

ITEM	8, 8A and 10-14 West Terrace, BANKSTOWN NSW
	Construction of a mixed commercial and residential development comprising of 12 commercial tenancies, 143 residential units and basement car parking.
FILE	DA-739/2014 - JRPP Reference: 2014SYW105
ZONING	3(c) – Business CBD
DATE OF LODGEMENT	25 July 2014
APPLICANT	Architecture and Building Works Pty Ltd
OWNERS	Kaymet Corporation Pty Ltd, T. B. & L. Kayrouz and W. J. & Y. W. Metlej
ESTIMATED VALUE	\$35,350,467
SITE AREA	4048m²
AUTHOR	Development Services (Sindhu Kaphle)

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 \$35,350,467, which exceeds the capital investment threshold of \$20million for 'general development'.

Development Application No. DA-739/2014 proposes the construction of a mixed commercial and residential development comprising of 12 commercial tenancies, 143 residential units and basement car parking.

The Development Application has been assessed in accordance with the provisions of Section 79C of the Environmental Planning and Assessment Act, 1979 and the relevant specific environmental planning instruments, including SEPP 55, SEPP 65, RFDC, SEPP (Infrastructure), GMREP 2, BLEP 2001, Draft BLEP 2015, as well as the relevant parts of the BDCP 2005. The application fails to comply in regards to front setback and building separation. However, the assessment of the development application has found that these variations are justified in the circumstances of this case, in the context of both the overall development and the surrounding locality.

The application was advertised and notified for a period of twenty-one (21) days, from 13 August 2014 to 2 September 2014. One (1) submission was received during the notification period, raising concerns relating to the front building alignment.

POLICY IMPACT

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

FINANCIAL IMPACT

The proposed matter being reported has no direct financial implications.

RECOMMENDATION

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

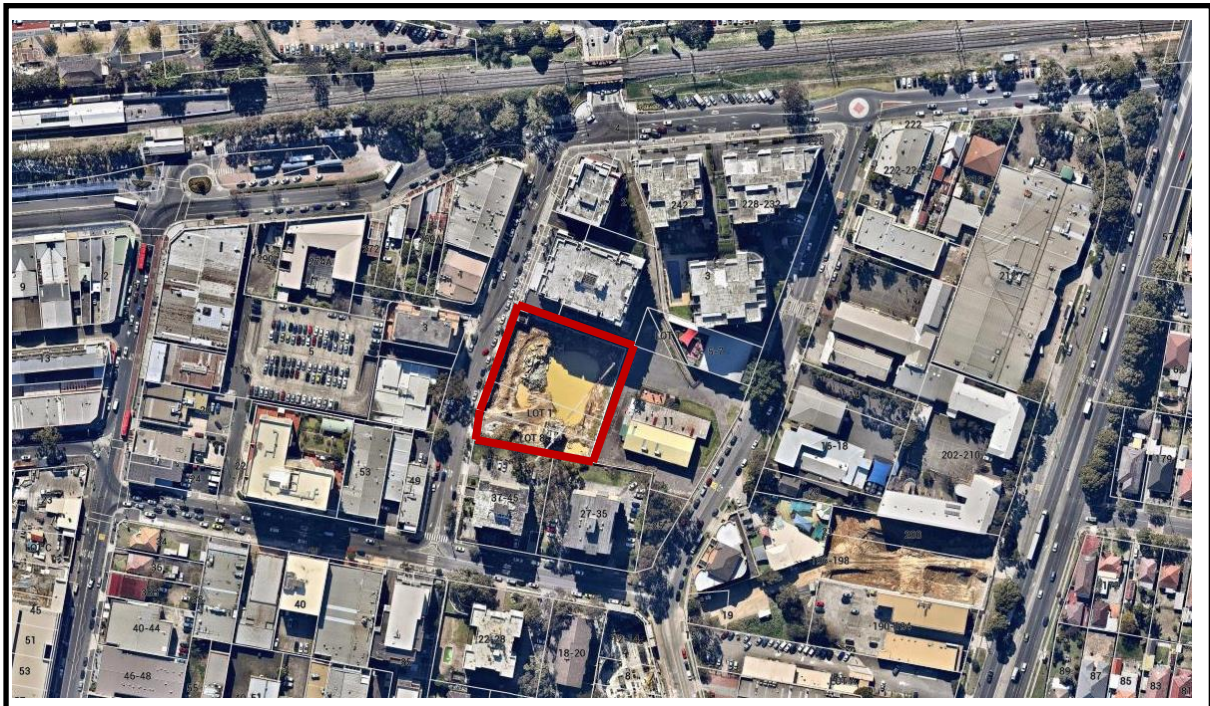
DA-1119/2013 ASSESSMENT REPORT

SITE & LOCALITY DESCRIPTION

The subject site comprises of several lots and has a street address of No. 8, 8A and 10-14 West Terrace, Bankstown. The site is a regular-shaped allotment that is currently zoned B4 – Mixed Use under Bankstown Local Environmental Plan 2015. The site was zoned 3(a) - Business CBD under Bankstown LEP 2001, being the instrument applicable at the time of the lodgment of the application.

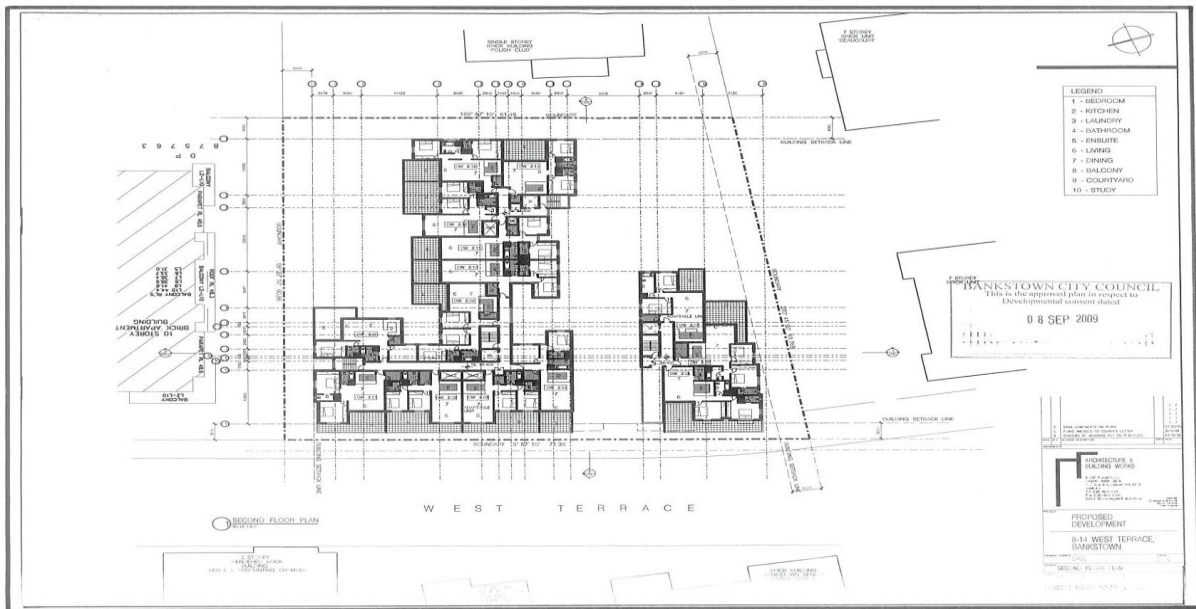
The site has a frontage of 71.4m to West Terrace with an area of 4048m². The site has been partly excavated to undertake drainage and sewer diversion works under a previous approval for a similar form of development.

The surrounding development consists of a mixture of land uses. On the eastern side of West Tce on which the development site is positioned, the dominating land use is that of high density residential flats, with the development site adjoining being a 10 storey mixed-use development to the north at 2 West Tce. To the south of the development site an older style high density residential development exists. On the western side of West Tce, a range of established developments exist, with both new and older commercial developments co-located with residential flat developments and the like. To the east of the site is Bankstown Polish Club. An aerial photo showing the site and surrounding area is provided below:



HISTORY OF THE SITE

Development consent was granted in September 2009 for the redevelopment of this site under a previous DA-148/2008. This approval was for a mixed-use development with similar footprint and building envelopes. The footprint of 2nd floor (typical to 1st to 3rd floor) and 6th floor (typical to 4th to 8th floor) and a 3D image of the approved development is provided below.



2nd Floor Layout (Typical - 1st to 3rd Floor) – Approved Development



6th Floor Layout (Typical - 4th to 8th Floor) – Approved Development



3D Image – Approved Development

The proposed development largely retains the approved layout and building foot print with the exception of the following changes to the layout:

- Reconfiguration of ground and first floor including removal of 5 apartments located at ground floor and incorporating 7 commercial units at first floor along the street frontage.
- Communal open space moved from ground floor to first floor level.
- 3rd floor expanded to a larger floor plate (similar to typical 4th to 8th floor on previous layout)
- Two additional residential floors added to create an eleven (11) storey building.

The most notable difference between the current proposal and the previous approval concerns the number of apartments (143 proposed compared to 127 approved) and the floor space ratio (3.479:1 proposed compared to 3:1 approved). The additional yield has been achievable due to the floor space bonus available under the amended BLEP 2001 for energy efficient developments located within the Bankstown CBD.

PROPOSED DEVELOPMENT

The Development Application proposes the construction of a mixed commercial and residential development comprising of 12 commercial tenancies, 143 residential units and basement car parking. Specifically, the proposal will undertake the following works:

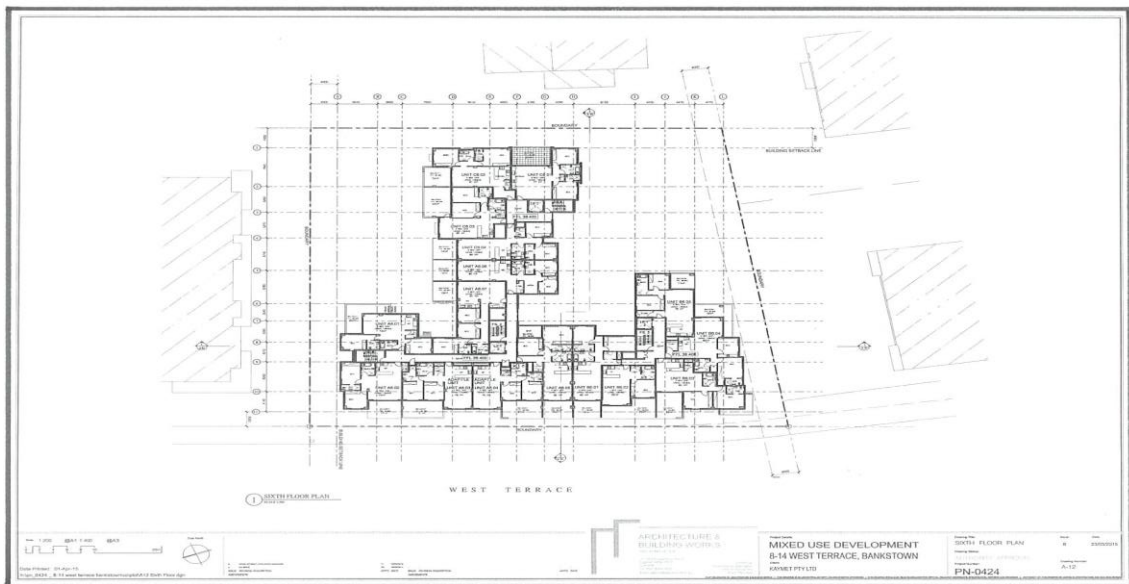
- Ground floor – 4 commercial units and 37 parking spaces
- First floor – 7 office suites plus 4 x 2 bedroom residential units
- Nine floors above comprising a total of 139 units (11 x 1 bedroom, 119 x 2 bedroom and 9 x 3 bedroom units)
- Two levels of basement parking with 176 spaces.

The proposed building retains a similar building form, floor plates, setbacks (front, side and rear) and building separation as the approved building.

The 2nd and 5th floor layout and a perspective view from West Terrace of the proposed development is shown below:



2nd Floor Layout – Proposed Development



6th Floor Layout (Typical - 3rd to 10th Floor) – Proposed Development



3D View – Proposed Development

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 (State and Regional Development) 2011 (SRD SEPP)

In accordance with Clause 3 of Schedule 4A of the *Environmental Planning and Assessment Act, 1979*, development with a capital investment value in excess of \$20million is classified as regional development under Clause 20 of the SRD SEPP. In accordance with Clause 21(1)(a) of the SRD SEPP the consent authority function is to be exercised by the Joint Regional Planning Panel. The subject application has a capital investment value of \$35,350,467 and, as such, the subject application is to be determined by the Sydney West Joint Regional Planning Panel.

State Environmental Planning Policy No. 55 – Remediation of Land

In accordance with Clause 7 of the *State Environmental Planning Policy No. 55 – Remediation of Land* (SEPP 55), a consent authority must not consent to the carrying out of any development on land unless:

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

The development site has long been used for commercial purposes and the subject application proposes to occupy the site as a mixed use development. The site has been excavated for sewer diversion and drainage works under previously approved development application for the site, DA 148/2008. Council considered the site contamination under this DA and determined that the site was suitable for the proposed development. On this basis the subject site is considered suitable for the proposed mixed use development and therefore satisfies the considerations of SEPP No. 55.

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

Schedule 3 of the Infrastructure SEPP 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 due to the number of parking spaces exceeding 200 spaces. The proposal was accordingly referred to RMS for comment.

The RMS has reviewed the proposed development and raised no objection to the development.

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

The site is located within land identified as being affected by *Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment*, being a deemed SEPP under Clause 120 of Schedule 6 of the *EP&A Act, 1979*. The GMREP 2 contains a series of general and specific planning principles which are to be taken into consideration in the determination of development applications. An assessment of the proposal indicates that it is generally consistent with the general aims and objectives of the plan and there is no inconsistency with the planning principles as set out in Clause 8 of the GMREP 2.

State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development (SEPP 65), and the Residential Flat Design Code (RFDC)

SEPP No. 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 was recently amended and the RFDC replaced by Apartment Design Guidelines. However, the subject application was submitted before the notification of the amended SEPP on the government's web site and thus, is to be assessed as if the amendment was never made.

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.

'RULE OF THUMB'	PROPOSED	COMPLIES?
Building depth 10m – 18m is appropriate. If greater than 18m then good solar access and ventilation must be achieved.	Building depth ranges from 9m-19m.	Yes. Building is designed in a T-shape with 82% of the apartments having dual aspect. Solar access and natural ventilation has been achieved.
Building separation 12m separation between buildings over 3 storeys and up to 4 storeys. 18m separation between buildings over 4 storeys and up to 8 storeys. 24m separation between buildings over 8 storeys.	A minimum 4m setback is provided for all storeys to the northern, southern and eastern boundaries. The building separation ranges from 12.7m to 25m.	No. Refer to discussion below
Communal open space 25% – 30% of the site area is to be communal open space.	28% of the site area is provided as communal open space at the first floor podium level.	Yes.
Apartment layout 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 9m at worst. The back of 88% of kitchens are within 8m of a window.	No. However the non-compliance is minor and the amenity intent of the code is still met.
Apartment size 1 bed – min. 50m ² 2 bed – min. 70m ² 3 bed – min. 95m ²	1 bed – min. 61m ² 2 bed – min. 72m ² 3 bed – min. 102m ²	Yes.
Balcony depth Min. 2m depth to primary balconies.	All primary balconies have minimum 2m depth.	Yes.
Internal circulation Max. 8 units accessed from a single corridor.	A maximum of 7 apartments accessed from a single corridor.	Yes
Solar access 70% of units should receive 3hrs solar access between 9am – 3pm midwinter. Limit the number of single aspect apartments with a southerly aspect to a maximum of 10%.	69.5% of units receive 3hrs direct solar access and 77% of the units receive 2hrs direct solar access between 9am – 3pm midwinter. There are no single aspect apartments with a southerly aspect.	Yes, by virtue of the site being considered to be in a <i>dense built up area</i> . This measure has been recognised under the recently adopted Apartment Design Guidelines by requiring 2 hours of solar access within the Sydney Metropolitan Area,

		which includes Bankstown LGA.
Natural ventilation 60% of units to be naturally ventilated. 25% of kitchens to have access to natural ventilation.	67.8% of units are naturally cross-ventilated. 28% of kitchens have natural ventilation.	Yes

Building Separation

The RFDC requires that where buildings are more than 25m in height they are to be separated by a distance of 24m.

The subject site adjoins at its northern boundary a similar mixed commercial/residential development at 2 West Tce, which is over 25m in height, triggering the requirement for a 24m separation between both developments. A setback between the existing development at 2 West Tce and the proposed development of more than 24m has been provided to the majority of the building envelope, with the exception of the portion of the proposed development which fronts West Tce. Approximately 1/3 of the proposed development at the West Tce frontage will be within the required building separation, with a reduced setback between the buildings of 13m proposed.

This has been necessitated by the need to provide a consistent elevation along the West Tce frontage, but has been largely dictated by the constraints of the site. The development is bounded either side by existing residential flat developments, with the development at 2 West Tce being directly to the north. In preserving the solar access to the existing older style flat development to the south and in maintaining reasonable solar access to the proposed development which accords with the RFDC, the small variation is proposed. It is considered that amenity issues arising as a consequence of this have been adequately addressed, with only two units in each floor (or 18 units) being within the required separation area. Given the situation in which the development is proposed and the development standards/opportunities which are presented, the proposed development is assessed as being acceptable and satisfies the intent of the RFDC.

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

BASIX Certificate No. 554290M_03, dated 15 July 2015, accompanied the Development Application. The Certificate details the thermal, energy and water commitments of the proposal, which are also detailed on the submitted plans, and hence, satisfies the requirements of State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004.

Bankstown Local Environmental Plan 2015

Bankstown LEP 2015 was gazetted on 5 March 2015. Clause 1.8A of the BLEP 2015 states:

'If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced.'

Accordingly, the BLEP 2015 does not apply to the subject development application. The relevant planning instrument is the Bankstown LEP 2001 which is discussed below.

Bankstown Local Environmental Plan 2001 (BLEP 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 17	General environmental considerations
Clause 19	Ecologically sustainable development
Clause 20	Trees
Clause 24	Airports
Clause 26	Flood liable land
Clause 30	Floor Space Ratios
Clause 30A	Additional gross floor area for more sustainable development in Bankstown CBD commercial core
Clause 30B	Height of buildings
Clause 48	Objectives of the business zones

An assessment of the Development Application revealed that the proposal complies with the provisions of the Bankstown Local Environmental Plan 2001.

Clause 24 - Airports

The development site is subject to Bankstown Airport's obstacle limitation surface (OLS), which prescribes an OLS of 51m AHD for this site. At a maximum height of 54.1m AHD the building will penetrate the OLS by 3.1m, and was referred to the Bankstown Airport Limited (BAL) for concurrence.

BAL have approved a maximum building height of 54.1m AHD subject to conditions including the building being obstacle lit with a low intensity steady red obstacle light installed at the highest point of the roof. The developer will need to obtain separate approval for any cranes that breaches the approved height.

Clause 30A - Bonus FSR

Of particular relevance is that the development has been designed to achieve high energy performance as stipulated in Clause 30A of the BLEP. Under this clause the Council (i.e. the Panel in this instance) "... *may grant consent to development to which this clause applies if the gross floor area of the buildings on the development site exceeds the gross floor area otherwise permitted by this plan by up to 0.5:1*" subject to the Council being satisfied of the following provisions:

- (a) *the part of any buildings used for the purposes of commercial premises (whether or not for the purposes of mixed use development) complies with the following standards:*
 - (i) *the energy target is a maximum 135 kg/m² per year (equivalent to a 5-star NABERS rating for commercial buildings),*
 - (ii) *the water target is a maximum 0.47 kL/m² per year for business premises and office premises (equivalent to a 4.5-star NABERS rating for commercial buildings) and a maximum 1.68 kL/m² per year for shops, restaurants and function centres, and*
- (b) *the part of any building that is a dwelling used for the purposes of mixed use development complies with the following standards:*
 - (i) *the energy target is a minimum 10-point increase in the BASIX score compared to current requirements,*
 - (ii) *the water target is a minimum BASIX 60, and*
- (c) *any increase in the gross floor area referred to in subclause (3):*
 - (i) *does not result in the building exceeding the maximum building height shown for the land on the Height of Buildings Map, and*
 - (ii) *does not adversely impact on adjoining and neighbouring land in terms of visual bulk and overshadowing, and*
- (d) *a report prepared by a qualified consultant to the satisfaction of the Council verifies that, if all of the commitments relating to the building design (namely the built form and layout) listed in the report are fulfilled, the development will comply with both the energy and water targets.*

The subject site has a base FSR of 3:1 which can be increased to 3.5:1, including the bonus 0.5:1, subject to the building achieving a higher energy performance as stipulated above.

The applicant has submitted a report prepared by Sustainable Environment demonstrating compliance with the energy and water target requirements stipulated in points (a) & (b) above. The commitments detailed in the reports have been incorporated in the conditions of consent. Further, the increase in the gross floor area has been assessed against point (c) regarding the building height, building bulk and overshadowing. The development does not exceed the 35m maximum building height applicable to the site. The building is considered to respond well, by providing an appropriate built form, bulk and scale for the site context. The overshadowing from the development is not considered to adversely impact the neighbouring land.

In light of the above, the development qualifies for the 0.5:1 bonus FSR, giving the development a total permissible FSR of 3.5:1.

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

There are no draft EPI's applicable to the proposal. It should be noted, however, that at the time this current DA was lodged, the BLEP 2015 was in 'draft' form. The proposed development is not inconsistent with the provisions of the draft instrument.

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

The application was lodged on 25 July 2014 and therefore is being assessed under the Bankstown Development Control Plan 2005 (BDCP 2005), being the DCP in force at the time of lodgment.

The development has been assessed against the following provisions of BDCP 2005:

- Part D4 – Commercial Centres
- Part D8 – Parking
- Part E1 – Demolition and Construction
- Part E2 – Tree Preservation Order
- Part E3 – Flood Risk Management
- Development Engineering Standards

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, where the controls apply are not superseded by any controls within SEPP 65 and the RFDC:

STANDARD	PROPOSED	BDCP 2005 PART D4 – COMMERCIAL CENTRES & PART D8 - PARKING		LEP 2001 COMPLIANCE
		REQUIRED/ PERMITTED	COMPLIANCE	
Height	35m (including lift overrun)	35m	Yes	Yes
Frontage	71.4m	30m (width required to permit 3:1 FSR and the bonus FSR)	N/A	Yes
Car Parking	Commercial: 30 spaces	28 spaces @ 1 space per 40m ² of gross floor area	Yes	N/A
	Residential: 152 spaces	Residential: minimum 143 spaces up to maximum 429 spaces (@ 1 per unit up to 3 per unit).	Yes	
	Visitor: 31 spaces	29 (@ 1 per 5 units)	Yes	
	Total = 213 spaces	Total = 200 Spaces (min.)		
Setbacks – West Tce	3m	Nil	No	N/A
Adaptable housing	14 units	4 units	Yes	N/A

As the table demonstrates, the application satisfies the controls contained in the BDCP except for the front setback.

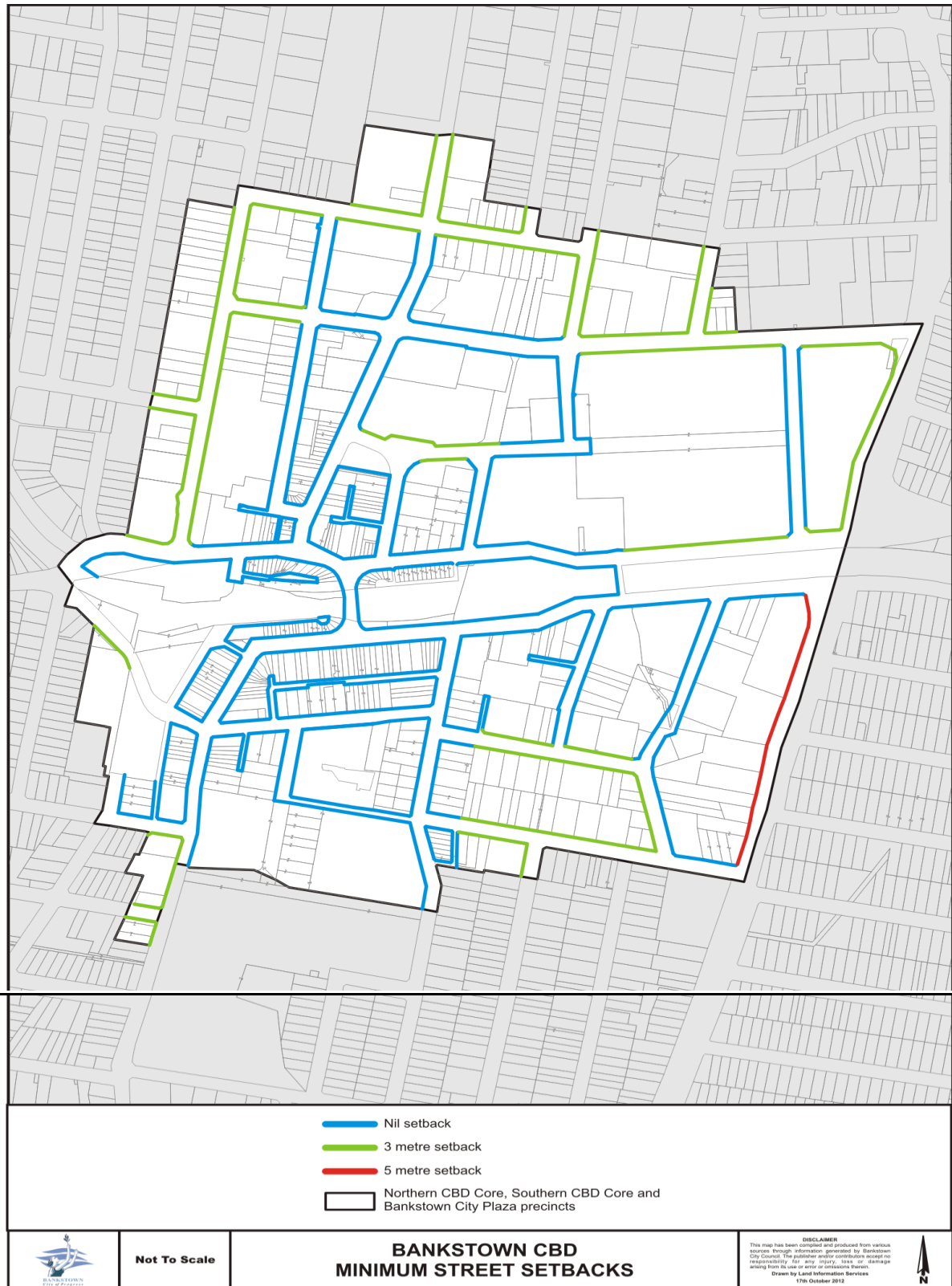
Front Setback

Clause 2.1 of Part D4 of BDCP states that the development must comply with the minimum street setbacks as shown in Figure 3 below. The relevant objective of the setback control is:

- (b) To ensure setbacks are compatible with the surrounding context and desired urban character of the Bankstown CBD precincts.*

The site is located within the 'Southern CBD Core' precinct. The DCP vision for this area *"...is to have the Southern CBD Core precinct continue to contain retail activities and high amenity housing around the transport hub. The building form will be a mix of retail and commercial activities on the ground and first floors, and high density living above. The location of the tallest buildings will take advantage of the larger site sizes in proximity to the railway station and bus interchange. Generally, buildings around the railway station will be built to the street alignment to reinforce the urban character and strengthen the pedestrian amenity and activity at street level"*.

The street has an established built form with the setbacks varying from nil setback to approximately 8m. Whilst there are buildings located at nil setback on the western side of the street the existing multi-storey developments to the north and south of the subject site are setback 5m to 8m from the front boundary. Given the surrounding context and the established built form the proposed 3m setback is considered satisfactory for the site.



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

Not applicable in this instance.

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

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

Coastal zone management plan [section 79C(1)(a)(v)]

Not applicable in this instance.

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

The proposed development is not considered likely to result in any significant detrimental environmental, social or economic impacts on the locality. As detailed in this report, where non-compliances with the relevant development controls and/or the 'rules of thumb' in the RFDC occur, the impact is not considered to be unreasonable or likely to be significantly detrimental. As such, it is considered that the impact of the proposed development on the locality will be acceptable.

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

The site considered suitable for the proposed development.

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

The application was advertised and notified for a period of twenty-one (21) days, from 13 August 2014 to 2 September 2014. One (1) submission was received during the notification period, raising concerns relating to the front building alignment. . In particular, the objection argues that "... *the proposed building will not be in line with other buildings in West Terrace and will look out of place and reduce light to the footpath and road*".

Comment: The existing buildings on West Terrace do not currently maintain a consistent setback. Whilst there are some buildings on the western side of the street located at the boundary, majority of the buildings maintain a setback larger than 3m proposed for the development.

Under Part 4 of BDCP 2005 the setback required to a building from the street alignment is nil. As discussed in previous section of this report, the proposed setback of 3m is considered appropriate and should provide a transition to any future buildings that may be located at the boundary as permitted by the DCP.

There is sufficient separation between the buildings across the street (20m road reserve plus the setbacks) to allow light to the footpath and road.

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

Based on the assessment of the development application, above, the proposed development is not considered to contravene the public interest.

CONCLUSION

The Development Application has been assessed in accordance with the provisions of Section 79C of the *Environmental Planning and Assessment Act, 1979* and the specific environmental planning instruments, including *SEPP 55*, *SEPP 65*, *SEPP (Infrastructure)*, *SEPP (BASIX)*, *GMREP No. 2*, *BLEP 2001*, *Draft BLEP 2015* and the relevant parts of *BDCP 2005*. The application fails to comply in regards to front setback and building separation. However, the assessment of the development application has found that these variations are justified in the circumstances of this case, in the context of both the overall development and the surrounding locality.

RECOMMENDATION

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