site was used as a service station seems to be unfounded at this point based on the sampling results. In this case, we do have enough data to say that Council has considered contamination and that we are satisfied that the site can be made suitable (after remediation) for residential use.*

- *Based on the investigations carried out so far, Council can issue a deferred commencement with a range of conditions that must be satisfied up front, and during development, to ensure that the site is suitable for the residential use.*

**State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development**

SEPP No. 65 applies to residential flat buildings having 4 or more units and 3 or more storeys. Accordingly the SEPP applies, and an assessment against the Design Quality Principles and Residential Flat Design Code (RFDC) has been carried out. It is noted that the George Street building has a height of only 2 storeys. Although the general principles of the SEPP and the RFDC have been followed, the controls do not technically apply to this part of the proposed development and the figures given in the following compliance table do not include the George Street building.

The proposed development is consistent with the Design Quality Principles and responds appropriately to the site's context. Moreover, the application generally conforms with the key 'rules of thumb' contained in the Residential Flat Design Code, as illustrated in the table below.

<b>'RULE OF THUMB'</b>	<b>PROPOSED</b>	<b>COMPLIES?</b>
<b>Building depth</b> 10m – 18m is appropriate. If greater than 18m then good solar access and ventilation must be achieved.	Average building depth of the Hume Highway and Central buildings is 20m.	Yes. The buildings have a northern aspect and the buildings are articulated, with recessed elements of the building having a depth of less than 18m.
<b>Building separation</b> 12m separation between buildings over 3 storeys and up to 4 storeys. 18m separation between buildings over 4 storeys and up to 8 storeys.	35m separation between the Central building and the Hume Highway building. The George Street building is only 2 storeys therefore the control does not apply.	Yes.
<b>Communal open space</b> 25% – 30% of the site area is to be communal open space.	23% of the site is designated as communal open space, with areas at ground level as well as rooftop communal terraces above the Central and Hume Highway buildings.	Yes. Although the on-site provision is marginally short of the required 25%, accessibility to public open space can be taken into account. The development site is located directly opposite Graf Park, which is on the northern side of George Street.
<b>Apartment layout</b> Single aspect apartments should be no more than 8m from a window. Back of kitchen no more than 8m from a window.	The depths of single aspect apartments range from 8m to 13m at worst. The back of 85% of kitchens are within 8m of a window.	Yes. Non-conforming ('deepest') parts of the affected apartments contain dwelling entries and bathrooms, therefore no amenity loss. The back of non-conforming kitchens are within 9m of a window and still achieve the amenity intent of the code.

<b>Apartment size</b> 1 bed – min. 50m <sup>2</sup> 2 bed – min. 70m <sup>2</sup> 3 bed – min. 95m <sup>2</sup>	No 1 bed units proposed. 2 bed – min. 81m <sup>2</sup> 3 bed – min. 96m <sup>2</sup>	Yes.
<b>Balcony depth</b> Min. 2m depth to primary balconies.	All primary balconies have minimum 2m depth.	Yes.
<b>Floor to ceiling heights</b> Min. 3.3m ground floor and 2.7m for other floors. If variation is sought then satisfactory daylight access must be demonstrated.	Floor-to-ceiling heights are 2.8m.	Yes. Majority of units are oriented north and have satisfactory daylight access.
<b>Internal circulation</b> Max. 8 units accessed from a single corridor.	Maximum 8 apartments accessed from a single corridor in the Central building. 9 apartments accessed from a single corridor in the Hume Highway buildings.	No. However the corridors in the Hume Highway building are effectively only 7 apartments in length, with the 8 <sup>th</sup> and 9 <sup>th</sup> apartments accessed directly from each end of the corridor.
<b>Solar access</b> 70% of units should receive 3hrs solar access between 9am – 3pm midwinter.	64% of units receive 3hrs direct solar access between 9am – 3pm midwinter.	No. However this increases to 71% if solar access until 4pm is taken into account. While not considered under the Code, considering solar access to 4pm is appropriate given the site's orientation and the design response which directs a number of units in the 'core' of the Central building to the north-west. These units would still benefit from post-midday and afternoon sun, and would still have sufficient daylight access to meet the objectives of the Code.
<b>Natural ventilation</b> 60% of units to be naturally ventilated. 25% of kitchens to have access to natural ventilation.	75% are naturally cross-ventilated. 37% of kitchens have a window within 5m of the kitchen.	Yes.

The proposed development was reviewed by Council's Urban Designer, who advised that certain matters needed to be addressed, including those discussed below. The proposed development has responded appropriately to these matters as noted.

- *Adjacent built form at the east and west, as proposed by the DCP, needs to be considered in the proposed design. According to that the proposed mid-block at George Street side, should be shifted to the west. Otherwise, conceptually, future development at the east would cast shadow to this mid-block.*

The proposed development has pushed part of the Central building closer to the eastern boundary than what is contemplated by the 'masterplan' shown in the DCP. This ensures a greater separation between the northern end of the Central building and the neighbouring residential dwellings to the west (34m rather than the minimum 17m). The eastern boundary setback is reduced from the required 6m. However this is considered appropriate as discussed elsewhere in this report, and would not unreasonably compromise the ability for future development to the east to satisfy the relevant design parameters of the DCP and SEPP 65 guidelines.

- *'Proposed future driveway extension' labeled on the ground level drawing should be deleted.*

This proposed driveway extension has been deleted from the plans.

- *Basement car park and all floor plans should consider level differences in order to create a smooth transition in between the built form and natural ground.*

The proposed basement and ground floor levels of the proposed development relate closely to natural ground levels on the development site and neighbouring properties. An exception occurs at the eastern edge of the George Street and Central buildings, where the proposed RL of the ground floor projects approximately 1.5m above natural ground level. However this part of the development adjoins an at-grade commercial carpark, and would not have any adverse impact on the amenity of the neighbouring site. It is also noted that the point of these projections is setback 3m from the eastern property boundary, with this setback landscaped with small trees and shrubs.

- *Basement level needs to be arranged in order to provide centrally located deep soil at ground level, within communal open space. It would be beneficial to provide the entry point from the lowest point (eastern corner facing George Street) rather than the west.*

A centrally-located deep soil zone cannot be accommodated due to the design of the basement carpark under the Central building. However the applicant proposes to incorporate a 'landscaped deck' with minimum 1m soil cover to achieve this design requirement. The SEPP 65 design guidelines discuss that a soil depth of 1m is suitable for medium and small trees and shrubs, while a soil depth of 1.3m is suitable for large trees. The intent of this requirement is therefore met.

- *A landscaped buffer minimum 2m, by protecting the existing trees on the western boundary, is needed to the north.*

A landscape buffer of 2.5m width is to be maintained along the George Street frontage of the development site, and retains 3 existing trees.



- *There are privacy and building separation issues between the two blocks at the north-eastern corner.*

The matter of building separation is discussed later in this report. No objection is raised to the proposed separation between the 2-storey George Street building and the Central building located to the south.

- *Double-loaded corridor type of floor layouts is not supported as it does not provide natural cross-ventilation and natural light to the units. Also the maximum distance from external window to kitchen back walls should be as per SEPP 65.*

Despite the double-loaded corridor layout, the proposed apartments still achieve sufficient natural ventilation. Solar access is marginally short of the required 3 hours between 9am and 3pm, however this is largely a consequence of the site's orientation rather than the configuration of the apartments. Kitchen depths are discussed above in the SEPP 65 compliance table, and are considered satisfactory.

- *The communal open space provided at the top of the two storey block is not supported as it would be subject to privacy issues. Instead, communal open space should be located within the main central courtyard.*

The proposed rooftop open space above the George Street building has been removed from the plans. Ground level communal open space is provided in a number of locations, including a central courtyard accessible to both the George Street and Central buildings.

- *The communal open space provided at the top of the commercial block is not supported as it would be subject to privacy issues and there will not be enough space for the kids' activities.*

There would be no greater privacy impact to the communal rooftop terraces than the ground floor communal open space areas. In fact, the rooftop areas would be subject to overlooking from less units than the ground level spaces. The proposed rooftop areas supplement the ground level spaces, and offer some variation to the range of recreational activities offered to residents utilising the communal open space areas within the development. In fact, the SEPP 65 design guidelines acknowledge that the establishment of rooftop landscape areas is an increasingly common scenario in urban areas.

- *Provide articulation to the western corner and eastern corner as they would remain exposed throughout the life of the building.*

The exposed elevations at the eastern and western ends of the proposed buildings are appropriately treated through variation in finishes, as illustrated in the submitted architectural plans.

- *Remove the top level of the Hume Highway building to make it consistent with controls and context.*

While the upper level of the proposed Hume Highway building exceeds the maximum building height, the proposed non-compliance is limited to approximately half a storey, and as discussed later in this report is appropriate given the context of the site and the likely impacts of the proposal.

### **State Environmental Planning Policy (Infrastructure) 2007**

Schedule 3 of SEPP (Infrastructure) lists types of developments that are to be referred to Roads and Maritime Services (RMS) due to their size or capacity and the potential for impacts on the local road network (including classified roads). The proposed development exceeds the thresholds listed in Schedule 3 of the SEPP and has direct access to Hume Highway which is a classified road. The proposal was accordingly referred to RMS for comment.

The Sydney Regional Development Advisory Committee has reviewed the proposed development and raised no objection, subject to certain conditions of consent addressing matters including road noise mitigation, car parking layout, vehicle manoeuvring, access from Hume Highway, stormwater and civil works and potential impacts on RMS assets, and impacts during construction. These requirements have been included in Attachment B to this report as recommended conditions of consent.

### **State Environmental Planning Policy (State and Regional Development) 2011**

SEPP (State and Regional Development) states that a regional panel may exercise the consent authority functions of the council, for the determination of applications for development of a class or description included in Schedule 4A of the EP&A Act.

Schedule 4A of the Act includes '*general development that has a capital investment value of more than \$20 million*'. The development has a value of \$46.57 million and accordingly the development application is reported to the Sydney West JRPP for determination.

### **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*

The proposed development is consistent with the objectives of the Bankstown LEP 2001. It is designed to achieve good urban design and concentrates a high density residential development in a location that is accessible to the Bankstown CBD. While representing the emerging form of development contemplated by Council's planning policies, it remains compatible with the suburban character of the locality and would not have any unreasonable impact on neighbouring developments.

- *Clause 11      Development which is allowed or prohibited within a zone*

The table to Clause 11 sets out which development may be carried out in each zone. This table shows that development for the purposes of a '*residential flat building*' is not permitted on land zoned 3(c). There are additional provisions, however, under Clauses 36A and 50A of the LEP, which allow consent to be granted for the proposed '*residential flat building*' at the subject site, despite its 3(c) zoning. These special provisions are discussed later in this report.

With respect to the proposed ground floor showrooms fronting Hume Highway, the table to Clause 11 shows that '*bulky goods salesrooms/showrooms*' and '*warehouses*' are both permitted in the 3(c) zone.

- *Clause 16      General objectives of these special provisions*

The proposed development appropriately addresses likely impacts relating to existing vegetation, stormwater management, and ambient noise levels.

- *Clause 19      Ecologically sustainable development*

The subject site is accessible to public transport, and the proposed development meets the required energy and water efficiency targets as illustrated in the submitted BASIX Certificates. The proposed removal of existing vegetation has been assessed and supported by Council's Tree Management Officer, and appropriate means of managing stormwater runoff have been incorporated.

- *Clause 20      Trees*

It is proposed to remove 68 existing trees from the development site. The majority of trees proposed for removal are in poor or average health and condition, or are species having low environmental significance. The proposed tree removal has been assessed by Council's Tree Management Officer and is supported, subject to protection measures for trees to be retained in the development and supervision during works by a qualified arborist. These requirements are included in Attachment B to this report as recommended conditions of consent.

- *Clause 23      Development adjacent to residential zones*

The development site adjoins land to the west that is zoned 2(b) – Residential. There must therefore be a consideration of the likely impacts of the proposal on this adjoining land with respect to building compatibility, noise and amenity impacts, overshadowing, privacy, and traffic and parking. These matters are addressed elsewhere in this report, and it is concluded that the proposed development would not have any such unreasonable impact on the adjoining land.

- *Clause 24      Airports*

The development site is subject to Bankstown Airport Limited's (BAL) obstacle limitation surface plan, which prescribes a maximum building height of 15.24m. The proposed development exceeds this height and was referred to BAL for concurrence.

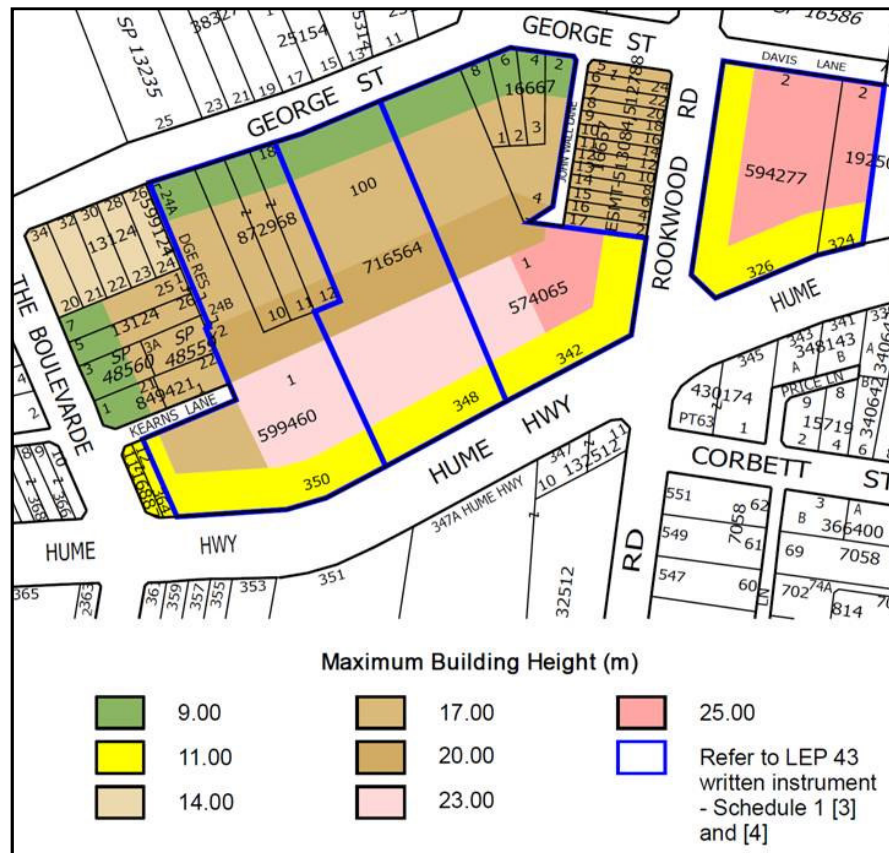
BAL advise that because the building is above 51m AHD (the lift overrun on the Hume Highway building reaches a proposed height of 83.80m AHD), their assessment must be supplied to the Civil Aviation Safety Authority (CASA) for review, and then to the Minister for Infrastructure and Transport (or their delegate) for final approval. When the referral to BAL was made in late January, it was expected that this assessment, review and approval process might take 3 months to complete. However a response is still yet to be received. To enable the development assessment to proceed, and to provide some degree of certainty around the balance of the matters under assessment, it would be appropriate to require resolution of this matter as a deferred commencement condition.

▪ *Clause 30 Floor space ratios*

The LEP floor space ratio map prescribes a maximum floor space ratio of 1.75:1. The proposed development has a gross floor area of 19,843m<sup>2</sup> over a site area of 11,722m<sup>2</sup>, which equates to a compliant floor space ratio of 1.69:1.

▪ *Clause 36A Special requirements for particular sites*

Clause 36A of the BLEP sets out controls for development on particular sites. All lots included in the proposed development site are subject to this Clause, which states that the height of any building on the land must not exceed 11m above natural ground level unless the subject lots are consolidated. If the lots are consolidated, the building heights must not exceed those shown on the accompanying building height map. A copy of the building height map is shown below.



It is proposed to consolidate all lots included in the subject development site, however the maximum building heights are not complied with. The extent of proposed non-compliance is outlined in the table below. Note the proposed heights are measured to the highest point of the building (i.e. the parapet) and are taken at the highest point of each building above natural ground level.

BUILDING ELEMENT	ALLOWED LEP HEIGHT	ALLOWED RL HEIGHT	PROPOSED HEIGHT	EXTENT OF PROPOSED COMPLIANCE
Hume Hwy – western	11m	70.5	19.95m	This is the lowest section of the height plane and affects a narrow, 10m strip at the western end of the site. The upper 3 storeys of the proposed building exceed the maximum 11m height. However such a narrow section of the building 3 storeys lower than the balance of this built form would present poorly to the Hume Highway corridor.
Hume Hwy – middle	17m	75.4	21.47m	The highest floor of the proposed building exceeds the maximum 17m height at this point. However the additional storey does not adversely increase the extent of overshadowing from the Hume Highway building, and ensures the development presents a consistent, balanced built form to the Hume Highway corridor.
Hume Hwy – eastern	23m	81.4	24.05m	The proposed RL of the highest floor at this point of the building is at 78.9, meaning more than half this floor sits below the maximum building height.
Central – southern	20m	76.3	23.87m	The proposed RL of the highest floor at this point of the building is at 74.6, meaning more than half this floor sits below the maximum building height.
Central – northern	17m	72.65	21.22m	The proposed RL of the highest floor at this point of the building is at 71.5, meaning approximately half this floor sits below the maximum building height.
George Street	9m	65.5	8.48m	The proposed RL of the roof of the George Street building is at 62.2, meaning the whole building sits below the maximum building height.

The greatest extent of the proposed height non-compliance occurs in the Hume Highway building. The maximum height plane for this building steps down from the eastern boundary to the western end of the development site, encouraging a staggered built form. The proposed development maintains a more consistent built form across the Hume Highway frontage, and absorbs a considerable portion of the proposed building mass in a location that has the least potential to impact on the locality by way of overshadowing and bulk and scale.

It is noted that majority of the George Street building, located in the nearest vicinity to neighbouring residential development, is almost a full storey lower than the maximum prescribed building height. The applicant's intention to concentrate a greater portion of the development at the least sensitive part of the development site is considered to be an appropriate design response for an infill site that adjoins detached residential dwellings.

The proposed Central building exceeds the maximum building height, however the non-compliance is generally limited to half a storey above the maximum prescribed limit. When compared to a centrally-located building that complies with the maximum building heights, the proposed scheme would not result in any unreasonable additional overshadowing or privacy impacts to neighbouring properties. It is also noted that despite the building height non-compliances, the floor space ratio of the proposed development complies with the maximum prescribed by the BLEP 2001, being some 670m<sup>2</sup> lower than the maximum allowable 1.75:1.

Pursuant to *State Environmental Planning Policy No. 1 – Development Standards* the applicant has lodged an objection to the maximum height limits prescribed by the BLEP 2001. The objection submits that compliance with the maximum building heights would be unreasonable or unnecessary in this case for the following reasons:

- *The proposal encompasses the objectives of the 3(c) zone. The proposal is also consistent with the stated and presumed objectives of the development standards set out in Part 4 of the LEP.*
- *The proposal generally follows the design intent of the DCP master plan with minor adjustments that will result in a better design outcome and less impact on the amenity of the surrounding buildings.*
- *Appropriate site planning and design measures have been adopted to minimise any adverse impacts on the surrounding buildings in terms of overshadowing, privacy and visual intrusion. These measures include building location, orientation, site setbacks, building separation and landscaping.*
- *Shadow diagrams demonstrate that the additional height will not result in any loss of solar access to the surrounding buildings and open spaces.*
- *The scale of the proposal is generally similar to bulk and scale of the development envisioned for the site. The proposal complies with FSR, site coverage and landscaping requirements as set out in the LEP and DCP.*

The applicant's SEPP 1 objection is considered to be well-founded and is supported. The proposed development provides an appropriate arrangement of building forms that accommodate the allowable floor space without significantly compromising the amenity of the surrounding locality. The bulk of the non-conforming building height is concentrated at the Hume Highway end of the development, which assists in reinforcing and defining this main road corridor. This also aligns the bulk of the development with the neighbouring commercial developments, rather than the detached residential dwellings located north and east of the development site.

▪ *Clause 36C      Development along arterial roads*

Clause 36C limits vehicle access to arterial roads and requires an assessment of likely road safety and operational impacts. It also discourages noise-sensitive development types (which include residential dwellings) unless appropriate noise mitigation measures are included.

The subject site has existing driveway access at the eastern end of the Hume Highway frontage. It is proposed to retain this access point for the commercial/showroom elements of the development, for garbage and waste collection, and for visitor parking. Residential access for the Hume Highway building is proposed via Kearns Lane, and access to the George Street and Central buildings is proposed via George Street. This arrangement has been reviewed by RMS and Council's Traffic Engineer, and no objection is raised subject to conditions. Moreover, the applicant has submitted an acoustic report which examines potential noise impacts from existing and proposed road traffic noise. The report concludes that the proposed development complies with the relevant noise criteria. However to ensure compliance it would be appropriate to include a condition on any development consent that ensures that the maximum allowable noise levels under the SEPP (Infrastructure) are achieved. This condition is included at Attachment B to this report.

▪ *Clause 38      Development in the vicinity of heritage items*

There are a number of heritage items in the vicinity of the development site that are listed in the BLEP 2001. These items include:

- 347A Hume Highway (St. Felix cemetery)
- 361 Hume Highway (Corner shop, 1919)
- 363 Hume Highway (Corner shop, 1919)
- 76 Powell Street (House, formerly a convent and police station)

Clause 38 of the BLEP requires consideration of the likely effect of the proposed development on these items, and on their setting. Council's Heritage Officer has reviewed the proposed development and provides the following comments:

*"The heritage buildings present in the vicinity are located at the property Nos. 363 and 361 Hume Highway in Yagoona, on the opposite side of the proposed development. The separation distance between the proposed development and the heritage buildings is the width of the Hume highway plus the setback maintained for the proposed development, which in this case is an excess of thirty (30) metres. The view from 'The Boulevard' towards the heritage items should have no adverse visual impact at all, as the proposed development is on the opposite side of the Hume Highway. Due to the setback achieved for the proposed development and the presence of a corner lot at the property No. 364 Hume Highway, the view from Meredith Street to Hume Highway should have a minimum visual impact on the architectural presentation of the heritage items to the locality."*

▪ *Clause 48      Objectives of the business zones*

The proposed development is consistent with the objectives of the 3(c) – Business – Enterprise zone. It is designed to achieve a high standard of building design and provides appropriate landscaping. It ensures there would be no unreasonable impacts on the amenity of the surrounding mixed-use locality, and provides for safe and efficient vehicle access to the development site. Provision is also made for commercial floor space to ensure that a business and employment focus is retained along the Hume Highway corridor.

▪ *Clause 50A      Development in Zone 3(c)*

As noted earlier in this report, Clause 11 of the BLEP prohibits '*residential flat buildings*' at the subject site. However Clause 50A states that despite this prohibition, consent may be granted to development for the purposes of '*residential flat buildings*' provided the allotment has an area of not less than 5,000sq.m, dwellings are set back a minimum 20m from the Hume Highway boundary, and any non-residential development would not detract from the amenity of any dwellings on the allotment.

The consolidated development site has a total area of 11,722m<sup>2</sup> and the proposed non-residential components of the development are limited to 3 showrooms, which would likely accommodate bulky goods type uses and would therefore not have any significant amenity impact on dwellings within the development. There are 8 units toward the western end of the Hume Highway building that encroach the required 20m setback by up to 800mm. A further 4 units encroach the setback by the thickness of the bedroom wall. This setback requirement must be complied with, else Clause 50A does not apply and the proposed '*residential flat building*' development would be prohibited. Due to the minor nature of the encroachments, a modification to the plan to comply with the 20m setback would not require any substantive redesign of the units in question. It would therefore be appropriate to require the necessary changes by condition of consent. The remainder of the dwellings in the proposed development are set back at least 20m from the Hume Highway property boundary.

Further to the above, consent cannot be granted to development in zone 3(c) unless it achieves high quality architectural and landscape outcomes that contribute to the character and appearance of the locality and arterial road corridor. The proposal presents a contemporary façade and is articulated to ensure that the bulk and scale of the proposed buildings is appropriately balanced. Each of the buildings respond positively to the SEPP 65 guidelines and the overall built form generally follows that contemplated in Council's planning controls for the site. Vehicle access to the development has been arranged to avoid Hume Highway where practicable.

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

There are no draft EPI's applicable to the proposed development.

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

The following table provides a summary of the development application against the controls contained in Part D5 of *Bankstown Development Control Plan 2005*.



STANDARD	PROPOSED	BDCP 2005 PART D5	
		REQUIRED	COMPLIANCE
Lot consolidation	All lots within the development site (shown edged heavy black in the DCP) are proposed to be consolidated.	The DCP provisions only apply if all lots are consolidated and there would be no adverse effect on other land in the vicinity.	Yes
Building height	2 storeys for the George Street building	2 storeys for the George Street building.	Yes
	5, 6 and 7 storeys for the Central building.	4 and 5 storeys for the Central building.	No
	6 and 7 storeys for the Hume Highway building.	2, 4, 5 and 6 storeys for the Hume Highway building.	No
Hume Highway buffer	8m landscape buffer to Hume Highway.	A development must provide a min. 5m wide landscape buffer zone to Hume Highway to enhance the Remembrance Driveway corridor.	Yes
George Street buffer	2.5m landscape buffer to George Street.	A minimum 2m buffer is to be provided to George Street.	Yes
Hume Highway setbacks	20m setback to Hume Highway	A dwelling must be set back 20m.	Yes, subject to condition
	11m to Hume Highway	A business development must be set back 5m.	Yes
Other setbacks	5m setback to George Street.	5m to George Street.	Yes
	17m to the Central building. 9.3m to the George Street building.	17m to western boundary.	No
	3m to the eastern boundary	12m separation to future buildings on adjoining site to the east.	No
Building separation	Minimum 6m between balconies and 8m between building walls.	12m separation between George Street building and Central building.	No
Solar access	By mid-morning, shadows cast by the proposed development only fall within the development site itself, over Hume Highway, and over the neighbouring commercial properties.	Must provide appropriate solar access to neighbouring land within Zone 2(b) – Residential.	Yes
Vehicle access	Access to the George Street and Central buildings is proposed from George Street, and access to the residential component of the Hume Highway building is proposed via Kearns Lane.	Vehicle access may be permitted from George Street and Kearns Lane.	Yes
Kearns Lane extension	It is proposed to extend Kearns Lane to the eastern property boundary.	The development must create a shared rear lane for vehicle access and servicing purposes.	Yes

### *Building Height*

- The DCP includes a plan that illustrates the maximum building heights, and minimum setbacks, for all buildings within the development site (as well as buildings on neighbouring development sites that might occur under the DCP at a future date). The building heights shown on this plan are expressed in storey limits. The storey limits are inconsistent with the maximum building heights shown in the BLEP height map (included earlier in this report) which are expressed in metres above natural ground level. For example, the Hume Highway building is limited under the DCP to 5 and 6 storeys, yet under the LEP a height of 23m is allowed (this would equate to between 3.8m and 4.6m per storey). Further, the Central building is limited under the DCP to 4 and 5 storeys, yet under the LEP heights of 17m and 20m are allowed (this would equate to approximately 4m per storey).

The proposed development still takes the same general form as that illustrated in the DCP, however does not comply with the maximum storey limits. Because there is some conflict between the DCP and LEP height limits, it would be appropriate to allow the LEP limits to prevail. An assessment of the proposal against the maximum height limits prescribed by the LEP is provided earlier in this report.

### *Setbacks*

- The DCP plan referred to above prescribes minimum setbacks to the boundaries of the development site. The proposed development does not comply with these setbacks in 3 separate locations.

The proposed setback of the George Street building to the western boundary is 9.3m at its closest point (up to 10.2m at its furthest point). The DCP requires a 17m setback. While the proposed setback does not comply, this is a stand-alone 2-storey building element that would not have any greater visual or overshadowing impact on neighbouring properties than a typical 2-storey dwelling. A reduced setback at this point is therefore considered supportable.

The minimum setback to the eastern boundary is not specified, however the DCP plan shows a 12m building separation to future development on the eastern adjoining property (which is currently an open car parking area). Assuming this separation is evenly split on both sides of the boundary, a minimum setback of 6m would be required. The proposed setback to the George Street building is 3m at its closest point. Being 2-storeys in height and having a side profile comparable to a 2-storey dwelling, this setback is deemed acceptable. It is also noted that a reduced setback and separation at the George Street frontage would promote a continuous streetscape without an extended break in building form.

The proposed setback to the Central building is 5.5m. Balconies marginally encroach this setback, however this building alignment would not impose an onerous setback on any future 'infill' development on the adjoining site and is accepted.

A minimum 20m setback is required to the Hume Highway building. The proposal complies with this setback, except for some minor encroachments as discussed earlier in this report. Modifications to the plans to comply with the 20m setback would not require any substantive redesign of the units in question. A condition of consent has been included in Attachment B to this report to require these changes.

#### *Building separation*

- The DCP plan prescribes a minimum separation of 12m between the George Street building and the Central building. The proposed development provides a separation that ranges from 6m – 8m between balconies and does not comply. However the proposal incorporates measures (screens) to mitigate potential privacy impacts, and it is noted that the George Street balconies are south-facing, 'secondary' balconies that are only accessible from bedrooms.

#### **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.

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

As discussed in this report, the proposed development is acceptable with regard to its likely environmental, social and economic impacts on the locality.

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

The proposed development is permitted with consent at the subject site. The site-specific floor space ratio control has been complied with, and the proposed variations to the maximum building heights and setbacks are acceptable in the context of the development. The proposal represents an appropriate built form, and operational and environmental matters have been adequately addressed.

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

The application was advertised and notified on lodgement of the development application for a period of 21 days. A total of 22 objections were received during this period. The application was then readvertised and renotified on the lodgement of amended plans and additional information, again for 21 days. A total of 8 objections were received during this period, including 2 petitions containing a total of 91 signatures.

The objections made against the proposed development raise concerns relating to built form, traffic and parking, amenity impacts, privacy, safety and crime, heritage, impacts from the existing neighbouring hotel, and economic and property impacts. These issues are summarised and discussed below.

### **Built Form**

- *This would be an eyesore in a relatively quiet home owner area, who all have a height restriction of 1 – 2 levels only.*
- *The proposed development represents an overdevelopment of the site inconsistent with the character of the locality, and will have an adverse impact on both the heritage buildings and current residential area.*
- *These new plans are totally and grossly oversize blocks which has one small section of 5 levels then two large blocks of 6 and 7 levels that would dominate the skyline and the surrounding area.*
- *Reconfiguring the plans to drop height of buildings in George Street from 4 to 2 levels does nothing to drop the number of units. Additional height has been added elsewhere. The point is 182 units are just too many.*
- *The 7 storeys height of the central building is still considered excessive. The community expectation when the masterplan was approved for the site was for a 5 storey building in the central area. The 7 storey heights exceed the height limit and exacerbate overshadowing impacts on rear yards.*
- *Size and quantity of 188 units is too big, too high casting morning shadows in resident's backyards until midday.*
- *The shapes of the three buildings add nothing to the area, as it suits no other building in the street or the area. It would be an eyesore and possibly contribute to price decrease of homes in the area. Town houses would be more preferable.*
- *The proposed development represents an over-development of the site, inconsistent with the character of the locality.*
- *The proposed development of 188 units, principally in large tower blocks up to 22m high, is in dramatic contrast with the low-rise residential character of surrounding residential development (i.e. detached dwellings and townhouses).*
- *The justifications for the SEPP 1 objection is all flawed and the amount of variation sought is considerably excessive and should be rejected by Council.*

### **Comment:**

The proposed development generally accords with the built form contemplated by the site specific DCP and LEP controls. While there are some non-compliances concerning the height and setback of some elements of the development, it is largely consistent with what is envisaged for the site.

This is the first application lodged for the development of a site in this Rookwood Road Precinct. In isolation of other developments that are likely to occur on neighbouring sites, it could be viewed as out of character (in particular with regard to the neighbouring detached dwellings north and west of the site). However it is consistent with the desired future character illustrated in Council's planning policies, and would not compromise the ability of neighbouring sites to achieve the yield and density allowed under the DCP and LEP.

It cannot be reasonably held that the proposal represents an 'overdevelopment' of the site. The proposed floor space ratio is some 670m<sup>2</sup> lower than the maximum permitted, and the bulk of the development is concentrated away from the neighbouring residential dwellings to the north and north-west.

As discussed elsewhere in this report, there would be no unreasonable overshadowing impacts to neighbouring properties, and the effect of the proposal on the setting of nearby heritage items is not deemed significant.

### **Traffic and Parking**

- *The numbers presented in Table 2.1 of the Traffic Report don't reflect the real flow numbers as we observed on George Street, west of Rookwood Road or east of the Boulevarde.*
- *With the large increase in traffic already getting to the 8-thousand per day, 7 days per week and on sporting days with parked cars on both sides, already this is a dangerous street so who will be responsible for the children in this street if they want to cross the street to get to the park?*
- *There are very little commercial structures apart from what is already in the area. Families would need cars to access many amenities.*
- *Entry and exit points should be located at the only street wide enough to take the peak hour car rush, which is the Hume Highway. George Street, The Boulevarde and Kearns Lane are simply not wide enough.*
- *The additional volume of cars coming in and out would make the area far more dangerous for pedestrians.*
- *Parking and traffic in George Street and The Boulevarde is congested, especially soccer training nights, soccer and cricket games played on Saturdays and Sundays.*
- *Traffic along George Street, The Boulevarde and Rookwood Road during normal weekdays, peak hour (morning and afternoon) is very congested. Added traffic, as a result of the proposed development would only exacerbate traffic flow in the area. Also endangering pedestrians, as there are three schools within the area.*
- *The proposed development represents a significant adverse impact on the trafficability of the local road network (i.e. The Boulevarde, George Street and Powell Street).*
- *The proposed development would result in the effective narrowing of George Street and The Boulevarde to 1.5 lanes when vehicles are parked either side of these thoroughfares.*
- *The proposed development would compromise lines of sight in the area due to increased on-street parking.*
- *The Traffic Report is inadequate in that it fails to address the source, duration and currency of traffic counts used in its report, given recent changes to local area traffic and through traffic arrangements, such as recent re-routing of traffic following the closure by RMS of the intersection of George Street with Rookwood Road to northbound right turn movements; additional traffic routing via Powell Street, George Street and The Boulevarde generated by new Potts Hill developments; and increased 'rat running' via Powell Street, George Street and The Boulevarde to avoid peak traffic flow congestion on Rookwood Road – Stacey Street.*

- *Has the Traffic Report considered impacts during peak hours of vehicles turning right into George Street from the site or turning right into The Boulevarde from Kearns Lane? Or turning right onto the site from George Street and turning right onto Kearns Lane from The Boulevarde?*
- *Is there proposed to be through traffic from George Street to Kearns Lane ('proposed future driveway extension')? What is the purpose of the gate shown on the landscape plan? Any vehicular connection between stage 1 and stage 2 development should be via their basement, otherwise all dwellings facing The Boulevarde will be impacted by traffic noise from their front and rear elevations.*
- *We do not believe that access from Kearns Lane will be easily accessible due to its close proximity to the traffic lights located on the Hume Highway. During peak hours vehicles bank right back to Kearns Lane and traffic coming from Meredith Street will find it hard to turn right into Kearns Lane. This will force entry via George Street. Also traffic coming from the city will have no option to access via George Street as there is no right turn available into The Boulevarde from Hume Highway.*
- *With only 38 visitor parking spaces available, the real result will be more street parking.*
- *The caryard next to the proposed site should also be included so that it can be used for extra car parking spaces and some greenery for the complex.*

Comment:

A traffic and parking assessment has been undertaken by the applicant. This assessment examines existing traffic conditions and assesses the transport implications of the proposed development. Traffic flows on Hume Highway, The Boulevarde, Meredith Street, Rookwood Road, George Street and Kearns Lane are analysed, as well as the operation of the intersections at Hume Highway / The Boulevarde, Rookwood Road / George Street, The Boulevarde / George Street, and The Boulevarde / Kearns Lane.

The traffic and parking assessment was undertaken in March 2012, and was reviewed on the submission of amended plans in November 2012. The assessment is therefore taken to be an accurate indication of the present traffic situation in the locality of the development site.

The assessment notes that traffic generated by the proposed development will have its greatest effects during weekday morning and afternoon peak periods when it combines with commuter traffic. The proposed development is forecast to generate some 90 – 110, and 110 – 130 vehicles per hour two-way during weekday morning and afternoon peak hours respectively.

The assessment notes that the 'upper ends' of these ranges have been assessed to be conservative. When the additional traffic is assigned to the local road network, and the intersections around site analysed, the 'level of service' and average vehicle delay for each intersection does not change. Accordingly the report concludes that the road network would be able to cater for the additional traffic from the proposed development.

The assessment also examines the proposed on-site parking provision and access, servicing and layout of the proposed development. It notes that the proposal complies with Council's DCP regarding car parking rates, and states that this provision is appropriate. It also states that the proposed carpark driveways will cater for two-way traffic in accordance with the Australian Standard.

The traffic and parking assessment has been reviewed by Roads and Maritime Services and Council's Traffic Engineers. No objections have been raised in relation to the proposed development or the traffic modeling used in the applicant's report, and the proposal is supported subject to conditions that are included at Attachment B of this report.

Lastly, it is noted that the neighbouring caryard is not required to be included in the consolidated development site, as illustrated in the DCP 'masterplan'. Also, the proposed development would not introduce the scenario of vehicles parking on both sides of George Street. Rather, this is a situation that already occurs.

### **Amenity Impacts**

- *The amended landscape plan still shows a 'concrete driveway/pavement' potentially linking George Street driveway and Kearns Lane via the ramp. This is inconsistent with the statement made by the applicant on pg. 5 (point 9) of the amended SOEE as well as the amended plans, which shows the entire area as being a courtyard. Any vehicular connection between George Street development and Hume Highway development should be via their basement, otherwise all dwellings facing The Boulevard will be impacted by traffic noise from their front and rear elevations.*
- *The driveway of the proposed development is directly opposite our driveway. A major concern will be every time someone drives out of their driveway we will be blinded by the headlights of their vehicles.*
- *The proposal would result in unacceptable overshadowing impact on our rear private open space. This is exacerbated by the non-compliant height of the proposed 7 storey RFB and the non-compliant setback of 8m to the western elevation.*
- *The garbage rooms for both stage 1 and 2 of the development should be located within the basement level to protect the amenity of adjoining dwellings from smell/odour.*
- *The plans show very little green areas for such high density.*
- *The applicant should be made to provide landscaping to the entire stretch of the western boundary of the Stage 1 development.*

### **Comment:**

The proposed development no longer seeks to connect the George Street driveway with Kearns Lane. The potential impact of vehicles passing the rear boundary of neighbouring dwellings was raised with the applicant and this design element has been deleted from the plans. This area is now to be landscaped as communal open space.

Shadow diagrams submitted in support of the proposal indicate that by mid-morning, shadows from the proposed development would fall within the site itself, over the neighbouring commercial development, or over the Hume Highway. The applicant has reduced the extent of overshadowing by amending the proposed Central building to provide a greater setback to the western boundary, at which point the site adjoins detached residential dwellings.

The proposed bin storage area is located nearly 14m from the property boundary and should therefore not give rise to any negative odour or amenity impact. Moreover, the extent of headlight glare from vehicles using the George Street driveway would not be beyond reasonable limits for a residential area.

The plans make adequate provision for open space, including communal spaces and private courtyards and balconies. It is also proposed to landscape the site to provide a soft edge to the proposed new buildings.

### **Privacy**

- *Where the finished floor level is considerably higher than the natural ground level of existing buildings the balconies should be deleted for privacy, safety and security reasons. Ground floor balconies should be deleted for the same reasons.*
- *The proposed units will overlook our backyard and swimming pool.*
- *The fire stairs glazed walls of the 7 storey (Central) building should be glass bricks or provided with privacy screens to reduce glare.*
- *The applicant should be required to provide fixed blade privacy louvres, strategically located within the residential balconies of the Hume Highway building fronting Kearns Lane to minimize overlooking and to provide a shielded area for clothes lines.*
- *The height of the building will mean that my home and garden would be overlooked which will eliminate our privacy.*
- *The proposed development will result in unacceptable overlooking impact on my rear private open space and living areas. The 8m setback (instead of the required 20m setback) will exacerbate the overlooking impact.*
- *Any windows facing west should be highlight windows with a minimum sill height of 1,500mm.*
- *It is not acceptable that the design of balconies allow overlooking onto our private open space and living rooms. The western sides of balconies should be contained within the building envelope and provided with solid walls so the outlook is north and south.*
- *Where the finished floor level is considerably higher than the natural ground level of existing adjoining buildings, the ground floor balconies should be deleted to minimise overlooking.*
- *Fixed blade privacy louvres should be provided to the north-facing balconies in the Hume Highway building, strategically located within the residential balconies to minimise overlooking impacts and provide shielded area for clothes lines.*



Comment:

The proposed development is an infill site, located close to existing residential dwellings. With the building heights envisaged by the site specific DCP and LEP it is inevitable that there will likely be some degree of overlooking as the area undergoes the transition to a higher density residential environment.

Measures to mitigate potential privacy impacts have been incorporated into the development, including the orientation of balconies away from neighbouring dwellings where possible, and the provisions of louvered screens. The north-facing balconies of the Hume Highway building have the greatest potential for impact. To ensure adequate solar penetration within the proposed apartments in this building, privacy screens have not been proposed. However the architectural plans show solid balustrades, which would provide some degree of privacy to dwellings to the north. A condition requiring that treatment be carried through to the construction certificate plans is included in Attachment B to this report.

The proposed ground levels have been examined, and are found to relate closely to the existing natural ground levels at the western edge of the site where the development adjoins detached residential dwellings.

**Safety and Crime**

- *Large increase in population will result in high levels of crime in this quiet area.*
- *There are issues of safety and security and overcrowding. A huge structure should not be allowed without passing all the highest safety standards.*
- *Our concern is the change of the environment to a dense, overcrowded population. This may bring undesirables such as more violence, domestic and security issues which arise from excess noise and lack of privacy and space.*
- *Our area will accumulate intoxicated people, shootings, stabbing, fights, violence and so on. This will result in police and ambulance sirens in our street, disturbing our peace and quiet for all residents.*
- *As there will be many more residents and the common area for recreational use is very little this will not only create low living environment but will also increase the risk of behavioural problems and unsocial behaviour.*

Comment:

There is no evidence to support concerns that the proposed development would result in any direct increase in crime or anti-social issues in the locality. The proposed development provides an appropriate built form, with a level of amenity and open space that would foster a positive living environment for residents. The proposed density is not uncharacteristic of an urban infill site.

**Heritage**

- *The development is not in line with local buildings many have a heritage listing, they cannot be changed. This building will be dramatically out of place. Heritage buildings are in the line of sight of this development from all four directions, probably more:*

- *Southbound from Graf Park;*
- *Northbound from Marion Street;*
- *Westbound from Powell Street;*
- *Eastbound from Hume Highway; and*
- *From St Felix*
- *A report is needed to consider items in the vicinity of heritage buildings. Development will impact on the setting.*

Comment:

Matters concerning the potential impact of the proposed development on heritage items in the vicinity of the site are discussed earlier in this report. It is considered that the proposed development would not have any significant on the setting of the heritage items, given that:

- a) The site itself does not contain any heritage items;
- b) The site specific DCP and LEP provisions allow the redevelopment of the site for the proposed purpose, generally in the manner that is proposed (height, setbacks, etc); and
- c) The setting of the heritage items in the vicinity of the site is already somewhat compromised by other medium density residential and commercial developments that adjoin or are directly opposite the items in question.

Moreover, Council's Heritage Officer has reviewed the proposed development and advises that:

*"The heritage buildings present in the vicinity are located at the property Nos. 363 and 361 Hume Highway in Yagoona, on the opposite side of the proposed development. The separation distance between the proposed development and the heritage buildings is the width of the Hume highway plus the setback maintained for the proposed development, which in this case is an excess of thirty (30) metres. The view from 'The Boulevard' towards the heritage items should have no adverse visual impact at all, as the proposed development is on the opposite side of the Hume Highway. Due to the setback achieved for the proposed development and the presence of a corner lot at the property No. 364 Hume Highway, the view from Meredith Street to Hume Highway should have a minimum visual impact on the architectural presentation of the heritage items to the locality."*

**Impacts from Existing Hotel**

- *While there is no objection to the construction of a mixed use / residential development on the subject site, there are serious concerns that the DA as submitted has inadequately addressed the impacts of a well-established hotel that operates under a 24 hour license on the future residential population. In order for the hotel and residential development to co-exist satisfactorily in the future, it is requested that the applicant be requested to:*
  - *Submit an amended acoustic report examining the potential impact of noise from the hotel on the development site;*

- *Amend the design such that all east facing windows and doors are double glazed to minimise potential noise intrusion from external sources;*
- *Prepare a notification disclosure to all future owners and residents of the proposed development acknowledging that the hotel operates under 24 hour license and that all future objections to hotel activities which comply with approved consents will be deemed null and void.*
- *Submit an amended parking report to consider the likelihood of future residents parking in the car park of the hotel and surrounding streets; and*
- *Assess the potential impact of external lighting in the car parking areas of the hotel on the amenity of future residents of the proposed development and, if necessary, modify the design of the buildings to minimise light spillage and the future threat of objections against the hotel.*

**Comment:**

An existing licensed premises (the 'Three Swallows Hotel') is located approximately 100m east of the development site. Recent development consents granted for these licensed premises include conditions to limit noise generated, such that it not constitute 'offensive noise' under the *Protection of the Environment Operations Act*. These conditions would remain in place regardless of whether or not the proposed development were to proceed, and the operator of these premises remains bound to comply.

Properties in the vicinity of the licensed premises include existing residential dwellings. A number of these dwellings are a comparable distance from the licensed premises, and in some cases are nearer than the proposed development. The construction of a residential development at the subject development site would therefore not introduce any new source of potential amenity impact that does not already exist in the locality.

As discussed earlier in this report, the car parking facilities provided within the proposed development can adequately cater for the requirements of Council's DCP.

With regard to the potential impacts relating to light spill from the licensed premises and its car park, while it would be possible to mitigate this by providing shielding or screening to the proposed residential buildings, it is likely that there may be a need to resolve this issue, should it arise, at the source of the lighting at some later date. At present the lighting of the licensed premises only needs to consider impacts on existing buildings in the vicinity. It is not unreasonable to expect the light spill situation to be reviewed when new buildings are introduced to the locality.

**Economic / Property Impacts**

- *Creating a commercial range of shops on the Hume Highway is of concern, due to the fact that Yagoona Shopping Centre is located approx. 1km west. This shopping centre is struggling to survive and has closed businesses and vacant shops. That area would be affected resulting in less trade and the area becoming a slum.*

- *The proposed basement excavation associated with the central building is very close to our existing fence. Council should require the applicant to provide a dilapidation report detailing the current conditions and status of our building/fence/rear patio. The applicant should be made to send a copy of the report to adjoining owners, prior to the commencement of any excavation works.*
- *The proposed development will decrease the property values of the neighbourhood when the area becomes less desirable.*
- *There is already a noticeable drop in water pressure during peak times. The drainage has been a problem for some time and was only recently fixed by Council, it is highly unlikely a probably threefold increase of waste water during peak times will not cause further problems.*

**Comment:**

The proposed development includes 3 showrooms which are expected to be occupied by bulky goods type uses. Provision for these size tenancies is not generally made in the nearby local centres and they should therefore not compete with small-scale retail uses that would otherwise be found in the nearby business zones.

It is agreed that the requirement for dilapidation reports would be appropriate, both prior to and at the completion of any excavation works. A condition requiring these reports is included at Attachment B to this report.

No evidence has been submitted to support the perceived impact on property values. The requirements of all relevant service providers (including Sydney Water) would be required to support the development, including any necessary upgrade works.

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

The proposed development would not contravene the public interest. The proposed development responds appropriately to the site-specific development controls contained in the *Bankstown Development Control Plan 2005* and the *Bankstown Local Environmental Plan 2001*, and the requirements of the *SEPP 65 Residential Flat Design Code*. Matters raised in public submissions have been satisfactorily addressed, and there would be no unreasonable impacts on the locality.

**CONCLUSION**

The Development Application has been assessed in accordance with the provisions of Section 79C of the *Environmental Planning and Assessment Act 1979*, *Bankstown Local Environmental Plan 2001* and *Bankstown Development Control Plan 2005*.

The proposed development represents an appropriate built form for the site. Relevant planning controls have been appropriately responded to and no significant or unresolved matters have been raised in public submissions.

Approval of this application would facilitate the development of a key site in the Rookwood Road redevelopment precinct of the Hume Highway Corridor, without having any unacceptable or unreasonable impacts on the surrounding locality.