



# AGENDA FOR THE INDEPENDENT HEARING AND ASSESSMENT PANEL MEETING

5 December 2017 – 6.00pm

Location:

Council Chambers  
137 Beamish Street,  
Campsie

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## **ORDER OF BUSINESS**

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- |          |   |           |
|----------|---|-----------|
| <b>1</b> | <b>20-21 Boorea Avenue, Lakemba</b><br><b>Planning proposal to add “Residential Care Facility” as an additional permitted use for the subject land in the IN2 Light Industrial Zone under Canterbury Local Environmental Plan 2012 and to increase Floor Space Ratio controls</b> | <b>3</b>  |
| <b>2</b> | <b>5-9 Croydon Street Lakemba</b><br><b>Planning Proposal to change maximum permissible building height and floor space ratio</b>   | <b>15</b> |
| <b>3</b> | <b>26 Trafalgar Street, Belmore</b><br><b>Construction of a new Church Hall and associated use</b>  | <b>19</b> |

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## Independent Hearing and Assessment Panel - 5 December 2017

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**ITEM 1**                      **20-21 Boorea Avenue, Lakemba**

**Planning proposal to add “Residential Care Facility” as an additional permitted use for the subject land in the IN2 Light Industrial Zone under Canterbury Local Environmental Plan 2012 and to increase Floor Space Ratio controls**

**AUTHOR**                      **Planning**

### **PURPOSE AND BACKGROUND**

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Council has received an applicant-initiated planning proposal for land at 20-21 Boorea Avenue, Lakemba. This report seeks a recommendation from the Independent Hearing and Assessment Panel as to the merits of the planning process.

### **ISSUE**

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In accordance with the IHAP charter, the Panel is requested to recommend whether a planning proposal for the site at 20-21 Boorea Avenue, Lakemba, should proceed to Gateway.

### **RECOMMENDATION** That -

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The planning proposal to add “Residential Care Facility” as an additional permitted use for the subject land in the IN2 Light Industrial Zone under Canterbury Local Environmental Plan 2012 and to increase Floor Space Ratio controls not be supported for the reasons outlined in the report.

### **ATTACHMENTS**

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Nil

## **POLICY IMPACT**

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This matter has no policy implications for Council.

## **FINANCIAL IMPACT**

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This matter has no financial implications.

## **COMMUNITY IMPACT**

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The planning proposal would have enabled the provision of a new Residential Care Facility for community members of Lebanese and other Muslim backgrounds requiring aged or disabled care. This could potentially delay the development of this type of facility in the near future, however the site is deemed unsuitable for this purpose, and the planning policy framework does not allow it.

The proposal has potential to impact on flooding in Coxs Creek, as it would potentially alter the flood storage characteristics on the subject site, which may in turn affect upstream and downstream properties. Detailed (site specific) modelling would be required to address this; should Council choose to proceed with the proposal.

## DETAILED INFORMATION

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Council is in receipt of an application requesting Council to amend the Canterbury Local Environmental Plan 2012 to:

1. add “Residential Care Facility” as an additional permitted use for the land at 20-21 Boorea Avenue, Lakemba.
2. amend the Floor Space Ratio Map to increase FSR controls from 1:1 to 2:1 on the subject land at 21 Boorea Avenue.

### SITE DETAILS

The site is situated at the end of Boorea Avenue on the northern and eastern sides. It has a total combined area of 3136.4m<sup>2</sup>. 20 Boorea Avenue is a regular dwelling lot with frontage to Boorea Avenue of 12.19m. 21 Boorea Avenue is a site with an irregular shape at the end of the Boorea Avenue cul-de-sac, with a frontage of approximately 6.3m. The site comprises two allotments in the ownership of the Lebanese Muslim Association. Existing land uses are detailed below.

Table 1: Site details

Property Address	Property Description	Existing Use	Site Area
20 Boorea Avenue, Lakemba	Lot 25 in DP 13586	Single storey dwelling house	556.4m <sup>2</sup>
21 Boorea Avenue, Lakemba	Lot X in DP 377169	Stone masons yard	2580m <sup>2</sup>

20 Boorea Avenue is zoned R4 High Density Residential under Canterbury LEP 2012 and 21 Boorea Avenue, is zoned IN2 Light Industrial under the same instrument. The landowner of both sites is the Lebanese Muslim Association, which is also the applicant for the planning proposal. The Lebanese Muslim Association is proposing to establish a Residential Care Facility on the subject site, and has lodged a Planning Proposal to facilitate this.

The sites are accessible to pedestrians and Boorea Avenue, which is a local road. 21 Boorea Avenue is the only non-residential use that can be accessed directly via Boorea Avenue.

The site backs onto the Lakemba Mosque and Lebanese Muslim Association (LMA) facilities in Wangee Road and forms part of a consolidated land holding by the LMA. Both lots are in the ownership of the Lebanese Muslim Association (who is also the applicants).

Surrounding development comprises one storey dwellings in Boorea Avenue, with some two storey walk-up apartment buildings further down the street. The property abuts the rear boundaries of industrial uses on Frazer Street and Coxs Creek, a residential/light industrial property fronting Wangee Road, the Lakemba Mosque and a dwelling house (included in the R4 High Density Residential Zone). Opposite the site on Boorea Avenue are three dwelling houses in the R3 Medium Density Zone and opposite the site across Coxs Creek (a channelised urban stormwater drain) are the rear yards of light industrial premises and another building owned by the Lebanese Muslim Association, which houses their administration offices and other community uses.

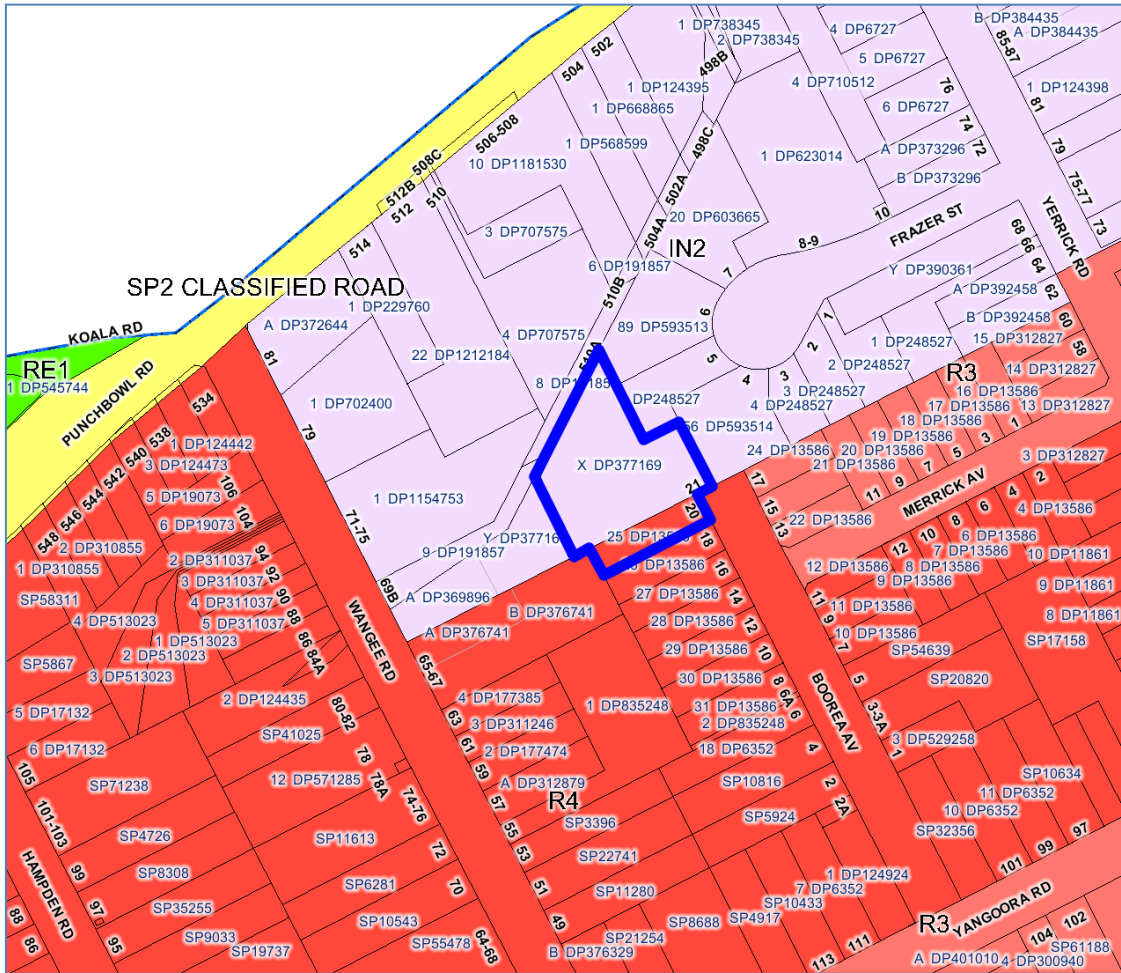
To the east of the property are further light industrial uses, with the property boundary consisting of the blank masonry wall at the rear of the adjoining industrial premises. These industrial premises form part of the Lakemba industrial precinct, with the subject site straddling the transition from residential to industrial character.

Lakemba is located approximately 13 km south-west from the Sydney CBD and 3.5 km east from the strategic centre of Bankstown. The nearest local centre connected to the railway network is Lakemba.

The site is serviced by a number of local bus networks within 400m walking distance. The site is situated approximately 1km (walking distance by foot/road) from Lakemba Railway Station and the Lakemba town centre.



Map 1: Location



Map 2: Zoning Map

**DESCRIPTION OF PROPSAL**

The following amendments to Canterbury Local Environmental Plan 2012 are proposed in relation to the site at 20-21 Boorea Avenue, Lakemba:

	<b>20 Boorea Avenue, Lakemba</b>	
	<b>Existing</b>	<b>Proposed</b>
Land Use zone	R4	No change
FSR	0.75:1	No change
Height	8.5m	No change
	<b>21 Boorea Avenue, Lakemba</b>	
	<b>Existing</b>	<b>Proposed</b>
Land Use zone	IN2	No change
FSR	1:1	2:1
Height	- (controlled by DCP)	No height control proposed

Under State Environmental Planning Policy (Housing for Seniors and People with a Disability), Residential Care Facilities are included in the definition of Seniors Housing. Specifically, they are defined as:

In this Policy, a **residential care facility** is residential accommodation for seniors or people with a disability that includes:

- a) meals and cleaning services, and
- b) personal care or nursing care, or both, and

- c) appropriate staffing, furniture, furnishings and equipment for the provision of that accommodation and care, not being a dwelling, hostel, hospital or psychiatric facility.

They can also be subject to specific provisions of the Commonwealth Aged Care Act 1997 (with respect to the provision of Affordable Care places).

According to the application, the planning outcomes of the planning proposal are to:

- *Contribute to the available local supply of good quality, seniors care facilities. The Site provides an opportunity as a single landholding that can deliver new, appropriate housing in the short term.*
- *Be consistent with State Government policy, which supports growth within existing, well-connected centres. It provides significant opportunities in close proximity to existing facilities, services and public transport.*
- *Develop without adverse traffic or parking impacts. Existing traffic characteristics, within the local area, have been considered and impacts are satisfactory. Future parking requirements of the proposal (assessed against Council's parking standards) can be accommodated on the Site.*
- *Ensure that the design of any future development can generally achieve the principles and requirements of SEPP (Housing for Seniors or People with a Disability) 2004.*
- *Improve the amenity to the Site and existing properties immediately surrounding the Site. It is anticipated that the proposed scheme will enhance the interface between the Site and the surrounding residential properties than what is currently afforded by the existing industrial land use.*
- *Assist Council in its vision for Lakemba Local Centre by supporting the ongoing viability and integrity of the industrial employment lands and providing additional employment opportunities on the Site within a growth sector (Health).*
- *Provide an appropriate transition in scale between the Site and adjacent residential zones.*

This report aims to identify whether the planning outcomes nominated by the applicant for the planning proposal are in accordance with the Strategic Framework, Council policies, and relevant technical considerations including whether the planning proposal represents an appropriate land use outcome for the subject land. A copy of the planning proposal and its attachments has been provided to the Independent Hearing and Assessment Panel.

## **CONSIDERATIONS**

Based on the Environmental Planning and Assessment Act 1979 and the Department of Planning and Environment's guidelines, the following key policies are relevant:

- Metropolitan Plan (*A Plan for Growing Sydney*) (2014)
- Draft Greater Sydney Region Plan
- Revised Draft South District Plan (2017)
- State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004
- Canterbury Economic Development and Employment Strategy (2009)
- Department of Planning and Environment's publications: *A Guide to Preparing Local Environmental Plans* and *A Guide to Preparing Planning Proposals* (August 2016)



## STRATEGIC MERIT TEST

In August 2016, the Department of Planning and Environment introduced the Strategic Merit Test to determine whether a proposal demonstrates strategic and site specific merit to proceed to the Gateway. A proposal that seeks to amend controls that are less than five years old will only be considered where it clearly meets the Strategic Merit Test.

### Strategic Merit

Based on the Strategic Merit Test which is outlined in the Department's publication *A Guide to Preparing Local Environmental Plans*, the planning proposal has been assessed, using the three key questions for the strategic merit test, and is supported as outlined below:

1. *Is the proposal consistent with the relevant district plan within the Greater Sydney Region, or corridor / precinct plans applying to the site, including any draft regional, district or corridor / precinct plans released for public comment?*

The Revised Draft South District was released by the greater Sydney Commission in October 2017.

The Plan covers three broad topics:

- A productive City;
- A liveable City;
- A sustainable City.

Council commissioned SGS Economics and Planning to provide a review of the planning proposal and key supporting material against the planning framework and to provide an assessment of the adequacy of the information provided to justify strategic merit. The following is drawn from the assessment of the review of Strategic Policies by SGS.

### Draft Greater Sydney Region Plan

*The Draft Greater Sydney Region Plan sets the strategic planning vision for Sydney as a metropolis of three cities. The site and LGA is within the South District. While the Plan does not specifically assign districts to the three cities, the plan summary indicates that the South District forms the lower part of the Eastern Harbour City (page 7 of the Draft Greater Sydney Region Plan).*

*Objective 23 of the Plan seeks to ensure that industrial and urban services land is planned, protected and managed and takes a metropolitan perspective. Due to land use pressures in the Eastern Harbour City, the plan recommends to "Protect all industrial zoned land from conversion to residential development, including conversion to mixed-use zonings". The report supporting this Objective, prepared by SGS Economics and Planning in 2017, indicates that urban services land in the South District is under pressure and should be protected.*

### **SGS Conclusion**

*In accordance with the policy direction of the Draft Greater Sydney Region Plan, the loss of industrial land at this site would not be supported.*

Revised Draft South District Plan

Planning priority S10 in the revised draft South District Plan outlines a number of objectives for 'protecting and managing industrial and urban services land'. The plan acknowledges that the current supply of industrial land per capita is below the benchmark level in 2016 and that this per capita amount is forecast to decrease in the period to 2036. Action 38 of the Draft Strategic Plan states "Manage industrial land in the South District by protecting all industrial zoned land from conversion to residential development, including conversion to mixed-use zones".

**SGS Conclusion**

Based on a review of the information provided, the proposed development for a residential aged care facility use does not meet the planning priority within the Revised Draft South District Plan.

Both the Draft Greater Sydney Region Plan and the Revised South Draft District Plan show a strong policy direction for the preservation of industrial and urban services land, which includes the site at 21 Boorea Avenue. Furthermore, there is a direction that there is no further loss of such land in the South District. As this proposal effectively seeks to preclude future use of the subject land for industrial purposes for the foreseeable future by introducing the use of Residential Care Facility, it must be deemed an effective conversion to Residential Use. This inconsistency with the Revised Draft South District Plan effectively prevents Council from rezoning this site or adding the requested additional use.

The site is located within the Bankstown-Sydenham Urban Renewal Corridor (beyond 800m walking distance to Lakemba Station). The Urban Renewal Corridor Strategy also envisages this site remaining in Light Industrial Use, with the R4 Zone component of the site identified as low-rise housing.

2. *Is the proposal consistent with a relevant local strategy that has been endorsed by the Department?*

Whilst there is no relevant local strategy that has been endorsed by the Department, the Canterbury Economic Development and Employment Strategy is a relevant strategy that considered the employment future of the Lakemba Precinct. Section 3.7.7 (Lakemba Precinct) of this study reviewed planning controls in the (then) city's industrial areas, which informed Canterbury LEP 2012. The strategy included specific recommendations for the subject land indicating that it should remain an industrial use. The planning proposal is not in accordance with the recommendations of the study with respect to the Lakemba Industrial Precinct.

3. *Is the proposal responding to a change in circumstances, such as an investment in new infrastructure, or changing demographic trends that have not been recognised by the existing planning controls?*

The proposal is not formulated in response to a change in circumstances, new infrastructure or changing demographic trends not currently recognised in the existing planning controls. Although the requirements for ageing in place for Sydney's Muslim community is important and a growing demographic trend, Residential Care Facilities and other forms of retirement living are catered for in existing residential zones under Canterbury LEP 2012 through the provisions of the State Environmental Planning Policy (Housing for Seniors and People with a Disability), which directs this type of use to more appropriate locations. In order to justify rezoning of non-residential land for this purpose, it would be necessary to demonstrate that

it would be difficult or unfeasible to provide a facility in an alternative location that could serve the same need within the existing policy framework. The supporting information with the planning proposal does not establish that this situation exists, however in any event it is a moot point as the other pre-conditions of strategic merit are unable to be met.

### Site Specific Merit

With respect to the site-specific merit component of the strategic merit test, it is only usually applied should the planning proposal be found to have broader strategic merit. For completeness a brief response to the questions raised to address site specific merit follow:

1. *Does the proposal have regard to the natural environment (including known significant environmental values, resources or hazards)?*

The planning proposal is located on a site bordered by Coxs Creek, an urban waterway channelized into a storm water drain. There are significant flooding issues associated with this waterway, and the subject site floods from this source, as well as from overland flow. A flood study was provided with the application, which was reviewed by Council's technical staff. This review noted that the site is partly subject to flooding of high hazard, and that detailed site-specific modelling was required to determine the extent of affectation and the suitability of the site for the proposed use. Further, the proposed built form outcome for the site will effectively create a wall to the waterway, which will exacerbate flooding impacts on other land in this location by removing available capacity. The exact extent of these potential impacts cannot be determined without further work.

The SEPP (Housing for Seniors and People with a Disability) 2004 contains a number of site-based requirements for Seniors Housing (which includes Residential Care Facilities), which identifies land as high flooding hazard as 'Environmentally Sensitive Land' and the accompanying guide which indicates that development should be in accordance with the NSW Flood Manual. On the evidence presented to date, the site appears to be affected by an unreasonable level of flood hazard to be deemed suitable for a Residential Care Facility. Whilst further mitigation strategies may be proposed as a consequence of detailed modelling work being undertaken, given the other strategic merit test considerations relating to the change of use, it is not considered reasonable to request that this work be undertaken.

2. *Does the proposal have regard to existing uses, approved uses and likely future uses of land in the vicinity of the proposal?*

The site is mostly within the IN2 light industrial zone, and forms part of a larger precinct of industrial land, which is predominantly used for employment related purposes. There are small number of non-employment uses within this zone in the vicinity of the subject site, including the Lakemba Mosque, and the Lebanese Muslim Association (the applicant for this planning proposal) building. The majority of the precinct is used for industrial activities including automotive services, building supplies, warehousing and manufacturing.

The introduction of a sensitive land use such as a Residential Care Facility is likely to create a land use conflict where the amenity requirements of the introduced use conflict with the lawful use of land zoned for its primary purpose, which could lead to limitations on the use of this land in the future. It is preferable planning practice that

these land use conflicts be avoided wherever possible. On this basis the proposal cannot be considered to have regard to the existing, approved and likely future use of land in the vicinity of the proposal.

3. *Does the proposal have regard to the services or infrastructure that are or will be available to meet the demands arising from the proposal and any proposed financial arrangements for infrastructure provision.*

The proposal would be unlikely to create undue demand on infrastructure or services of itself and no additional financial arrangements would likely be required to service it in the future, outside the regular development contributions.

With regard to the matters outlined above, the planning proposal does not demonstrate strategic merit, and should not be supported.

### **COMMUNITY STRATEGIC PLAN 2014-2023 (COMMUNITY PLAN)**

Former Canterbury Council's Community Strategic Plan 2014-2023 which was adopted in February 2014 sets the vision for the former Canterbury Local Government Area into the next decade and aims to promote sustainable living. The Community Plan sets out long term goals under five key themes being;

- Attractive City;
- Stronger community;
- Healthy environment;
- Strategic leadership; and
- Improving Council.

The planning proposal is consistent with the former Canterbury Council's Community Strategic Plan. It helps achieve the objective of 'Attractive City' through the development of a residential care facility and 'Balanced Urban Development' through the appropriate location of new housing close to public transport, open space and services.

### **ADDITIONAL CONSIDERATIONS**

The proposal seeks to amend the FSR for 21 Boorea Avenue from 1:1 to no 2:1. It is noted that the proposed FSR is inconsistent with the current IN2 Industrial zone which has a uniform 1:1 FSR control. The proposal also proposes four storey developments and is not proposing a height control. As the planning proposal essentially seeks to remove land from industrial use and place it in residential use, it is effectively rezoning the land to residential, and any future development would need to be in scale with community expectations in the surrounding area. The R4 High Density Residential Zone in Boorea Avenue (including 20 Boorea Avenue), has an existing maximum building height of 8.5m (2 storeys) and an FSR of 0.75:1. The surrounding development is predominantly 1-2 storeys in scale (with the sole exception being the Lebanese Muslim Association building).

Independent of the strategic merit considerations of regard to the use, it is clear that the size of the proposed building would be out of scale and character with the surrounding area, and that development standards which would facilitate such development are not appropriate in this location.

## CONCLUSION

Council received a Planning Proposal that seeks to allow redevelopment of the sites into a residential care facility, which involves the effective rezoning of land from the Light Industrial Zone. Although the proposed mechanism is the additional use of “Residential Care Facility” (as well as doubling the allowed FSR) on the subject land, once developed, this use would effectively preclude industrial purposes from re-establishing on the site. Council has undertaken an assessment of the proposal and sought specialist economic advice regarding the need for the facility and how it fits with the *Revised Draft South District Plan*, particularly *Planning Priority S10- Protecting and managing industrial and urban services land*, under *Action 38- Manage industrial land in the South District by protecting all industrial zoned land from conversion to residential development, including conversion to mixed-use zones*, which prevents further rezoning of industrial land in the South District. The results of this assessment indicate that the proposal is inconsistent with the Revised Draft South District Plan, and should not be supported on this basis.

The assessment also considered whether there was an overriding need for a residential care facility in this particular location, and concluded that whilst there is a need for a Residential Care facility to meet the needs of people of Muslim faith, particularly of Lebanese background, there were no specific, compelling reasons why this land was needed for this purpose, as the facility would be intended to serve a much wider catchment than the Lakemba community, and that there was sufficient land potentially available within more suitable zones, that could be developed for this purpose under *SEPP (Housing For Seniors and People With A Disability) 2004*, without the need for further rezoning.

Finally, the site was deemed unsuitable for a facility of this nature (a ‘vertical village’ as defined in the relevant SEPP), owing to its susceptibility to flooding, the interface with existing industrial areas adjoining the site and the scale and density sought being out of character with the surrounding area (being more than double that of adjoining uses).

On the basis of the above matters, it is recommended that the planning proposal not be supported.



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## Independent Hearing and Assessment Panel - 5 December 2017

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**ITEM 2**                      **5-9 Croydon Street Lakemba**

**Planning Proposal to change maximum permissible building height and floor space ratio**

**AUTHOR**                      **Planning**

### **PURPOSE AND BACKGROUND**

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The planning proposal for land at 5-9 Croydon Street, Lakemba was considered by the IHAP at its meeting on 1 May 2017.

At that meeting IHAP raised concerns regarding the capability of the site to accommodate an ADG complying development at the exhibited floor space ratio of 2.2:1 and recommended as follows:

*The Panel considers that, in the absence of the Council being satisfied that an FSR of 2.2:1 would provide a built outcome for the site that fully complies with the ADG requirements, the draft LEP should not be made at this stage until such time as the Council is in receipt of documentation to demonstrate this.*

Urban design advice from Council's consultants and the landowner's consultants is conflicting and advice is sought on the way forward.

### **ISSUE**

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To seek the views of the Independent Assessment and Hearing Panel on the merits of a Council initiated planning proposal for land at 5-9 Croydon Street, Lakemba prior to finalisation.

### **RECOMMENDATION** That -

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On the basis of the Urban Design Peer Review Report (9 November 2017) prepared by GMU Urban Design and Architecture, the maximum floor space ratio for the site be set at 1.8:1.

### **ATTACHMENTS**

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Nil

## **POLICY IMPACT**

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This matter has no policy implications for Council.

## **FINANCIAL IMPACT**

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This matter has no financial implications.



## **DETAILED INFORMATION**

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Following the Independent Hearing and Assessment Panel meeting of 1 May 2017, Council commissioned GMU Urban Design and Architecture to:

1. Prepare a development scenario for the site that was fully ADG compliant; and
2. Review the latest development scenario for the site put forward on behalf of the landowner.

This work concluded that in order for a fully ADG compliant scheme for the site the maximum floor space ratio would need to be reduced from the exhibited 2.2:1 to 1.79:1. This was largely due to the awkward configuration of the site in terms of its dimensions and orientation and constraints imposed by adjoining strata titled residential flat buildings to the south. A copy of the GMU work has been provided to the Independent Hearing and Assessment Panel.

The landowner has subsequently prepared their own review of the GMU work by Matthew Pullinger Architect (in association with Stewart Hollenstein) which supports a higher FSR and raises a number of matters for further discussion. A copy of this review has been provided to the Independent Hearing and Assessment Panel. The landowner has also requested the matter be referred back to the IHAP given there are conflicting views from both urban design consultants.

It is assumed the proponents are still pursuing the exhibited maximum floor space ratio of 2.2:1 as their latest review is silent on the question of floor space ratio.

In this context GMU have been requested to provide further advice in relation to whether an increased floor space ratio (over that initially recommended by GMU) could be acceptable if the proponents were to offer to Council certain benefits such as provision of through site pedestrian links.

Subsequent advice from GMU suggests that even more modest increases in FSR above 1.79:1 will cause additional solar access issues and ADG compliance issues for existing adjoining development.

## **CONCLUSION**

Council is in receipt of competing and conflicting urban design advice for this significant and somewhat constrained site within Lakemba town centre and in close proximity to the railway station.

While Council staff are cautious of the potential implications of over engineering a development scenario for this constrained and significant site as part of a planning proposal when we do not have the benefit of a submitted detailed development application which can be more rigorously interrogated against the provisions of SEPP 65, the ADG and Council's own development controls and standards in DCP 2012.

Accordingly a direction for this planning proposal is sought from the IHAP so that it can be progressed to finalisation.



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## Independent Hearing and Assessment Panel - 5 December 2017

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<b>ITEM 3</b>	<b>26 Trafalgar Street, Belmore</b>
	<b>Construction of a new Church Hall and associated use</b>
<b>FILE</b>	<b>DA-125/2017 – Roselands Ward (862/26D PT 1)</b>
<b>ZONING</b>	<b>R3 Medium Density Residential</b>
<b>DATE OF LODGEMENT</b>	<b>13 April 2017, revised plans 25 August 2017</b>
<b>APPLICANT</b>	<b>Laycock Constructions</b>
<b>OWNERS</b>	<b>David Dalwood, Kenneth J. Bristow and Stephen Weir</b>
<b>ESTIMATED VALUE</b>	<b>\$950,000</b>
<b>SITE AREA</b>	<b>1012m<sup>2</sup></b>
<b>AUTHOR</b>	<b>Planning</b>

### **SUMMARY REPORT**

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In accordance with the Canterbury-Bankstown Independent Hearing and Assessment Panel Charter, this matter is reported to Council's Independent Hearing and Assessment Panel (IHAP) for determination given the number of submissions received.

Development Application DA-125/2017 is for the construction of a new Church building and associated use as a place of public worship.

The Development Application has been assessed in accordance with the requirements of Section 79C of the Environmental Planning and Assessment (EP&A) Act 1979 including an assessment against State Environmental Planning Policy SEPP 55 – Remediation of Land, Canterbury Local Environmental Plan 2012 (CLEP 2012) and Canterbury Development Control Plan 2012 (CDCP 2012).

The application was publically notified in the local newspapers and by letter to direct neighbours for 21 days on two occasions. The final notification period concluded on 4 October 2017. During the first notification period, six submissions which include two separate petitions (one containing 71 signatures, from 54 households and the other containing 19 signatures, from 11 households) were received. Four submissions were received during the second notification period, two of which were from persons who had also made submissions during the first round of notification.

## **POLICY IMPACT**

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This matter has no direct policy implications.

## **FINANCIAL IMPACT**

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This matter has no direct financial implications.

## **RECOMMENDATION**

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It is recommended that Development Application DA-125/2017 be approved subject to the attached conditions.

## **ATTACHMENTS**

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- A. Section 79C Assessment Report
- B. Conditions of Consent

## **DA 125/2017 ASSESSMENT REPORT**

### **BACKGROUND**

On 16 March 2017 a Complying Development Certificate (170307/01) was issued by New Home Certification Group for the demolition of existing structures on the site.

### **SITE DETAILS**

The subject site is located on the eastern side of Trafalgar Street, just before its intersection with Garden Street. The site has a frontage of 20.117m to Trafalgar Street and a rear boundary to Garden Lane, with a total land area of 1012sqm. Existing structures have been cleared off the site.

Single storey residential dwellings are located directly to the south and north of the site, with surrounding land uses being predominantly low to medium density residential.



### **PROPOSAL**

The proposal involves the construction of a single storey Christian Church building consisting of a meeting room, two classrooms, kitchen and sitting/dining area, disabled toilet with shower and men's and women's separate toilet facilities. The proposal also involves a double garage at the rear of the building and eleven open car parking spaces accessed via Garden Lane.

The proposed church operations are as follows:

Day	Time	Activity	Usual Attendance	Vehicles
One Sunday monthly	11am-12.15pm	Lords supper/worship meeting	10 persons	4
	3pm-4.30pm	Sunday school	4 adults and 10-20 children	5*
	5.30pm – 6.30pm	Tea	8 adults and 10-20 children	6*
	6.30pm – 7.30pm	Family Gospel Service	8 adults and 10-20 children	6*
All other Sundays	11am – 12.15pm	Lords supper/worship meeting	10 persons	4
	3pm – 4.30pm	Sunday school	4 adults and 10-20 children	5*
	7.15pm – 8.30pm	Gospel Service	7-10 persons	4
Wednesdays	7.30pm - 9.15pm	Prayer meeting and bible study	7 persons	4
Saturdays or Public holidays (only 1-5 times per year)	3.30pm – 5pm	Bible Study	10 persons	4
	5pm – 6pm	Tea	10 persons	4
	6pm – 7.30pm	Bible messages	10 persons	4
* includes the two church mini-buses				
For each activity above, typically 30-60mins quiet set up/cleaning prior to activity and 15mins approximately after activities for last vehicles/persons to leave site.				
Additional occasional meetings, for church or Sunday School administrative/planning purposes approximately 5 – 6 times per year, typically lasting 1-2 hours, commencing time usually around 10am, 1.30pm or 7.30pm. Can occur on any day other than Sunday, 4-6 persons, 4 vehicles.				

### **STATUTORY CONSIDERATIONS**

When determining this application, the relevant matters listed in Section 79C of the Environmental Planning and Assessment Act 1979 must be considered. In this regard, the following environmental planning instruments, development control plans, codes and policies are relevant:

- State Environmental Planning Policy 55 – Remediation of Land (SEPP 55)
- Canterbury Local Environmental Plan 2012 (CLEP 2012)
- Canterbury Development Control Plan 2012 (CDCP 2012)
- Canterbury Development Contributions Plan 2013

### **ASSESSMENT**

The development application has been assessed under Sections 5A and 79C of the Environmental Planning and Assessment Act, 1979 and the following key issues emerge:

**State Environmental Planning Policy 55 – Remediation of Land (SEPP 55)**

State Environmental Planning Policy 55 - Remediation of Land aims to promote the remediation of contaminated land for the purposes of reducing risk to human health or any other aspect of the environment. Clause 7 of SEPP 55 states that a consent authority must not consent to the carrying out of development unless it has considered whether the land is contaminated. If the land is contaminated, it must ascertain whether it is suitable in its contaminated state for the proposed use or whether remediation of the land is required.

The applicant has not provided any information that would categorise the subject site as having contaminated land. Given that the site has been used for only residential purposes and that there is no proposed excavation, the site is considered to be consistent with State Environmental Planning Policy 55 – Remediation of Land.

**Canterbury Local Environmental Plan 2012 (CLEP 2012)**

This site is zoned R3 Medium Density Residential under Canterbury LEP 2012. The controls applicable to this application are:

Standard	Requirement	Proposal	Complies
Zoning	R3 – Medium Density Residential	Place of Public Worship	Permissible
Building height	8.5m	6.05m	Yes
FSR	0.5:1	0.23:1	Yes

‘Places of public worship’ are permissible with consent in the R3 – Medium Density Residential zone.

The proposal complies with the standards found in CLEP 2012.

The objectives of the zone are to:

- To provide for the housing needs of the community within a medium density residential environment.
- To provide a variety of housing types within a medium density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.

The proposed place of worship meets the objective of the zone in the provision of facilities to meet the day to day needs of residents.

**Canterbury Development Control Plan 2012 (CDCP 2012)**

<b>Standard</b>	<b>Requirements</b>	<b>Proposal</b>	<b>Complies</b>
<b>F8 Non-residential Development in Residential Zones</b>	C1 Non-residential development in a residential zone will be assessed for its impact on residential amenity.	All access from front and rear of building, with all activities taking place within. Environmental Health Officer has reviewed the Acoustic Report and has raised no objections. Conditions of consent included to ensure continued minimisation of any impacts on neighbouring properties. Traffic generation and car parking also found to be acceptable by Council's Team Leader – Traffic.  All access to building restricted to the front and rear of the property (where side entry doors are now deleted) which will minimise any impacts on direct neighbours.	Yes
	C2 Non-residential development in a residential zone will only be acceptable where adverse impacts on the amenity of residences in the immediate area (for example through traffic generation, parking demand, noise or any other form of pollution that is incompatible with residential uses) are avoided or minimised.	Traffic generation and car parking has been reviewed by Council's Team Leader – Traffic and is considered to be acceptable.  Acoustic report conditions to be implemented to control all noise on site as per Environmental Health Officer's review and recommendations relating to the Acoustic Report submitted with this application.	Yes
	C3 Council may impose conditions of consent to minimise any impact on residential amenity including limiting the scale of the development, restricting hours of operation or the like.	Conditions of consent to be imposed.	Yes
	C4 Building design needs to be compatible with surrounding area.	Building design compatible with surrounding residential buildings	Yes
<b>B 1.3 Parking Provision Rates</b>	C1 Place of Public Worship – A Traffic and Parking Assessment Report with a survey of similar	Traffic and Parking Assessment submitted with the application demonstrating	Yes



Standard	Requirements	Proposal	Complies
	development is required.	sufficient car parking	
	Bicycle Spaces – One space/20 visitors.	Maximum number of visitors unknown – Three bike spaces proposed	No
	Minimum one accessible parking space for every 25 car spaces	One accessible parking space	Yes
<b>B7 Crime Prevention and Safety</b>	C1 Avoid blind corners in pathways, stairwells, hallways and car parks.	No blind corners	Yes
	C2 Provide natural surveillance for communal and public areas.	Natural surveillance available to rear car park.	Yes
	C3 Provide clearly visible entries.	Clearly visible entries from front and rear.	Yes
	C4 Design the fence to maximise natural surveillance from the street to the building, and from the building to the street, and minimise opportunities for intruders to hide.	1.2m high transparent fence will allow sufficient natural surveillance.	Yes
	C5 Avoid landscaping that obstructs natural surveillance.	Landscaping will not obstruct natural surveillance	Yes
	C6 Ensure lighting does not produce glare or dark shadows.	Appropriate lighting to be provided when the site is in use by condition of consent.	Yes* condition
	C7 Entrances, exits, service areas, pathways, car parks are to be well lit after dark when they are likely to be used.	Appropriate lighting to be provided when the site is in use by condition of consent.	Yes* condition
	C8 Where permitted provide appropriate mixed uses within buildings to increase opportunities for natural surveillance.	Mixed use not suitable in this instance.	Yes

Given that Council has no specific controls for Places of Public Worship, the building form related provisions of CDCP 2012 for multi dwelling housing, which would be the highest density residential use permitted in the zone has been used as a guide to assess the proposed built form of the building as follows:

Standard	Requirements	Proposal	Complies
<b>C3.2.1 Minimum Lot Size and Frontage</b>	C1 Minimum 20m frontage	20.117m	Yes
<b>C3.2.2 Isolated Site</b>	C1 No isolation of neighbouring	No isolation	Yes
<b>C3.3 Building Envelope</b>	C1 Maximum one storey where the building is located more than 20m (on addition to the required front setback) or a distance of 65% of the total length of the allotment, as measured from the front boundary (whichever is greater).	All single storey	Yes
	C2 Maximum 7m wall height where two storey is permitted.	- 6.05m	Yes
	C10 Any part of sub-floor area projecting more than 1m comprises a storey	- Maximum 959mm	Yes
	C13 Maximum 1m cut beyond an external wall of the building	>1m cut around perimeter of building.	Yes
	C15 Maximum 600mm fill beyond exterior wall of building	No fill proposed	Yes
<b>C3.3.3 Setbacks</b>	C2 Front setback 6m minimum - Rear setback 3m minimum - Deep soil area at front and rear based on setback requirement - Side setback 1.5m minimum - Deep soil 1m width alongside boundaries	- 6m - 19.2m - Deep soil provided at front and rear - 3.05m and 3.24m - > 1m deep soil alongside boundaries	Yes Yes Yes Yes Yes
<b>C3.3.4 Building Depth</b>	C1 Building Depth must not exceed 25m	- 25.07m – building depth includes attached garage at the rear. All structures single storey. No increased impacts from 0.07m exceedance.	No *marginal exceedance acceptable
<b>C3.4.1 Building Design</b>	C1 Contemporary architectural design acceptable where heritage listing does not apply to site or neighbours, not visually prominent from street, facades are in accordance with this DCP.	Contemporary design acceptable.	Yes
	C2 New building forms do not mimic traditional features.	Contemporary design.	Yes
	C7 Clearly identifiable entries.	Clearly identifiable entries.	Yes
	C8 At least one habitable room window to street and communal areas.	Meeting room windows to street	Yes
	C17 Use non-reflective materials	Non reflective materials proposed	Yes

Standard	Requirements	Proposal	Complies
	C19 Facades visible from the street designed as a series of articulating panels or elements	Front façade designed as articulated panels	Yes
<b>C3.4.2 Roof Design and Features</b>	<p>C1 Use simple pitched roofs that accentuates the shape of external walls</p> <p>C2 Avoid complex roof forms with multiple gables</p> <p>C3 Roof pitches are to be compatible and symmetrical to nearby buildings</p> <p>C4 Parapet roofs that increase height of exterior walls to be minimised.</p> <p>C5 Use minor gables</p> <p>C6 Mansard roofs (or similar) not permitted</p> <p>C7 Maximum roof pitch 30degrees. Greater pitch considered on merit.</p> <p>C8 Relate roof pitch to desired built form and context.</p>	Roof design acceptable for building type in residential streetscape.	Yes
<b>C3.5.1 Solar Access and Overshadowing</b>	<p>C4 Proposed development must retail a minimum of two hours of sunlight between 9.00am and 3.00pm on June 21 for existing primary living areas and 50% of the POS of neighbouring dwellings</p> <p>C7 Clothes drying areas on neighbouring properties must receive two hours of sunlight on June 21.</p>	Proposed building single storey and will allow two hours of solar access to neighbouring affected dwelling's living room window (ie. all of the affected elevation), rear POS and clothes drying areas between 9.00am and 11.00am June 21	Yes
<b>C3.5.2 Visual Privacy</b>	<p>C1 Locate and orientate new development to maximise visual privacy between buildings on and adjoining to the site.</p> <p>C2 Minimise direct overlooking of rooms and private open space through use of building separation, setbacks and orientation of living room windows and private open space towards the street</p>	<p>The proposed building will not impact on the privacy of neighbouring residents</p> <p>High sill windows incorporated where the finished floor level exceeds 700mm from existing ground. Condition of consent imposed for the classroom windows on the south-east elevation to be frosted on the lower fixed component to further protect neighbours' privacy.</p>	<p>Yes</p> <p>Yes * via condition</p>

Standard	Requirements	Proposal	Complies
<b>C3.5.3 Acoustic Privacy</b>	C1 Protect sensitive rooms such as bedrooms, from likely sources of noise such as major roads and neighbouring living areas.	All activates are to be kept within the building. Conditions of consent to be included for no PA system	Yes * via condition
<b>C3.6.1 Fences</b>	C1 Provide Boundary definition by construction of an open fence or low hedge to front street boundary.	Boundary fencing at front and rear proposed	Yes
	C2 Front fence within front boundary setback no higher than 1.2m.	1.2m high front fence	Yes
	C3 Side fences can be 1.8m high to predominant building line.	1.8m high rear fence proposed	Yes

## Referrals

### Team Leader – Traffic

The application together with the associated Traffic Report was reviewed by our Team Leader – Traffic who provided the following feedback:

“It is proposed to demolish the existing dwelling on the site and construct a place of worship. Car parking is to be provided at the rear of the property for 12 cars (including a disabled parking space) and a garage to accommodate two mini-buses. Access to the car park and garage is to be provided from Garden Lane with pedestrian access only from Trafalgar Street.

The Traffic Report has reviewed the traffic generation and parking for the proposed development with regard to the existing facility located at Petersham, which reported a maximum of 20 children and 8 adults being at the site at any one time. The traffic generation is considered acceptable. The proposed car parking provision and layout is acceptable.

The shared area for the disabled parking space is to be marked in accordance with AS2890.6 and a bollard provided in order to prevent illegal parking.”

The information submitted with the application regarding traffic and car parking was found to be adequate to satisfy Council’s Team Leader – Traffic that the proposed development is suitable at the subject site.

### Environmental Health Officer

Council’s Environmental Health Officer has reviewed the proposed development including the associated Acoustic Report and has raised no objections subject to conditions of consent being imposed regarding measures to reduce impacts on neighbouring residents, which have been included in the recommendations of this report.

## Notification

The application was notified and advertised in the local newspapers and by letter to immediate neighbours for a period of 21 days as per the requirements of DCP 2012 on two occasions. Six submissions which include two separate petitions (one containing 71 signatures, from 54 households and the other containing 19 signatures, from 11 households) were received during the first notification period. Four submissions (2 from new objectors and 2 as a second submission) were received during the second notification period. The issues raised in submissions are addressed as follows:

*Objection: Insufficient on-street car parking currently available on the street and the proposed place of worship will exacerbate that.*

**Comment:** The proposal is accompanied with a traffic and parking assessment which demonstrates that the proposed car parking facilities are adequate to cater for the demand.

*Objection: The street is narrow and cannot adequately carry the extra traffic. This will also cause safety issues in the street.*

**Comment:** Council's Team Leader Traffic has reviewed the proposed development and the accompanying Traffic and Parking Report and is satisfied that Trafalgar Street and Garden Lane are able to absorb the additional traffic generated by the proposed development.

*Objection: Insufficient time to make a submission about the application.*

**Comments:** The proposed development was advertised on two occasions for a period of 21 days as per Council's DCP 2012, and any persons seeking additional time to make submissions were granted extra time.

*Objection: Amenity impacts including acoustic and visual privacy of neighbouring residents. The use of the side setback areas for access between the front and the rear of the property will cause amenity impacts on the direct neighbours.*

**Comments:** The proposed development was amended after initial notification to delete all side verandah areas and door leading to this area. The amended plans were the subject of the second notification period. A further condition of consent has been included to have the side setbacks inaccessible by installing gates that are locked, and to be used for general servicing of the building only, to protect the privacy of neighbouring residents.

The application is accompanied by an Acoustic Report which has been reviewed by Council's Environmental Health Officer. It was found that the proposed use will not give rise to unreasonable noise impacts on neighbouring residents, subject to conditions of consent which have been included in the recommendations in this report including conditions relating to maximum number of persons attending the site, noise control, and hours of operation.

*Objection: Concern is raised in regard to the program for occasional activities at the proposed place of worship.*

**Comment:** The application originally included a reference to occasional events such as funerals and weddings which were subsequently removed from the application and are no longer proposed at this site. A condition of consent will be included to ensure the activities on the site are limited to only those stated in the revised Statement of Environmental Effects (as listed earlier in this report), which do not include occasional events such as funerals and weddings.

*Objection: The proposed building is not in keeping with the existing streetscape.*

**Comment:** The proposed building has been designed to be in keeping with the design elements of its residential surrounds, while being distinguishable as a non-residential building which is satisfactory. The building is well below the building height and floor space ratio for this site and is not inconsistent with the surrounding residential development.

*Objection: The building was demolished without approval.*

**Comment:** The existing building on the site was demolished under a legitimately issued Complying Development Certificate by a private Principle Certifying Authority.

*Objection: Notification letter did not contain specific details about the proposed development.*

**Comments:** The letter of notification is limited in its scope to provide finer details relating to developments and should be treated as an invitation to view all relevant documents pertaining to a proposal at the nominated Council locations. All documents including the Statement of Environmental Effects which specify the types of activities proposed and the number of attendees and times were available during the notification period on both occasions at the library and the Campsie branch of Council.

*Objection: The development will impact on property values.*

**Comment:** There is no evidence to suggest that the proposed development will have a negative impact on property values in the area. Therefore this is not a matter that we can refuse the application.

**CONCLUSION**

The development application has been assessed pursuant to the provisions of Section 79C of the Environmental Planning and Assessment Act 1979 and all relevant development control plans, codes and policies.

The proposed use is modest in scale and is capable of being contained without significant adverse impact on neighbouring residential development. The proposal is recommended for approval subject to conditions.





## CONDITIONS OF CONSENT

### RECOMMENDATION:

THAT DA-125/2017 be **APPROVED** subject to the following conditions of consent:

1. PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE  
The following must be submitted to either Council or an Accredited Certifier prior to the issuing of a Construction Certificate:
  - 1.1. Details of:
    - Protection from termites
    - Structural Engineering Plan
    - Building Specifications
    - Fire Safety Schedule
    - Landscape Plan
    - Hydraulic Plan
    - Firewall Separation
    - Soil and Waste Management Plan
    - BASIX Certification
    - Mechanical ventilation
  - 1.2. Payment of the Long Service Leave Levy to the Long Service Leave Corporation or to Council.

### BEFORE COMMENCING THE DEVELOPMENT

2. Before the erection of any building in accordance with this Development Consent;
  - 2.1. detailed plans and specifications of the building must be endorsed with a Construction Certificate by the Council or an Accredited Certifier, and
  - 2.2. you must appoint a Principal Certifying Authority (either Canterbury City Council, or an Accredited Certifier) and notify the Council of the appointment (see Attachment – Notice of Commencement copy), and
  - 2.3. you must give the Council at least 2 days notice of your intention to commence erection of the building (see Attachment – Notice of Commencement copy).
  - 2.4. In the case of work which includes residential development, you must inform us in writing before the commencement of work of the following:
    - 2.4.1. The name and contractor or licence number of the licensee who has contracted to do or intends to do the work; or
    - 2.4.2. The name and permit number of the owner-builder who intends to do the work.

## INSURANCE

3. If it is intended to engage a builder or licensed contractor to do the work where it is valued over \$20,000 and is not a multi storey building then this person must take out home building insurance with a private insurer. The builder or person doing the work must also satisfy Council that they have taken out an insurance policy by producing evidence of the insurance certificate or other documentation. Further information on insurance requirements is available from the Department of Fair Trading (NSW Consumer Protection Agency) on 1800 802 055.

## SITE SIGNAGE

4. A sign shall be erected at all times on your building site in a prominent position stating the following:
- 4.1. The name, address and telephone number(s) of the principal certifying authority for the work, and
- 4.2. The name of the person in charge of the work site and a telephone number at which that person may be contacted during and outside working hours, and
- 4.3. That unauthorised entry to the work site is prohibited.

## GENERAL

5. The development being carried out in accordance with plans prepared by Studio Schelp, dated 14 August 2017, marked Drawing Plan NO. 1701-02-00-01, 1701-02-02-02, 1701-02-01-01, 1701-02-03-01, 1701-02-01-02, 1701-02-02-01, as received by Council on 25 August 2017 except where modified by the conditions of this consent, including the following specific conditions:
- 5.1 A gate being installed at the front and rear of the side setback areas to prevent access from the sides of the building for any purpose other than for the maintenance of the building.
- 5.2 The classroom windows on the south-east elevation to have minimum sill heights of 1.6m by way of fixed frosted glazing to the bottom half of the windows to protect neighbours' privacy.
6. The operations of the Church to be limited to the following activities, times and number of persons:

Day	Time	Activity	Usual Attendance	Vehicles
One Sunday monthly	11am-12.15pm	Lords supper/worship meeting	10 persons	4

	3pm-4.30pm	Sunday school	4 adults & 10-20 children	5*
	5.30pm – 6.30pm	Tea	8 adults & 10-20 children	6*
	6.30pm – 7.30pm	Family Gospel Service	8 adults & 10-20 children	6*
All other Sundays	11am – 12.15pm	Lords supper/worship meeting	10 persons	4
	3pm – 4.30pm	Sunday school	4 adults & 10/20 children	5*
	7.15pm – 8.30pm	Gospel Service	7-10 persons	4
Wednesdays	7.30pm - 9.15pm	Prayer meeting and bible study	7 persons	4
Saturdays or Public holidays (only 1-5 times per year)	3.30pm – 5pm	Bible Study	10 persons	4
	5pm – 6pm	Tea	10 persons	4
	6pm – 7.30pm	Bible messages	10 persons	4
* includes the two church mini-buses				
For each activity above, typically 30-60mins quiet set up/cleaning prior to activity, and 15mins approximately after activities for last vehicles/persons to leave site.				
Additional occasional meetings, for church or Sunday School administrative/planning purposes approximately 5 – 6 times per year, typically lasting 1-2 hours, commencing time usually around 10am, 1.30pm or 7.30pm. Can occur on any day other than Sunday, 4-6 persons, 4 vehicles.				

7. No funerals, weddings or other non regular events to take place outside of the activities stated in the above condition.
8. No public address system being installed within or external to the building and no loud singing, chanting, playing of drums or the like to be undertaken at the site.
9. Finishes and materials including the treatment of external walls, windows, doors and balustrades being in accordance with the document prepared by Studio Schelp, marked Drawing No. 0701-FIG-003, as received by Council on 13 April 2017. The approved design (including an element or detail of that design) or materials finish or colours of the building must not be changed so as to affect the external appearance of the building without the approval of Council.
10. All activities, meetings and the like to take place wholly within the building with patrons being moved on to within the building or to their vehicles so as to stop any congregation of people in the surrounds of the building. Appropriate signage is to be installed at the front and rear of the building to reinforce this.
11. Appropriate lighting to be provided at entrance, exits, front and rear pathways which will not detract from the amenity of neighbours, and will not create glare or dark shadows. The lighting is only to be in use after dark when the site is in use.

12. Fourteen (14) permanent off-street car spaces being provided in accordance with the submitted plans. These spaces are to be numbered and linemarked.
13. The finishes of all structures and buildings are to be maintained at all times, with any graffiti or vandalism immediately removed/repaired.
14. A Plan of Management is to be prepared and lodged with Council prior to the issue of a Construction Certificate outlining how the facility will operate in keeping with the conditions of this consent, in particular, operating hours and attendance, prior and post worship/activity procedures, car parking/traffic management, noise and sound control, security and monitoring, complaints handling procedures including the establishment of a Complaints Hotline which shall be set up by the proponent to be active during the 6 month trial period so that comments and complaints can be received. All complaints shall be recorded (including the name and contact details of the complainant and the reason for the complaint) and the complaint shall be investigated. Every complaint received and the conclusion of the investigation of that complaint shall be reported in writing to Council within one week of the investigation.
15. This condition has been levied on the development in accordance with Section 94 of the Environmental Planning and Assessment Act 1979 and in accordance with Canterbury City Council's Development Contributions Plan 2013, after identifying the likelihood that this development will require or increase the demand on public amenities, public services and public facilities in the area.

The amount of the contribution (as at the date of this consent) has been assessed as \$9,500.00. The amount payable is based on the following components:

Contribution Element	Contribution
Section 94A Contributions	\$ 9,500.00

Note: The contributions payable will be adjusted, at the time of payment, to reflect Consumer Price Index increases which have taken place since the development application was determined. The contribution is to be paid to Council in full prior to the release of the Construction Certificate, (or for a development not involving building work, the contribution is to be paid to Council in full before the commencement of the activity on the site) in accordance with the requirements of the Contributions Plan.

16. All materials must be stored wholly within the property boundaries and must not be placed on the footway or roadway.
17. All building operations for the erection or alteration of new buildings must be restricted to the hours of 7.00 a.m. - 5.00 p.m. Monday to Saturday, except that on Saturday no mechanical building equipment can be used after 12.00 noon. No work is allowed on Sundays or Public Holidays.
18. All building construction work must comply with the National Construction Code.

19. Under clause 97A(2) of the Environmental Planning and Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in each relevant BASIX Certificate for the development are fulfilled.

In this condition:

- a) relevant BASIX Certificate means:
- i) a BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under section 96 of the Act, A BASIX Certificate that is applicable to the development when this development consent is modified); or
  - ii) if a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate; and
- b) BASIX Certificate has the meaning given to that term in the Environmental Planning and Assessment Regulation 2000.
20. Council's warning sign for Soil and Water Management must be displayed on the most prominent point on the building site, visible to both the street and site workers. The sign must be displayed throughout construction.

#### ENVIRONMENTAL HEALTH

21. Implement all Noise Control Recommendations listed in the section 6, and include Conclusions identified in the Environmental Noise Report produced by Day Design Pty Ltd, dated 10 April 2017. Reference No. 6199-1.1R. Including:
- a) Section 6.1.6 – Mechanical Ventilation - states that “any noise emissions from the ventilation plant should be acoustically treated to reduce noise emissions level”.
  - b) Section 6.2 – Noise Management – in addition to the recommendations, “Clear Signage” be placed at all main entrances, including external walls where gathering could most likely occur, indicating that noise intrusions from congregating in communal areas and open doors during Church Meetings, may have an impact the neighbouring residents.
  - c) Section 6.3 – Mechanical Plant – “sound power level not exceeding 70dBA” ...”be acoustically treat the unit so that noise will not impact the neighbouring residential properties.”

Details are to be shown on the plans prior to the issue of a Construction Certificate, with a compliance certificate to be issued by a suitably qualified Acoustic Engineer prior to the issue of an Occupation Certificate.

22. The proposed use of the premises and/or machinery equipment installed must not create noise so as to interfere with the amenity of the neighbourhood. If a noise nuisance occurs, the person in control of the premises must arrange for an acoustic investigation to be carried out (by an accredited Acoustic Engineer), obtain Council concurrence for the recommendations of the Consultant, and implement those recommendations so as to reduce the noise levels to the ambient noise level. The

acoustic assessment must be completed within 30 days from the date requested by Council.

23. All activity being conducted so that it causes no interference to the existing and future amenity of the adjoining occupations and the neighbourhood in general by the emission of noise, smoke, dust, fumes, grit, vibration, smell, vapour, steam, soot, ash, waste water, waste products, oil, electrical interference or otherwise.
24. Site water discharged to Council's stormwater system must have a suspended solid level of less than 50 mg/L, pH 6.5 - 8.5, turbidity level of less than 50 NTU, no oil or grease and conform to relevant ANZEC guidelines for other contaminants. This may require treatment such as transfer to settling ponds, use of approved chemicals to settle out sediment or passing the contaminated water through a treatment device. Site water may also be disposed of through the services of a licensed liquid waste transporter. Council must be notified prior to the commencement of any pump out of site water and provided with a copy of the test results which confirm that the above condition has been complied with.
25. Stockpiles of topsoil, sand, aggregate, soil or other material shall not be located on any drainage line or easement, natural watercourse, footpath or roadway and shall be protected with adequate sediment controls.

#### TRAFFIC ENGINEER

26. The shared area for the disabled parking space is to be marked in accordance with AS2890.6 and a bollard provided in order to prevent illegal parking.

#### ACCESSIBILITY

27. At-grade entry is to be provided to the lower ramp at the alignment.
28. Ramps are to comply with AS1428.1 (2009), with compliant handrails on each side. Handrails are to comply with AS1428.1 (2009), with a vertical clearance below the lower rail not to exceed 65 mm.
29. The ramps are to have a maximum gradient of 1:14.
30. The landing at the base of the east-west ramp is to be at least 900 mm long, so that the handrails and TGSIs do not encroach into the footway.
31. Crossfall on landings is not to exceed 1:40.
32. TGSIs are to comply with AS1428.4.1 (2009).
33. The north-south ramp is to be at least 900 mm clear of the northern side of the building so that handrails and TGSIs do not encroach into the intermediate landing.
34. The intermediate landing is to have minimum dimensions of 1500 mm X 1500 mm.

35. The steps on the northern side of the building and to the main entry are to have equal height risers, opaque risers, and contrast nosings for their full width.
36. The step at the alignment is to have an equal height riser.
37. All external surfaces are to be non-slip in wet and dry conditions.
38. There is a level difference of 75 mm between the internal floor level and the rear covered area. The exit door to the main room is to have an external landing of at least 1670 mm in depth, for the full width of the double doors, and a step ramp to comply with AS1428.1 (2009), Clause 10.6.
39. Glazed doors and side panels are to have a luminance contrast strip with a minimum width of 75 mm, 900 mm to 1100 mm above the surface. The strip is to provide a contrast with its surroundings of at least 30%.
40. Compliant signage is required for the Unisex Accessible Toilet/Shower facility, and the male and female Ambulant Toilets.
41. Some seating in the Meeting Room and Class Rooms is to have backrests and armrests, for the benefit of seniors or people with disability.

#### LANDSCAPE

42. The landscaping must be completed according to the submitted landscape plan (drawn by R+M Landscape Architecture, drawing no. LP01 issue C, submitted to council on 13<sup>th</sup> of April 2017) except where amended by the conditions of consent. The landscaping is to be maintained at all times to the Council's satisfaction
43. All the tree supply stocks shall comply with the guidance given in the publication *Specifying Trees: a guide to assessment of tree quality* by Ross Clark (NATSPEC, 2003).
44. All scheduled plant stock shall be pre-ordered, prior to issue of Construction Certificate or 3 months prior to the commence of landscape construction works, whichever occurs sooner, for the supply to the site on time for installation. Written confirmation of the order shall be provided to Council's Landscape Architect (Contact no: 9789 9438), prior to issue of any Construction Certificate. The order confirmation shall include name, address and contact details of supplier; and expected supply date.
45. An automatic watering system is to be installed in common areas at the applicant's cost. Details including backflow prevention device, location of irrigation lines and sprinklers, and control details are to be communicated to Council or certifier prior to the issue of the Construction Certificate. The system is to be installed in accordance with the manufacturer's specification and current Sydney Water guidelines.
46. The carpark area at the rear of the site is to be permeable paving.

47. An amended landscape plan to address the issues outlined below is to be submitted to Council or certifier prior to the issue of the Construction Certificate:

Provide a Maintenance Schedule including:

- a) replacement strategy for failures in plant materials and built works,
  - b) maintenance schedule for watering, weeding and fertilizing during the establishment period
  - c) a maintenance period of 12 months is to be specified for this application. During this maintenance period, the landscaping must be maintained in accordance with the details specified on the submitted landscape plan.
48. Provide construction and planting details for all Landscaping works.

#### ENGINEERING - PRIOR TO CONSTRUCTION CERTIFICATE

49. A stormwater drainage design prepared by a qualified practicing Civil Engineer must be provided prior to the issue of a Construction Certificate. The submitted design must be amended to make provision for the following:
- a) The design must be generally in accordance with the plans, specifications and details received by Council on 13<sup>th</sup> April 2017; drawing number 17140 C01-C04 A, prepared by Gilcon Structural Engineers Pty Ltd.
  - b) Stormwater runoff from all roof and paved areas within the property must be collected in a system of gutters, pits and pipelines and be discharged together with overflow pipelines from any rainwater tank(s) to the kerb and gutter of Trafalgar Street.
  - c) Stormwater system must be designed to accommodate subsurface stormwater at the subsoil, seepage, and soil retaining structures.
  - d) All stormwater must pass through a silt arrestor pit prior to discharge to kerb and gutter. Silt arrestor pit is to be sized in accordance with Canterbury Councils DCP 2012. Sump depth is to be a minimum of 300mm deep.
  - e) All redundant pipelines within footpath area must be removed and footpath/kerb reinstated.
  - f) New pipelines within the footpath area that are to discharge to the kerb and gutter must be hot dipped galvanised steel hollow section with a minimum wall thickness of 4.0mm and a section height of 100mm.
50. All downpipes, pits and drainage pipes shall be installed to ensure that stormwater is conveyed from the site and into Council's stormwater system in accordance with AUS-SPEC Specification D5 "Stormwater Drainage Design", AS/NZS3500.3 and Part 6.4 of Canterbury Council's DCP 2012.
51. Full width grated drains being provided across the vehicular entrance/exit to the site where internal areas drain towards the street, and be connected to the drainage system upstream of the silt arrestor pit and in accordance with Canterbury Councils DCP 2012.



52. The street alignment levels are to be obtained by payment of the appropriate fee to Council. These levels are to be incorporated into the designs of the internal pavements, carparks, landscaping and stormwater drainage. Evidence must be provided that these levels have been adopted in the design. As a site inspection and survey by Council is required to obtain the necessary information, payment is required at least 14 days prior to the levels being required.

#### ENGINEERING - PRIOR TO AND DURING CONSTRUCTION

53. The applicant to arrange with the relevant public utility authority the alteration or removal of any affected services in connection with the development. Any such work being carried out at the applicant's cost.

#### ENGINEERING - PRIOR TO OCCUPATION CERTIFICATE

54. That the stormwater system be constructed in general, in accordance with the plans, specifications and details submitted with the Construction Certificate and as amended by the following conditions.
55. Certification from an accredited engineer must be provided to certify that all works has been carried out in accordance with the approved plan(s), relevant codes and standards.
56. A Works-as-Executed plan must be submitted to Canterbury Bankstown City Council at the completion of the works, the plan must clearly illustrate dimensions and details of the site drainage and the OSD system. The plan shall be prepared by a registered surveyor or an engineer. A construction compliance certification must be provided prior to the issuing of the Occupation Certificate to verify, that the constructed stormwater system and associate works has been carried out in accordance with the approved plan(s), relevant codes and standards. The required certification must be issued by an accredited professional in accordance with the accreditation scheme of the Building Professional Board issued 1st March 2010. An appropriate instrument must be registered on the title of the property, concerning the presence and ongoing operation of the OSD system as specified in Councils DCP 2012, Part 6.4.

#### PARKING - PRIOR TO CONSTRUCTION CERTIFICATE

57. The vehicular access and parking facilities shall be in accordance with Australian Standard AS 2890.1"Off-street Parking Part 1 - Carparking Facilities". In this regard, the submitted plans must be amended to address the following issues:
- a) The finished levels within the property must be adjusted to ensure that the levels at the boundary comply with those issued by Council for the full width of the vehicle crossing. The longitudinal profile must comply with the Ground Clearance requirements of *AS/NZS 2890.1-2004*.
  - b) The driveway grades shall be in accordance with Australian Standard AS 2890.1"Off-street Parking Part 1 - Carparking Facilities".

- c) Minimum lines of sight for pedestrian safety must be provided in accordance Figure 3.3 of AS/NZS 2890.1:2004.
- d) All gates must be inward opening within its own boundary, and must not obstruct the pedestrian pathway.

#### PARKING - PRIOR TO AND DURING CONSTRUCTION

- 58. A road opening Permit shall be obtained for all works carried out in public or Council controlled lands. Contact Council for details.
- 59. A full width light duty vehicular crossing shall be provided at the vehicular entrance to the site, with a maximum width of 5.5 metres at the boundary line. This work to be carried out by Council or an approved contractor, at the applicant's cost. The work is to be carried out in accordance with Council's "Specification for the Construction by Private Contractors of: a) Vehicle Crossings, b) Concrete Footpath, c) Concrete Kerb & Gutter".
- 60. If the vehicle access is to be reconstructed the levels of the street alignment are to be obtained by payment of the appropriate fee to Council. These levels are to be incorporated into the designs of the internal pavements, carparks, landscaping and stormwater drainage. Evidence must be provided that these levels have been adopted in the design. As a site inspection and survey by Council is required to obtain the necessary information, payment is required at least 14 days prior to the levels being required.
- 61. Driveways, parking and service areas are to be constructed or repaired in accordance with the appropriate AUS-SPEC #1 Specifications: C242-Flexible Pavements; C245-Asphaltic Concrete; C247-Mass Concrete Subbase; C248-Plain or Reinforced Concrete Base; C254-Segmental Paving; C255-Bituminous Microsurfacing.

#### PUBLIC IMPROVEMENTS

- 62. All redundant vehicular crossings shall be replaced with kerb and the footpath reserve made good by Council or an approved contractor, at the applicant's cost. The work is to be carried out in accordance with Council's "Specification for the Construction by Private Contractors of: a) Vehicle Crossings, b) Concrete Footpath, c) Concrete Kerb & Gutter".
- 63. The granting of service easements within the properties to the satisfaction of Council or private certifier. Costs associated with preparation and registration of easements to be borne by the developer.

#### SYDNEY WATER REQUIREMENTS

- 64. Prior to the commencement of any works on site, including demolition or excavation, the plans approved as part of the Construction Certificate must also be approved by Sydney Water. This allows Sydney Water to determine if sewer, water or stormwater mains or easements will be affected by any part of your

development. Customers will receive an approval receipt which must be included in the Construction Certificate documentation. Please refer to the web site [www.sydneywater.com.au](http://www.sydneywater.com.au). The plans approved by Council shall be submitted to Sydney Water for Approval, please go to [www.sydneywater.com.au/tapin](http://www.sydneywater.com.au/tapin) to apply.

#### CRITICAL INSPECTIONS

##### 65. Class 1 and 10 Buildings

The following critical stage inspections must be carried out by the Principal Certifying Authority (either Council or the Accredited Certifier):

- 65.1. at the commencement of the building work, and
- 65.2. after excavation for, and prior to the placement of any footings, and
- 65.3. prior to paving any in-situ reinforced concrete building element, and
- 65.4. prior to covering of the framework for any floor, wall, roof or other building element, and
- 65.5. prior to covering waterproofing in any wet areas, and
- 65.6. prior to covering any stormwater drainage connections, and
- 65.7. after the building work has been completed and prior to any occupation certificate being issued in relation to the building.

##### Class 2, 3 or 4 Buildings

- 65.8. at the commencement of the building work, and
- 65.9. prior to covering of waterproofing in any wet areas, for a minimum of 10% of rooms with wet areas within the building, and
- 65.10. prior to covering any stormwater drainage connections, and
- 65.11. after the building work has been completed and prior to any occupation certificate being issued in relation to the building.

##### Class 5, 6, 7, 8 or 9 Buildings

- 65.12. at the commencement of the building work, and
- 65.13. prior to covering any stormwater drainage connections, and
- 65.14. after the building work has been completed and prior to any occupation certificate being issued in relation to the building.

66. Section 81(A) of the EP&A Act 1979 requires that a person having the benefit of a development consent, if not carrying out the work as an owner-builder, must notify the principal contractor for the building work of any critical stage inspections and other inspections that are to be carried out in respect of the building work, as nominated in this development consent.

To arrange an inspection by Council please phone 9789-9300 during normal office hours.

#### COMPLETION OF DEVELOPMENT

67. Obtain an Occupation Certificate/Interim Occupation Certificate from the Principal Certifying Authority before partial/entire occupation of the development.

## WE ALSO ADVISE:

68. This application has been assessed in accordance with the National Construction Code.
69. You should contact Sydney Water prior to carrying out any work to ascertain if infrastructure works need to be carried out as part of your development.
70. Where Council is appointed as the Principal Certifying Authority, you will be required to submit Compliance Certificates in respect of the following:
- Structural engineering work
  - Air handling systems
  - Protection from termites
  - Smoke alarms
  - BASIX completion
71. Any works to be carried out by Council at the applicant's cost need to be applied for in advance.
72. Before you dig, call "Dial before you Dig" on 1100 (listen to the prompts) or facsimile 1300 652 077 (with your street no./name, side of street and distance from the nearest cross street) for underground utility services information for any excavation areas.
73. In granting this approval, we have considered the statutory requirements, design, materials and architectural features of the building. No variation to the approved design and external appearance of the building (including colour of materials) will be permitted without our approval.
74. Compliance with the National Construction Code does not guarantee protection from prosecution under "The Disability Discrimination Act". Further information is available from the Human Rights and Equal Opportunity Commission on 1800 021 199.
75. Our decision was made after consideration of the matters listed under Section 79C of the Environmental Planning and Assessment Act 1979, and matters listed in Council's various Codes and Policies.
76. If you are not satisfied with this determination, you may:
- 76.1. Apply for a review of a determination under Section 82A of the Environmental Planning and Assessment Act 1979. A request for review must be made and determined within 6 months of the date of this Notice of Determination and be accompanied by the relevant fee; or

- 76.2. Appeal to the Land and Environment Court within 12 months after the date on which you receive this Notice of Determination, under Section 97 or Section 97AA of the Environmental Planning and Assessment Act 1979.

-END-