



# **AGENDA FOR THE CANTERBURY BANKSTOWN LOCAL PLANNING PANEL MEETING**

**2 July 2018 – 6pm**

**Location:**

**Council Chambers  
Cnr Chapel Road and The Mall,  
Bankstown**

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## ORDER OF BUSINESS

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### BANKSTOWN

- 1        5, 7 and 9 French Avenue and 2 Conway Road, Bankstown**
- Demolition of existing site structures and construction of an eleven storey mixed residential/commercial flat building comprising of 81 residential units and basement car parking
- Section 4.55(2) Amendment: Increase the height of the lift shaft on the roof by 500mm, new lobby enclosure for lifts on roof, two new internal stairs to access new POS roof terrace areas, minor amendments to retail/commercial waste area, new street awning, louvres to façades and electricity substation to ground floor.....3

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Lakemba)**
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## Canterbury Bankstown Local Planning Panel - 2 July 2018

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<b>ITEM 1</b>	<b>5, 7 and 9 French Avenue and 2 Conway Road, Bankstown</b>  <b>Demolition of existing site structures and construction of an eleven storey mixed residential/commercial flat building comprising of 81 residential units and basement car parking</b>  <b>Section 4.55(2) Amendment: Increase the height of the lift shaft on the roof by 500mm, new lobby enclosure for lifts on roof, two new internal stairs to access new POS roof terrace areas, minor amendments to retail/commercial waste area, new street awning, louvres to façades and electricity substation to ground floor</b>
<b>FILE</b>	<b>DA-738/2015/1 - Bankstown Ward</b>
<b>ZONING</b>	<b>B4 Mixed Use and R4 High Density Residential</b>
<b>DATE OF LODGEMENT</b>	<b>10 April 2018</b>
<b>APPLICANT</b>	<b>Statewide Planning</b>
<b>OWNERS</b>	<b>French Apartments Pty Limited</b>
<b>AUTHOR</b>	<b>Planning</b>

### **SUMMARY REPORT**

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The application is reported to Council's Local Planning Panel for determination as the applicant seeks to modify, through the provisions of Section 4.55(2) of the EP&A Act 1979, a development application previously determined by Council.

In February 2016, Council approved DA-738/2015 for the demolition of all structures on site and construction of an eleven storey mixed residential/commercial flat building comprising of 81 residential units, a ground floor retail premises and basement car parking.

The modification application proposes to amend the original application by way of increasing the height of the building (being an increase to the height of the lift overrun by 500mm), the addition of a lobby area to the roof top communal open space, a reduction in the size of the roof top communal open space and a reallocation of areas within the roof top to private open space accessible by staircases proposed from within units 1104 and 1105, the addition of bi fold doors to the commercial tenancy, rearranging of the ground floor waste areas and the addition of a toilet facility, the installation of louvers to the façade, a new awning proposed to the French Avenue frontage and the installation of an electricity substation fronting Conway Road.

The proposed modifications have been assessed in accordance with the provisions contained in section 4.15(2) and section 4.55(1) of the *Environmental Planning and Assessment Act 1979*, requiring, amongst other things, an assessment *against State Environmental Planning Policy 55 – Remediation of Land, State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development* and the associated Apartment Design Guide, *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, Greater Metropolitan Regional Environmental Plan 2 – Georges River Catchment (a deemed SEPP), Bankstown Local Environmental Plan 2015 and Bankstown Development Control Plan 2015*.

The development, as modified, proposes a marginal increase in terms of its bulk, scale and building height that was originally considered, however remains consistent with the setbacks, site coverage and landscaping as originally considered. The modified development, subject to imposition of conditions, will have no impact on the streetscape nor will it cause or contribute to a loss of privacy, amenity or solar access to the adjoining developments further as a result of the change proposed.

The application was advertised and notified for a period of 21 days. No submissions have been received.

## **POLICY IMPACT**

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The matter has no direct policy implications.

## **FINANCIAL IMPACT**

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The matter has no direct financial implications.

## **RECOMMENDATION**

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

## **ATTACHMENTS**

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- A. S4.55(2) Assessment Report
- B. Conditions of Consent

## **DA-738/2015/1 ASSESSMENT REPORT**

The subject site is known as 5, 7 and 9 French Avenue and 2 Conway Road, Bankstown.

The attached maps show the location of the site and its zoning. As can be seen from the attached maps, 5-9 French Avenue are zoned B4 - Mixed Use; and 2 Conway Road is zoned R4 - High Density Residential; both under the provisions of Bankstown Local Environmental Plan 2015.

The site is located on the northern fringe of the Bankstown CBD, and this is evident in the split of business and residential zonings that apply to the site. The site is "L" shaped in nature and has an area of 2,018m<sup>2</sup> with frontages to Conway Road of 47.24m and to French Avenue of 35.05m (plus splay). The site is currently under construction.

The site has a moderate fall from north west to south east of 3.61 metres, with the lowest point of the site being at the intersection of French Avenue and Conway Road. The site is free from constraints such as flooding, contamination, and the like, but is affected by a height limit associated with Bankstown Airport's obstacle limitation surface of 15.24 metres above the site's ground level.



**Image 1- Aerial photo of the subject site**

In general terms, it could be said that the area in the vicinity of the site is currently undergoing transition and contains a mix of development types and scales, consistent with the mix of zonings that apply in the area, coupled with the site's location on the fringe of the Bankstown CBD.

Land immediately to the north of the site has been developed for a single dwelling, consistent in age, size and form with the dwellings that currently occupy the subject site. This adjoining property is zoned R4 High Density Residential, as is the land to the north of the site fronting Conway Road. The R4 zone extends to the north and has been developed for a mix of single dwellings and three and four storey residential flat buildings.

Land immediately to the west of the site (11 French Avenue) has been developed for a single dwelling, consistent in age, size and form with the dwellings that previously occupied the subject site, and residential development extends along French Avenue as far as Chapel Road to the west. These properties to the west are zoned B4- Mixed Use. The B4 zone continues west beyond Chapel Road, with the most notable developments to the west being the Little Saigon Plaza development and Bankstown TAFE, both located on the western side of Chapel Road. Adjoining to the west of 2 Conway Road is a recently constructed nine storey mixed commercial and residential development known as Merhis Tower.

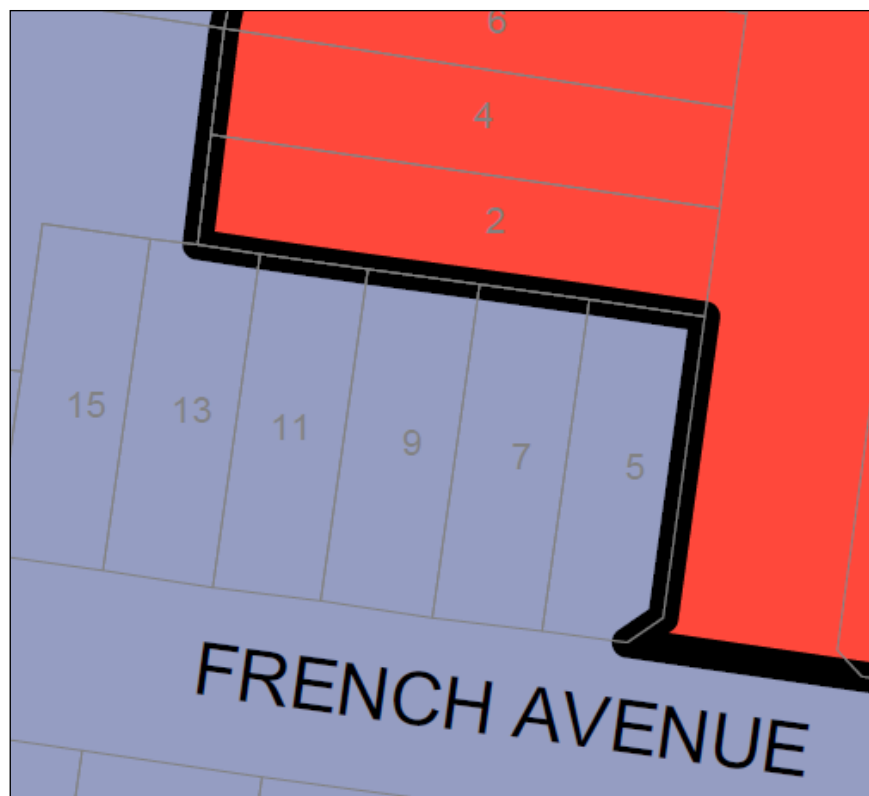


Image 2- Extract of LEP 2015 zoning map

Land to the south of the site, opposite French Avenue, is zoned B4 - Mixed Use and contains a nine storey residential development known as 4-6 French Avenue, a two- storey-plus-ground-level-car-park commercial development (8 French Avenue) and an eleven storey residential development at 10-12 French Avenue. The core of the Bankstown CBD extends further south beyond these properties.

Land to the east of the site, on the opposite side of Conway Road, is zoned R4- High Density Residential and has been developed for a single dwelling (7 Conway Road) and a part two/part three storey plus basement residential flat building (1 Conway Road). Land further to the east contains a mix of single dwellings and medium and high-density residential developments.

### **BACKGROUND/HISTORY**

Council resolved to approve DA-738/2015 for the demolition of all structures on site and construction of an eleven storey mixed residential/commercial flat building comprising of 81 residential units, a ground floor retail premises and basement car parking (on a deferred commencement basis).

The resolution of Council was as follows:

*RESOLVED that Council accept the applicant's submission made under clause 4.6 of the Bankstown LEP 2015 and approve DA 738/2015 on a deferred commencement basis. The deferred commencement matters that must be satisfied within 12 months of the date of determination of the development application are:*

- 1. The applicant will alter the plans (Substantially the same) to reduce the FSR to 3.5:1 (calculated as "ratio of the gross floor area of all buildings within the site to the site area") adopting the definitions from clause 4.5 of the Bankstown LEP 2015.*
- 2. The applicant will alter the plans (Substantially the same) of setbacks to balconies, resulting in the non-compliance with clause 3F-1 of the Apartment Design Guide, to achieve full compliance with the clause of the Apartment Design Guide.*
- 3. The applicant will alter unit sizes of 505, 605, 705, 805, 504, 604, 704, 804, 904, 1004, 1104, to meet the minimum sizes required by the Apartment Design Guide in accordance with clause FD-1 of the Apartment Design Guide. These changes may include removal of ensuites or other internal minor design changes.*
- 4. Approval from Bankstown Airport Limited for breach of Airport's Obstacle Limitation Surface level.*
- 5. Satisfaction of basement manoeuvring and car parking layout to meet the requirements of the relevant Australian Standard.*
- 6. Resolution of waste storage areas and waste collection provisions to the satisfaction of Council's Resource Recovery Team.*

In response to the submission of amended plans addressing the above matters, an operative consent was issued by Council on 12 September 2016.

## **PROPOSED DEVELOPMENT**

This application is submitted under the provisions of section 4.55(2) of the *Environmental Planning and Assessment Act, 1979*. The application seeks to amend Determination Notice No. 738/2015, and involves the following modifications:

- An increase to the height of the building (being confined to an increase to the height of the lift overrun by 500mm)
- The addition of a lobby area to the roof top communal open space
- A reduction in the size of the roof top communal open space and a reallocation of communal open space within the roof top to private open space to units 1103, 1104 and 1105
- Addition of two staircases to the private open space proposed within the roof top from within units 1104 and 1105
- The addition of bi fold doors to the commercial tenancy
- Rearranging of the ground floor waste areas and the addition of a toilet facility
- The installation of louvers to the façade
- A new awning proposed to French Avenue; and
- The installation of an electricity substation fronting Conway Road.

## **SECTION 4.55(2) ASSESSMENT**

The proposed modifications have been assessed pursuant to section 4.55(2) of the *Environmental Planning and Assessment Act, 1979*.

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

The development remains substantially the same development to that which was originally approved in so far as the modification will not result in any substantial changes in the approved built form. The extent of the changes are such that the predominant form, scale and bulk of the development is retained with the modifications only introducing nominal alterations.

- (a) it has consulted with the relevant Minister, public authority or approval body in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and***

**Comment:** The original application was referred to Sydney Metro Airport and required approval from the Department Infrastructure and Regional Development (Civil Aviation Safety Authority). The modification seeks to further breach the building height as consented to and was referred back to Sydney Metro Airport. Approval for the additional height was provided by CASA in correspondence dated 5 June 2018.



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

**Comment:** The application was advertised and notified for a period of 21 days. The exhibition and notification process was consistent with that which occurred with the original development application as required by the provisions contained in Council's Development Control Plan.

- (c) *it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan.***

**Comment:** No submissions have been received.

#### **SECTION 4.15(1) ASSESSMENT**

The proposed modifications have been assessed pursuant to section 4.15 of the *Environmental Planning and Assessment Act, 1979*.

#### **Environmental planning instruments [section 4.15(1)(a)(i)]**

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

Under the provisions of Clause 7 of SEPP 55, a consent authority must not consent to the carrying out of any development on land unless:

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

The development site has a history of use for low density residential purposes and the subject application proposes to continue the use of the site for residential purposes, albeit at a higher density. There is no evidence to suggest that the sites have been subject to any contaminating land uses.

Having regard to the modifications proposed, no further assessment is required to be undertaken against this planning instrument. It is therefore considered that the consent authority can be satisfied that the development site will remain suitable for the proposed development, as modified, in accordance with Clause 7 of SEPP 55.

***Greater Metropolitan Regional Environmental Plan 2—Georges River Catchment (GMREP 2)***

It is considered that the proposed development as modified will not significantly impact upon the environment of the Georges River, either in a local or regional context, and that the development is not inconsistent with the general and specific aims, objectives, planning principles, planning considerations and policies and recommended strategies contained within the GMREP 2.

***State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development (SEPP 65), and the Apartment Design Guide (ADG)***

SEPP 65 applies to residential flat buildings having four or more units and three or more storeys. Accordingly the SEPP applies, and an assessment against the Design Quality Principles in SEPP 65 and the accompanying Apartment Design Guide (ADG) was carried out as part of the original application.

The table below shows the relevant change resulting from the modification to the applicable 'design criteria' contained in the Apartment Design Guide.

<b>'DESIGN CRITERIA'</b>	<b>PROPOSED</b>	<b>COMPLIES?</b>
<b>3D-1 Communal open space</b>  25% of the site area is to be communal open space (504.5sqm), and 50% of the COS must receive at least 2 hours direct sunlight between 9am-3pm on 21 June.	21% of the site area is provided as communal open space utilising both ground floor open space and roof top. At least 50% of the COS is able to achieve at least 2 hours direct sunlight between 9am-3pm on 21 June.	Yes, subject to conditions of consent proposed.  See comments below.

***Communal Open Space***

The amended design proposed seeks approval to convert additional areas within the previously approved communal open space on the roof top, to be included as private open space to units 1103, 1104 and 1105. The proposal to convert areas within the previously approved communal open space on the rooftop to private open space for units 1103, 1104 and 1105 results in a failure of compliance with the communal open space requirements in the ADG and is not supported.

Conditions of consent will be imposed to delete the staircases from within units 1104 and 1105 and the removal of barriers between the areas within the roof top to ensure that the communal open space area meets the size requirements of the ADG and also has a cohesive design that encourages and enhances the usability of the space.

The extension of the POS area for unit 1103 on the roof top can be considered and approved as the remaining area, combined with the area accepted at the ground floor north western corner meets the 25% and will not alter the remaining communal open spaces functionality or usability as a result of the location of the extended POS.

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

The proposed modifications to the development do not alter compliance with the SEPP as established under the original application.

***Bankstown Local Environmental Plan 2015***

The following clauses of *Bankstown Local Environmental Plan (BLEP) 2015* are relevant to the proposed development and were taken into consideration:

- Clause 1.2 – Aims of Plan
- Clause 2.1 – Land use zones
- Clause 2.2 – Zoning of land to which Plan applies
- Clause 2.3 – Zone objectives and Land Use Table
- Clause 2.7 – Demolition requires development consent
- Clause 4.3 – Height of buildings
- Clause 4.4 – Floor space ratio
- Clause 4.4A – Additional gross floor area for more sustainable development in Bankstown CBD commercial core
- Clause 4.5 – Calculation of floor space ratio and site area
- Clause 6.2 – Earthworks

The proposed modification has been assessed against the relevant controls as given below.

STANDARD	BLEP 2015 COMPLIANCE	APPROVED DEVELOPMENT	PROPOSED
Clause 4.3 Height	30m – 2 Conway 35m – 5-9 French Avenue	37.25m	37.75m
Clause 4.4 FSR	Maximum 3:1	3.48	3.49:1 across the development site
Clause 4.4A Additional gross floor area for more sustainable development in Bankstown CBD commercial core	Maximum of 3.5:1	3.48	3.49:1 across the development site

The following comments are offered in response to the details provided in the above compliance table.

### *Floor Space Ratio*

*Floor space ratio (Clause 4.4) and Additional gross floor area for more sustainable development in Bankstown CBD Commercial core (Clause 4.4A)*

Firstly Clause 4.4(2) of the Bankstown LEP states that the “... *maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.*”

The Floor Space Ratio Map identifies the development site as having a maximum floor space ratio of 3:1.

Clause 4.4A(3) of the Bankstown LEP states “*Despite any other provision of this Plan, the consent authority may grant development consent to development to which this clause applies if the gross floor area of the buildings on the development site exceeds the gross floor area otherwise permitted by this Plan by no more than 0.5:1.*”

On this basis, Council resolved to approve the original development allowing for a maximum floor space ratio (across the development site) of 3.5:1.

Additional floor area is proposed as a result of the proposed enclosure of the lift lobby however it is confined to an increase of only 17m<sup>2</sup> and an additional 10.8m<sup>2</sup> on the ground floor for amenities.

The modification as submitted maintains compliance with the resolution of Council on 23 February 2016 ensuring that the FSR across the overall site does not exceed 3.5:1.

### *Height of buildings*

Clause 4.3(2) of the Bankstown LEP states that the “... *height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.*”

The Buildings Height Map identifies 2 Conway as having a maximum permitted building height of 30 metres while 5, 7 and 9 French Avenue have a maximum permitted building height of 35 metres.

The original development was approved with a maximum building height of 37.25 metres. The applicant seeks to increase the height of the lift overrun resulting in a further 500mm breach to the maximum approved building height. The building will therefore have a maximum building height of 37.75 metres.

The objectives of ‘Height of Buildings’ (Clause 4.3) are as follows:

- (a) *to ensure that the height of development is compatible with the character, amenity and landform of the area in which the development will be located,*

- (b) *to maintain the prevailing suburban character and amenity by limiting the height of development to a maximum of two storeys in Zone R2 Low Density Residential,*
- (c) *to provide appropriate height transitions between development, particularly at zone boundaries,*
- (d) *to define focal points by way of nominating greater building heights in certain locations.*

Extracts of the applicants rational in support of the modification are presented below:

...

*The proposal to increase the height by 500mm of the centrally located lift shaft measuring 4.8 x 2.8 metres with an area of 13.44 m<sup>2</sup> will have the finished level at this point of the roof being RL 68.5m or approximately 38.15m...*

*This additional height is considered an architectural roof feature as it provides a focal point and visual interest breaking the monotony of a flat plane roof...*

*... Due to the exposure of the lift and lift shaft to the elements at the roof level the modification proposes a functional lobby within the area previously approved as a covered pergola. The proposed lobby area measuring 17.85m<sup>2</sup> is of sufficient width to comply with the BCA provisions for stretcher access.*

*The height of the lift lobby that also contains the fire stairs, lift and plant is proposed to be as per the approved height of RL 68.00....*

*Clause 5.6 of the BLEP2015 details architectural roof features and discusses the objectives and circumstances whereby architectural roof features may exceed the roof height. An assessment of these controls and objectives is as follows:*

(1) *The objectives of this clause are as follows:*

- (a) to enable minor roof features to exceed the maximum height for a building,*
- (b) to provide opportunities for architectural roof features that form an integral part of the building's design.*

**Comment:** *The proposed minor exceedance of 500mm relates to the centrally located lift shaft and provides an interesting and integrated roof feature for the building.*

(2) *Development that includes an architectural roof feature that exceeds, or causes a building to exceed, the height limits set by clause 4.3 may be carried out, but only with development consent.*

**Comment:** *The proposed modification seeks a minor amendment to the development consent and is the subject of this application.*

(3) *Development consent must not be granted to any such development unless the consent authority is satisfied that:*

(a) *the architectural roof feature:*

- (i) *comprises a decorative element on the uppermost portion of a building, and*
- (ii) *is not an advertising structure, and*
- (iii) *does not include floor space area and is not reasonably capable of modification to include floor space area, and*
- (iv) *will cause minimal overshadowing, and*

**Comment:** *The proposed modification is considered a minor decorative element that provides relief to the buildings flat roof. The treatment will be integrated in the buildings design and will not contain any advertising or additional floor space. The modification due to the minor nature and central location will not have any adverse overshadowing impacts.*

(b) *any building identification signage or equipment for servicing the building (such as plant, lift motor rooms, fire stairs and the like) contained in or supported by the roof feature is fully integrated into the design of the roof feature.*

**Comment:** *The proposed modification is fully integrated into the design being contained within the lift shaft area and improves the design by providing visual interest.*

*Therefore the proposed modification is considered to be compliant with Clause 5.6 architectural roof features for the reasons listed above.*

*The proposed modifications are considered to be consistent with the Bankstown Local Environmental Plan 2015....*

.....

Whilst the provisions of Clause 4.6 Exceptions to a Development Standard, do not apply to Section 4.55 applications, Council has reviewed the application and variation request submitted and consideration has been given to the principles outlined in Clause 4.6 to ensure consistency and achievement of the overall objectives of the development standard are maintained.

An assessment of the development against Clause 4.6(2), 4.6(3) and 4.6(4) of the BLEP 2015 is provided below:

- (2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*

Clause 4.3 prescribes the maximum height of building for B4 Mixed Use zoned land. This clause is a development standard, and not excluded from consideration under this clause.

- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
  - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

An extract of the applicant's submission has been reproduced above and the objectives for the Height of Building standard as contained in Clause 4.3 of the BLEP 2015 have been provided above.

In addressing the proposed variation, consideration has been given to the principles given above as outlined in clause 4.6, the objectives of clause 4.3 and zone objectives given below.

The objectives of the B4 Mixed use zone are "to provide a mixture of compatible land uses"...to integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transportation patronage and encourage walking and cycling" and "to maintain the role of the Bankstown CBD as a major metropolitan centre"....

The current application seeks approval for changes to the approved lift well to increase the height by 500mm for the lift overrun. The lift overrun has been increased proposing an overall height of 37.75m at the highest point (maximum RL of 68.50 AHD). The roof area inclusive of the communal open space, landscaping and access is 719m<sup>2</sup>. The lift area is 14m<sup>2</sup> and on top of the roof within the B4 portion of the site.

The lift overrun is substantially setback from the northern, western and southern boundary by a distance of 20m or greater with a general setback from the eastern boundary of 14m and equates to approximately 2% of the overall roof area. The increase in height of the remaining structures on the roof, as proposed, remains consistent with the height previously approved.

The further increase to the maximum height of the building by 500mm relates solely to the lift overrun. The proposed further increase to the maximum height does not change the ability to access the rooftop to any additional degree beyond that originally considered

acceptable as part of the approved development. Nor could the changes be considered to unreasonably allow any additional levels of the building, beyond that already considered acceptable under the original approval.

It is considered that support of this noncompliance would not be inconsistent to the achievement of Clause 4.3 objectives or the zone objectives outlined above. The modification seeks approval to extend the built form in the central portion of the roof area by 500mm at the worst point and is not considered to result in any additional significant impacts on the adjoining residential properties by way of overshadowing, visual privacy or visual bulk.

The proposed modification is not inconsistent with the built form that was originally approved and established under DA-738/2015. The proposal is considered to remain consistent with the application as originally established on site.

As such, it is considered that there are sufficient grounds to justify a contravention to the development standard given the proposed development does not result in any significant further impact to the surrounding area as a result of the minor non-compliance.

Accordingly, it is considered that compliance with the development standard is unreasonable and unnecessary in the circumstances of the case as the development remains an appropriate built form outcome for the site, despite the contravention to the development standard.

- (4) *Development consent must not be granted for development that contravenes a development standard unless:*
- (a) *the consent authority is satisfied that:*
- (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
  - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and It is considered that the applicant's justification for the proposed FSR variation is acceptable, and that sufficient environmental planning grounds exist for support of the proposed variation. Accordingly, compliance with the development standard is considered to be unreasonable and unnecessary in the circumstances of the case.*

The proposed variation satisfactorily addresses the objectives for development within the B4 Mixed Use zone as discussed above, and the development will therefore not be inconsistent with the public interest.

In accordance with the above, it is considered that the variation is worthy of support in this instance.



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

There are no draft environmental planning instruments that are applicable in this instance.

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

The following table provides a summary of the development application as modified against the applicable controls contained in B1 of the Bankstown Development Control Plan 2015.

STANDARD	PROPOSED	PART B1 of BDCP 2015		BLEP 2015 COMPLIANCE
		REQUIRED	COMPLIANCE	
<b>Part B1 Residential Development</b>				
Roof-top balconies	Roof top balcony as both communal open space and private open space	Apartment Design Guide takes precedent		N/A
Plant room lift and machinery	Lift overrun and plant proposed exceeding the maximum HOB	The plant room, lift motor room, ventilation stack, exhaust stack and the like must; a) Integrate with the architectural features of the building to which it is attached; or b) sufficiently screened from view from the street and the neighbouring properties	No, however are located within the B4 zoned portion of the site	N/A

**Planning agreements [section 4.15C(1)(a)(iia)]**

There are no planning agreements applicable to the modification application.

**The regulations [section 4.15(1)(a)(iv)]**

The proposed amendments are considered to satisfactorily address the relevant provisions of the regulations.

**The likely impacts of the development [section 4.15(1)(b)]**

The proposed modification includes elements that do not trigger the need for detailed assessment. The installation of the electrical substation, the installation of bi fold doors to the commercial tenancy, installation of an awning to French Avenue, the addition of louvers

to the façade of the building and the minor changes to the residential and commercial waste areas have been reviewed and are considered acceptable.

It is not considered the modification will result in any additional detrimental environmental, social or economic impacts on the locality.

**Suitability of the site [section 4.15(1)(c)]**

The suitability of the site for the proposed development is considered to remain as assessed in the original proposed development.

**Submissions [section 4.15(1)(a)(d)]**

The application was advertised/notified for a period of 21 days. No Submission were received.

**The public interest [section 4.15(1)(a)(e)]**

The proposed modifications are not considered to contravene the public interest.

**CONCLUSION**

The proposed modifications have been assessed in accordance with the provisions of section 4.55 and section 4.15 of the *Environmental Planning and Assessment Act 1979*, requiring, amongst other things, assessment against State Environmental Planning Policy 55 – Remediation of Land, State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development and the associated Apartment Design Guide, State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, Greater Metropolitan Regional Environmental Plan 2 – Georges River Catchment (a deemed SEPP), Bankstown Local Environmental Plan 2015 and Bankstown Development Control Plan 2015.

Subject to the imposition of conditions to address the communal open space requirements, the assessment of the application has found that the development as modified with the minor internal and external changes can be supported subject to conditions.

### Modified Conditions

Accordingly, Condition 3, 4 of Determination Notice No. DA-738/2015 is amended to read (as shown below in italics):

- 3) Development shall take place in accordance with Development Application No.DA-738/2015, submitted by Statewide Planning Pty Ltd, accompanied by Drawing No. DA-02 –DA 17, DA21-DA 24, DA 31-DA 32 Revision O prepared by Geoform dated 21.10.2015 and affixed with Council’s approval stamp and marked as “Deferred Commencement”, except where otherwise altered by the specific amendments listed hereunder and/or except where amended by the conditions contained in this approval.

The “Deferred Commencement” plans referred to above shall be amended as required in accordance with the requirements of Schedule A. The amended plans that are endorsed in accordance with Schedule A shall become the approved development plans under an operational development consent. The Construction Certificate plans must be consistent with the above.

The plans and information submitted to satisfy schedule A are given below all drawings prepared by Aleksandar Design Group Pty Ltd:

- Drawing No. CC02 P2, Basement 03 as marked in red and dated 10/8/2016
- Drawing No. CC03 P2, Basement 02 as marked in red and dated 10/8/2016
- Drawing No. CC04 P2, Basement 01, dated 10/8/2016
- Drawing No. CC05 P1, Level 01 as marked in red and dated 10/8/2016
- Drawing No. CC06 P1, Level 02 as marked in red and dated 10/8/2016
- Drawing No. CC07 P1, Level 03 as marked in red and dated 10/8/2016
- Drawing No. CC08 P1, Level 04 as marked in red and dated 10/8/2016
- Drawing No. CC09 P1, Level 05 as marked in red and dated 10/8/2016
- Drawing No. CC010 P1, Level 06 as marked in red and dated 10/8/2016
- Drawing No. CC011 P1, Level 07 as marked in red and dated 10/8/2016
- Drawing No. CC012 P1, Level 08 as marked in red and dated 10/8/2016
- Drawing No. CC013 P1, Level 09 as marked in red and dated 10/8/2016
- Drawing No. CC014 P1, Level 10 as marked in red and dated 10/8/2016
- Drawing No. CC015 P1, Level 11 as marked in red and dated 10/8/2016
- Drawing No. CC016 P1, Roof Plan as marked in red and dated 10/8/2016
- Drawing No. CC020 P1, South Elevation as marked in red and dated 10/8/2016
- Drawing No. CC021 P1, East Elevation, dated 15/8/2016
- Drawing No. CC022 P1, North Elevation as marked in red and dated 10/8/2016
- Drawing No. CC023 P1, West Elevation, dated 15/8/2016
- Drawing No. CC030 P1, Section A-A, dated 15/8/2016
- Drawing No. CC031 P1, Section B-B as marked in red and dated 10/8/2016

*and Section 4.55(2) Modification application DA-738/2015/1 submitted by Statewide Planning accompanied by*

- *Drawing No. CC05 K, Level 01, dated 22/3/2018*
- *Drawing No. CC06 K, Level 02, dated 22/3/2018, approved for the awning detail only*
- *Drawing No. CC15 G, Level 11, dated 7/3/2018*
- *Drawing No. CC20 G, South Elevation, dated 22/3/2018*
- *Drawing No. CC21 G, East Elevation, dated 22/3/2018*
- *Drawing No. CC22 F, North Elevation, dated 7/3/2018*
- *Drawing No. CC23 F, West Elevation, dated 7/3/2018*
- *Drawing No. CC16 G, Roof terrace Plan, dated 7/3/2018 approved as marked in red and as prescribed in additional condition 3(a) of this consent*
- *Drawing No. CC17 G, Roof plan/ Site plan, dated 7/3/2018 approved as marked in red and as prescribed in additional condition 3(a) of this consent*
- *Drawing No. CC30 G, Section A-A, dated 22/3/2018*
- *Drawing No. CC31 F, Section B-B, dated 7/3/2018*

*All prepared by Aleksandar Design Group and affixed with councils approval stamp except where otherwise altered or amended by the conditions listed here under.*

- 4) The development must be undertaken in accordance with the requirements as set out in the correspondence received by the Sydney Metro Airports, as *amended dated 5 June 2018, file reference number F17/968-30.*

Additionally, the following conditions 3)a) and 51)a) are added to determination notice DA-738/2015 (as shown below in italics):

- 3) a) *The proposal must be amended and the roof top areas shown to private open space to units 1104 and 1105 being 84sqm and 76sqm respectively must be amended and redesigned to remove the barriers to the north and north east between the open space areas and the communal open space. The additional staircase access proposed from within the units must be removed, as shown marked in red on the approved plans. The areas shown to form private open space on the roof top for units 1104 and 1105 must have the open space revised and access between these spaces must be provided as communal open space. Any indicative barriers, low retaining walls, fences and planters used to enable the area to be used for private recreation must be removed to ensure the area can function and forms part of a cohesive communal open space area.*
- 51) a) *An inspection of the waste area must be undertaken by the Waste Operations Team prior to the issuing of an Occupation Certificate.*

The approval is subject to full compliance with all other conditions contained within Development Consent DA-738/2015 and activated consent letter dated 12 September 2016 and the associated Construction Certificate.

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## Canterbury Bankstown Local Planning Panel - 2 July 2018

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### **ITEM 2                      Application to amend Bankstown Local Environmental Plan 2015: 10 Simmat Avenue, Condell Park**

**AUTHOR                      Planning**

### **PURPOSE AND BACKGROUND**

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Council is in receipt of an application to prepare a planning proposal for the site at 10 Simmat Avenue in Condell Park. The intended outcome is to rectify a mapping anomaly by rezoning part of the site (373m<sup>2</sup>) from Zone SP2 Infrastructure (Water Supply System) to Zone R2 Low Density Residential.

### **ISSUE**

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In accordance with the Local Planning Panel's Direction, the Panel is requested to recommend whether a planning proposal for the site at 10 Simmat Avenue in Condell Park should proceed to Gateway.

### **RECOMMENDATION    That -**

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1.    The application to amend Bankstown Local Environmental Plan 2015 should proceed to Gateway subject to the following provisions as shown in Attachment A:
  - (a)    Rezone from Zone SP2 Infrastructure (Water Supply System) to Zone R2 Low Density Residential.
  - (b)    Permit a maximum 9 metre building height, a maximum 0.5:1 FSR, and a minimum 450m<sup>2</sup> subdivision lot size requirement.
2.    Council should seek authority from the Greater Sydney Commission to exercise the delegation in relation to the plan making functions under section 3.36(2) of the Environmental Planning & Assessment Act 1979.

### **ATTACHMENTS**

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- A.    Proposed Amendments to Bankstown LEP 2015
- B.    Assessment Findings

## **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 for Council.

## **COMMUNITY IMPACT**

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This matter has no community implications for Council.

## DETAILED INFORMATION

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### SITE DESCRIPTION

#### Background

The site was formerly known as 10 Simmat Avenue in Condell Park (Lots 20–24, DP35200; Lot A, DP393549; and Lot 1, DP516066). Sydney Water occupied the site for the purposes of a reservoir tower and depot. In relation to local context, the site is located within the low density suburban neighbourhood.

In 2008, Sydney Water identified the part of the site containing the depot as being surplus to their infrastructure needs.

In July 2008, the Department of Planning & Environment issued a Site Compatibility Certificate, which enabled Sydney Water to convert the surplus land to residential uses subject to the consolidation of the seven lots into two lots. The intent was to have the reservoir tower (Lot 1) remain in the ownership of Sydney Water. The surplus land (Lot 2) would convert to residential uses.

In 2013, Sydney Water made a submission to the exhibition of Council's Draft Bankstown Standard Instrument Principal LEP. The submission requested Council to rezone the surplus land (Lot 2) from Zone SP2 Infrastructure (Water Supply System) to Zone R2 Low Density Residential, consistent with the Site Compatibility Certificate.

At the Ordinary Meeting of 25 February 2015, Council resolved to rezone the surplus land (Lot 2) to Zone R2 as part of the Draft Bankstown Standard Instrument Principal LEP. The rezoning was informed by the Site Compatibility Certificate and the subdivision plan submitted by Sydney Water (DA 128/2010).

Following the gazettal of Bankstown LEP 2015, Sydney Water registered the two lots, known as:

Property address	Property description	Use
8 Simmat Avenue in Condell Park	Lot 1, DP 1219439	Reservoir tower
10 Simmat Avenue in Condell Park	Lot 2, DP 1219439	Surplus land

However, it appears Sydney Water registered a subdivision plan which was different to the submission made to the exhibition of the Draft Bankstown Standard Instrument Principal LEP. As a result, the boundary alignment between Lots 1 and 2 is different to the boundary alignment shown on the planning maps under Bankstown LEP 2015, resulting in both Lots 1 and 2 having split zones.

According to the application, Sydney Water sold the surplus land in April 2016.

## PROPOSAL

In March 2018, Council received an application in relation to the site known as 10 Simmat Avenue in Condell Park (Lot 2, DP 1219439). The site is 4,659m<sup>2</sup> in area.

The site contains a split zone and is part Zone R2 Low Density Residential and part Zone SP2 Infrastructure (Water Supply System) under Bankstown LEP 2015.

The application is specific to the part of the site that is within Zone SP2 Infrastructure (Water Supply System). The area of this part of the site is 373m<sup>2</sup> and is triangular in shape. The intended outcome is *'to rectify an anomaly identified in land use mapping and application of development standards relating to surplus land formerly owned by Sydney Water'* by removing the split zone as follows:

Development standards	Current	Proposed
Zoning	Zone SP2 Infrastructure (Water Supply System)	Zone R2 Low Density Residential
Maximum FSR	Does not apply to Zone SP2	0.5:1
Maximum building height	Does not apply to Zone SP2	9 metres (2 storeys + attic)
Minimum subdivision lot size	Does not apply to Zone SP2	450m <sup>2</sup>

The proposed zoning and development standards would match the remainder of the site as shown in Attachment A.

The proponent submitted a planning proposal report (prepared by DMPS, dated March 2018) in support of the application. This document has been provided to the Canterbury–Bankstown Local Planning Panel.





Figure 1: Site

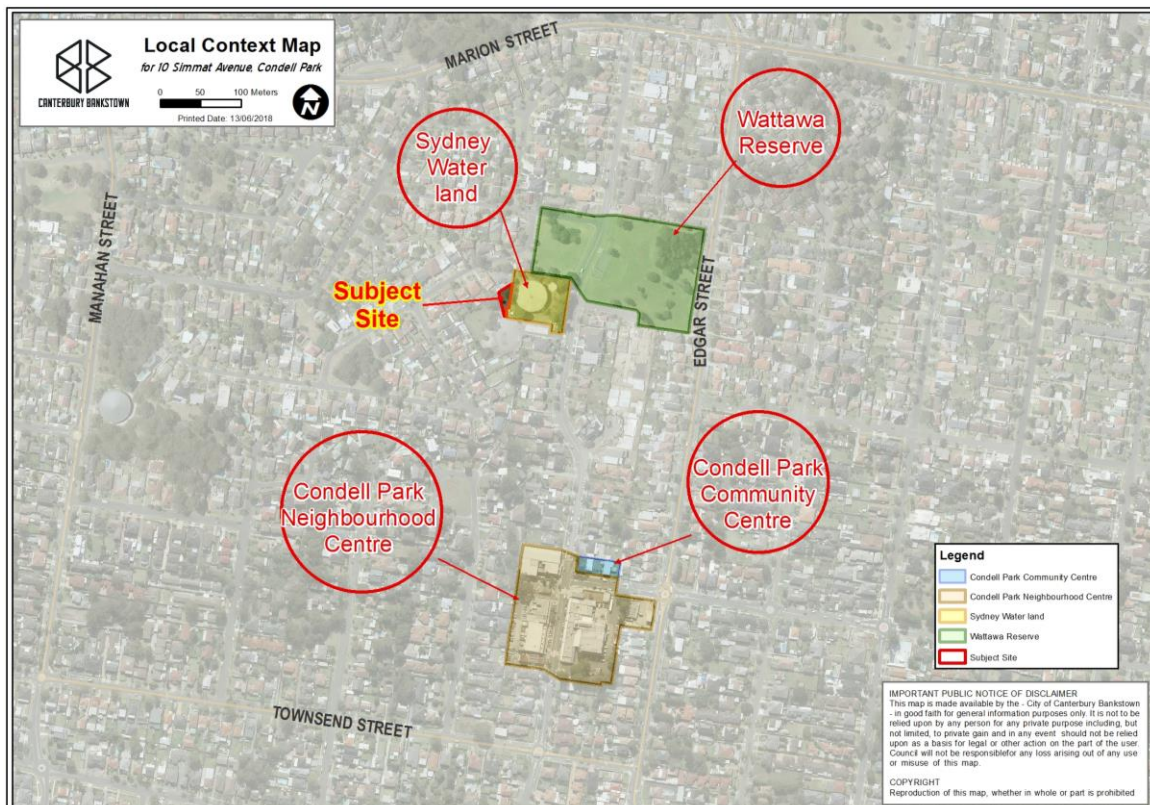


Figure 2: Locality Map

## CONSIDERATIONS

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

- Metropolitan Plan (*A Plan for Growing Sydney*)
- Greater Sydney Region Plan (*A Metropolis of Three Cities*)
- South District Plan
- Council's North Central Local Area Plan
- Department of Planning and Environment's publications: *A Guide to Preparing Local Environmental Plans* and *A Guide to Preparing Planning Proposals*.

## SUMMARY

The application manages the likely environmental effects as a result of the proposal. An assessment does not identify the need for additional information.

## ASSESSMENT

### 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.

Based on the Strategic Merit Test as outlined in the Department's publication *A Guide to Preparing Local Environmental Plans*, the following issues are raised:

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 proposal is consistent with the Greater Sydney Region Plan and the South District Plan, namely the objective to provide ongoing housing supply and a range of housing types in the right locations. The proposed zone is consistent with the low density residential character of the surrounding suburban neighbourhood.

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

The proposal is consistent with Council's North Central Local Area Plan.

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?*

The initial rezoning of the site was based on Sydney Water determining the site was surplus to their infrastructure needs. The proposal formalises the intent of the original proposal to enable low density housing on the site.

## **Other Considerations**

In relation to other considerations, Council assessed the proposal based on the justification matters outlined in the Department of Planning & 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 based on consistency with relevant state environmental planning policies and Ministerial Directions.

Based on the assessment, the proposal is considered to be consistent with the relevant state environmental planning policies and Ministerial Directions, namely SEPP 55 in relation to site contamination and the Ministerial Direction 6.2 in relation to requiring Sydney Water's approval to remove the special use zone.

Attachment B outlines the assessment findings.





Attachment A outlines the proposed amendments to Bankstown Local Environmental Plan 2015 for the subject site at 10 Simmat Avenue in Condell Park.

[illegible]

**Land Zoning Map**  
for RD Simmat Avenue, Candel Park

CHATEAU DISTRICT  
0 10 20 Meters  
Printed Date: 13/06/2019

**Legend**

- R2 Low Density Residential
- RE1 Public Recreation
- SP2 Infrastructure
- Allotment boundaries
- Subject Site

**Subject Site**

**SP2 (Water Supply System)**

**Important Public Notice of Disclaimer**  
This map is provided for general information purposes only. It is not to be used as a basis for any legal or other action. The user of this map is responsible for its use and for any loss or damage resulting from its use.



Figure 3: Current Building Height Map

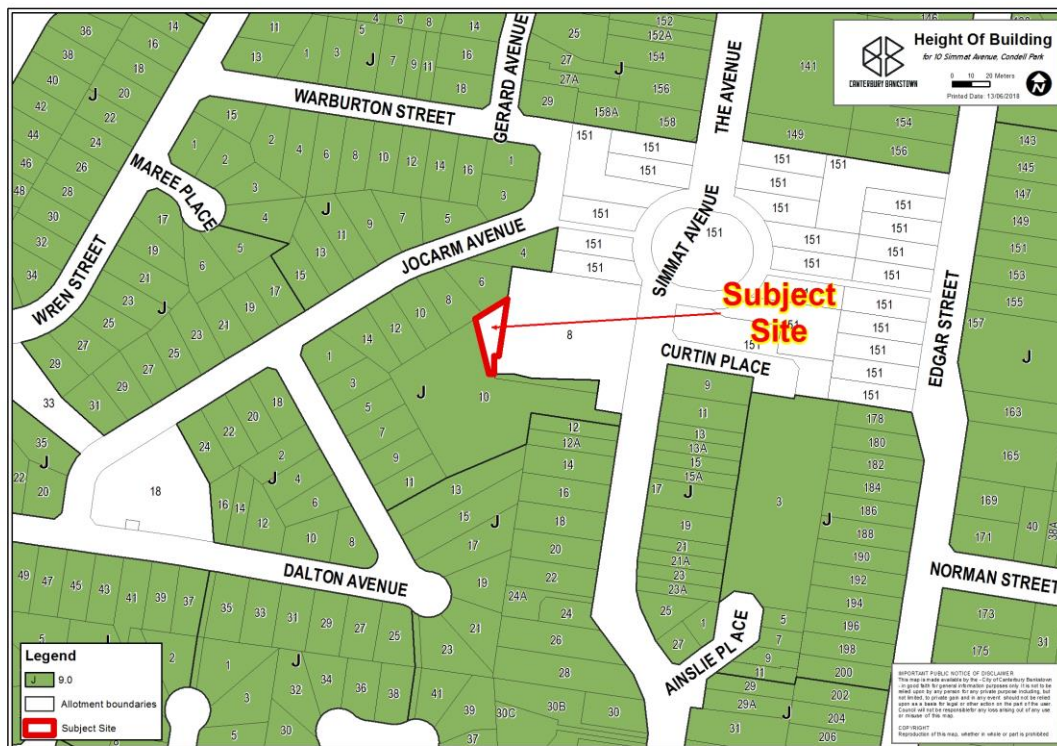


Figure 4: Proposed Building Height Map

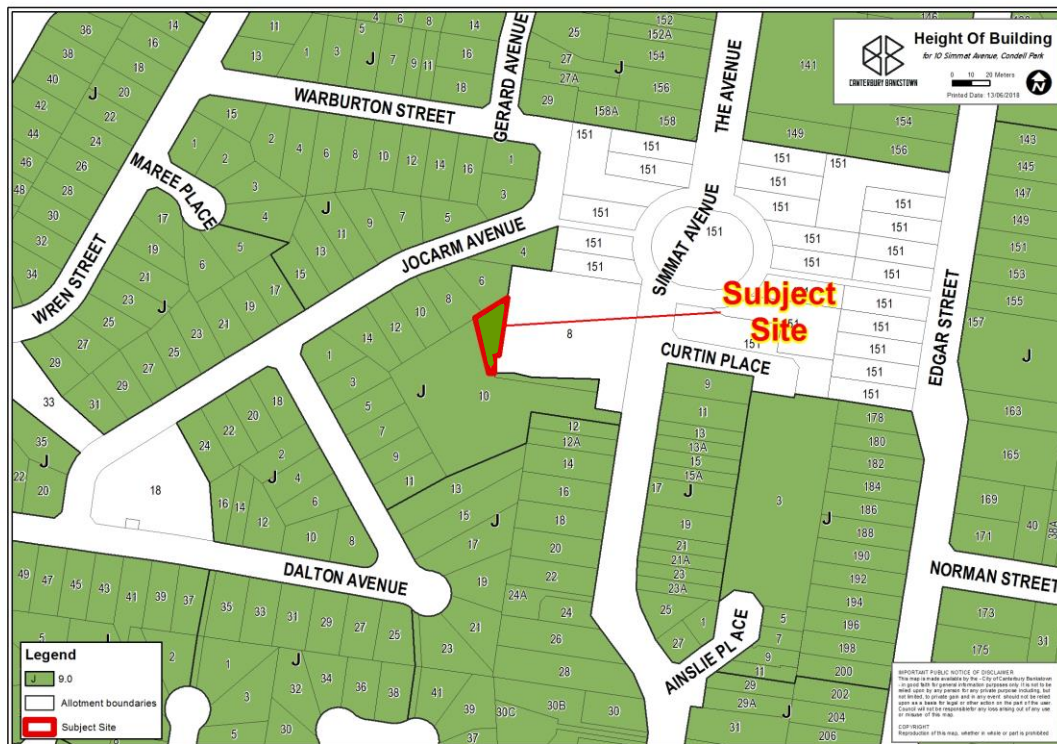




Figure 5: Current FSR Map

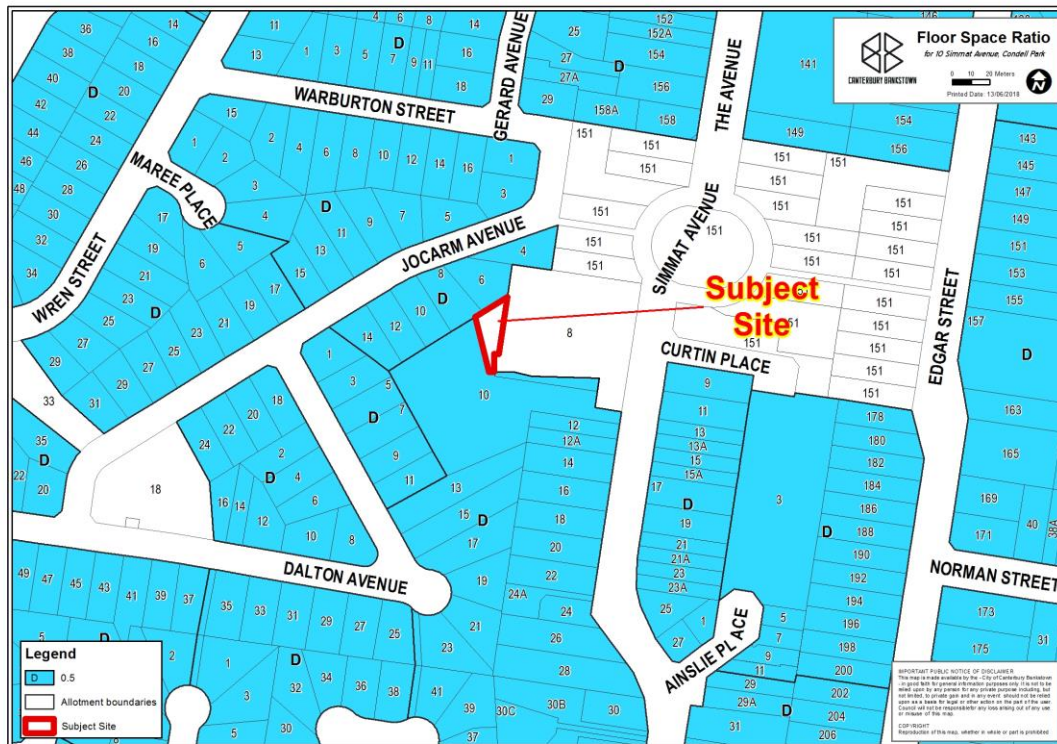


Figure 6: Proposed FSR Map

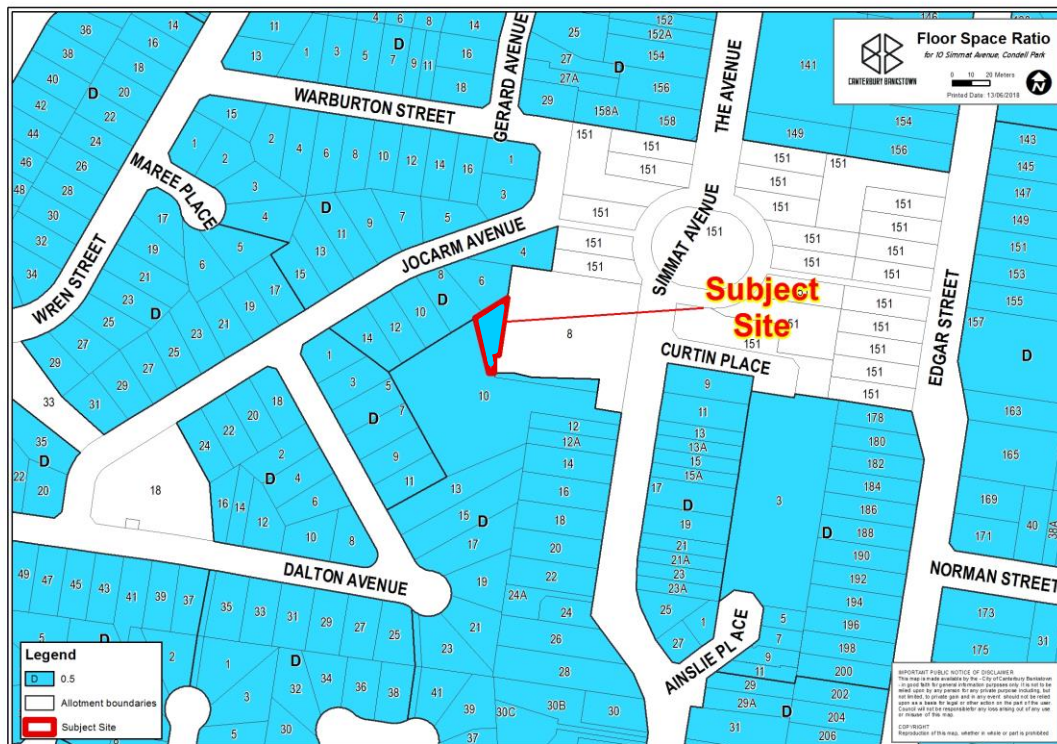




Figure 7: Current Lot Size Map

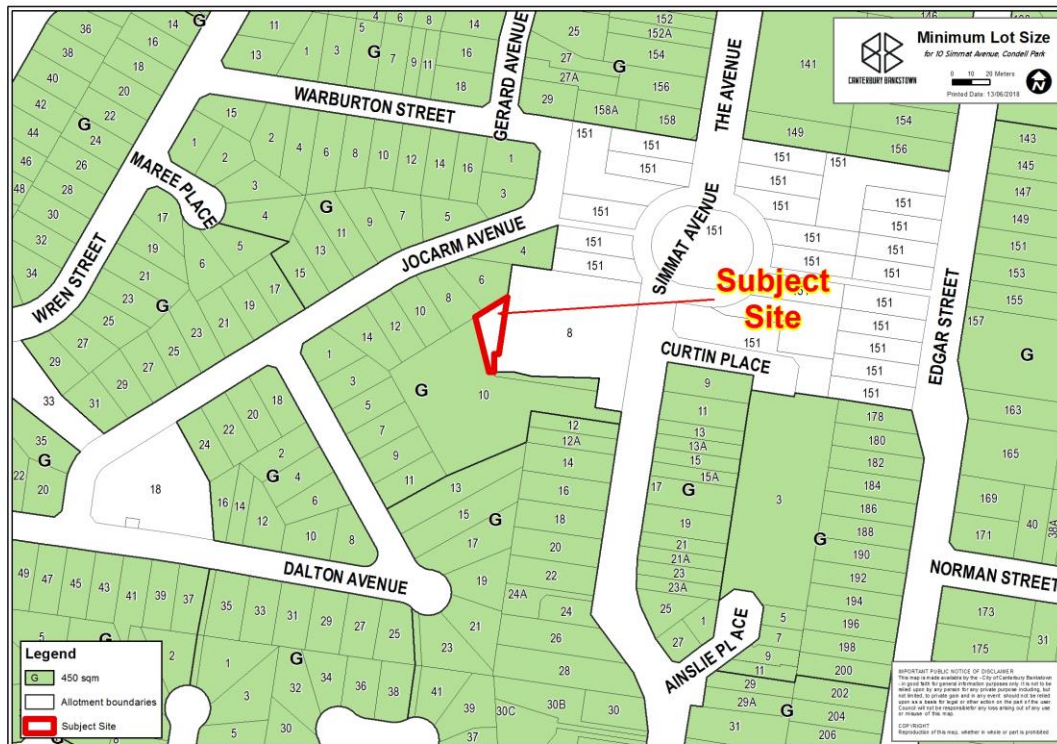
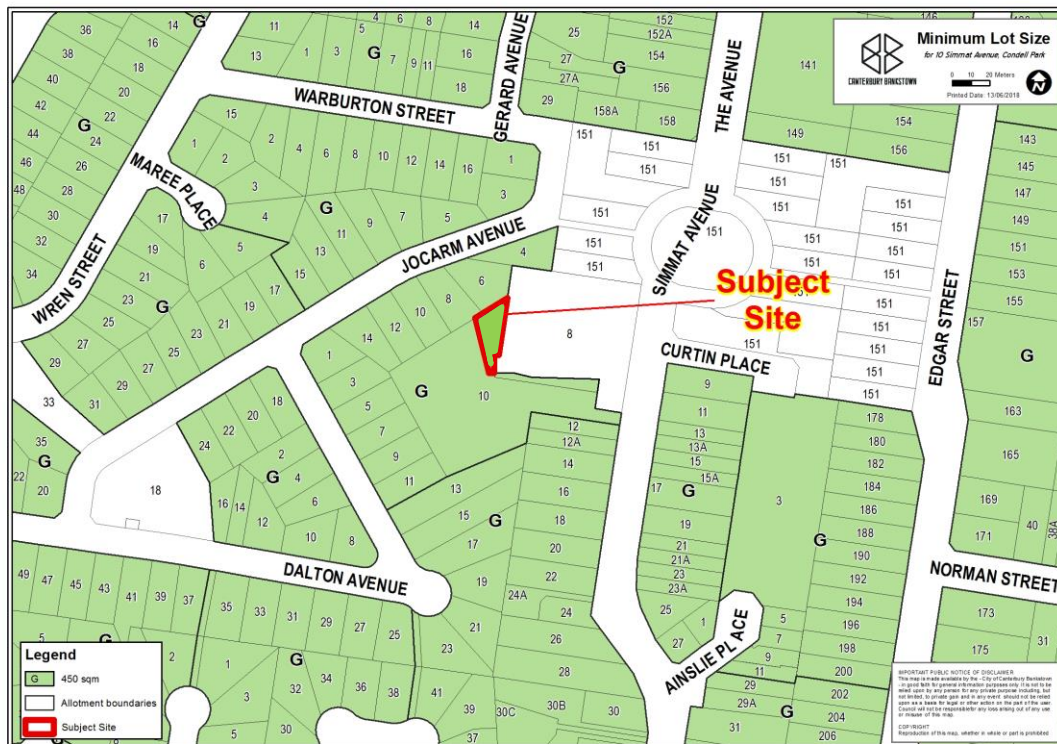


Figure 8: Proposed Lot Size Map





## ATTACHMENT B–Assessment Findings

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

### 1. Strategic Merit Test

Section 1 assesses the proposal based on the Department of Planning & 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 5 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 Greater Sydney Region Plan (*A Metropolis of Three Cities*)

	Consistent
<p><b>Proponent's Submission:</b> No comment.</p> <p><b>Council's Assessment:</b> The proposal is consistent with the Greater Sydney Region Plan, namely Objective 10 to provide ongoing housing supply and a range of housing types in the right locations. The proposed zone is consistent with the low density residential character of the surrounding suburban neighbourhood.</p>	Yes

##### 1.1.2 South District Plan

	Consistent
<p><b>Proponent's Submission:</b> The Draft South District Plan, released by the Greater Sydney Commission in November 2016, is a strategic document which sets out aspirations and proposals for the Greater Sydney's South District, which includes the local government areas of Canterbury-Bankstown, Georges River and Sutherland.</p> <p>The Plan identifies existing and projected stock of dwellings in this district and projects an increase from 279,000 to 362,500 dwellings by 2036. Rezoning the site from SP2 Infrastructure to R2 Low Density Residential is consistent with this goal.</p>	Yes

**Council's Assessment:** The proposal is consistent with the South District Plan, namely Planning Priority S5 to provide housing supply in the form of local infill development. The proposed zone is consistent with the low density residential character of the surrounding suburban neighbourhood.

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

### 1.2.1 North Central Local Area Plan

	Consistent
<p><b>Proponent's Submission:</b> Condell Park is located within the North Central Local Area Plan. This Local Area Plan establishes a vision for the North Central Local Area: a place for people, a place which maintains the qualities and places that we value, a place which encourages jobs and sustainable urban renewal, a place with emphasis on urban design and connectivity. The planning proposal is consistent with this vision.</p> <p><b>Council's Assessment:</b> The proposal is consistent with the North Central Local Area Plan, namely Action L6 to plan for the suburban neighbourhood precinct. The proposed zone is consistent with the low density residential character of the surrounding suburban neighbourhood.</p>	Yes

## 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
<p><b>Proponent's Submission:</b> No comment.</p> <p><b>Council's Assessment:</b> The initial rezoning of the site was based on Sydney Water determining the site was surplus to their infrastructure needs. The proposal formalises the intent of the original proposal to enable low density housing on the site.</p>	Yes

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

	Complies
<p><b>Proponent's Submission:</b> No comment.</p> <p><b>Council's Assessment:</b> The proposal has regard to the natural environment (including known significant environmental values and hazards).</p>	Yes

**1.5 Does the proposal have regard to the existing uses, approved uses and likely future uses of land in the vicinity of the land subject to a proposal?**

	Complies
<p><b>Proponent's Submission:</b> No comment.</p> <p><b>Council's Assessment:</b> The proposal has regard to the existing and likely future uses of land in the vicinity of the land. The proposed zone is consistent with the low density residential character of the surrounding suburban neighbourhood.</p>	Yes

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

	Complies
<p><b>Proponent's Submission:</b> No comment.</p> <p><b>Council's Assessment:</b> The proposal has regard to the services and infrastructure that are or will be available to meet the demands arising from the proposal.</p>	Yes

## 2. Planning Proposals–Justification Matters

Section 2 assesses the proposal based on the justification matters as outlined in the Department of Planning & 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
<p><b>Proponent's Submission:</b> The planning proposal is not a result of any strategic study or report.</p> <p><b>Council's Assessment:</b> The proposal is not the result of any strategic study or report. However, the proposal is considered appropriate given the minor nature of the mapping amendments.</p>	No

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

	Complies
<p><b>Proponent's Submission:</b> It is considered the planning proposal is the best means of achieving the objectives and intended outcomes.</p> <p>The objective of the planning proposal is to amend the Bankstown Local Environmental Plan 2015 to enable development of all land upon Lot 2, DP 1219439, No. 10 Simmat Avenue, Condell Park, for low density residential purposes.</p> <p>The intended outcomes of the planning proposal are:</p> <ul style="list-style-type: none"> <li>• To rectify an anomaly identified in land use mapping and application of development standards relating to surplus land formerly owned by Sydney Water;</li> <li>• To provide for the housing needs of the community within a low density residential environment, consistent with the land use zoning applied to adjoining land parcels;</li> <li>• To enable the development of low density residential housing and other compatible land uses that have regard to local amenity.</li> </ul> <p>It is necessary to make a formal amendment to the Bankstown Local Environmental Plan 2015 to rezone the land portion (373m<sup>2</sup>) to recognise the land is held in private ownership and is surplus to Sydney Water's needs. The proposed implementation of development standards relating to minimum subdivision lot size,</p>	Yes

maximum building height and maximum FSR are also required to ensure any future development upon the site is of a scale and density consistent with the low density character of the locality.

**Council's Assessment:** The proposal to rezone part of the site at 10 Simmat Avenue from Zone SP2 Infrastructure (Water Supply System) to Zone R2 Low Density Residential is the best means of achieving the intended outcomes. The intended outcomes are:

- To rectify a mapping anomaly in relation to surplus land formerly owned by Sydney Water.
- To provide for local housing needs consistent with the low density residential character of the surrounding suburban neighbourhood.

The proposed zone rectifies the mapping anomaly and is consistent with the low density residential character of the surrounding suburban neighbourhood.

### 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*)

			Consistent
<b>Proponent's Submission:</b> A Plan for Growing Sydney is a State Government strategic document that outlines a vision for Sydney to 2031. The proposal's consistency with the goals of the Plan is identified in Table 1 below.			Yes
Goal	Comment	Consistency	
A competitive economy with world-class services and transport.	The planning proposal does not hinder or contradict this goal.	n/a	
A city of housing choice with homes that meet our needs and lifestyles.	The Plan states that the Government is working to achieve its target of an additional 664,000 new dwellings by 2031. The planning proposal will facilitate the construction of residential development, contributing to the realisation of this goal.	Yes	
A great place to live with communities that are strong, healthy and well connected.	The planning proposal does not hinder or contradict this goal.	n/a	

A sustainable and resilient city that protects the natural environment and has a balanced approach to the use of land and resources.	The planning proposal does not hinder or contradict this goal.	n/a	
<b>Council's Assessment:</b> The proposal is consistent with the directions of the Metropolitan Plan, ' <i>A Plan for Growing Sydney</i> ', namely Action 2.1.3 to deliver more housing by developing surplus government land.			

### 2.3.2 Greater Sydney Region Plan (*A Metropolis of Three Cities*)

	Consistent
<b>Proponent's Submission:</b> No comment.  <b>Council's Assessment:</b> The proposal is consistent with the Greater Sydney Region Plan for the reasons outlined in section 1.1 of this attachment.	Yes

### 2.3.3 South District Plan

	Consistent
<b>Proponent's Submission:</b> Refer to section 1.1 of this attachment.  <b>Council's Assessment:</b> The proposal is consistent with the South District Plan for the 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 CBCity 2028

	Consistent
<b>Proponent's Submission:</b> No comment.  <b>Council's Assessment:</b> The vision of Council's Community Plan 'CBCity 2028' is to have a city that is ' <i>thriving, dynamic and real</i> '. The 'Liveable & Distinctive' Direction will achieve this by promoting a well-designed city which preserves the identity and character of local villages. The proposal is consistent with the Community Plan.	Yes

### 2.4.2 North Central Local Area Plan

	Consistent
<p><b>Proponent's Submission:</b> Refer to section 1.2 of this attachment.</p> <p><b>Council's Assessment:</b> The proposal is consistent with the North Central Local Area Plan for the reasons outlined in section 1.2 of this attachment.</p>	Yes

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

	Consistent
<p><b>State Environment Planning Policy No. 55–Remediation of Land</b></p> <p><b>Proponent's Submission:</b> Clause 6(1)(a) of SEPP 55 states that in preparing an environmental planning instrument, a planning authority is not to include in a particular zone (within the meaning of the instrument) any land specified in subclause (4) if the inclusion of the land in that zone would permit a change of use of the land, unless the planning authority has considered whether the land is contaminated.</p> <p>The Department of Planning publication <i>Managing Land Contamination – Planning Guidelines SEPP 55 – Remediation of Land</i> provides advice on the process of determination as to whether a site is contaminated.</p> <p>In this regard, Section 2.2 of the Guidelines states: <i>When carrying out planning functions under the EP &amp; A Act, a planning authority must consider the possibility that a previous land use has caused contamination of the site as well as the potential risk to health or the environment from that contamination.</i></p> <p><i>When an authority carries out a planning function, the history of the land use needs to be considered as an indicator of potential contamination. Where there is no reason to suspect contamination after acting substantially in accordance with these Guidelines, the proposal may be processed in the usual way.</i></p> <p>The Guidelines continue at Section 3.2.1 by stating that: <i>The potential for contamination is often linked to past uses of land and a good early indicator of possible uses is land zoning. Contamination is more likely to have occurred if the land is currently, or was previously, zoned for industrial, agricultural or defence purposes.</i></p>	Yes

The land has been used for an extended period of time for the provision of Sydney Water infrastructure associated with the water reservoir which is retained upon Lot 1 DP 1219439, and much of the residue disposed into private ownership, was rezoned R2 Low Density Residential. There is therefore no reason to suspect this land has been contaminated by this past land use activities.

**Council's Assessment:** This SEPP requires Council to consider land contamination where it is proposed to enable development for sensitive land uses such as dwellings. Part 7A of the EP&A Act reinforces this direction.

According to the Site Audit Statement submitted with the application:

- The site is considered suitable for dwellings and other sensitive land uses such as schools and child care centres.
- There is no requirement for ongoing management in relation to contamination. Any soil removal from the site should be appropriately classified in accordance with the Waste Classification Guidelines (DECC, April 2008). Any soil imported to the site should be validated as being suitable for use on the site. Due to regional contamination issues and because groundwater quality may change with time, groundwater should not be extracted for any purpose without appropriate assessment.

## 2.6 Is the planning proposal consistent with applicable Ministerial Directions?

	Consistent
<p><b>Direction 3.1–Residential Zones</b></p> <p><b>Proponent's Submission:</b> Complies. The planning proposal seeks an increase in residential density upon the site. Adequate services and infrastructure are accessible to the site.</p> <p><b>Council's Assessment:</b> The objectives of this direction are to ensure new housing has appropriate access to infrastructure and services, minimises the impact of residential development on the environment and resource lands.</p> <p>The proposal is consistent with this direction as it makes more efficient use of existing infrastructure and services, and does not contain provisions which would reduce the permissible residential density of land.</p>	Yes



<p><b>Direction 6.2—Reserving Land for Public Purposes</b></p> <p><b>Proponent’s Submission:</b> No comment.</p> <p><b>Council’s Assessment:</b> The objective of this direction is to facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.</p> <p>To be consistent with this direction, a proposal cannot alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant public authority. In this case, the relevant public authority is Sydney Water.</p> <p>According to a letter dated 26 October 2017 submitted with the application, Sydney Water raises no objection to the proposal as follows:</p> <p><i>We note in July 2008, a site compatibility certificate (SCC) was issued and it determined that the property was compatible for residential use. A requirement of the SCC was to subdivide 7 lots into 2 lots. It was intended that new Lot 1 would remain zoned as SP2 Infrastructure Water Supply and new Lot 2 would be rezoned to R2 Low Density Residential.</i></p> <p><i>It appears the rezoning boundaries were amended based on a draft plan of subdivision. The final plan of subdivision was slightly different to the draft plan, consequently, the zoning and property boundaries do not completely align. This has resulted in both lots containing a mix of SP2 and R2 zoned land.</i></p> <p><i>It is noted that Sydney Water has no strategic interest in the land zoned SP2 within Lot 2, and we would prefer not to have R2 zoned land within Lot 1. Accordingly, Sydney Water would support an amendment to align the zonings with the property boundaries as originally intended.</i></p>	Yes
<p><b>Direction 7.1—Implementation of A Plan for Growing Sydney</b></p> <p><b>Proponent’s Submission:</b> Refer to section 2.3 of this attachment.</p> <p><b>Council’s Assessment:</b> The proposal is consistent with the Metropolitan Plan (A Plan for Growing Sydney) for the reasons outlined in section 2.3 of this attachment.</p>	Yes

**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?**

	Consistent
<p><b>Proponent's Submission:</b> The planning proposal will not adversely affect critical habitat or threatened species, populations or ecological communities, or their habitats.</p> <p><b>Council's Assessment:</b> The proposal is consistent with the Ministerial Direction 2.1 as it does not adversely affect any critical habitat or threatened species, populations or ecological communities, or their habitats.</p>	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?**

	Consistent
<p><b>Proponent's Submission:</b> There are no likely adverse environmental effects as a result of the planning proposal.</p> <p><b>Council's Assessment:</b> The proposal has regard to the natural environment (including known significant environmental values and hazards).</p>	Yes

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

	Consistent
<p><b>Proponent's Submission:</b> There are no adverse social or economic impacts arising from the planning proposal.</p> <p><b>Council's Assessment:</b> In relation to social and economic effects, the proposal is consistent with the Greater Sydney Region Plan and South District Plan for the reasons outlined in section 1.1 of this attachment.</p>	Yes

**2.10 Is there adequate public infrastructure for the planning proposal?**

	Consistent
<p><b>Proponent's Submission:</b> There are adequate services and infrastructure to meet the demands arising potential additional residential population generated by the planning proposal.</p> <p><b>Council's Assessment:</b> The proposal has regard to the services and infrastructure that are or will be available to meet the demands arising from the proposal.</p>	Yes

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

	Complies
<p><b>Proponent's Submission:</b> A Gateway determination has not yet been issued. No State or Commonwealth public authorities have been consulted in preparation of the planning proposal.</p> <p><b>Council's Assessment:</b> The proposal has not been the subject of formal consultation with State and Commonwealth public authorities. This would be undertaken, should Council decide to proceed with a planning proposal and consistent with the requirement of a Gateway Determination once issued by the Greater Sydney Commission.</p>	No



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## Canterbury Bankstown Local Planning Panel - 2 July 2018

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<b>ITEM 3</b>	<b>23 Croydon Street, Lakemba (Alternatively known as 62 The Boulevarde, Lakemba)</b>  <b>Additions to Canterbury Emerging Communities Resource Centre located at Lakemba Community Centre to construct a unisex accessible toilet and shower, access ramp and fence to create a secure outdoor play area.</b>
<b>FILE</b>	<b>DA-504/2017 – Roselands Ward</b>
<b>ZONING</b>	<b>R4 High Density Residential</b>
<b>DATE OF LODGEMENT</b>	<b>21 December 2017</b>
<b>APPLICANT</b>	<b>Canterbury Bankstown Council</b>
<b>OWNERS</b>	<b>Canterbury Bankstown Council</b>
<b>ESTIMATED VALUE</b>	<b>\$80,000</b>
<b>AUTHOR</b>	<b>Planning</b>

### SUMMARY REPORT

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The application has been referred to the Local Planning Panel in line with Schedule 2 of the Local Planning Panels Direction as the applicant and land owner is Canterbury Bankstown Council.

The development application seeks consent for additions to Canterbury Emerging Communities Resource Centre, located at Lakemba Community Centre (Lot 1 of DP 124875).

The proposal seeks works to the existing building including:

- Erection of unisex accessible amenities in double brick to match existing on the western side of the building.
- Construction of an access ramp between The Boulevarde frontage and the primary entry to the portion of the building being utilised by the Emerging Communities Centre in order to comply with Australian Standards.
- Installation of an 1800mm high steel tubular fence to create a secure outdoor play area for the children of Canterbury Emerging Resource Centre customers.

The application was notified to nearby and adjoining residents and advertised in local newspapers Council Column (16 and 17 January 2018) during the period 16 January 2018 to 7 February 2018 pursuant to Part A3 of Canterbury Development Control Plan 2012 (CDCP 2012). During this period no submissions were received objecting to the proposal.

The proposal has been referred to Council's Building Surveyor and Sydney Trains, each of whom responded in support of the proposal, subject to the imposition of conditions of consent.

The application has been assessed pursuant to the provisions of Section 4.15 of the Environmental Planning and Assessment Act 1979 and all relevant development control plans, codes and policies. Subject to the imposition of appropriate conditions of consent to minimise environmental impacts, the works are capable of being completed at the site without any significant adverse amenity impacts to surrounding properties.

It is recommended that the application be approved, subject of the imposition of conditions.

## **POLICY IMPACT**

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This matter has no direct policy impacts.

## **FINANCIAL IMPACT**

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The estimated cost of works for this project is \$80,000. The works are to be funded from Canterbury Bankstown Council's Capital Works Program. The proposed works are listed in the 2018/19 Budget.

## **RECOMMENDATION**

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

## **ATTACHMENTS**

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- A. Section 4.15 Assessment Report
- B. Conditions of Consent

## **DA-504/2017 ASSESSMENT REPORT**

### **SITE ANALYSIS**

The subject site is located at 23 Croydon Street, Lakemba (alternatively known as 62 The Boulevarde, Lakemba) and is Lot 1 in DP 124875 and Lot 1 in DP 323977. The subject site is on the southern side of The Boulevarde and is bounded by Croydon Street to the east and Browning Avenue to the south.

The site is irregular in shape and is a 1751.1 sq.m allotment with a 25.29m frontage to Croydon Street and a 61.3m depth to The Boulevarde. The site is currently occupied by a free standing two storey brick community building.

The site is bound to the north by The Boulevarde, beyond which is a carpark associated with the adjacent Railway (zoned SP2). To the east of the site is Croydon Street beyond which is a Telstra Building (zoned B2). To the south of the site is Browning Avenue beyond which is residential dwellings (zoned R4) and to the west of the site are residential dwellings along Browning Avenue and The Boulevarde (zoned R4).

The surrounding residences are characterised by medium to high density residential development sharing similar characteristics and design features.



Figure 1 – Aerial photograph of the subject site





**Figure 1.1 – Street elevation along The Boulevard for the proposed additions**

The subject site operates under approval of Development Application 1845 approved in 1984 for a Community Centre (Branch Library and Senior Citizens Facilities Building) and Development Application 9599/98 for a Community Facility (area that is on the lower ground floor and now known as the Canterbury Emerging Communities Resource Centre). The Emerging Resource Centre accommodates the following community facilities:

1. Lakemba Library (Ground Floor)
2. Lakemba Senior Citizens Centre (Ground Floor)
3. Salvation Army (Ground Floor)
4. Canterbury Emerging Communities (Lower Ground Floor)
5. Basement car parking (Lower Ground Floor/Basement)





**Figure 1.2 – Zoning map of the subject site**

### **PROPOSAL**

The applicant seeks approval for additions to the existing building to construct a unisex accessible toilet and shower, access ramp and tubular security fence to create a secure outdoor play area.

- The unisex accessible amenities are proposed to be constructed in double brick to match existing on the western side of the building.
- The ramp will provide access from the street at The Boulevarde into the building.
- The proposed fence will be 1.8m high and create a secure outdoor play area.

The proposed additions involving the accessible toilet and shower will have a maximum height of 3.594m above existing natural ground level and a total floor area of 10.125 square metres with dimensions 2.7m x 3.75m.

The proposed outdoor play area is enclosed by a 1.8m high steel tubular fence and a total area of 51.286 square metres.

### **STATUTORY CONSIDERATIONS**

When determining this application, the relevant matters listed in Section 4.15 of the Environmental Planning and Assessment Act 1979 must be considered. In this regard, the following environmental planning instruments, development control plans (DCPs), codes and policies are relevant:

- a) State Environmental Planning Policy 55 Remediation of Land (SEPP 55)
- b) Canterbury Local Environmental Plan 2012 (CLEP 2012)
- c) Canterbury Development Control Plan 2012 (CDCP 2012)

## **SECTION 4.15 ASSESSMENT**

The development application has been assessed under Section 4.15 of the Environmental Planning and Assessment Act, 1979 and the following key issues emerge:

### **Section 4.15 (1)(a)(i) The provisions of any environmental planning instrument**

#### **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 the previous uses of the site and the proposed minimal excavation, the development 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 R4 High Density Residential under Canterbury LEP 2012. The controls applicable to the proposed additions to the existing community facility are as follows:

<b>Standard</b>	<b>Requirement</b>	<b>Proposal</b>	<b>Complies</b>
<b>Zoning</b>	R4 High Density Residential	Additions to existing building permissible.	Yes
<b>Building height</b>	18m	No change to existing maximum height of building, additions have a maximum height of 3.594m.	Yes
<b>Floor Space Ratio</b>	1.6:1	0.71:1	Yes

#### **Permissibility**

The site is zoned R4 – High Density Residential pursuant to CLEP 2012. The proposal seeks approval for additions to the Canterbury Emerging Communities Resource Centre which is located in Lakemba Community Centre. The proposed use will be addition of amenities, access ramp and erecting a fence to create a secure outdoor play area for customer's children.

The amenities, ramp and outdoor play area will solely be utilised for community activities located on the site. This use is consistent with the 'Community Facilities' definition specified within CLEP 2012. A 'Community Facility' is defined within CLEP 2012 as follows:

***community facility*** means a building or place:

- (a) *owned or controlled by a public authority or non-profit community organisation, and*
- (b) *used for the physical, social, cultural or intellectual development or welfare of the community,*

*but does not include an educational establishment, hospital, retail premises, place of public worship or residential accommodation.*

A Community Facility is permitted in the R4 – High Density Residential Zone with development consent.

### Zone Objectives

In accordance with Clause 2.3(2), the consent authority must have regard to the objectives for development in a zone when determining a development application.

The objectives of the R4 – High Density Residential Zone are as follows:

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

The proposal seeks the continued use of the site as a community facility and additions to create a new access ramp, accessible amenities and installation of a fence to create a secure outdoor play area for customers' children. In this regard the proposed development is not applicable to a number of objectives outlined above.

Notwithstanding, the proposal will provide for the utilisation of the existing Lakemba Community Centre, promoting and coordinating the orderly and economic use of the land. In this regard, the proposal will contribute to the provisions of facilities and services to meet the needs of residents, consistent with the applicable zone objective outlined above. Although the proposed additions are not a "day to day need" of residents, it is an important community resource which is permissible in the zone.

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

### ***F8 Non-residential Development in Residential Zones***

#### ***F8.1 General Objectives***

O1 To reduce unreasonable amenity impacts on surrounding residents caused by non-residential uses.

The proposal involves additions to an existing two storey community building. The additions of an accessible toilet, shower, fence and play area which is located on the north west corner of the site will contribute to ensuring a good level of amenity is maintained for members of the public when using the building and its services.

## ***F8.2 General Controls***

Non-residential development in a residential zone will be assessed for its impact on residential amenity.

There will be no discernible impacts to residential amenity of nearby and adjoining properties. The subject proposal will provide up to date facilities and allow members of the community ease of access when visiting and using the building. The adjoining property to the west (63 The Boulevarde) with frontage to The Boulevarde is a home business approved in DA-1107/2005 for use of premises as a home business for a hairdressing salon and has a residential component to the rear fronting Browning Avenue. The installation of a fence to create an enclosed outdoor play area for the Canterbury Emerging Resource Centre customers' children is adjacent to the home business (hairdressing salon) fronting the street to The Boulevarde. As the residential component is to the rear there will be no impacts on the acoustic amenity of occupants residing in the dwelling.

The development involves removing existing plants and a shrub to construct a fence and secure outdoor play area. A condition of consent has been included requiring replacement plants of similar size and maturity be included on the plans of the outdoor play area with the application for a construction certificate in order to maintain existing landscaping and amenity.

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.

It is unlikely that the proposal will result in any unreasonable impacts on the amenity of residences along The Boulevarde, Browning Avenue or Croydon Street. In particular, the new outdoor play area is located adjacent to the residential front setback. The proposed additions will not result in increased traffic generation or increase demand for parking spaces. Further, the proposed works are minor and will allow members of the community the ability to use accessible amenities.

Building design needs to be compatible with surrounding area.

The proposed additions are in keeping with the existing community building's finishes and design and are compatible with the locality and will be included as a condition of consent.

### Part B4 - Accessible and Adaptable Design

Whilst there are no specific controls for accessible amenities within Canterbury Development Control Plan 2012 the proposal is in accordance with Part B4 – Accessible and Adaptable Design which ensures appropriate access is provided in new developments and genuine consideration is given to the needs of people with disabilities.

#### Part B4.2 - General Controls

The application proposes new accessible ramp and amenities to the existing building. Access to the building will be in accordance with Australian Standards and plans submitted to Council for approval. Furthermore, the application was referred to Council's Building Surveyor who raised no objection to the development subject to conditions of consent.

#### Part B1.2.2 – Transport and Parking

Part B1.2.2 Control C6 of CDCP 2012 states that minor additions to buildings not exceeding 25 square metres do not attract a requirement for additional parking. As the proposed additions total 10.125 square metres, no additional parking is required.

#### Part B9 – Waste

Council's Waste Department has reviewed the application and raised no objection to the proposal given it will not affect the existing waste management operations.

#### **Section 4.15 (1) (b) - The likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts on the locality**

The likely impacts of the proposal have primarily been discussed, where appropriate, within the body of this report. In light of the assessment against the relevant development controls, the proposed development is not likely to result in any substantial adverse environmental, social or economic impacts on the locality.

#### Sediment and Erosion Control

The submitted development plans show details of sediment and erosion control measures to be installed as part of the construction of the development. Standard conditions will be included regarding the installation and maintenance of the sediment and erosion control measures as part of the pre and during construction phase of the development.

#### Health, Safety and Amenity during Construction Phase

During the construction of the development, the health and amenity of workers, the public and adjoining properties alike need consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979. Accordingly, all works associated with the development will be restricted to daytime hours to ensure the works will not be a nuisance to adjoining occupiers and property owners.

#### **Section 4.15 (1) (c) - The suitability of the site**

The proposal involves minor alterations and additions to the existing Lakemba Community Centre. Given this, the site remains suitable for the proposed use.

#### **Section 4.15 (1) (d) - Any submissions made in accordance with this Act or the Regulations**

In accordance with Part A3 of the Canterbury Development Control Plan 2012 the proposed development was notified to adjoining and nearby properties and was placed on public exhibition for a period of 21 days (16/01/18 to 7/02/18). No submissions were received.

### Referrals

The application was referred to the following stakeholders and their comments have formed part of the assessment:

Referral Body	Comments Received
Building Surveyor	No objections – subject to conditions
Sydney Trains	No objections – subject to conditions

### **Section 4.15 (1)(e) - The public interest**

The public interest is served through the detailed assessment of this application under the Environmental Planning and Assessment Act 1979, Environmental Planning Instruments, Development Control Plans and policies. Based on the above assessment, the proposed development is consistent with the public interest.

### **CONCLUSION**

In assessing the proposal against the relevant environmental planning policies, in particular Canterbury Local Environmental Plan 2012, Canterbury Development Control Plan 2012 and relevant State Environmental Planning Policies, the proposal satisfies the aims, objectives and provisions of these policies. The proposal does not contravene any development standards and is unlikely to have any significant impacts on the local natural, social or economic environments.

The site is suitable for the development and the proposal is permissible within the zone. Therefore, the application is worthy of support and is recommended for approval subject to conditions.

**RECOMMENDATION:**

THAT DA-504/2017 be **APPROVED** subject to the attached conditions:

**PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE**

1. The following must be submitted to either Council or an Accredited Certifier prior to the issuing of a Construction Certificate:
  - 1.1. Details of:
    - Structural Engineering Plan
    - Building Specifications
    - Fire Safety Schedule
    - Hydraulic Plan
    - Soil and Waste Management Plan
  - 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 Principle Certifying Authority (either Canterbury Bankstown 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).

**SITE SIGNAGE**

3. A sign shall be erected at all times on your building site in a prominent position stating the following:
  - 3.1. The name, address and telephone number(s) of the principle certifying authority for the work, and
  - 3.2. 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
  - 3.3. That unauthorised entry to the work site is prohibited.

## GENERAL

4. The development being carried out in accordance with the following stamped approved plans except where modified by the conditions of this consent:

Description	Prepared By	Reference	Date
Site Plan	The City of Canterbury-Bankstown	Job No: 1718/0177 Issue: E Sheet No. 2	14.12.2017
Floor Plans	The City of Canterbury-Bankstown	Job No: 1718/0177 Issue: E Sheet No. 4 and 5.	14.12.2017
Reconstruction Plans	The City of Canterbury-Bankstown	Job No: 1718/0177 Issue: E Sheet No. 6	14.12.2017
Elevations	The City of Canterbury-Bankstown	Job No: 1718/0177 Issue: E Sheet No. 7	14.12.2017
Sections	The City of Canterbury-Bankstown	Job No: 1718/0177 Issue: E Sheet No. 8	14.12.2017
Front Elevation – Accessible Toilet and Hand Basin	The City of Canterbury-Bankstown	Job No: 1718/0177 Issue: E Sheet No. 9	14.12.2017
Side Elevation Accessible Toilet and Hand Basin	The City of Canterbury-Bankstown	Job No: 1718/0177 Issue: E Sheet No. 10	14.12.2017
Side Elevation Accessible Shower	The City of Canterbury-Bankstown	Job No: 1718/0177 Issue: E Sheet No. 11	14.12.2017
Demolition Plan	The City of Canterbury-Bankstown	Job No: 1718/0177 Issue: E Sheet No. 3	14.12.2017
Waste Management Plan	The City of Canterbury-Bankstown	-	-

5. A Schedule of external finishes is to be submitted with the application for a Construction Certificate that matches and compliments the finishes of the existing building.
6. Replacement plants of similar size and maturity must be included on the plans for the secure outdoor play area submitted with the application for a Construction Certificate.
7. All materials must be stored wholly within the property boundaries and must not be placed on the footway or roadway.
8. 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.

9. All building construction work must comply with the National Construction Code.
10. 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.
11. Concrete pumping contractors must not allow the discharge of waste concrete to the stormwater system. Waste concrete must be collected and disposed of on-site.
12. Materials must not be deposited on Council's roadways as a result of vehicles leaving the building site.
13. Drains, gutters, roadways and accessways must be maintained free of soil, clay and sediment. Where required, gutters and roadways must be swept regularly to maintain them free from sediment. Do not hose down.

#### PRIOR TO THE COMMENCEMENT OF WORKS

14. As any works within, or use of, the footway or public road for construction purposes requires separate Council approval under Section 138 of the Roads Act 1993 and/or Section 68 of the Local Government Act 1993, Council requires that prior to any Construction Certificate for this development being issued, a Works Permit and or a Roadway/Footpath Building Occupation Permit shall be obtained where one or more of the following will occur, within, on or over the public footway or public road:

#### A PRIVATE CERTIFIER CANNOT ISSUE THESE PERMITS

#### WORKS REQUIRING A 'WORKS PERMIT'

- a) Dig up, disturb, or clear the surface of a public footway or public road,
- b) Remove or interfere with a structure or tree (or any other vegetation) on a public footway or public road,
- c) Connect a road (whether public or private) to a classified road,
- d) Undertake footway, paving, vehicular crossing (driveway), landscaping or stormwater drainage works within a public footway or public road,
- e) Install utilities in, under or over a public road,
- f) Pump water into a public footway or public road from any land adjoining the public road,
- g) Erect a structure or carry out a work in, on or over a public road
- h) Require a work zone on the public road for the unloading and or loading of vehicles
- i) Pump concrete from within a public road,
- j) Stand a mobile crane within a public road
- k) Store waste and recycling containers, skips, bins and/or building materials on any part of the public road.

- l) The work is greater than \$25,000.
- m) Demolition is proposed.
- n) Subdivision is proposed.
- o) A Swimming pool is proposed.

Assessment of Works Permits (a to e) includes the preparation of footway design levels, vehicular crossing plans, dilapidation reports and issue of a Road Opening Permit.

All proposed works within the public road and footway shall be constructed under the supervision and to the satisfaction of Council. The applicant/developer shall arrange for necessary inspections by Council whilst the work is in progress.

For commercial or multi-unit residential developments within the designated CBD or an urban village area, footway design and construction and street tree supply, installation and tree hole detailing shall be as per the Council master plan for that area. Full width footways are to be supplied and installed at full cost to the developer to specification as supplied by Council. Layout plan of pavement to be submitted to Council for approval prior to the issue of the Works Permit.

All Council fees applicable, minimum restoration charges and inspection fees shall be paid prior to the assessment of the Work Permit in accordance with Council's adopted fees and charges. Note: Additional fees after approval will be charged where the Work Permit requires occupation of the Road or Footpath ie Hoardings, Work Zones etc. In determining a Works Permit, Council can impose conditions and require inspections by Council Officers.

Forms can be obtained from Council's Customer Service counter located on the ground floor of Council's administration building at 66 - 72 Rickard Road, Bankstown or Council's website [www.cbcity.nsw.gov.au](http://www.cbcity.nsw.gov.au)

Part of any approval will require the person or company carrying out the work to carry public liability insurance to a minimum value of ten million dollars. Proof of the policy is to be provided to Council prior to commencing any work approved by the Work Permit including the Road Opening Permit and must remain valid for the duration of the works.

The commencement of any works on public land, including the footway or public road, may incur an on the spot fine of not less than \$1100 per day that work continues without a Works Permit and/or a Roadway/Footpath Building Occupation Permit. All conditions attached to the permit shall be strictly complied with prior to occupation of the development. Works non-conforming to Council's specification (includes quality of workmanship to Council's satisfaction) shall be rectified by the Council at the applicant's expense.

15. Prior to the commencement of work, a fence must be erected around the area of the works, except where an existing 1.8m high boundary fence is in good condition and is

capable of securing the area. Any new fencing shall be temporary (such as cyclone wire) and at least 1.8m high. All fencing is to be maintained for the duration of construction to ensure that the work area is secured.

Where the work is located within 3.6m of a public place then a Type A or Type B hoarding must be constructed appropriate to the works proposed. An application for a Work Permit for such hoarding must be submitted to Council for approval prior to the commencement of work.

16. Prior to the commencement of work, the builder shall prepare a photographic record of the road reserve which clearly shows its condition prior to works occurring on site. For the entirety of demolition, subdivision or construction works, there shall be no stockpiling of building spoil, materials, or storage of equipment on the public road, including the footway and the road reserve shall be maintained in a safe condition at all times. No work shall be carried out on the public road, including the footway, unless a Work Permit authorised by Council has been obtained.

#### SYDNEY WATER REQUIREMENTS

17. 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.

#### SYDNEY TRAINS

18. Prior to the issue of a Construction Certificate the Applicant is to provide structural details that the concrete slab or footings will be protected by a vapour barrier membrane. A copy of the details is to be provided to the Principle Certifying Authority with the application for a Construction Certificate.
19. The applicant shall not at any stage block the corridor access gate on The Boulevard, and should make provision for easy and ongoing 24/7 access by rail vehicles, plant and equipment to support maintenance and emergency activities.

#### CRITICAL INSPECTIONS

20. Class 5, 6, 7, 8 or 9 Buildings
  - 20.1. prior to covering any stormwater drainage connections, and
  - 20.2. after the building work has been completed and prior to any occupation certificate being issued in relation to the building.

21. 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 principle 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

22. Obtain an Occupation Certificate/Interim Occupation Certificate from the Principle Certifying Authority before partial/entire occupation of the development.
23. A final Occupation Certificate shall not be issued until all conditions relating to demolition, construction and site works of this development consent are satisfied and Council has issued a Work Permit Compliance Certificate.

#### WE ALSO ADVISE:

24. If you appoint a Principle Certifying Authority other than Council, any certificate provided to us must be accompanied by a \$36 registration fee.
25. This application has been assessed in accordance with the National Construction Code.
26. 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.
27. Where Council is appointed as the Principle Certifying Authority, you will be required to submit Compliance Certificates in respect of the following:
- Structural engineering work
  - Final fire safety certificate
28. Any works to be carried out by Council at the applicant's cost need to be applied for in advance.
29. 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.
30. 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.

31. 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.
32. Our decision was made after consideration of the matters listed under Section 4.15 of the Environmental Planning and Assessment Act 1979, and matters listed in Council’s various Codes and Policies.
33. If you are not satisfied with this determination, you may:
  - 33.1. Apply for a review of a determination under Section 8.2 - 8.5 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
  - 33.2. Appeal to the Land and Environment Court within 6 months after the date on which you receive this Notice of Determination, under Section 8.7 or Section 8.10 of the Environmental Planning and Assessment Act 1979.

-END-



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## Canterbury Bankstown Local Planning Panel - 2 July 2018

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**ITEM 4**                      **Canterbury Bankstown Local Planning Panel Operational Procedures**

**AUTHOR**                      **Panel Chairperson**

### **PURPOSE AND BACKGROUND**

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This report seeks approval of the adoption of the Canterbury Bankstown Local Planning Panel's Operational Procedures.

### **ISSUE**

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Adoption of the Canterbury Bankstown Local Planning Panel's Operational Procedures.

### **RECOMMENDATION**    That -

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The Local Planning Panel adopt the Canterbury Bankstown Local Planning Panel Operational Procedures, as shown as Attachment A.

### **ATTACHMENTS**

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A.     Canterbury Bankstown Local Planning Panel Operational Procedures

## **POLICY IMPACT**

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There is no policy impact from the recommendation.

## **FINANCIAL IMPACT**

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There is no financial impact from the recommendation.

## **COMMUNITY IMPACT**

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There is no community impact from the recommendation.



## **DETAILED INFORMATION**

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The Minister for Planning on 23 February 2018 issued a direction under section 9.1 of the Environmental Planning and Assessment Act 1979 in relation to operational procedures, to set procedures for how local planning Panels are to operate.

Operational procedures specific to the Canterbury Bankstown Local Planning Panel, which are the subject of this report are attached as Attachment A. This report seeks approval of the adoption of the Canterbury Bankstown Local Planning Panel's Operational Procedures.



## **Canterbury Bankstown Local Planning Panel – Operational Procedures**

### **PART 1 – Panel composition**

#### **1.1 Chair selection and rotation**

1. The chair and any alternate chairs are to rotate presiding over panel meetings, or other business, as practicable, unless the chair or alternative chair is unavailable for any reason.
2. Where possible, deferred matters should be considered by the chair that presided over the original deferment.

#### **1.2 Independent expert members and alternates**

1. The independent expert members and alternate members can be interchanged as needed by the chair for that meeting for reasons including:
  - a. a member has a conflict of interest,
  - b. a member is unable to attend on the day, or
  - c. to periodically rotate the members.

#### **1.3 Community representatives for wards and use of alternates**

1. A community representative member can be interchanged as needed by the chair or alternate chairs for reasons including:
  - a. a member has a conflict of interest,
  - b. a member is unable to attend on the day, or
  - c. to periodically rotate the members

### **PART 2 – Reviews of panel decisions**

#### **2.1 Reviews**

1. The determination of a review application from a panel decision shall be determined by different members of the panel to those who made the original determination.

### **PART 3 – Meeting procedures**

#### **3.1 Role of chair**

1. The chair is responsible for the management of the panel's functions and operations, including managing conflicts of interest.
2. The chair is to preside over panel meetings and other business.
3. The chair is to ensure the panel fully discharges its responsibilities under the EP&A Act, these operational procedures, any other directions from council, and the code of conduct for local panel members in a timely manner.

4. The chair is responsible for the good and orderly conduct of the panel meetings and may do all things and take all steps necessary to control the good and orderly conduct of any meeting of the panel or site inspection carried out by the panel in the performance of its functions.
5. The chair is to determine which alternative chair, independent expert members or alternates, and which community representatives or alternates are to hear a matter prior to the meeting commencing. The chair may make arrangements with the general manager (or delegate) to determine independent expert members or alternates, and which community representatives or alternates are to hear a matter.

### **3.2 Role of alternate chairs**

1. Alternate chairs have the same role as the chair when presiding over a panel meeting or any other business.

### **3.3 Meeting procedures**

1. The panel may determine detailed procedures for the execution of efficient and effective meetings.
2. The panel is not bound by the rules of evidence and may inquire into and inform itself on any matter, in such manner as it thinks fit, subject to the rules of natural justice and procedural fairness.
3. The panel is to act with as little formality as the circumstances of the case permit and according to equity, good conscience and the substantial merits of the case without regard to technicalities or legal forms.
4. The panel must give reasonable notice to the public of the times and places of its meetings. This must be through the website used by the panel and may include other mechanisms as appropriate.
5. The panel may:
  - a. adjourn the public meeting to deliberate before reconvening for voting and determination, or
  - b. close the public meeting for deliberation and/or voting and determination.
6. With a view to discharging its responsibilities in a timely manner, the panel may, in its absolute discretion, but otherwise fairly and consistently, impose time limits on presentations by persons other than members of the panel. Where, there are a large number of objectors with a common interest at any public meeting, the panel may, in its absolute discretion, hear a representative of those persons.
7. The panel shall hold meetings as required to meet panel demands and workloads.
8. Where a quorum for a meeting or other business is not present, the meeting or other business is to be deferred.

### **3.4 Site Inspections**

1. The chair may elect for the panel to attend site inspections for development applications and planning proposals to be considered at the public meeting.
2. Site visits should be conducted on the same day as a public hearing, if practicable.

3. Site visits are solely to be used to identify and clarify issues with a proposal.
4. At a site visit, a panel member must not offer an opinion on the merit of the proposal, or ask those involved with the assessment of the proposal for their opinion or recommendation.

#### **PART 4 – Other matters**

##### **4.1 Obligation to consult with council if adverse financial impacts**

1. A panel must not exercise a function that will result in the making of a decision that would have, or that might reasonably be expected to have, a significantly adverse financial impact on a council until after it has consulted with the council.
2. The consultation may be in writing, with the council being given a specified time to respond in writing. Where a meeting with the General Manager (or delegate) is to be held to discuss the matter, all relevant panel members should be present and minutes kept of the meeting and its outcomes.

##### **4.2 Interactions with third parties about matters before the panel**

1. Panel members are not to discuss any matter that is to be considered by the panel with councillors, the applicant, their consultants, parties who have made a submission, or any other person with an interest in the matter outside of the local planning panel meeting.
2. This does not apply to persons employed by the council to assess the matters to be considered by the panel.

*(Parts 1-4 above as per Minister for Planning direction under Section 9.1 of Environmental Planning and Assessment Act 1979 dated 23 February 2018).*

### **Additional matters for Canterbury Bankstown Local Planning Panel**

#### **PART 3 – Meeting procedures**

##### **3.1 Role of chair**

- Under 3.1.5 above the chair has made arrangements with the General Manager that the General Manager or his delegate will determine Panel members as follows:
  - a) independent expert panel members – as a general policy there will be an even rotation of expert members, and
  - b) community representatives - generally to sit and vote only on development applications or planning proposals that relate to their ward (subject to availability and conflict of interest).

### **3.3 Meeting Procedures Notice of meetings**

- Notice of panel meetings (time and place) shall be provided through Council's website at least five working days prior to the meeting and published in local newspapers the week preceding the meeting.
- Agendas for meetings shall be publically available for viewing five working days prior to the meeting (by close of business) on the Council website, at Council customer service centres and library and knowledge centres.

#### **Time Limits for Addressing the Panel in a public meeting**

- Applicants for development applications (and planning proposals) and people who have made a submission on a development application will be notified in writing of the development application's referral to the Panel and advised that they may make an application to address the Panel regarding the matter.
- An application to address the Panel must be received at Council by 12 noon on the day of the meeting. Applicants will be advised of any conditions which may apply to their address to the Panel. If a number of applicants have similar views, they may be asked to appoint one spokesperson to address the Panel. Written submissions to the Panel will be accepted.
- Addresses to the Panel by applicants and objectors shall be restricted to three minutes with a two minute extension at the discretion of the Chair. The Chair also has the discretion to extend the period if considered appropriate.
- Speakers at the Panel meeting who are objectors shall be heard first. The applicant together with any representative for the applicant to speak after the objectors.

#### **Deliberation**

- Following the public meeting, the Panel shall adjourn for a closed session for deliberation, voting and determination.
- Council staff to attend the first part of the closed session for final clarification or discussion from public meeting.
- In the second part of the closed session Council officers shall leave (except CB Panel Administration Assistant) and only voting members of the Panel deliberate on, vote and determine the matter.
- Community representatives will only attend that part of the closed session for the matters they will vote on.

#### **Minutes**

- Minutes to be finalised and made available to the public on Council's website within four business days of the meeting.



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## Canterbury Bankstown Local Planning Panel - 2 July 2018

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### **ITEM 5                      Delegation of Specific Functions from Canterbury Bankstown Local Planning Panel to General Manager and Director Planning**

**AUTHOR                      Panel Chairperson**

### **PURPOSE AND BACKGROUND**

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The Canterbury Bankstown Local Planning Panel was established in accordance with the Environmental Planning and Assessment Act 1979 (EP&A Act).

Section 8.15(4) of the EP&A Act deals with appeals against development application decisions made by, amongst other authorities, a local planning panel. This section requires the local planning panel to have direction and control of proceedings before the Court where the panel has determined the development application.

This report discusses the ramifications of this requirement under the Act and recommends that this function of the local planning panel be delegated to the General Manager and Director Planning.

### **ISSUE**

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The functions of the Canterbury Bankstown Local Planning Panel under s.8.15(4) of the Environmental Planning and Assessment Act 1979 in relation to planning appeals.

### **RECOMMENDATION    That -**

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The functions of the Canterbury Bankstown Local Planning Panel under s.8.15(4) of the Environmental Planning and Assessment Act 1979 in relation to planning appeals be delegated by the Panel to the General Manager and Director Planning in accordance with the attached instrument of delegation.

### **ATTACHMENTS**

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- A.     Draft instrument of delegation

## **POLICY IMPACT**

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The recommendation will address a delegation matter in relation to appeals against development application decisions made by the Canterbury Bankstown Local Planning Panel.

## **FINANCIAL IMPACT**

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There is no financial impact from the recommendation.

## **COMMUNITY IMPACT**

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There is no community impact from the recommendation.

## DETAILED INFORMATION

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The Canterbury Bankstown Local Planning Panel was established in March 2018 in accordance with the relevant provisions in the *Environmental Planning and Assessment Act 1979* (EP&A Act).

Section 8.15(4) of the EP&A Act deals with appeals against development application decisions made by, amongst other authorities, a local planning panel, and states:

*If the determination or decision appealed against under this Division was made by a Sydney district regional planning panel or a local planning panel, the council for the area concerned is to be the respondent to the appeal but is subject to the control and direction of the panel in connection with the conduct of the appeal. The council is to give notice of the appeal to the panel.*

This section, in effect, requires the local planning panel to have direction and control of proceedings before the Court where the panel has determined the development application.

The Land and Environment Court determines appeals on the basis of the expert evidence before it in each matter and in accordance with the timetable of the Court. This means that the Council staff and Council's lawyers need to have control and flexibility in how an appeal is run. It is my view that once the Panel makes its decision, then any appeal against that decision should be run by Council without any further involvement of the Panel.

Section 2.20(8) of the EP&A Act enables any function of a Local Planning Panel to be delegated and is not limited to the management of class 1 appeals. Therefore, consideration has been given to delegating the local planning panel functions, to control and direct appeals to the Land and Environment Court against the Panel's determinations, to the General Manager and Director Planning.

Advice in this regard was sought from the Department of Planning and Environment who responded that the proposal is not unreasonable and that other councils had taken a similar approach. The Department further advised that the Panel will need to delegate this authority by endorsement at a public meeting.

A draft instrument of delegation has been prepared and is attached.



## Instrument of Delegation

### Environmental Planning and Assessment Act 1979

#### Delegation of Specific Functions from Canterbury Bankstown Local Planning Panel to General Manager and Director Planning

By resolution of the Panel dated \_\_\_\_\_ 2018 the Panel pursuant to s2.20(8) of the Act delegates to the General Manager and Director Planning of the Council the Functions specified or described in Schedule 1 of this Instrument of Delegation.

#### 1 Definitions

1.1 In this instrument:

**Act** means the *Environmental Planning and Assessment Act 1979*.

**Council** means Canterbury Bankstown Council.

**Director Planning** means the person appointed by Council to the position of Director Planning, pursuant to s335(h) of the Local Government Act 1993.

**Function** means a function of the Local Planning Panel within the meaning of the Act.

**General Manager** means the person appointed by the Council pursuant to s334 of the Local Government Act to the position of general manager, and a person appointed by the Council pursuant to s336 of the Local Government Act to act in the vacant position of general manager.

**Panel** means Canterbury Bankstown Local Planning Panel.

**Planning Appeal** means an appeal commenced pursuant to ss 8.6, 8.7, 8.8 and 8.9 of the Act and any subsequent appeal proceedings arising from any decision in those proceedings.

#### 2 Commencement

2.1 The delegation commenced on \_\_\_\_\_ 2018 [Drafting Note to be the same date as the resolution]

### Schedule 1

#### Functions

The functions of the Panel under s8.15(4) of the Act in relation to a Planning Appeal.

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Anthony Hudson  
Chairman of Panel

Date: 2018