CANTERBURY BANKSTOWN

AGENDA FOR THE INDEPENDENT HEARING AND ASSESSMENT PANEL MEETING

9 October 2017 – 6.00pm

Location:

Council Chambers
Cnr Chapel Road and The Mall,
Bankstown

ORDER OF BUSINESS

ITEM 1 **Planning Proposal for 89-95 Karne Street North, Narwee**

AUTHOR **Planning**

ISSUE

In accordance with the IHAP charter, the Panel is requested to recommend whether a planning proposal for the site at 89-91, 93, 93A and 95 Karne Street North in Narwee should proceed to Gateway.

RECOMMENDATION That -

The application to amend Canterbury Local Environmental Plan 2012 for land at 89-91, 93, 93A and 95 Karne Street North, Narwee should proceed to Gateway subject to:

1. Council determining an appropriate FSR for the site, prior to public exhibition.
2. The requirements of SEPP 55 to be addressed by the proponent, prior to public exhibition.
3. The requirements of overland flooding to be addressed by the proponent, prior to public exhibition.

BACKGROUND

The subject site at 89-91, 93, 93A and 95 Karne Street North, Narwee is a small group of single storey neighbourhood shops located within a low density residential area.

The site has historically been zoned for residential purposes (Residential 2(a)), since at least the 1970s when the Canterbury Planning Scheme Ordinance (CPSO) was gazetted. Under the CPSO, this land use anomaly was addressed through amending Local Environmental Plan (LEP). LEP 25 (gazetted in May 1998) allowed the group of existing shops to be used for limited neighbourhood commercial purposes.

The site is currently zoned R3 Medium Density under Canterbury Local Environmental Plan 2012. The change from 2(a) to R3 was seen as a direct translation under the Standard Instrument Template. The current business uses are operating under existing right provisions in the CLEP 2012.

In 2013 and 2014 the owners of 93- 95 have sought to add a first floor residential component over the existing shops through the development application (DA) process. The proposal lodged with the DA was classified as *'shop top housing'* meaning one or more dwellings located above ground floor retail premises or business premises. Shop top housing is prohibited in the R3 zone.

In February 2015 a meeting was held with Council Officers and the owners to discuss a way forward with the DA proposal. They were advised to withdraw the current DA and pursue the option of lodging a planning proposal.

In July 2017, Council received an application to amend Canterbury Local Environmental Plan 2012 to:

1. Rezone the subject site from R3 Medium Density Residential to Zone B1 Neighbourhood Centre.
2. Amend the Maximum Height of Building Map from 8.5m to 10m.
3. Amend the Floor Space Ratio Map from 0.5:1 to no FSR
4. Not apply the Lot Size Map to the properties as the Lot Size Map does not apply to Zone B1 Neighbourhood centre.

According to the application:

- The current R3 zoning of these discrete premises appears to be a historical land use zoning anomaly because these existing commercial uses are not recognised and zoned appropriately.
- A B1 Neighbourhood Centre zone would provide a much "better fit" in terms of relevant zone objectives for these business premises and would allow more appropriate, realistic development standards and development control plan provisions to apply.
- A neighbourhood business zone would allow modest improvements including provision of shop top housing which is currently not possible within the R3 zone.
- Development of the sites will be sympathetic in scale with surrounding development and offers an opportunity to deliver additional dwellings close to services and public transport with no adverse impacts.

REPORT

Site Details

The site is situated within the eastern side of Karne Street North opposite Leigh Avenue at its intersection with Shorter Avenue. It has a total combined area of 701m^2. 89-91 Karne Street North is a corner lot with frontage to Karne Street North and a secondary frontage to Shorter Avenue. 93, 93A and 95 Karne Street North have a direct frontage to Karne Street North of 18.3m. The site comprises four allotments in two different ownerships. Existing land uses are detailed below.

Table 1: Site details

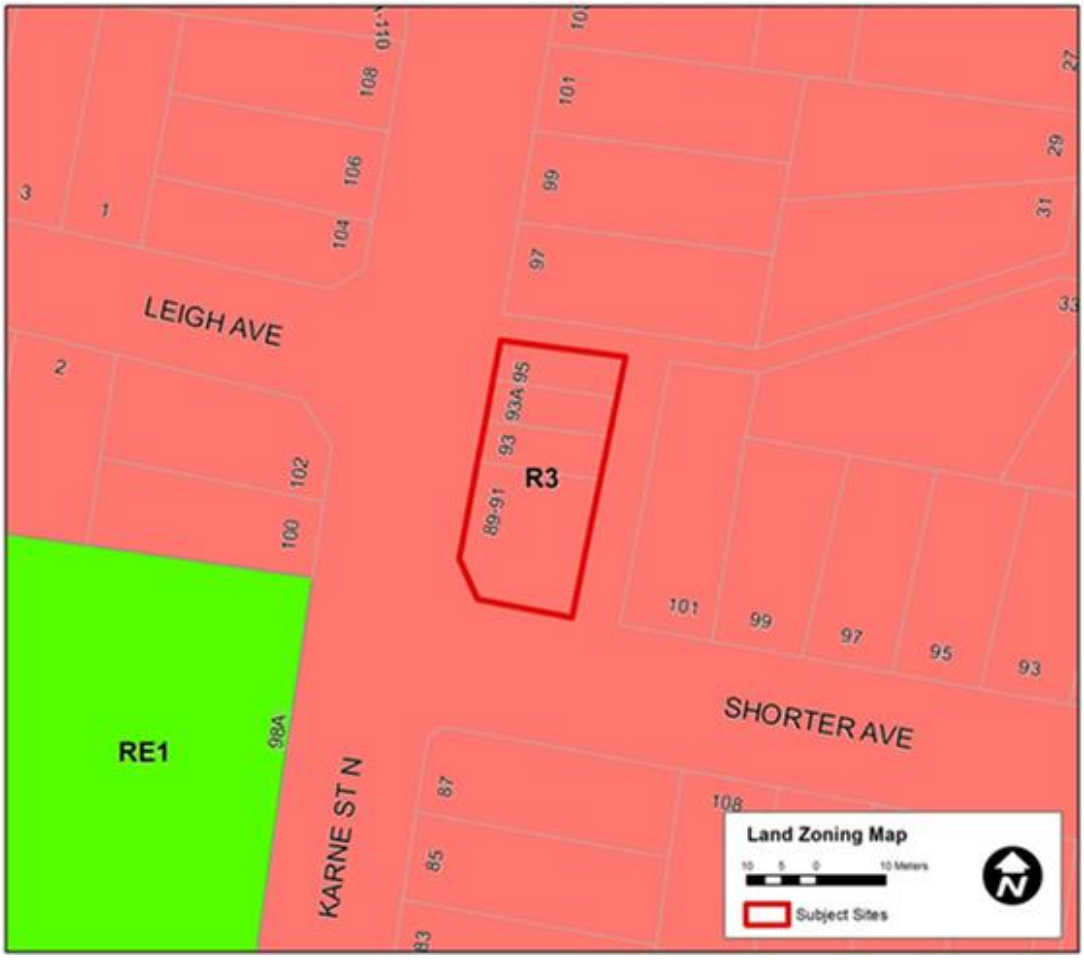
Property Address	**Property Description**	**Existing Use**	**Site Area**
89-91 Karne Street North	Lot 1 DP 815357	Single storey "Roselands" Chinese restaurant	342m^2
93 Karne Street North	Lot 4 DP 29784	Single storey spa/beauty/hair salon (use is over three lots)	109m^2
93A Karne Street North	Lot 5 DP 29784		105m^2
95 Karne Street North	Lot 6 DP 29784		107m^2

The sites are accessible to pedestrians and vehicles from Karne Street North and via Shorter Avenue. Rear service lane access is from Shorter Lane which intersects with Shorter Avenue. A public footpath to the north of the properties connects Karne Street North with Chick Street to the north-east. Off street car parking spaces are accessed via the laneway and are provided in a 90 degree configuration to the rear of these premises.

Surrounding development comprises one and two storey dwellings. Bennet Park is located to the south west and provides recreational sporting facilities. Roselands shopping centre is located approximately 1.3km north of the subject site.

The site is serviced by a number of local bus networks within 400m walking distance. The site is situated approximately 1.3km (walking distance by foot/road) from Narwee Railway Station and the Narwee town centre.

Map 1: Location



Map 2: Zoning Map

Description of Proposal

The following amendments to Canterbury Local Environmental Plan 2012 are proposed in relation to the site at 89-95 Karne Street North, Narwee:

	89-95 Karne Street North, Narwee	
	Existing	**Proposed**
Land Use zone	R3	B1
FSR	0.5:1	No FSR
Height	8.5m	10m
Minimum lot size	Area 'G' = 460m^2	No minimum lot size

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

- *Rezone the sites for business purposes to recognise the current land uses.*
- *Provide shop-top housing opportunities as part of future development.*
- *Ensure that new development has an appropriate interface with adjacent low density residential development.*
- *Implement planning controls that are informed by local character, street proportions, interface with surrounding properties and community consultation.*

The intended outcomes seek to:

- *Change of the zoning of the subject site from 'R3 Medium Density Residential' to 'B1 Neighbourhood Centre'.*
- *Improve the urban design qualities of buildings and surrounds.*
- *Improve housing choices and increase residential capacity.*
- *Facilitate future provision of off-street parking for residents, staff and visitors and business clients in accordance with the relevant requirements of Part 6 of the Canterbury Development Control Plan 2012.*

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 South District Plan (2016)
- Canterbury Residential Development Strategy (2013)
- 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.

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 Draft South District was released by the greater Sydney Commission in November 2016.

The Plan covers three broad topics:

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

Liveability City: Action L3 requires Council to "*"increase housing capacity across the district"* and Action L4 *"increase diversity and housing choice".* According to these priorities, Council should align local planning controls to increase housing capacity and provide housing diversity that is relevant to the needs of the existing and future local housing market.

The intended outcome of this Planning Proposal is to facilitate shop top housing on the site. The proposal will contribute incrementally to Council's housing target however it is not required to meet the target. A modest increase of approximately six dwellings could be provided allowing homes closer to jobs.

In facilitating the zoning change from R3 Medium Density Residential to B1 Neighbourhood Centre the planning proposal will still permit a form of residential development being shop top housing which allows Council to provide better housing choice and will resolve what is considered to be an anomaly with the current zoning, namely purpose built shops in a residential zone.

The change of land use zone for the site from R3 to B1 will provide greater variety of permissible land uses that could be developed on the site and will facilitate the redevelopment of this site. Existing development on the site comprises purpose built shops which are unlikely to be redeveloped for residential purposes under the current R3 zone and development controls. The existing development controls applying to the site (height, FSR, setbacks etc) are intended for residential uses and would not be appropriate for the existing neighbourhood shops.

The planning proposal is consistent with the Greater Sydney Commission's Draft South District Plan. See attachment A for detailed assessment.

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

Residential Development Strategy 2013

At the Ordinary meeting of 27 June 2017, Council endorsed the directions to inform the consolidation of the former Bankstown and Canterbury City Councils' residential development strategies into a single local housing strategy.

A key Direction to inform the consolidation of the former Bankstown and Canterbury Councils' residential development strategies is;

Direction 1: Continue to focus housing growth in centres that offer good access to public transport, shops, community facilities and open space to service the growing population.

The consolidation of the former Bankstown and Canterbury's City Councils' residential development strategies into a single local housing strategy should continue to implement the current planning framework, namely:

- Continue to focus housing growth in centres that offer good access to public transport, shops, community facilities and open space to service the growing population;
- Continue to protect the low density, landscaped character of the suburban neighbourhoods.

The planning proposal is consistent with this direction because it provides clarity to the planning controls so as to enable housing to be provided in a local neighbourhood centre with good access to public transport, open space and services.

The site will be able to accommodate a development that is compatible with the surrounding neighbourhood.

To ensure the delivery of housing supply contributes in a coordinated and orderly manner, the types of planning proposals that Council may progress whilst it prepares the local housing strategy must comply with the following criteria:

- **The proposal is consistent with the Department of Planning and Environment's Strategic Merit Test as outlined in the Department's publication A Guide to Preparing Local Environmental Plans.**

  The planning proposal is consistent with relevant liveability actions L3 and L4 outlined in the Greater Sydney Commission's Draft South District Plan as it will enable housing growth to occur in an established neighbourhood centre with good access to public transport, open space and services.

- **The proposal is consistent with the established character of the surrounding residential zone, and enables the impacts to be managed appropriately.**

  Concept plans provided for the site show a two storey mixed use development which will be of similar scale to existing two storey dwellings in the surrounding area. Any future development on the site will be required to meet applicable controls in the Canterbury DCP 2012 which will also ensure any future development integrates with the surrounding neighbourhood.

  In terms of impacts, the site is separated by Shorter Lane which provides a buffer to the adjacent single dwelling in Shorter Avenue within the R3 zone to the east of the laneway. This will mitigate any impacts from the proposed shop top housing on the subject site.

- **The proposal integrates effectively with the topography of the site and fully responds to any flood risks, land contamination, acid sulfate soils, bush fire risks, ecologically endangered communities or other environmental constraints that affect the site.**

  The planning proposal does not apply to land that has been identified as containing critical habitats or threatened species, populations or ecological communities, or their habitats. The planning proposal is considered minor in respect to environmental impact.

- **There is appropriate access and infrastructure to accommodate the proposal.**

  The site is serviced by public transport. It also has other infrastructure services that are generally available within the urban environment such as reticulated water, drainage sewerage, electricity and telephone. Given the minor nature of the proposal, the planning proposal does not generate any apparent need to upgrade or improve public infrastructure.

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 former Council's Community Strategic Plan. It helps achieve the objective of *'Attractive City'* through the development of a modest scale shop top housing with an active commercial frontage to the street and *'Balanced Urban Development'* through the appropriate location of new housing close to public transport, open space and services.

Additional Consideration – FSR

The proposal seeks to amend the FSR from 0.5:1 to no FSR which is consistent with not applying a FSR control in the B1 Neighbourhood zone. Council's past experience with the lack of FSR in the business zones has caused problems in terms of overdevelopment and poor amenity outcomes. The recent Canterbury Road review has confirmed this to be an issue (no FSR in business zones) and has recommended applying a FSR control for mixed use residential developments as it is an effective control of bulk and form. Given the recent findings of the review and to provide certainty of development for the site, it is recommended an appropriate FSR be further investigated by Council and applied on the site, should the planning proposal proceed to gateway.

POLICY IMPACT

This matter has no policy implications for Council.

FINANCIAL IMPACT OF RECOMMENDATIONS

This matter has no financial implications for Council.

RECOMMENDATION That -

The application to amend Canterbury Local Environmental Plan 2012 for land at 89-91, 93, 93A and 95 Karne Street North, Narwee should proceed to Gateway subject to:

1. Council determining an appropriate FSR for the site, prior to public exhibition.
2. The requirements of SEPP 55 to be addressed by the proponent, prior to public exhibition.
3. The requirements of overland flooding to be addressed by the proponent, prior to public exhibition.

ATTACHMENTS

A. Assessment Findings

ATTACHMENT A – Assessment Findings

Attachment A outlines the assessment findings and is based on the justification matters as set out by the Department of Planning and Environment.

1. Strategic Merit Test

Section 1 assesses the proposal based on the Department of Planning and Environment's Strategic Merit Test as outlined in the Department's publication *A Guide to Preparing Local Environmental Plans*. The intended outcome is 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.

1.1 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?

1.1.1 Draft South District Plan

<table>
<tr><th></th><th>Complies</th></tr>
<tr><td>

Proponent's Submission: The following table illustrates how the planning proposal is consistent with both the Priorities and Actions of the Draft South District Plan relating to housing and urban design:

Priorities and Actions	Planning proposal in relation to the priorities of the Draft South District Plan
Action L2: Identify the opportunities to create the capacity to deliver 20 year strategic housing supply target (83,500 new dwellings to be provided by 2036)	The planning proposal will create an increased diversity of housing types within a local neighbourhood centre, therefore providing better housing choice.
L4: encourage housing diversity	The proposal will create an increased diversity of housing types within a local neighbourhood centre, therefore providing better housing choice.
L11: provide design led planning to support high quality urban design.	The proposal is informed by concept plans to ensure that future development can have an appropriate bulk/scale relationship with adjacent low rise residential zone. The building envelopes will be reinforced both by the development standards in the LEP and Canterbury DCP.

</td><td>Yes</td></tr>
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Draft policy – Urban Design and Architecture: Places should be designed to be integral with local people and cultures and connected to their landscape and setting. In this way, a place will be 'of its location' – distinctive, resonant and engaging.	See comments above and design Statement.	

Council's Assessment:
The Draft South District Plan was released by the greater Sydney Commission in November 2016.

The Plan covers 3 broad topics:

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

Liveability City: Action L3 requires Council to "*"increase housing capacity across the district"* and Action L4 *"increase diversity and housing choice".* According to these priorities, Council should align local planning controls to increase housing capacity and provide housing diversity that is relevant to the needs of the existing and future local housing market.

The intended outcome of this Planning Proposal is to facilitate shop top housing on the site. The proposal will contribute incrementally to Council's housing target. A modest increase of approximately six dwellings could be provided allowing homes closer to jobs.

In facilitating the zoning change from R3 Medium Density Residential to B1 Neighbourhood Centre the planning proposal will still permit a form of residential development being shop top housing which allows Council to meet its dwelling targets and housing types, therefore providing better housing choice and will resolvee what is considered to be an anomaly with the current zoning, namely purpose built shops in a residential zone.

The change of land use zone for the site from R3 to B1 will provide greater variety of permissible land uses that could be developed on the site and will facilitate the redevelopment of this site.

The planning proposal is consistent with the Greater Sydney Commission's Draft South District Plan.

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

1.2.1 Canterbury Community Strategic Plan 2014-2023

1.2.2 Canterbury Residential Development Strategy (RDS) (2013)

	Complies
Proponent's Submission: **Canterbury Community Strategic Plan 2014-2023** Reference – Priorities – Balanced development. *1.2.1 Development brings attractive and sustainable buildings and homes, and a balance of houses and units, residential and business areas, and historic and modern streetscapes* • *Assess and report on development applications and issue building related certificates.* • *Assess, recommends improvements, and regulate where necessary.* • *Produce urban planning policies which facilitate sustainable urban development.* • *Regulate building standards including fire safety and unauthorised building.* The planning proposal meets the objectives of this Clause; it is consistent with the Canterbury Community Strategic Plan 2014-2023. **Canterbury RDS 2013** The planning proposal is consistent with this strategy. The strategy indicates that Dwelling densities in Narwee in 2013 were relatively low: *Narwee: 25.5 percent of the population owned their dwelling; 24.9 percent were purchasing and 37.5 percent were renting (approx. 50 percent were social housing rental). 53% of the housing stock is medium or high density housing.* The proposal will allow for an incremental increase in dwelling densities with a built form which will have no adverse impacts whatsoever on nearby low density residential development. The current R3 Residential zone applying to the properties is inappropriate because this larger group of existing business premises are not zoned to reflect their current land use – refer to Part 6.2.2 of the Strategy – "Anomalies", which states as follows: *If the planning proposal relates to an anomaly in controls, then the proposal should be supported. Examples of zoning or planning control anomalies include the following: where a zone boundary has been arbitrarily positioned where adjustment of that boundary in accordance with the planning proposal would be logical (for example, one property in the street having a different zoning and the rest of the street having a separate zoning with no underlying reason).* The proposal meets the above criteria. The current R3 zone boundaries do not align geographically or reflect functionally of these business uses which are located on multiple lots and separated by residential uses by public infrastructure. If implemented, the planning proposal will permit shop top housing within a discrete group of commercial buildings which to all	Yes

intents and purposes already function as a "neighbourhood centre". The proposed rezoning is an opportunity to address a zoning anomaly as the current zoning pattern effectively "ignores" the commercial usage of these four allotments. As a result, current LEP R3 residential development standards and related residential DCP controls effectively negate any opportunity for further viable redevelopment of these smaller sites. **Council's Assessment:** The proponent's submission in relation to the RDS's criteria for supporting the planning proposal where there is a clear anomaly is noted. However, this is only one of the many criteria required for assessment of the planning proposal. The planning proposal has been assessed against the recently endorsed directions to inform the consolidation of the former Bankstown and Canterbury RDSs and criteria for considering planning proposals. The assessment is consistent with the Directions and Criteria in the following way: • The proposal will focus housing growth in an existing established local centre. • The proposed development will be sympathetic in scale with the surrounding residential neighbourhood (subject to the inclusion of an appropriate FSR for the site).	

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

	Complies
Proponent's Submission: No comment. **Council's Assessment:** The proposal does not respond to a change in circumstances	N/A

2. Planning Proposals – Justification Matters

Section 2 assesses the proposal based on the justification matters as outlined in the Department of Planning and Environment's publication *A Guide to Preparing Planning Proposals*. The intended outcome is to demonstrate whether there is justification for a proposal to proceed to the Gateway.

2.1 Is the planning proposal a result of any strategic study or report?

	Complies
Proponent's Submission: The proposal has been the subject of a Preliminary Submission prepared by town planning consultants on behalf of the owner of 93, 93A and 95 Karne Street North. The submission outlines the basic rationale for the planning proposal which is summarised as follows: • The current R3 zoning of these discrete premises appears to be an historical anomaly because these existing commercial uses are not recognised and zoned properly. Although the R3 Medium Density	No (meets Strategic Merit Test)

Residential zone permits neighbourhood shops and restaurants, a B1 Neighbourhood Centre zone would provide a much "better fit" in terms of relevant zone objectives for these business premises and would allow more appropriate, realistic development standards and development control plan provisions to apply. There are also many examples of the application of B1 Neighbourhood Centre Zone in the near vicinity of these sites which apply to similarly sized groups of commercial premises.

- A neighbourhood business zone would allow modest improvements including provision of shop top housing which is currently not possible within the R3 zone. The concept plans prepared indicate that this could markedly improve the urban design qualities of what is a prominent corner location. The architectural appearance of the existing single storey structure is at best described as "non-descript". In addition, the single storey scale does not visually accentuate this corner location which is otherwise desirable from an urban design perspective.
- To ensure the proposed new urban form can be appropriately accommodated in the existing streetscape and urban context of Karne Street North, concept elevations for the block and floor plans for 93, 93A and 95 Karne Street North together with a supporting design statement have been prepared by Micris Design. The plans demonstrate that a complying upper level addition comprising shop top housing can achieve a much improved urban design response whilst respecting local built form context. Upgrades to the elevations of existing building and the provision of additional off-street parking, by removal of existing outbuildings, will also be beneficial.
- Development of the sites will be sympathetic in scale with surrounding development and offers an opportunity to deliver additional dwellings close to services and public transport with no adverse impacts to nearby dwellings.

Council's Assessment: No, the planning proposal is not the result of any strategic study or report. The planning proposal is applicant initiated and has been justified on planning merit and meets the Department of Planning's site strategic merit test.

In relation to the proponent's submission regarding the permissibility of shops and restaurants in the R3 zone, it only does so in specific circumstances. The R3 zone does not permit residential dwellings to be developed above ground floor retail/commercial. This is why the B1 zone would be a more suitable zone for the subject site.

The proposal seeks to formalise an existing zoning/land use anomaly and to enable the redevelopment of the site. The proposed B1 zone is considered to better align with the existing use on the site and the proposed development is considered to be compatible to the surrounding residential neighbourhood.

2.2 Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

	Complies
Proponent's Submission: The planning proposal aims to rezone the subject sites to "B1-Neighbourhood Centre" and is the best means of achieving the stated objectives of more closely aligning the zoning of the land with the current neighbourhood business uses. There is no alternative methodology other than a Planning Proposal to achieve rezoning of the subject sites and implement the necessary changes to permitted land uses and related development standards which are appropriate for the current business activities. The planning proposal utilises zones and adopts development standards that already form part of Canterbury LEP 2012. The required amendments to Canterbury LEP relate only to mapping. **Council's Assessment:** The planning proposal is the most effective means of achieving the intended outcomes for this planning proposal as the change in land use zone for 89-95 Karne Street North, Narwee from R3 to B1 will formalise an existing neighbourhood use and provide a greater variety of permissible land uses that could be developed on the site and will facilitate the redevelopment of the site.	Yes

2.3 Is the planning proposal consistent with the objectives and actions of the applicable regional, subregional or district plan or strategy (including any exhibited draft plans or strategies)?

2.3.1 Metropolitan Plan (*A Plan for Growing Sydney*)

	Complies
Goal 2: *A city of housing choice, with homes that meet our needs and lifestyles.* ***Direction 2.1*** *Accelerate housing supply across Sydney* **Proponent's Submission:** the proposal will accelerate the delivery of new housing in Sydney to meet the growing population and to satisfy a growing demand for apartments close to transport and jobs. Increasing housing supply and choice in appropriate locations is identified as a high priority for meeting Sydney's future housing and reducing pressure on house prices. The target of 725,000 new dwellings in Sydney by 2036 has been set by the renewal are those connected to employment, well serviced by public transport and in and around strategic centres. The Planning Proposal will allow for modest redevelopment of these sites to provide incremental additional housing opportunity in an area close to services and public transport. ***Direction 2.2*** *Accelerate urban renewal across Sydney – providing homes closer to jobs.* **Proponent's Submission:** the planning proposal will encourage modestly scaled urban renewal on the sites. The location is accessible to services. Action 2.2.1 of the Plan acknowledges that a significant proportion of Sydney's future housing supply is to come from small-scale, urban infill development around public transport and local centres, which is	Yes

achieved by this planning proposal. The planning proposal is consistent with this direction. **Council's Assessment:** The planning proposal will result in increased capacity for residential development in an established neighbourhood centre providing homes closer to jobs. The proposal is consistent with this Direction ***Goal 3:*** *A great place to live with communities that are strong, healthy and well connected.* ***Direction 3.1*** *Revitalise existing suburbs.* **Proponent's Submission:** The planning proposal involves revitalising a site for urban renewal which is already serviced within infrastructure and access to public transport and services. The planning proposal will improve the streetscape of these prominent sites. The planning proposal is consistent with this Direction. **Council's Assessment:** The planning proposal will facilitate shop top housing that will assist in providing greater activation of the existing local neighbourhood centre. The proposal is consistent with this Direction.	

2.3.2 Draft South District Plan

	Complies
Refer to section 1.1 of this attachment. **Council's Assessment:** The proposal is consistent with the Draft South District Plan for reasons outlined in section 1.1 of this attachment.	Yes

2.4 Is the planning proposal consistent with a council's local strategy or other local strategic plan?

2.4.1 Canterbury Community Plan 2023 (former City of Canterbury)

	Complies
Refer to section 1.2.1 of this attachment. **Council's Assessment:** The proposal is consistent with the Canterbury Community Plan 2023 for reasons outlined in section 1.2.1 of this attachment.	Yes

2.5 Is the planning proposal consistent with applicable State Environmental Planning Policies?

	Complies
State Environment Planning Policy 55–Remediation of Land **Proponent's Submission:** No comment. **Council's Assessment:** The SEPP aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment. To satisfy this SEPP, Council must obtain and have regard to a report specifying the findings of a preliminary investigation of the land carried out in accordance with the contaminated land planning guidelines. This aspect of the proposal would be subject to further assessment following submission by the proponent to address the requirements of SEPP 55. Environmental impacts of any development will be managed through Council's planning policy framework as part of any subsequent development assessment process.	Yes (Subject to further assessment of proponent's submission addressing SEPP 55)

2.6 Is the planning proposal consistent with applicable Ministerial Directions (s. 117 directions)?

	Complies
Direction 1.1–Business and Industrial Zones **Proponent's Submission:** not specifically addressed. **Council's Assessment:** An objective of this direction is to protect employment land in business and industrial zones. A proposal must therefore retain the areas and locations of existing business and industrial zones unless justified by a strategy. The planning proposal is consistent with this Direction as it will maintain the total potential floor space for employment uses and services in the existing neighbourhood centre by rezoning the land to B1.	Yes
Direction 3.1–Residential Zones **Proponent's Submission:** the proposal meets the objectives of this direction as it seeks to provide residential development to incrementally satisfy existing and future housing needs. The site is in a location that can make efficient use of existing and proposed infrastructure. Environmental impacts of development will be managed through Council's planning policy framework as part of any subsequent development assessment process. **Council's Assessment:** The direction applies when a relevant planning authority prepares a planning proposal that will affect land within any zone in which significant residential development is permitted or proposed to be permitted. It is considered that the planning proposal is consistent with this Ministerial Direction as follows:	Yes

• Encourage a variety of housing types for an existing neighbourhood centre to provide for existing and future housing needs. • Make efficient use of existing infrastructure and services; and • The planning proposal will reduce the consumption of land for housing and associated urban development on the urban fringe. The planning proposal does not contain provisions which will reduce the permissible density of the land, in accordance with the requirements of the Ministerial Direction.	
Direction 3.4–Integrating Land Use and Transport **Proponent's Submission:** the site is optimally located in terms of access to existing public transport with bus services within close walking distance. The planning proposal will increase development intensity in this area to a minor degree that may result in increased viability and patronage of public transport, reduced travel demand and existing good accessibility by future residents to housing, jobs and services. **Council's Assessment:** An objective of this direction is to ensure that urban structures improve access to housing, jobs and services by walking, cycling and public transport. A proposal must therefore locate zones for urban purposes consistent with the principle to increase housing choice in centres with good access to the public transport network. The planning proposal will increase residential capacity in an existing local centre which will reduce travel demand as residents are serviced by local business facilities which are likely to increase as part of the rezoning.	Yes

Direction 4.3–Flood Prone Land **Proponent's Submission:** the sites are not affected by the 100 year average recurrence interval flood level. **Council's Assessment:** The subject site is not affected by the 100 year flood level; however it is affected by overland flow. Future development of the site will need to comply with all relevant planning and development assessment. Any relevant future development application for the site will be required to address the NSW Government's Flood Prone Land Policy, the principles of the Floodplain Development Manual 2005 and the Canterbury LEP 2012 Flood Prone Land controls. This aspect of the proposal would be subject to further assessment following submission by the proponent to address overland flow.	Yes (Subject to further assessment of proponent's submission addressing overland flow).
Direction 7.1–Implementation of A Plan for Growing Sydney **Proponent's Submission:** The proposal is consistent with the aims of *A Plan for Growing Sydney*. **Council's Assessment:** The objective of this direction is to give legal effect to the planning principles, directions and priorities for subregions, strategic centres and transport gateways contained in *A Plan for Growing Sydney*. Proposals must therefore be consistent with the NSW Government's *A Plan for Growing Sydney* published in December 2014.	Yes

The proposal is consistent with this direction for the reasons outlined in section 2.3.1 of this attachment.	

2.7 Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

	Complies
Proponent's Submission: the planning proposal does not apply to land that has been identified as containing critical habitat or threatened species, populations or ecological communities, or their habitats. **Council's Assessment:** The site has already been developed for a range of business uses and is unlikely to contain any original native vegetation or animal habitats. Also, the site is surrounded with a fully urbanised environment. As a result there is no likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected.	Yes

2.8 Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

	Complies
Proponent's Submission: The proposed changes and anticipated future built form has been informed by urban design considerations. This review included an assessment of: • *Interface Issues:* Development in this neighbourhood centre will be of a similar scale to two storey dwellings in the surrounding area. The interface with the existing one and two storey residences will be carefully considered. Draft LEP and DCP provisions are in place to ensure the scale, setback and envelope of new buildings has adequate regard to interface issues. • *Solar Access:* A key consideration for urban development is the impact it can have on the solar access of the surrounding properties, streets and public spaces. Shadow diagrams with concept plans indicate that there will be no loss of solar access to the private open space of adjoining residential properties. • *Street Proportions* – the proportions of a street are generally set by comparing the width of the street against the street wall height. • *Street Character:* The character of Karne Street North is established by a range of factors including front setbacks, street wall heights, active frontages and building details. The modest increase in street wall heights proposed will better define the special enclosure of the street. Subject to development proceeding in accordance with anticipated urban design outcomes, it is unlikely that the proposed amendments to Canterbury LEP 2012 will encourage development that will create significant environmental impacts. Adequate LEP and DCP controls are already in place to ensure any environmental	Yes

impacts are mitigated and to inform future development application assessment. • *Transport and Traffic:* The site is located on a public transport (two bus routes) providing good access to surrounding shopping, business and service centres, to employment opportunities. The M5 East Motorway provides sub-regional and regional transport links and can easily be accessed via King Georges Road. The area is therefore well located in terms of accessibility. A DA for development of the site in accordance with the Planning Proposal may be accompanied by a traffic assessment but it is expected that the low level of additional traffic likely to be generated can be both easily and safely accommodated without any adverse impacts on the capacity or efficiency of the surrounding street system. • *Contamination* – there is no history of the site having been used for any purpose likely to have caused soil contamination. A future DA for development of the site proposal would be accompanied by a preliminary site investigation if required. The planning proposal will not affect the capability of development of the site to comply with the requirements of SEPP 55. **Council's Assessment:** The planning proposal relates to urban land that will be converted from existing urban uses (business) to a new urban use (business/residential). No adverse environmental effects are likely to occur as a result of the planning proposal. The proposed amendments to height of building controls in the B1 Neighbourhood Centre are compatible to the scale (height) of the surrounding R3 Medium Density zones. An appropriate FSR for the site will be investigated by Council and applied to ensure an appropriate built form.	

2.9 Has the planning proposal adequately addressed any social and economic effects?

	Complies
Proponent's Submission: the planning proposal may provide positive social and economic effects through: • Improved housing diversity • Increased residential densities near an established centre. • The planning proposal will facilitate housing close to public transport and amenities. The proposed amendment to Canterbury LEP will not affect the type or scale of development allowed on the site that would generate any adverse social or economic effects. Rezoning will have a positive economic impact because it will enhance the viability of the existing neighbourhood business activities. **Council's Assessment:** The planning proposal is expected to generate positive social and economic impacts by providing additional housing and reinforcing the role of the existing neighbourhood centre in an area well serviced by public transport and infrastructure.	Yes

2.10 Is there adequate public infrastructure for the planning proposal?

	Complies
Proponent's Submission: Adequate infrastructure is provided as follows: *Public Transport:* the subject site is well serviced by public transport (2 bus routes nearby) which will assist in reducing dependence on private car travel and pressure on the local road network. *Utilities*: all utility providers will be notified of the planning proposal and be advised of the additional population to be catered for in terms of services ie water, sewer, electricity. *Roads*: existing infrastructure is located adjacent to the subject properties. *Waste Management*: the planning proposal is not expected to result in any significant implications for waste management and recycling services. A waste management plan will be assessed with any future development application. *Essential Services:* essential services will be available for development facilitated by the planning proposal. **Council's Assessment:** The site is serviced by public transport. It also has other infrastructure services that are generally available within the urban environment such as reticulated water, drainage, sewerage, electricity and telephone. The planning proposal does not generate any apparent need to upgrade or improve public infrastructure.	Yes

2.11 What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?

	Complies
Proponent's Submission: No consultation with State or Commonwealth authorities has been carried out to date on the proposal. It is acknowledged that Council will consult with relevant public authorities following the Gateway determination. **Council's Assessment:** This proposal has not been the subject of consultation with State and Commonwealth public authorities. Council will consult any agencies required by the DP&E in the Gateway Determination.	N/A

ITEM 2	**14 Merlen Crescent, Yagoona** **Demolition of existing double garage and associated paving and construction of a secondary dwelling. S96(1A) amendment to delete skylight windows W02 and W08**
FILE	**DA-377/2016/1 – Bass Hill Ward**
ZONING	**R2 Low Density Residential**
DATE OF LODGEMENT	**16 August 2017**
APPLICANT	**Mr Kiril Stojcevski**
OWNERS	**Mr Kiril Stojcevski**
AUTHOR	**Planning**

RECOMMENDATION

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

SUMMARY REPORT

Section 96(1A) Application DA-377/2016/1 is lodged by Mr Kiril Stojcevski (Development Assessment Officer – Certification Team at Canterbury Bankstown Council). It seeks to modify a determination made by Council for the construction of a secondary dwelling, based on the recommendation of Environmental Resources Management Australia Pty Ltd (the independent consultant engaged to undertake the assessment of DA-377/2016), and is reported to the Independent Hearing and Assessment Panel (IHAP) for determination.

The IHAP were not involved during the determination of DA-377/2016 as the Panel did not apply to Council at the time of determination. However, as the applicant is a member of Council Staff, the IHAP Charter requires that the modification application be determined by the IHAP.

The application proposes to alter the previously approved secondary dwelling via the following modifications:

- Deletion of skylight windows;
- Deletion of W02;
- Deletion of W08.

The application has been assessed against sections 79C and 96(1A) of the *Environmental Planning and Assessment Act, 1979*. The proposal remains consistent with the relevant provisions contained within the Bankstown Local Environment Plan 2015 and Bankstown Development Control Plan 2015.

The application was not required to be notified.

BACKGROUND/HISTORY

In September 2016, Council approved a development application (DA-377/2016) for the demolition of existing double garage and associated paving and construction of a Secondary Dwelling. As the applicant is an employee at Canterbury Bankstown Council, an independent consultant (Environmental Resources Management Australia Pty Ltd) was engaged to undertake the assessment of the application.

In August 2016, Environmental Resources Management Australia Pty Ltd recommended that DA-377/2016 be approved under delegation by the Director of City Planning and Environment.

The current section 96 application proposes to delete skylight windows, and windows W02 and W08 only.

POLICY IMPACT

This matter has no direct policy implications.

FINANCIAL IMPACT

This matter has no direct financial implications.

RECOMMENDATION

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

ATTACHMENTS

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

DA-377/2016/1 ASSESSMENT REPORT

SITE & LOCALITY DESCRIPTION

The subject site is known as 14 Merlen Crescent, Yagoona. The site is zoned R2 Low Density Residential. The overall site has an area of 632.3m^2, and has a frontage to Merlen Crescent. A single dwelling is located at the front of the site, facing Merlen Crescent and a secondary dwelling is currently under construction at the rear of the site.

Single dwellings adjoin the subject site to the east and west. The southern boundary of the property adjoins a site containing townhouses.

The context of the site is illustrated in the following aerial photo.

PROPOSED DEVELOPMENT

The section 96 application seeks the following modifications to the windows of the secondary dwelling approved under DA-377/2016 as follows:

- Deletion of skylight windows;
- Deletion of W02; and
- Deletion of W08.

SECTION 96(1A) ASSESSMENT

The proposed modifications have been assessed pursuant to section 96 of the *Environmental Planning and Assessment Act, 1979*.

(a) the proposed modification is of minimal environmental impact, and

Comment
The proposed modification is considered to be relatively minimal, resulting in no changes to development footprint on the site. Further, no additional openings are proposed and as such, the modifications are considered to be of minimal environmental impact.

(b) the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and

Comment
The current Section 96(1A) application seeks to modify the approved plans to delete four windows, two located on the roof (skylights) one on the southern elevation and one located on the eastern elevation. The proposed amendment is relatively minor in that the changes will result in substantially the same development outcome. The modification will not alter the site layout and remains the same development as was previously approved.

(c) it has notified the application in accordance with the regulations or a development control plan, and

Comment
The application was not required to be notified under BDCP 2015.

(d) it has considered any submission made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan.

Comment
No submissions were received.

SECTION 79C ASSESSMENT

The proposed development has been assessed pursuant to section 79C of the *Environmental Planning and Assessment Act, 1979*.

Section 79C(1)(a)(i) – Environmental planning instruments

The proposed modifications remain satisfactory with respect to the requirements and considerations of the BLEP 2015.

Section 79C(1)(a)(iii) – Development control plans

The proposed modifications remain satisfactory with respect to the requirements and considerations of the BDCP 2015. The removal of the windows from the roof, side and rear elevation (southern and eastern elevation) is considered to remain satisfactory in respect to

the visual privacy in accordance with the DCP 2015. Further the solar access to the living areas of the secondary dwelling remain compliant with the controls contained in the BDCP 2015. The proposal remains compliant with the provisions of the BDCP 2015.

Section 79C(1)(a)(iiia) – Planning agreements

There are no planning agreements applicable to the proposed modifications.

Section 79C(1)(a)(iv) – The regulations

The proposed modifications are not inconsistent with the relevant provisions of the Environmental Planning and Assessment Regulation, 2000.

Section 79C(1)(b) – The likely impacts of the development

It is considered that the proposed amendment will not have a negative impact upon the natural, social, economic or built environments, nor are they considered to result in a loss of amenity to any adjoining land use as a result of the modification.

Section 79C(1)(c) – Suitability of the site

The site remains suitable for the development approved under DA-377/2016, as proposed to be modified.

Section 79C(1)(d) – Submissions

The application did not require notification.

Section 79C(1)(e) – The public interest

The proposed development remains in the wider public interest.

CONCLUSION

The application has been assessed in accordance with the provisions of sections 79C and 96(1A) of the *Environmental Planning and Assessment Act 1979* and Bankstown Local Environmental Plan 2015 and Bankstown Development Control Plan 2015.

The proposal to remove the approved windows will not cause any adverse impacts for the surrounding and adjoining residences, nor the future residents of the approved secondary dwelling. The application is deemed worthy of support.

RECOMMENDATION

Based on the above assessment it is recommended that the Section 96(1A) Application be approved.

CONDITIONS OF CONSENT

THAT Development Consent DA-377/2016 be MODIFIED as follows:

1. By amending condition 2 to read as follows (amendments in italics):

   "2) Development shall take place in accordance with Development Application No. DA-377/2016, submitted by Mr Kiril Stojcevski, accompanied by Drawings submitted by NJS Design and Drafting, inclusive of Site Plan (Sheet 1), Ground Floor Plan (Sheet 2), Elevations (Sheets 3 and 4), BASIX Requirements (Sheet 5), Site Analysis Plan (Sheet 6), Notification Plan (Sheet 7) and 3D Perspective Plan (Sheet 8), all dated 25 January 2016; and Stormwater Drainage Plan prepared by Development Engineering Solutions (Rev C), dated 16 April 2016, and affixed with Council's approval stamp *and Section 96(1A) Modification application DA-377/2016/1, submitted by Mr Kiril Stojcevski, accompanied by Ground Floor Plan (Sheet 2) and Elevations (Sheets 3 and 4), dated 06 September 2017, and affixed with Council's approval stamp, except where otherwise altered or amended by the conditions listed here under."*

2. Insert the following words under Schedule A: Advice to Applicants:

   "A copy of the approved plans are attached for your information.

   You are also advised that an amended Construction Certificate is required as a result of the above modification. The Construction Certificate can be issued by Canterbury-Bankstown Council."