



**TOWER 2, LEVEL 23  
DARLING PARK, 201 SUSSEX ST  
SYDNEY NSW 2000**

URBIS.COM.AU  
Urbis Pty Ltd  
ABN 50 105 256 228

02 April 2019

Mr Daniel Bushby  
Team Leader Planning West  
Canterbury-Bankstown Council

Dear Mr Bushby,

## **2017SSH043 DA | MIXED USE DEVELOPMENT 32 KITCHENER PARADE, BANKSTOWN**

We write on behalf of the applicant (Bankstown 048 Service Pty Ltd) for development application (DA), panel reference number 2017SSH043, that seeks consent for a mixed-use development at 32 Kitchen Parade, Bankstown (the site). The DA is scheduled to be presented to the meeting of the Sydney South Planning Panel (the Panel) for determination on 9 April 2019.

We support the assessment and conclusions of the Canterbury-Bankstown Council (the Council) staff in the assessment report on the DA tabled to the Panel and the recommendation to the Panel that the DA be determined by the grant of development consent. We broadly support the recommended conditions of consent drafted by the Council, with one exception.

We are writing to inform the Panel and the Council staff that we intend to make representations at the Panel Meeting objecting to draft condition 8.

Draft condition 8 states:

*An 'in principle agreement' shall be sought from RMS for the installation of traffic control signals at the intersection of Meredith Street and Gordon Street to provide for the safe passage of pedestrians.*

*Should an 'in principle agreement' from RMS be provided, the signals shall be designed and installed to the satisfaction of RMS and Council, and shall be fully operational prior to the issue of an Occupation Certificate.*

*All costs associated with the approval, design and installation of the signals, and any required road reconstruction / carriageway widening works including public utility adjustments, shall be fully borne by the applicant.*

By way of background, clause 4.4(2G) of the *Bankstown Local Environmental Plan 2015* (the LEP) requires the delivery of a mid-block connection for public use that is a minimum width of 20m, where a development of the site exceeds a floor space ratio of 2:1. The site-specific provisions contained within the Part A1 of the Bankstown Development Control Plan 2015 (the DCP) similarly require a mid-block connection between Meredith Street and Kitchen Parade to be provided on the site. The mid-block connection is designed to improve pedestrian permeability through the Bankstown CBD. The proposed before the Panel incorporates a through site link in the configuration required by the LEP and DCP.

Neither the LEP nor the DCP nor the Council's section 7.11 or 7.12 Contributions Plans identify the need for traffic control signals at Meredith and Gordon Streets, aligning with the mid-block connection proposed under the DA.

Draft condition 8 is unreasonable and beyond the power of the Council to impose and fails to meet the principles set out in *Newbury District Council v Secretary of State for Environment* [1981] AC 578; [1980] 1 All ER 73 (Newbury) which stipulates that a condition:

- (a) Must have a planning purpose;
- (b) Must fairly and reasonably relate to the permitted development; and
- (c) Must not be so unreasonable that no reasonable planning authority could have imposed the condition.

We will make representations to the Panel that draft condition 8 does not satisfy the latter two parts of the Newbury test as:

- We are not aware of any evidence to demonstrate that the proposed development triggers the need for traffic control signals. The RMS has not raised this matter in the assessment of the DA nor has the RMS required the provision of the traffic control signals.
- The proposed development does not generate a significant population traveling westward from the site, which would require the installation of additional traffic signals at Meredith Street. RMS warrants must be met in order to support signalised crossings and in this instance, we are advised that generally 250 people crossing per hour during peak periods, in addition to other requirements, is required to justify traffic signals.
- It is reasonable to assume that pedestrians wishing to travel west from the site would do so at the existing traffic signals at Rickard Road/Meredith Street, or Marion Street/Meredith Street.
- It would appear that the traffic control signals sought by Council are to address a broader objective and it would be unreasonable to impose the cost to deliver such works on the applicant.

The Council assessment report notes that in the event that RMS deny the request for traffic signals, pedestrians would still be able to utilise the existing signalised intersections of Rickard Road/Meredith Street, or Marion Street/Meredith Street. to achieve "*safe passage to and from the site*". As such, the Council recognise that the installation of new traffic signals is not necessary to provide safe passage to and from the site.

Should the Council desire the installation of traffic signals at Meredith and Gordon Street then this should be planned for by the Council in consultation and the RMS, and appropriately funded by section 7.11 or section 7.12 Contributions where the nexus for such works has been demonstrated.

In light of the above, we will be making representations to the Panel supporting the Council's recommendation to approve the development subject to the conditions proposed with the exception of condition 8.

We would like to meet with yourself and Council staff to discuss this submission prior to 9 April 2019 if possible. We will also be forwarding this letter to the Panel Chair so they are aware of our intention.

Should you wish to discuss the content of this letter, or any matters relating to 2017SSH043, please do not hesitate to contact me at [aryan@urbis.com.au](mailto:aryan@urbis.com.au).

Yours sincerely,

A handwritten signature in black ink, appearing to read "A. Ryan".

Ashleigh Ryan  
Associate Director- Planning