

**CANTERBURY-BANKSTOWN COUNCIL**

**MINUTES OF THE**

**INDEPENDENT HEARING AND ASSESSMENT PANEL MEETING**

**HELD IN THE FUNCTION ROOM  
CAMPSIE CUSTOMER SERVICE CENTRE**

**ON 18 JULY 2016**

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**PRESENT:** Mr Lloyd Graham (Town Planning) - Chairperson  
Mr Michael McMahon (Law)  
Dr Chloe Mason (Social Science)  
Dr Ian Garrard (Environmental Science)  
Mr Roger Hedstrom (Urban Design/Architecture)

**STAFF IN**

**ATTENDANCE:** Ms Chauntelle Mitchell (Administration Officer - IHAP)  
Mr Brad McPherson (Group Manager Governance, not present for the closed session)  
Mr Andrew Hargreaves (Team Leader - Development Assessment Operations, not present for the closed session)

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**THE CHAIRPERSON DECLARED THE MEETING OPEN AT 6.00 PM.**

**INTRODUCTION**

The Chairperson welcomed all those present and explained the functions of IHAP and that the Panel would be considering the reports and recommendation from the Council staff and the submissions made by objectors and the applicant and/or the applicant's representative(s) and determining the development applications.

**DECLARATIONS OF INTEREST**

The Chairperson asked the Panel if any member needed to declare a pecuniary interest in any of the items on the agenda. There were no declarations of interest.

**DELEGATION**

By Minute No. 8, dated 24 May 2016 the Council delegated to the Independent Hearing and Assessment Panel the Council's power to determine certain development applications.

**DETERMINATION**

**1 17 HOWARD STREET, CANTERBURY: DEMOLITION OF OTHER STRUCTURES,  
ALTERATIONS/ADDITIONS TO BUILDING AND USE AS CHILD CARE CENTRE**

**Site Visit**

An inspection of the site was undertaken by the Panel and staff members prior to the public hearing.

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### Panel Assessment

The applicant is essentially seeking approval for the demolition of the existing garage and associated structures, alterations and additions to the existing building for use as a child care centre. The application has been assessed against the relevant provisions of Canterbury Local Environmental Plan 2012 and Development Control Plan 2012 and complies with the requirements of these policies with the exception of side fence height, location and corner site controls. It was the overall view of the Panel that the proposed childcare centre was acceptable in the terms presented in the Planning officer's report, subject to a number of changes to conditions of consent.

### Public Addresses

Ms Dionissa Crepas (objector)	<ul style="list-style-type: none"><li>● Speaking on behalf of her family and petitioners.</li><li>● Notes the demographic profile of the local area and believes some residents in Howard Street are older people, pensioners, who speak languages other than English; consequently, they have a limited ability to voice their concerns in relation to the proposed development.</li><li>● Advised four early learning centres are located in close proximity to the subject site, questions if there is a need for more childcare centres, notes Messiter Street Centre is not at full capacity. Notes the proposed development is not located on a corner site.</li><li>● Has concerns regarding amenity impacts on surrounding residential properties due to noise generated from the proposed development.</li><li>● Is concerned the proposed development will increase traffic and result in parking issues in Howard Street, noting it is currently a quiet residential street. Raised concern regarding safety of children as vehicles speed on Howard Street.</li><li>● Queried the centre's hours of operation, is of the view originally the proposed hours of operation were 9am to 7pm, not 7am to 7pm as noted in the Officers report.</li><li>● Answered questions from the Panel in relation to the level of vacancies at Messiter Street Child Care Centre, impact of noise and proposed mitigation measures and the impact of lighting from proposed development on neighbouring properties.</li></ul>
Mr Eugene Sarich (Town Planner representing applicant) and Ms Ady Chen (Architect representing applicant)	<ul style="list-style-type: none"><li>● Notes proposed development is highly compliant; centre is small with only 35 places and the scale envisaged by the zone. Is of the view upzoning in 2012 will result in an increased demand for childcare.</li><li>● In relation to issues of non-compliance believes controls have been complied with in a qualitative manner.</li><li>● In relation to the concerns raised by the previous speaker, provided information as follows:<ul style="list-style-type: none"><li>- Centre caters for 35 children, however not all children will use the outdoor space at one time.</li><li>- Does not believe any speeding vehicles on Howard Street will affect children inside the centre.</li><li>- Regarding lighting notes condition 5.5 requires security lighting.</li></ul></li><li>● Answered questions raised by the Panel in relation to advice from structural engineer relating to removal of internal walls, light spill to adjoining properties, retention of Camellia in</li></ul>

	<p>landscape strip and the shortfall of available parking.</p> <ul style="list-style-type: none"> <li>● Applicant’s representative raised no objection to conditions proposed by the Panel, as follows: <ul style="list-style-type: none"> <li>- Provide down lighting to minimise light spill to adjoining properties;</li> <li>- Addition of three street trees;</li> <li>- Active drop off and pickup area managed for 6-8 months;</li> <li>- the Plan of Management to incorporate a neighbourhood relationships component as a positive measure to develop good neighbourly relations;</li> <li>- Establishment of a complaint management system.</li> </ul> </li> </ul>
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**IHAP Decision**

THAT Development Application DA-26/2016 be **APPROVED** in accordance with the Council staff report recommendation, subject to the following changes to the recommended conditions:

1. Replace condition 5.3 with the following:
  - “5.3 A PLAN OF MANAGEMENT PRACTICES AND OPERATIONS: must be submitted to Council for approval prior to the issuing of a construction certificate, and the child care centre shall be operated in accordance with the approved Plan of Management Practices and Operations at all times. This Plan should be consistent with the Australian Government’s National Quality Framework for early childhood education and care.  
The purpose of the Plan of Management Practices and Operations is to establish performance criteria for the various operations and functions associated with a child care centre. Particular emphasis is to be placed on:
    - (a) integrating the centre into the locality, expressly ‘to build relationships and engage with the local community’ (National Quality Standard 6.3) so as to promote ‘connectedness with the wider world’ beyond the physical boundaries of the centre (Early Years Learning Framework, Outcome 2); and,
    - (b) minimising adverse impact, notably through managing the behaviour and engagement of parents when they are picking up and dropping off children at the child care centre.
Examples of specific actions to engage local residents and parents include invitations to centre events and to centre visits.  
The Plan of Management Practices and Operations should address, but not be limited to the following matters:
    - HOURS OF ACTIVITIES: Clarification and designated times for the outdoor play area activities for the children, hours of operation, staff member numbers, etc.
    - SIGNAGE: No commercial signs, including banners, shall be displayed on the exterior of the premises without prior consent from Council. Signs should be erected at the entrance and exit of the child care centre requesting patrons to leave quietly and respect the amenity of the neighbourhood.
    - BEHAVIOUR OF CHILDCARE CENTRE USERS – ENTERING AND LEAVING THE PREMISES:
      - At all times the operation of the child care facility shall consider the amenity of the surrounding neighbourhood and Management and staff shall take all reasonable measures to ensure that any adverse impacts do not affect the surrounding neighbourhood. In particular:

- Staff should be trained (and children educated) to ensure that patrons understand that when entering and leaving the premises and the vicinity that they do so in a quiet and reasonable way; and that management and staff take responsible steps to control the behaviour of the childcare centre users as they enter and leave the premises;
- Staff should ensure that patrons understand that when dropping off and picking up children that they respect nearby owners and park safely and legally.
- **MANAGEMENT OF TRAFFIC AND PARKING:** Nearby owners should be provided with a contact number for registering any concerns regarding the operation of the child care facility, in terms of noise, traffic and parking issues;
  - Management and staff need to actively manage the peak periods of dropping off and picking up, to minimise traffic impacts, including:
    - Encouraging parents to walk or ride with the children on dropping off and picking up;
    - Directing vehicles to available car parks;
    - Ensuring maximum parking period, targeted at no more than 5 minutes for drop-off and pick up;
    - Ensure “timed parking” proposed in the “Winning Traffic Solutions: Traffic & Parking Assessment Report for Proposed Child Care Centre 17 Howard Street, Canterbury” traffic assessment report operates effectively (noting a 5 minute as opposed to a 10 minute parking should be targeted);
    - Child safety and public safety is maintained.
- **NOISE:** Management and staff should aim to ensure noise levels are minimised from the childcare facilities operations into neighbouring or nearby properties. Noise mitigation measures to be in accordance with the recommendations and conclusions of the Noise Impact Assessment prepared by Day Design Pty Limited dated 25 January 2016.
- **WASTE MANAGEMENT REMOVAL AND DELIVERY:** Any waste removal service outside of Council’s waste services should be within the facility’s identified hours of operation. Management and staff should endeavour to ensure that deliveries to the premises are done between 9am and 4pm.
- **COMPLAINTS PROCEDURE:** The applicant will develop a complaints policy and procedure for complaints management: contact details, the registration of complaints, how complaints will be dealt with. The management system should include: a framework for monitoring any complaint received; identify the action taken to rectify the problem; the outcome of the complaint and any further action required; and this information should be documented and made available to Council when requested;

Any online information related to the child care facility should provide details of the relevant contact person regarding the centre who can record and respond to any concerns that the public might have about the operation of the child care facility, including the lodging of a complaint.

2. Amend condition 5.5 by rewording the first sentence to read as follows:  
“External sensor lighting is to be installed at all entry/exit points in such a way as to minimise light spill onto adjoining properties.”
3. Amend condition 51, after the words “submitted to council on the 19 May 2016)” insert the words “and must include three canopy street trees in accordance with Council requirements,”
4. Insert new condition 51A, as follows:  
“51A The existing Camellia shrub is to be replaced with a new Camellia shrub adjacent to the landscape strip along the southern boundary of the site.”

**Vote: 5 – 0 in favour**

**2 83-85 KNOX STREET, BELMORE: CONSOLIDATION INTO ONE LOT, DEMOLITION AND CONSTRUCTION OF TWO STOREY RESIDENTIAL BUILDING WITH BASEMENT PARKING**

**Site Visit**

An inspection of the site was undertaken by the Panel and staff members prior to the public hearing.

**Panel Assessment**

The application includes the construction of a one bedroom apartment, eleven one bedroom apartments with study, associated basement parking and landscaping. The issues that were addressed were a departure from the control for building separation which is beyond the delegation of Council’s officers. There was a minor departure from the building height controls as well.

The Panel does not believe the ‘isolation of an adjoining property’ issue in terms of valuation has been fully addressed in the report in accordance with case law. See Karavellas vs Sutherland Shire Council (2004). In future it will require attention to the practices outlined in Karavellas.

**Public Addresses**

<p>Mr Bruce Threlfo (Planner representing applicant) and Ms Kristi Neou (Architect representing applicant)</p>	<ul style="list-style-type: none"> <li>• Happy with Officer’s recommendation and conditions.</li> <li>• Notes the minor non-compliance regarding height. In relation to issues of site isolation advised has been through the appropriate principles in the Land Environment Court.</li> <li>• Building Separation – Is of the view SEPP 65 is not relevant to the proposed development, as it does not comprise three storeys or more.</li> <li>• Answered questions raised by the Panel in relation to materiality, design of proposed schemes for adjacent site, and isolation. Applicant’s representative advised he was unable to provide further details regarding valuations, as to number undertaken for 87 Knox Street.</li> <li>• Raised no objection to conditions proposed by the Panel in relation to: <ul style="list-style-type: none"> <li>- Ground floor units 1 and 2 directly accessing the street;</li> <li>- Amendment of the landscape plan to incorporate shrub planting in relation to the mechanical plant area at the roof top at the first level;</li> <li>- Raised no objection to condition proposed by the Panel in relation to glazing/skylight to provide natural light and ventilation to the lift lobby.</li> </ul> </li> </ul>
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### **IHAP Decision**

THAT Development Application DA-476/2015 be **APPROVED** in accordance with the Council staff report recommendation, subject to the following changes to the recommended conditions:

1. Insert new condition 6.7, as follows:  
"6.7 The ground floor units numbers 1 and 2 to have direct access to the street."
2. Insert new condition 6.8, as follows:  
"6.8 The ground floor lift lobby should have access to natural light by way of DG03 being a glazed door and to the first floor lift lobby by way of DF02 being a glazed door. Also, to provide a skylight through the roof to provide natural light to the common corridor and further natural light to the lift lobby."

**Vote: 5 – 0 in favour**

### **3 56 RICHMOND STREET, EARLWOOD: REVIEW OF REFUSED APPLICATION FOR ALTERATIONS/ADDITIONS TO SEMI-DETACHED DWELLING INCLUDING CONVERSION OF ATTIC FOR STORAGE USE**

#### **Site Visit**

An inspection of the site was undertaken by the Panel and staff members prior to the public hearing.

#### **Panel Assessment**

This is an application to review a determination of a refused application, which proposed internal and external alterations to the semi-detached dwelling, including the relocation of vehicular and pedestrian accessways and conversion of the attic roof space into a bedroom with ensuite.

In terms of the overall development the Panel was conscious of the proposed skylight alcove measuring 0.6 metres by 2.8 metres whereas it is supposed to be 1 metres by 3 metres. However, the overall view of the Panel was that although there was a variation from the standard that this was acceptable in terms of achieving sufficient light into the building.

#### **Public Addresses**

There was no public address for this item.

### **IHAP Decision**

THAT the Section 96AB(1) Application RE-1/2016 is supported and that the application is determined by way of confirmation of the approval of development application DA-39/2013/A in accordance with the Council staff report recommendation.

**Vote: 5 – 0 in favour**

### **4 56A RICHMOND STREET, EARLWOOD: REVIEW OF REFUSED APPLICATION FOR ALTERATIONS/ADDITIONS TO SEMI-DETACHED DWELLING INCLUDING CONVERSION OF ATTIC FOR STORAGE USE**

#### **Site Visit**

An inspection of the site was undertaken by the Panel and staff members prior to the public hearing.

**Panel Assessment**

This is an application to review a determination of a refused application, which proposed internal and external alterations to the semi-detached dwelling, including the relocation of vehicular and pedestrian accessways and conversion of the attic roof space into a bedroom with ensuite.

In terms of the overall development the Panel was conscious of the proposed skylight alcove measuring 0.6 metres by 2.8 metres whereas it is supposed to be 1 metres by 3 metres. However, the overall view of the Panel was that although there was a variation from the standard that this was acceptable in terms of achieving sufficient light into the building.

**Public Addresses**

There was no public address for this item.

**IHAP Decision**

THAT the Section 96AB(1) Application RE-2/2016 is supported and that the application is determined by way of confirmation of the approval of development application DA-40/2013/A in accordance with the Council staff report recommendation.

**Vote: 5 – 0 in favour**

**5 105 ERNEST STREET, LAKEMBA: REVIEW OF REFUSED APPLICATION FOR DEMOLITION AND CONSTRUCTION OF THREE STOREY DWELLING**

**Site Visit**

An inspection of the site was undertaken by the Panel and staff members prior to the public hearing.

**Panel Assessment**

The overall view of the Panel was that the Planning Officer’s report should be accepted for the reasons outlined in the recommendations.

The Panel would like to emphasize that in this case the matter has been under consideration for some three years. The Panel noted the Planning Officer’s report showed on P100 that the Application was not complete to permit a proper assessment. Consequently, the Panel believes that the interests of the owner would be advanced if they were to hire the services of an experienced and registered Architect in order to progress this development satisfactorily.

**Public Addresses**

Ms Lena Liu (objector)	<ul style="list-style-type: none"> <li>• Has concerns regarding the excavation for the proposed development and impact it may have on the shared driveway.</li> <li>• Answered questions raised by the Panel in relation to location/ownership of garages on the subject site and her property.</li> </ul>
Mr Abm Abdus Sattar (applicant) Mr Md Noman Shamim Mr Nazrul Islam (designer representing applicant)	<ul style="list-style-type: none"> <li>• Proposed design is a result of consultation with Council staff.</li> <li>• Advised driveway has been relocated, notes a number of applications have previously been made by the applicant over three years.</li> <li>• Advised basement carpark is in response to the 3m fall from front to rear.</li> <li>• The design is a modern, rendered house, the property is not heritage listed.</li> </ul>

	<ul style="list-style-type: none"> <li>• Stated the roof design is 2% pitched, not flat.</li> <li>• Is of the view the proposed development does not overshadow neighbours and complies with the requirement to provide a minimum 2 hours sunlight to adjoining properties, as demonstrated by plans submitted.</li> <li>• Does not agree with the calculation of floor area in the Council officer's report.</li> <li>• In relation to questions raised by the Panel, the applicants representative advised as follows: <ul style="list-style-type: none"> <li>- Consideration of stepping building form: Confirmed stepping was considered but was of the view this could be a "hazard".</li> <li>- Purpose of two living areas: Advised one area is a family living area, the second is a formal area for visitors.</li> <li>- Minimum frontage 12m rather than 15m: Is of the view there is a precedent within the Canterbury area, they seek an exception to the control.</li> <li>- Exceedance of maximum two storey height: Is of the view there is a precedent within the Canterbury area, tabled photographs of front/rear elevations.</li> <li>- Building articulation: Stated the design incorporates push/pull at the front of the building and breakdown in the middle of the building.</li> <li>- Council Officer's recommendations: The applicant's representative noted in relation to visual privacy the proposed building incorporated screening as shown on the plans submitted. Is of the view balconies at the front and side result in a building that is not flat.</li> </ul> </li> </ul>
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**IHAP Decision**

THAT the Section 82A Application RE-3/2016 is not supported and that the application is determined by way of confirmation of the refusal of development application DA-324/2015 in accordance with the Council staff report recommendation.

**Vote: 5 – 0 in favour**

The meeting closed at 8.47 p.m.