



AGENDA FOR THE CANTERBURY BANKSTOWN LOCAL PLANNING PANEL MEETING

2 September 2019 - 6.00pm

Location:

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

ORDER OF BUSINESS

APOLOGIES AND DECLARATIONS

CONFIRMATION OF MINUTES OF PREVIOUS MEETING

CANTERBURY WARD

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| 1 | DA-87/2019 - 9-15 Woolcott Street, Earlwood
Alterations and additions to the existing child care centre. | 3 |
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REVESBY WARD

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| 2 | 56 Lucas Road, East Hills
Demolition of existing structures and construction of a new two storey dwelling, inground swimming pool and outbuilding. | 29 |
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Canterbury Bankstown Local Planning Panel - 2 September 2019

ITEM 1	9-15 Woolcott Street, Earlwood
	Alterations and additions to the existing child care centre.
FILE	DA-87/2019 - Canterbury Ward
ZONING	R2 Low Density Residential
DATE OF LODGEMENT	9 April 2019
APPLICANT	City Of Canterbury Bankstown
OWNERS	City Of Canterbury Bankstown
ESTIMATED VALUE	\$90,000.00
AUTHOR	Planning

REPORT

This matter is reported to Local Planning Panel in accordance with the Minister for Planning's referral criteria. As per Schedule 2, Part 1, Canterbury Bankstown Council has a conflict of interest as Council is both the owner and the applicant. The proposed works are not exempt under this section.

Development Application No. DA-87/2019 proposes alterations to the existing Council child care centre to extend the existing rear laundry and undertake internal alterations to remove the existing bathroom and extend the staff office.

DA-87/2019 has been assessed against the *Canterbury Local Environmental Plan 2012*, *Canterbury Development Control Plan 2012* and *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017*.

The application was advertised/notified for a period of 35 days, from 18 April 2019 to 22 May 2019. No objections were received during this period.

POLICY IMPACT

The matter has no direct policy implications.

FINANCIAL IMPACT

The matter has no direct financial implications.

RECOMMENDATION

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

ATTACHMENTS

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

DA-87/2019 ASSESSMENT REPORT

SITE & LOCALITY DESCRIPTION

The subject site is known as 9-15 Woolcott Street, Earlwood and is legally known as Lot 1 DP 723882 and Lot 2 DP10661 with lot areas of 986.4m² and 1144.5m² respectively. The site is an irregular shaped allotment with a total frontage of 26.625m and a total site area of 2130.9m². The subject site is currently zoned R2 Low Density Residential. Currently occupying the site is a single storey, brick child care centre.

The surrounding development consists of single and two storey detached dwelling houses and dual occupancy developments. Adjacent to the subject site, on the southern boundary is Sydney Water Corporation owned sewage system. To the east, across Woolcott Street is Joanna Thompson Reserve.



Figure 1: Aerial of subject site highlighted in yellow **Source:** Canterbury Maps

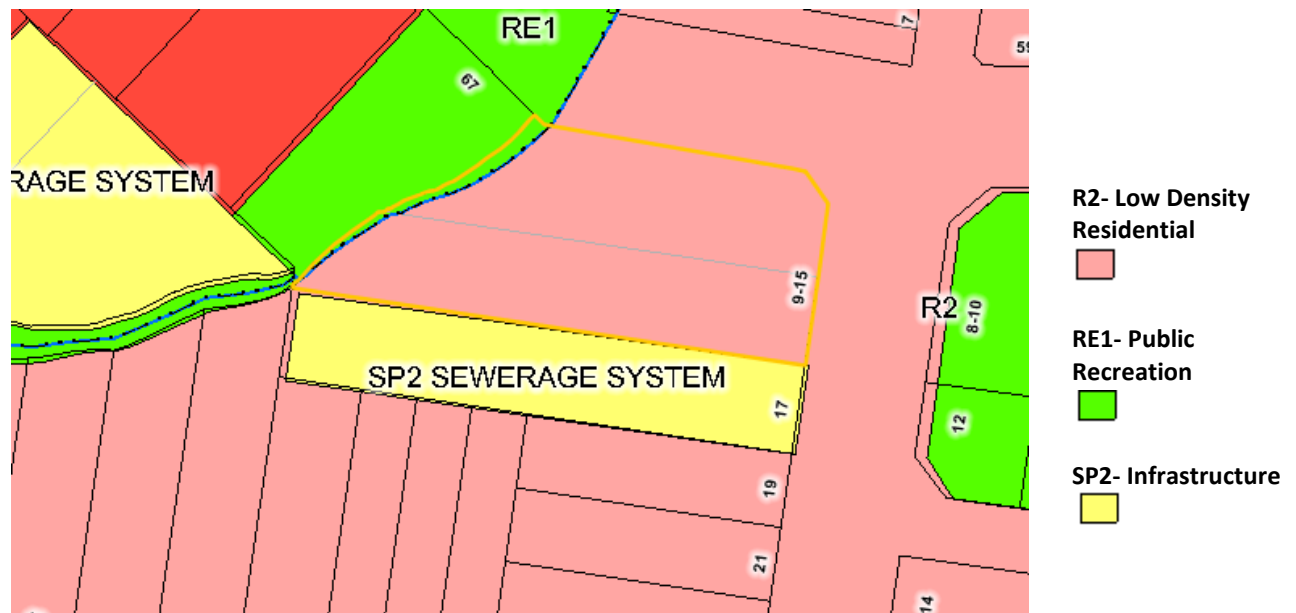


Figure 2: Zoning Map (subject site outlined in yellow)

PROPOSED DEVELOPMENT

The Development Application proposes to extend the existing rear laundry, relocate the existing metal shed and internal alterations to remove the existing bathroom and extend the staff office of the child care centre.

Works

Proposed works include the following:

- Minor demolition works.
- Minor internal alterations to the existing bathroom attached to the staff room and removal of the internal wall between the office and bathroom.
- Extension of the existing laundry with the inclusion of a shower, toilet and additional laundry sink.
- Slight relocation of existing metal shed to accommodate the laundry extension.
- Minor landscaping modifications to accommodate the laundry extensions.

SECTION 4.15 ASSESSMENT

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

- *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017*.
- *State Environmental Planning Policy No. 55- Remediation of Land*
- *Canterbury Local Environmental Plan (CLEP) 2012*

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

- *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 (Education SEPP 2017)*.

The Education SEPP 2017 provides a consistent planning regime for educational establishments and centre-based child care centre facility provision across NSW, as well as providing for consultation with relevant public authorities during the assessment process. Part 3 of the Education SEPP sets out specific development controls for child care centres.

The application has been assessed against the relevant provisions of Part 3 as follows, however it is noted that the application seeks minor alterations and additions, rather than the construction of a new building.

Standard	Requirement	Proposal	Complies
22. Centre-based child care facility – concurrence of Regulatory Authority required for certain development	For applications that do not comply with the minimum indoor and outdoor space requirements, concurrence is required of the Regulatory Authority	The proposal complies with the minimum indoor and outdoor space requirements and therefore concurrence is not required.	N/A
23. Centre-based child care facility— matters for consideration by consent authorities	Before determining a development application for development for the purpose of a centre-based child care facility, the consent authority must take into consideration any applicable provisions of the Child Care Planning Guideline, in relation to the proposed development.	Refer to comment [1] below.	Yes
24. Centre-based child care facility in Zone IN1 or IN2— additional matters for consideration by consent authorities	The consent authority is to consider the provisions outlined in this Clause for proposed child care centres in IN1 of IN2 zone.	The development is located within an R2 Low Density Residential Zone and therefore the provisions in this clause do not apply.	N/A
25. Centre-based child care facility— non-discretionary development standards	(a) location—the development may be located at any distance from an existing or proposed early education and care facility,	The subject child care is existing.	N/A
	(b) indoor or outdoor space – to be in accordance with the requirements within the Education and Care Services National Regulations.	The proposed changes to the outdoor area do not result in a non-compliance with the outdoor area minimum area.	Yes
	(c) site area and site dimensions—the	Existing child care centre.	Yes

	development may be located on a site of any size and have any length of street frontage or any allotment depth,		
	(d) colour of building materials or shade structures—the development may be of any colour or colour scheme unless it is a State or local heritage item or in a heritage conservation area.	No changes to existing building materials, shade structures or colours. Proposed colours and finishes of the extension are consistent with the existing building.	Yes
26. Centre-based child care facility—development control plans	A provision of a development control plan that specifies a requirement, standard or control in relation to ages, age ratios, groupings, numbers or the like, of children, hours of operation, demand, proximity to other centres etc. does not apply to development for the purpose of a centre-based child care facility.	Noted.	N/A

[1] Clause 23 - Centre-based child care facility—matters for consideration by consent authorities

Part 3 of the Child Care Planning Guideline (Guideline) outlines the matters to be considered by Council when assessing a development application for a child care centre. These matters are discussed below.

a) Site selection and location.

For development in a residential zone, such as the subject site, the Guideline specifies that the acoustic and privacy impacts, setbacks and siting of the building and traffic and parking impacts are to be considered.

However, the proposal seeks alterations and additions to an existing child care centre without any increase in the number of children attending the centre and therefore there are no additional impacts on acoustic and privacy, setbacks and siting of the building and traffic and parking.

b) Local character, streetscape and the public domain interface.

As outlined earlier within this report, the proposal seeks alterations and additions to an existing building and existing child care centre.

The proposed extension is located towards the rear of the site behind trees, which will be retained. No changes are sought to the presentation of the building or front fence. Therefore, the development will maintain its presentation to the street, retain its contribution to the local area and will continue to provide a satisfactory interface with the public domain.

c) Building orientation, envelope and design.

Given the proposal does not seek changes to the building orientation, envelope or design, the child care centre is consistent with this clause.

d) Landscaping.

Adequate landscaping is provided within the front setback, car parking area and outdoor play area. Council's Landscape Architect has reviewed the design and raises no concern regarding the proposed changes to the outdoor area.

e) Visual and acoustic privacy.

The proposed alterations and additions to the existing child care centre seek to extend the laundry and indoor office area. These changes will not result in any additional visual or acoustic privacy impacts. Therefore the proposal is consistent with this clause.

f) Noise and air pollution.

The proposed alterations and additions to the existing child care centre seek to extend the laundry and indoor office area. These changes will not result in any additional noise or air pollution impacts. Therefore the proposal is consistent with this clause.

g) Hours of operation.

This part of the Guidelines states that "hours of operation within areas where the predominant land use is residential should be confined to the core hours of 7am-7pm, weekdays". The proposal does not seek to modify the existing hours of operation and therefore satisfies this clause.

h) Traffic, parking and pedestrian circulation.

In terms of parking, the Guidelines specify that parking should be provided in accordance with the generation rates specified within a development control plan.

However, the proposed development involves minor alterations and additions to the building to provide a larger laundry and does not propose to increase the number of staff or students. Therefore, the proposal is not considered to be an intensification of the site and as such does not need to provide any additional parking.

- **Education and Care Services National Regulations**

In addition to the above, the Guidelines also outline that the provisions outlined within the Education and Care Services National Regulations (the Regs) to be considered. An assessment against the key relevant provisions is provided below:

Standard	Requirement	Proposal	Complies
Clause 97 (1)- Emergency and evacuation procedures	The emergency and evacuation procedures required under regulation 168 must set out:- (a) instructions for what must be done in the event of an emergency; and (b) an emergency and evacuation floor plan.	The proposal seeks alterations and additions to the existing building and therefore a new emergency and evacuation procedure is not required.	Yes
Clause 104- Fencing	Ensure that any outdoor space used by children at the education and care service premises is enclosed by a fence or barrier that is of a height and design that children preschool age or under cannot go through, over or under it.	No changes to existing.	Yes
Clause 106- Laundry and hygiene facilities	An on-site laundry should be provided.	The application proposes to extend the existing an on-site laundry area which is provided within the premises and comprises the essential elements required to support the proposed child care centre use.	Yes
Clause 107 (2)- Space requirements— indoor space	For each child being educated and cared for by a service is to have at least 3.25m ² of unencumbered indoor space.	No changes to existing.	Yes
Clause 108 (2)- Space requirements— outdoor space	For each child being educated and cared for by a service is to have at least 7m ² of unencumbered outdoor space	The existing licence to accommodate 40 children generates a requirement for 280m ² of unencumbered outdoor space. The proposed extension is located within the existing outdoor space. The outdoor area has a total area of 899.8m ² and therefore the proposal satisfies this clause.	Yes
Clause 109- Toilet and	The approved provider of the service must ensure that laundry	The design comprises sufficient toilet and hygiene facilities to	Yes

Hygiene Facilities	and hygienic facilities are located and maintained in a way that does not pose a risk to children	cater for the proposed use. The toilets are accessible from activity and outdoor playrooms, comprise adequate child and adult sink and hand washing facilities. The removal of the bathroom and shower facilities attached to the office are accommodated within the new laundry extension and therefore it is considered that the child care centre provides sufficient toilet and hygiene facilities. Furthermore, no windows service the bathrooms and therefore adequate privacy is provided.	
Clause 110- Ventilation and Natural Light	The approved provider of an education and care service must ensure that the indoor spaces used by children at the education and care service premises: a) Are well ventilated; and b) Have adequate natural light; and c) Are maintained at a temperature that ensures the safety and wellbeing of children”.	In regards to ventilation and natural light, the design maintains the existing windows and skylights. The laundry extension will retain one window and add an additional window along the western boundary. The proposed office extension will retain one window.	Yes
Clause 111- Administrative Space	The approved provider of a centre-based service must ensure that an adequate area or areas are available at the education and care service premises for the purposes of: (a) conducting the administrative functions of the service; and (b) consulting with parents of children; and (c) conducting private conversations.	The proposed design seeks to improve the office area and comprises adequate administrative space to cater for the use.	Yes
Clause 112 (2)- Nappy change facilities	Ensure that adequate and appropriate hygienic facilities are provided for nappy changing.	No changes to existing.	Yes

Clause 113- Outdoor space— natural environment	The approved provider of a centre-based service must ensure that the outdoor spaces provided at the education and care service premises allow children to explore and experience the natural environment.	The design provides for a natural outdoor environment. There is provision to provide a natural outdoor environment within the rear and side setbacks of the site and this design is consistent with the design provisions outlined within the CDCP 2012. As outlined earlier within this report, the application does not propose any changes to the rear outdoor area except for the relocation of the existing shed. The application was referred to Council's Landscape Architect who raised no concerns in regards to the new location of the shed.	Yes
Clause 114- Outdoor space— shade	The approved provider of a centre-based service must ensure that outdoor spaces provided at the education and care service premises include adequate shaded areas to protect children from overexposure to ultraviolet radiation from the sun	No change to existing.	Yes
Clause 115- Premises designed to facilitate supervision	Designed and maintained in a way that facilitates supervision of children at all times that they are being educated and cared for by the service, having regard to the need to maintain the rights and dignity of the children.	Overall, the existing design utilises a single storey floorplate. The minor changes sought satisfy the elements outlined in Part 4.7 of the Guidelines, in particular: <ul style="list-style-type: none"> • Solid walls are provided to children's toilets. • No windows are provided on external walls to the toilets, which maintain privacy. 	Yes

		<ul style="list-style-type: none"> The room layout provides for appropriate supervision. <p>The proposed alterations and additions are not considered to impede appropriate supervision or its overall existing design.</p>	
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- State Environmental Planning Policy No. 55 Remediation of Land*

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 would that categorise the subject site as having contaminated land. Given that the site has been used for an existing child care centre since 1983 and that there is minimal excavation of 200mm-500mm proposed, the site is considered to be consistent with State Environmental Planning Policy 55 – Remediation of Land.

- Canterbury Local Environmental Plan (CLEP) 2012*

The following clauses of the *Canterbury Local Environmental Plan 2012* were taken into consideration:

Standard	Requirement	Proposal	Complies
Zoning	R2 – Low Density Residential	Extension to existing child care centre	Yes
Building height	Max. 8.5m	Existing = 4.6m. Proposed laundry extension = 3.5m	Yes
Floor Space Ratio	N/A	N/A	N/A

The site is zoned R2 Low Density Residential under Canterbury LEP 2012. The proposed use is classified as a “centre-based child care facility” which is defined as follows:

- (a) *a building or place used for the education and care of children that provides any one or more of the following:*
- i. *long day care,*

- ii. *occasional child care,*
 - iii. *out-of-school-hours care (including vacation care),*
 - iv. *preschool care, or*
- (b) *an approved family day care venue (within the meaning of the Children (Education and Care Services) National Law (NSW)),*

Centre-based child care facilities are permitted with development consent within the R2 zone.

The objectives of the R2 zone are as follows:

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

The proposed development is considered to satisfy the relevant objectives of the zone, primarily given it is a facility that will assist with meeting the day to day needs of nearby residents.

An assessment of the Development Application revealed that the proposal satisfies the matters raised in the relevant clauses of the *Canterbury Local Environmental Plan 2012*.

Draft environmental planning instruments [section 4.15(1)(a)(ii)]

No draft EPI's are applicable to the proposed development.

Development control plans [section 4.15(1)(a)(iii)]

The following table provides a summary of the development application against the controls contained in *Canterbury Development Control Plan 2012*.

Part B2 – Landscaping

The application was referred to Council's Landscape Architect who raised no objection to the application subject to conditions of consent.

Part F2 – Childcare Centres

An assessment against the relevant provisions of Part F2 is provided below.

Requirements	Proposal	Complies
<i>Part F2.3 – Location and Demand Analysis</i>		
A location and demand analysis is required to be lodged.	The location provisions specified within Clause 25 of the Education SEPP override the CDCP 2012 controls in this instance.	N/A
Childcare centres are not to be located within 400m walking distance of an existing childcare	As existing.	

centre.		
Part F2.4 – Minimum Dimensions		
Minimum site frontage for child care centre development is 20m.	The site has a total frontage of 26.625m	Yes
Part F2.5 – Residential Zones		
Childcare centres are not permitted to contain a residential component.	The proposed development does not include any residential components.	Yes
Childcare centres located in a residential zone must be residential in external appearance and finishes must be consistent with the nearby residential streetscape.	No changes to existing external finishes and appearance of the child care centre. The proposed extension is consistent with the existing building.	Yes
Childcare centres in residential zones are limited to a maximum of 40 children.	As per Clause 26 of the Education SEPP, the number restriction specified within CDCP 2012 does not apply to development for the purpose of a centre-based child care facility. This requirement overrides Council's CDCP 2012 controls in this instance. Notwithstanding this, the proposal does not seek to increase or decrease the maximum number of children.	N/A
Part F2.6 – Car Parking		
1 space per 2 staff (10.5 (11) spaces required).	No changes to existing parking.	N/A
All parking is to be behind the front building line.	No changes to existing parking.	N/A
All parking and maneuvering areas are to be suitably sign posted, drained and line marked.	No changes to existing parking.	N/A
Provide a suitably signposted parking facility on the street immediately in front of the centre	No changes to existing parking.	N/A
A total of 8 drop off/pick up spaces are required to be provided on the street directly in front of the centre.	No changes to existing parking.	N/A
Part 2.7 – Facilities and layout		
Provide space and facilities, and design the internal and external layout, in accordance with the National Quality Framework.	The proposed alterations and additions have been designed in accordance with the requirements of the licencing authority.	Yes
Part F2.8 – Open Space		

Provide external spaces that promote a variety of learning, play and other development experiences.	The proposal seeks minor changes to the outdoor area and retains sufficient outdoor play and learning areas. The design meets the minimum outdoor area requirements. Council’s Landscape Architect has reviewed the design and raises no objection subject to conditions.	Yes
Design and construct external spaces that are safe, healthy and attractive, provide visual quality to the development, and screen activities to protect neighbours amenity.		
Provide a landscape proposal, prepared by a qualified landscape architect or persons with expertise in landscape design for children, that complies with the National Quality Framework for children’s centres.		
Ensure that the external areas are free from contamination.		
The outdoor play space must not be occupied by any motor vehicles during operating hours.		
Outdoor play areas between the front alignment of the building and the street will not be permitted.		
Part F2.9 – Landscape Plan Requirements		
Boundary security fencing minimum 1.8m high and that is non-climbable.	Council’s Landscape Architect has reviewed the design and raises no objections. The proposal seeks no changes to the outdoor space and fencing.	Yes
Covered veranda and 50% of external ground area shaded.		
Disability access and ease of access from outdoor areas to toilets.		
An outdoor area for babies, separate from outdoor area for older children.		
Conceptual delineation of spaces into activity zones.		
Sandpit and shade structure, and access to sandpit for maintenance vehicles.		
Outdoor storage areas, shed, waste storage and handling facilities.		
Garden bed layout with planting details, surface materials and soft fall areas.		

Water play areas and a tap.		
Part 2.10 - Staffing		
Staff ratios are to be in accordance with the National Quality Framework.	The proposed alterations and additions do not alter the staffing ratios.	Yes
Part 2.11 - Accessibility		
The building must provide for access for people with a disability.	No changes to accessibility therefore this control is not applicable.	N/A
Part F2.12 – Operating Hours		
Where a centre is located in a residential zone, the hours of operation are to be restricted to 7am-7pm Monday to Friday (excluding public holidays)	No changes to operating hours are proposed, therefore this control is not applicable.	N/A
Part F2.13 – Visual and Acoustic Privacy		
Locate sleep rooms and play areas away from undesirable noise sources.	The proposed changes are not considered to have additional visual and acoustic privacy impacts.	Yes
An acoustic report from a suitably qualified acoustic engineer is to be provided to include measures to minimise noise impacts on neighbouring properties.	The proposed changes are not considered to have additional visual and acoustic privacy impacts.	Yes
Part F8 – Non-residential Development in Residential Zones		
Non-residential development in a residential zone will only be acceptable where adverse impacts on the amenity of residents in the immediate area are avoided or minimised.	The proposal seeks alterations and additions to an existing child care centre therefore this control is not applicable.	N/A

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

There are no planning agreements applicable to the development application.

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

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

The application was referred to Sydney Water who raised no objections or concerns to the subject application.

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

The proposed extension to the existing laundry area and office area and the relocation of the existing outdoor shed are considered to be acceptable with regard to the likely environmental, social and economic impacts on the locality.

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

The proposed extension to the existing laundry area and office area and the relocation of the existing outdoor shed have been found to be suitable at the subject site.

Submissions [section 4.15(1)(d)]

The application was advertised/notified for a period of 35 days (from 18 April 2019 to 22 May 2019). No objections were received.

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

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. The proposed alterations and additions increase the functionality of the existing child care centre to meet the day to day needs of the staff and children. Based on the above assessment, the proposed alterations and additions are consistent with the public interest.

CONCLUSION

The proposal has been assessed in accordance with the provisions of Section 4.15 of the Environmental Planning and Assessment Act 1979, Canterbury Local Environmental Plan 2012 and Canterbury Development Control Plan 2012.

Based on the above assessment, the proposed alterations and additions to the existing child care centre are consistent with the relevant objectives and standards outlined within State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017, Canterbury Local Environmental Plan 2012 and Canterbury Development Control Plan 2012.

RECOMMENDATION

It is recommended that development application DA-87/2019 be approved subject to the attached conditions.

CONDITIONS OF CONSENT

- 1) The proposal shall comply with the conditions of Development Consent. A Construction Certificate must not be issued until the plans and specifications meet the required technical standards and the conditions of this Development Consent are satisfied.
- 2) The development being carried out in accordance with the following stamped approved plans except where modified by the conditions of this consent:

Plan Name	Job No.	Rev.	Sheet No.	Prepared by	Dated
Site Plan	1819/0474	B	3/21	The City of Canterbury Bankstown	03.07.2019
Proposed Internal Layout	1819/0474	A	5/21	The City of Canterbury Bankstown	26.06.2019
Proposed Laundry Extension Plan	1819/0474	A	5/17	The City of Canterbury Bankstown	03.12.2018
Proposed Office Alterations Plan	1819/0474	A	12/17	The City of Canterbury Bankstown	03.12.2018
North & West Elevation	1819/0474	A	17/17	The City of Canterbury Bankstown	03.12.2018
Proposed Laundry Extension Section 1-1	1819/0474	A	8/17	The City of Canterbury Bankstown	03.12.2018
Proposed Laundry Extension Interior Elevation A	1819/0474	A	9/17	The City of Canterbury Bankstown	03.12.2018
Proposed Laundry Extension Interior Elevation B	1819/0474	A	10/17	The City of Canterbury Bankstown	03.12.2018
Proposed Laundry Extension Interior Elevation C	1819/0474	A	11/17	The City of Canterbury Bankstown	03.12.2018
Existing Laundry Demolition Plan	1819/0474	A	3/17	The City of Canterbury Bankstown	03.12.2018
Office Alterations Demolition Plan	1819/0474	A	4/17	The City of Canterbury Bankstown	03.12.2018
Proposed Laundry Extension – Demolition Roof Plan	1819/0474	A	13/17	The City of Canterbury Bankstown	03.12.2018
Proposed Laundry Extension Roof Plan	1819/0474	A	14/17	The City of Canterbury Bankstown	03.12.2018
Landscape Plan	1819/0474	A	21/21	The City of Canterbury Bankstown	15.07.2019

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

- 3) The Certifying Authority must ensure that any certified plans forming part of the Construction Certificate are not inconsistent with this Development Consent and accompanying plans.
- 4) A soil erosion and sediment control plan must be prepared by a suitably qualified professional, in accordance with the Demolition and Construction Guidelines and Canterbury DCP 2012 and submitted to the certifying authority for approval prior to the issue of a construction certificate.
- 5) The Council Approved building plans, including demolition plans, must be submitted to Sydney Water for assessment. This will determine if the proposed structure(s) would affect any Sydney Water infrastructure or if there are additional requirements. Building plan approvals can be submitted online via Sydney Water Tap inTM.

Please refer to www.sydneywater.com.au/tapin

For Sydney Water's Guidelines for building over or next to assets, visit www.sydneywater.com.au 'Plumbing, building & developing' then 'Building Plan Approvals' or call 13000 TAPIN.

Prior to release of a construction certificate Sydney Water must issue either a Building Plan Assessment letter which states that your application is approved, or the appropriate plans must be stamped by a Water Servicing Coordinator.

- 6) A Construction Certificate shall not be issued until written proof that all bonds, fees and/or contributions as required by this consent have been paid to the applicable authority.
- 7) A long service levy payment which is 0.35% of the total cost of the work is to be paid to the Building and Construction Industry Long Service Payments Corporation.
- 8) Finished surface levels of all internal works and at the street boundary, including driveways, landscaping and drainage structures, must be as shown on the approved plans. The levels at the street boundary must be consistent with the Street Boundary Alignment Levels issued by Council.
- 9) Where Council approved cut or fill exceeds 200mm and stable batter of 1 vertical to 3 horizontal maximum grade cannot be achieved, then a masonry or other proprietary material retaining wall, intended and suitable for that purpose, shall be constructed within the development site. Note, filling of the site needs specific approval from Council. The retaining wall shall be located so that it will not impede or obstruct the natural flow of stormwater. Retaining walls exceeding 600mm in height shall be designed by a qualified professional Civil/Structural Engineer. Plans and details prepared and signed by the Engineer are to be submitted to the Principal Certifying Authority (PCA) prior to the issue of the Construction Certificate. All works associated

with the construction of the wall, including backfilling and drainage, is to be located wholly within the allotment boundaries.

- 10) A Work Permit shall be applied for and obtained from Council for the following engineering works in front of the site, at the applicant's expense:
- a) Repair of any damage to the public road including the footway occurring during development works.
 - b) Reinstatement of the footway reserve and adjustment or relocation of existing public utility services to match the footway design levels as proposed on the approved Work Permit. Adjustment or relocation to any public utility services shall be carried out to the requirements of the public utility authority.

Note: As a site survey and design is required to be prepared by Council in order to determine the necessary information, payment for the Work Permit should be made at least twenty one days prior to the information being required and must be approved prior to the issue of the Construction Certificate.

- 11) 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, evidence of lodgement of an application for 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
- 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

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.

- 12) Stormwater runoff from all areas proposed for development shall be collected and connected to the existing stormwater system within the site, subject to the existing

system being evaluated by a qualified professional Civil Engineer and found to be structurally adequate and to have the required hydraulic capacity, as required in Canterbury DCP 2012. The existing system shall be upgraded or replaced as necessary to comply with the requirements above. The plan for the proposed drainage system together with the hydraulic evaluations shall be submitted to the PCA for approval with the application for the Construction Certificate.

CONDITIONS TO BE SATISFIED PRIOR TO CONSTRUCTION WORKS COMMENCING

- 13) The building work in accordance with the development consent must not be commenced until:
- a. a construction certificate for the building work has been issued by the council or an accredited certifier, and
 - b. the person having benefit of the development consent has:
 - i. appointed a principal certifying authority for the building / subdivision work, and
 - ii. notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
 - c. the person having the benefit of the development consent, if not carrying out the building work as an owner-builder, has:
 - i. appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential building work is involved, and
 - ii. notified the principal certifying authority of any such appointment, and
 - iii. unless the person is the principal contractor, notified the principal contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
 - d. the person having the benefit of the development consent has given at least 2 days' notice to the council of the person's intention to commence the building work.
- 14) Existing trees within the vicinity of the construction works or paths of travel for construction vehicles accessing the development that are to be retained shall be protected with temporary fencing of a style non injurious to tree roots, placed 2m from the trunk base of the existing tree to prevent damage during construction, and retained in accordance with Council's Tree Preservation Order. There is to be no stockpiling of materials within the 2m fenced zone.
- 15) Suitable erosion and sediment control measures shall be erected in accordance with the plans accompanying the Construction Certificate prior to the commencement of construction works and shall be maintained at all times.
- 16) Council warning sign for Soil and Water Management must be displayed on the most prominent point of the site, visible to both the street and site works. The sign must be displayed throughout the construction period.

- 17) Prior to the commencement of work, the applicant must provide a temporary on-site toilet if access to existing toilets on site is not adequate.
- 18) 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.

- 19) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - a. showing the name, address and telephone number of the principal certifying authority for the work, and
 - b. showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - c. stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed

- 20) The undertaking of demolition works is subject to strict compliance with the following:-
 - a) The developer is to notify adjoining residents seven (7) working days prior to demolition. Such notification is to be clearly written on A4 size paper giving the date demolition will commence and be placed in the letterbox of every premises (including every residential flat or unit, if any) either side, immediately at the rear of, and directly opposite the demolition site.
 - b) Written notice is to be given to Canterbury-Bankstown Council for inspection prior to demolition. Such written notice is to include the date when demolition will commence and details of the name, address, business hours and contact telephone number and licence number of the demolisher. The following building inspections shall be undertaken by Canterbury-Bankstown Council:
 - i. A precommencement inspection shall be carried out by Council when all the site works required as part of this consent are installed on the site and prior to demolition commencing.

- ii. A final inspection shall be carried out by Council when the demolition works have been completed to ensure that the site is left in a satisfactory manner, in accordance with the conditions of this consent.

NOTE: Payment of an inspection fee at Council's current rate will be required prior to each inspection. Council requires 24 hours notice to carry out inspections. Arrangements for inspections can be made by phoning **9707 9410, 9707 9412 or 9707 9635.**

- c) Prior to demolition, the applicant must erect a sign at the front of the property with the demolisher's name, license number, contact phone number and site address.
- d) Prior to demolition, the applicant must erect a 2.4m high temporary fence or hoarding between the work site and any public place. Access to the site shall be restricted to Authorised Persons Only and the site shall be secured against unauthorised entry when the building work is not in progress or the site is otherwise unoccupied. Where demolition is to occur within 3m of a public place a Work Permit application for the construction of a Class A or Class B hoarding shall be submitted to Council for approval.
- e) The demolition plans must be submitted to the appropriate Sydney Water Office to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements. If the development complies with Sydney Water's requirements, the demolition plans will be stamped indicating that no further requirements are necessary.
- f) Demolition is to be carried out in accordance with the appropriate provisions of Australian Standard AS2601-2001.
- g) Where materials containing asbestos cement are to be removed, demolition is to be carried out by licensed contractors who have current Workcover Accreditation in asbestos removal.
- h) Hazardous or intractable wastes arising from the demolition process shall be removed and disposed of in accordance with the requirements of WorkCover NSW and the NSW EPA 'Environmental Guidelines: Assessment, Classification and Management of Liquid and Non-Liquid Wastes 2004'.
- i) Demolition procedures shall maximise the reuse and recycling of demolished materials in order to reduce the environmental impacts of waste disposal.

- j) During demolition, the public footway and public road shall be clear at all times and shall not be obstructed by any demolished material or vehicles. The public road and footway shall be swept (NOT hosed) clean of any material, including clay, soil and sand. (NOTE: If required, Council will clean the public road/footway at the applicant's expense). On the spot fines may be levied by Council against the demolisher and or owner for failure to comply with this condition.
- k) All vehicles leaving the site with demolition materials shall have their loads covered and vehicles shall not track soil and other material onto the public roads and footways and the footway shall be suitably protected against damage when plant and vehicles access the site. All loading of vehicles with demolished materials shall occur on site.
- l) The burning of any demolished material on site is not permitted and offenders will be prosecuted.
- m) Care shall be taken during demolition to ensure that existing services on the site (ie. sewer, electricity, gas, phone) are not damaged. Any damage caused to existing services shall be repaired by the relevant authority at the applicant's expense.
- n) Suitable erosion and sediment control measures shall be erected prior to the commencement of demolition works and shall be maintained at all times.
- o) Prior to the demolition of any building constructed before 1970, a Work Plan shall be prepared and submitted to Council in accordance with Australian Standard AS2601-2001 by a person with suitable expertise and experience. The Work Plan shall outline the identification of any hazardous materials, including surfaces

CONDITIONS TO BE SATISFIED DURING CONSTRUCTION

- 21) The hours of site works shall be limited to between 7.00am and 6.00pm on weekdays and 7.00am and 1.00pm on Saturdays. No work shall be carried out on Sundays and public holidays, and weekends (Saturdays and Sundays) adjacent to public holidays.
- 22) The building work must be carried out in accordance with the requirements of the Building Code of Australia.
- 23) All Civil and Hydraulic engineering works on site must be carried out in accordance with Canterbury DCP 2012. All Civil and Hydraulic engineering works associated with Council's assets and infrastructure must be carried out in accordance with Council's Work Permit requirements and to Council's satisfaction.
- 24) All excavations and backfilling must be executed safely and in accordance with the relevant Australian Standards.

- 25) If soil conditions require it, retaining walls or other approved methods of preventing movement of the soil must be provided, and adequate provisions must be made for drainage. Separate approval may be required for retaining walls should they be required.
- 26) If the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
- a) protect and support the adjoining premises from possible damage from the excavation, and
 - b) where necessary, underpin the adjoining premises to prevent any such damage.

CONDITIONS TO BE SATISFIED PRIOR TO OCCUPATION

- 27) The occupation or use of the extension must not be commenced unless any occupation certificate has been issued for the building.
- 28) An 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.
- 29) A Copy of the Work Permit Compliance Certificate shall be submitted to the PCA Prior to the issue of any Occupation Certificate.

SCHEDULE A: ADVICE TO APPLICANTS

Inspection of building works shall be undertaken as determined by the PCA. If Canterbury Bankstown Council has been nominated as the PCA then details of inspection type and number required will be determined prior to the issue of a construction certificate.

Where a combined development consent is issued for demolition of buildings and construction of new work, a Construction Certificate must be obtained for the work, including demolition.

Also, 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 to nearest cross street) for underground utility services information for any excavation areas.

Canterbury Bankstown Local Planning Panel - 2 September 2019

ITEM 2	56 Lucas Road, East Hills Demolition of existing structures and construction of a new two storey dwelling, inground swimming pool and outbuilding.
FILE	DA-447/2019 - Revesby Ward
ZONING	R2 Low Density Residential
DATE OF LODGEMENT	2 July 2019
APPLICANT	Kristy and Anthony Bova
OWNERS	Kristy and Anthony Bova
ESTIMATED VALUE	\$495,000
AUTHOR	Jeremy Swan, The Planning Hub – Independent Town Planning Consultant

REPORT

This matter is reported to Council's Local Planning Panel in accordance with the Panel's delegation from the NSW Minister for Planning, as the applicant and land owner is a member of council staff who is principally involved in the exercise of Council's functions under the Environmental Planning and Assessment Act 1979.

Development Application No. DA-447/2019 proposes the demolition of existing dwelling and structures and construction of a new two storey dwelling , inground swimming pool and outbuilding.

The application seeks to vary the maximum permissible wall height standard as contained in Clause 4.3(2B)(b) of Bankstown Local Environmental Plan 2015. The application proposes a maximum wall height of 7.682m, resulting in a 9.7% variation to the development standard.

In addition, the applicant proposes a variation to Council's maximum wall height for outbuildings. The applicant proposes a maximum wall height of 3.559m, resulting in an 18.6% variation to Council's DCP control.

The applicant has submitted a Clause 4.6 variation request to the development standard and justification to the variation to the DCP control. As detailed in this report, the proposed Clause 4.6 is considered well founded and the proposed variation to the DCP control justified. The application was notified for a period of 14 days from 11 July 2019 to 24 July 2019 . No submissions were received.

POLICY IMPACT

The matter has no direct policy implications.

FINANCIAL IMPACT

This matter has no direct financial implications.

RECOMMENDATION

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

ATTACHMENTS

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

DA-447/2019 ASSESSMENT REPORT

SITE & LOCALITY DESCRIPTION

The subject site is known as 56 Lucas Road, East Hills, NSW, 2213. The existing lot has a primary frontage to Lucas Road of 13.7m and a fall of approximately 1.4m from east to west. The site has an overall area of 836.1sqm by title, is rectangular in shape and is zoned R2 Low Density Residential.

Currently, the site contains an existing single-storey dwelling and single garage located towards the rear of the site. The surrounding development consists of other residential dwellings, with multiple properties along the street being subject to recent residential developments. The site to the north consists of a single storey dwelling and ancillary structures, with the site to the south similarly containing a single storey dwelling and ancillary structures.

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



Figure 1: Aerial of subject site, outlined in red. **Source:** Sixmaps



Figure 2: Map showing the site and surrounding lot context. **Source:** Sixmaps

PROPOSED DEVELOPMENT

The applicant seeks approval for the following:

- Demolition of existing single-storey dwelling and single garage;
- Construction of a two-storey residential dwelling;
- Construction of an inground swimming; and
- Construction of an outbuilding.

SECTION 4.15 ASSESSMENT

The proposed development has been assessed pursuant to section 4.15 of the *Environmental Planning and Assessment Act, 1979*. In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the proposed development.

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

State Environmental Planning Policy No. 55 – Remediation of Land

The provisions of Clause 7 of State Environmental Planning Policy 55 – Remediation of Land specifies that 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 subject site has been used for residential purposes. There is no evidence to suggest that the site is contaminated, nor is it considered necessary for any further investigation to be undertaken with regard to potential site contamination.

Therefore, the site is considered suitable for the proposed development and therefore the development application satisfies the provisions of SEPP 55.

State Environmental Planning Policy (Building Sustainability Index. BASIX) 2004

A valid BASIX Certificate accompanies the development application. The Certificate details the water, thermal comfort and energy commitments which are also detailed on the submitted plans.

The proposal satisfies the requirements of State Environmental Planning Policy Building Sustainability Index: BASIX) 2004.

Greater Metropolitan Regional Environmental Plan 2 – Georges River Catchment

The subject site is located within an area that is identified as being affected by the *Greater Metropolitan Regional Environmental Plan (GMREP) 2 – Georges River Catchment*, being a deemed SEPP from 1 July 2009 under the then Clause 120 of Schedule 6 of the EP & A Act 1979. The GMREP No.2 contains a series of general and specific planning principles which are to be taken into consideration in the determination of development applications.

As assessment of the proposal indicates that it is consistent with the general aims and objectives of the plan and there is no inconsistency with the planning principles as set out in Clause 8 of GMREP No. 2.

Bankstown Local Environmental Plan 2015

The following clauses of the Bankstown Local Environmental Plan (BLEP) 2015 were taken into consideration:

- Clause 1.2 – Aims of the 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 4.5 – Calculation of floor space ratio and site area;
- Clause 4.6 – Exceptions to development standards;

Clause 6.1 – Acid Sulfate Soils;
 Clause 6.2 – Earthworks; and
 Clause 6.3 – Flood Planning.

An assessment of the development application has revealed that the proposal complies with the matters raised in each of the above clauses of the Bankstown Local Environmental Plan 2015, with the exception of a variation proposed to Clause 4.3(2B)(b) in relation to the maximum wall height for a dwelling house.

The table below demonstrates the relevant compliance with the numerical controls as set out in the BLEP 2015.

STANDARD	PERMITTED	PROPOSED	COMPLIANCE
Height of Buildings	Max 9m – building Max 7m – wall	7.9m 7.68m	YES NO (see discussion below)
Floor Space Ratio	Max 0.50:1	0.44:1	YES

Clause 4.3 – Height of Buildings

Clause 4.3 (2B)(b) – Height of Buildings of the BLEP 2015 refers to the maximum permitted height of buildings for dwelling developments in an R2 Low Density Residential Zone as having a maximum building height of 9m and a maximum wall height of 7m. Clause 4.3 states: (**bold is emphasis**)

4.3 Height of Buildings

(1) *The objectives of this clause 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.*

(2) *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.*

(2A) ...

(2B) *Despite subclause (2), the following restrictions apply to development on land in Zone R2 Low Density Residential:*

- a) *for a secondary dwelling that is separate from the principal dwelling—the maximum building height is 6 metres and the maximum wall height is 3 metres,*
- b) *for a dwelling house or a dual occupancy—the maximum wall height is 7 metres,***
- c) *for multi dwelling housing and boarding houses:*
 - i) *the maximum building height for a dwelling facing a road is 9 metres and the maximum wall height is 7 metres, and*
 - ii) *the maximum building height for all other dwellings at the rear of the lot is 6 metres and the maximum wall height is three metres.*

Comment

The proposal seeks to vary Clause 4.3(2B)(b) of the Bankstown Local Environmental Plan 2015. The wall height for the dwelling is measured at 7.682m (0.682m variation – 9.7%).

In response to the non-compliance with Clause 4.3 the applicant has prepared and submitted a Clause 4.6 variation request for consideration. An assessment of the Clause 4.6 variation request is provided below.

Clause 4.6 – Exceptions to Development Standards

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

- (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,***
- (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.***

Comment

The aim of Clause 4.6 is to provide an appropriate degree of flexibility in applying development standards to achieve better development outcomes. Extracts from the applicant's submission are provided below:

It is considered that the provision of an appropriate degree of flexibility in applying the building height development standard is warranted in this instance for the following reasons:

- *These objectives of the building height control as listed within Clause 4.3 of the BLEP2015 have been achieved as the proposed structure is of a scale that is compatible to that which is intended by Council and Council's DCP and there is no reduction in amenity to the adjoining properties and/or locality.*
- *This is demonstrated by the fact that the average height of the four corners of the double storey portion of the building equates to 6.5m, which is less than the 7m wall height control. With the height of the walls on the side elevations being less than the maximum 7m, together with the fact that the building height is much lower than the 9m maximum (at 7.9m) gives a clear indication that the proposed structure is of a scale that is compatible to that which is intended by Council and Council's DCP.*

- *The non-compliant wall height at the centre of the dwelling is a result of the choice of modern roof style, being a contemporary skillion roof design rather than a typical more traditional hip roof design - which would be compliant but would potentially appear bulkier than the proposed skillion roof.*
 - *The minor wall height variation is consistent with Council's previous decisions on this matter, where the non-compliance is at the centre of the site (i.e. not on the side boundaries) and where the non-compliance does not result in any impact on the adjoining properties in terms of bulk and scale, privacy and solar access.*
 - *The proposed development results in an appropriate built form for the site which is consistent with the existing and longer term future desired character of the area.*
- (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.***

Comment

Clause 4.3(2B)(b) prescribes the maximum permissible wall height for dwelling developments on the subject site.

The development standard is not expressly excluded from the operation of 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.***

Comment

An extract of the applicant's Clause 4.6 submission has been reproduced above, as have the objectives for the maximum wall and building height controls as contained in Clause 4.3 of the BLEP 2015.

In addition, the applicant has prepared the following figure which identifies the extent of wall height non-compliance.



Figure 3: East, West and North Elevation identifying Extent of Wall Height Non-compliance

Source: Applicant's Clause 4.6 variation request

Wehbe v Pittwater Council [2007] NSWLEC 827 sets out five ways in which strict compliance with a development standard can be demonstrated to be unreasonable or unnecessary in the circumstances of the case.

The Clause 4.6 relies on establishing that the objectives of the standard are achieved notwithstanding non-compliance with the standard.

The relevant objectives of the R2 Low Density Residential zone are to

- *To provide for the housing needs of the community within a low density residential environment;*
- *To allow for the development of low density housing that has regard to local amenity; and*
- *To require landscape as a key characteristic in the low density residential environment.*

The relevant objectives of the height standard are:

- *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; and*
- *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.*

There will be no unacceptable environmental impacts arising from the contravention, including shadow, views, perceived bulk or scale, or visual impact on the streetscape or neighbouring properties.

The proposed development has a no impact in relation to neighbouring properties and the streetscape. The proposed development will create a high quality built form which will transform the existing dilapidated dwelling/streetscape into a high quality building, which will make a positive contribution to the streetscape and locality.

The proposed non-compliant wall (roof element) does not exceed the existing ridge height that would be achieved by an alternate compliant roof design (for example a hip roof).

The scale of the proposed building will generally consistent with the two storey developments in close proximity to the site, therefore being in character with the R2 Low Density Residential Zone.

It is considered that the proposal is consistent with the objectives of the R2 zone and Height standard.

It is considered that enforcing compliance with the clause in relation to wall height would be unreasonable and unnecessary.

It is considered that there are sufficient environmental planning grounds to justify a contravention to the development standard, given the proposed development does not result in any significant changes to the original built form.

(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***
- (b) *the concurrence of the Secretary has been obtained.***

Comment

On the basis of the applicant's submission, it is considered that compliance with the standard is unnecessary in this instance and that the proposed development is within the public interest.

Therefore, it is considered that there is sufficient environmental planning grounds to support a variation in accordance with the above criteria.

Draft environmental planning instruments [section 4.15(1)(a)(ii)]

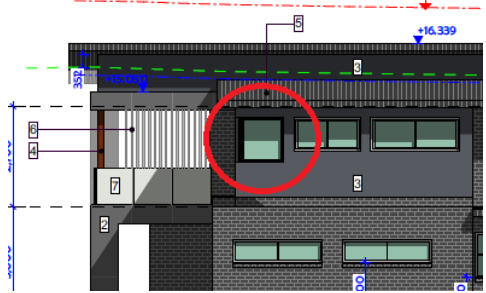
There are no draft EPI's that are proposed to impact on the subject site of this development application.

Development control plans [section 4.15(1)(a)(iii)]

The following table provides a summary of the development application against the controls contained within Part B1 – Residential Development, of the *Bankstown Development Control Plan 2015*.

STANDARD	BDCP 2015 PART B1	
	REQUIRED	COMPLIANCE
Section 2 – Dwelling Houses		
Clause 2.3 – Storey Limit	The storey limit for dwelling houses is two storeys.	The proposed development is for a two-storey residential dwelling.
Clause 2.5 - Fill	Any reconstituted ground level on the allotment must not exceed a height of 600mm above the ground level (existing) of an adjoining property except where: (a) the dwelling house is required to be raised to achieve a suitable freeboard in accordance with Part B12 of this DCP; or (b) the fill is contained within the ground floor perimeter of the dwelling house to a height no greater than 1 metre above the ground level (existing) of the allotment.	Less than 600mm of fill proposed.
Clause 2.7 – Front Setback	The minimum setback for a building wall to the primary road frontage is: (a) 5.5 metres for the first storey (i.e. the ground floor); and (b) 6.5 metres for the second storey.	The proposed ground level has a front setback of 8.32m, with the first floor level being setback 9.95m.
Clause 2.9 – Side Setbacks	For the portion of the building wall that has a wall height less than or equal to 7 metres, the minimum	On the side elevations of the subject site, the building walls are less than 7m.

STANDARD	BDCP 2015 PART B1	
	REQUIRED	COMPLIANCE
	setback to the side boundary of the allotment is 0.9 metre	The side setbacks range from being 900mm to 1494mm.
Clause 2.12 – Private Open Space	Dwelling houses must provide a minimum 80m ² of private open space behind the front building line. This may be in the form of a single area or a sum of areas provided the minimum width of each area is 5 metres throughout.	Approximately 340m ² of private open space has been provided throughout the site.
Clause 2.13 – Solar Access - Site	At least one living area must receive a minimum 3 hours of sunlight between 8.00am and 4.00pm at the mid–winter solstice	At least one living area of the proposed dwelling receives a minimum 3 hours of sunlight between 8.00am and 4.00pm at mid-winter.
Clause 2.14 – Solar Access – Adjoining Properties	At least one living area of a dwelling on an adjoining allotment must receive a minimum 3 hours of sunlight between 8.00am and 4.00pm at the mid–winter solstice.	At least one living area of the adjoining dwellings receive 3 hours of sunlight between 8.00am and 4.00pm at mid-winter.
Clause 2.15 – Solar Access – Private Open Space - Site	A minimum 50% of the private open space required for the dwelling house must receive at least 3 hours of sunlight between 9.00am and 5.00pm at the equinox.	More than 50% of the private open space for the proposed dwelling house receives 3 hours of sunlight between 9.00am and 5.00pm at the equinox.
Clause 2.15 – Solar Access – Private Open Space – Adjoining Properties	A minimum 50% of the private open space of a dwelling on an adjoining allotment must receive at least 3 hours of sunlight between 9.00am and 5.00pm at the equinox.	More than 50% of the private open space for the adjoining dwellings receives 3 hours of sunlight between 9.00am and 5.00pm at the equinox.
Clause 2.16 – Solar Access – Solar Collectors	Development should avoid overshadowing any existing solar hot water system, photovoltaic panel or other solar collector on the allotment and neighbouring properties.	The adjoining dwellings do not have solar collectors.
Clause 2.17 – Visual Privacy – Living Areas	Where development proposes a window that directly looks into the living area or bedroom window of an existing dwelling, the development must: (a) offset the windows between dwellings to minimise overlooking; or (b) provide the window with a minimum sill height of 1.5 metres above floor level; or	Windows at ground level are located to minimise overlooking. At first floor level all windows have a sill height of at least 1.5m with the exception of a corner window as identified below located on the north elevation to a bedroom.

STANDARD	BDCP 2015 PART B1	
	REQUIRED	COMPLIANCE
	<p>(c) ensure the window cannot open and has obscure glazing to a minimum height of 1.5 metres above floor level; or</p> <p>(d) use another form of screening to the satisfaction of Council.</p>	 <p>A draft condition has been included requiring this window to also maintain a 1.5m high sill height in accordance with the DCP.</p>
<p>Clause 2.18 – Visual Privacy – Private Open Space</p>	<p>Where development proposes a window that directly looks into the private open space of an existing dwelling, the window does not require screening where:</p> <p>(a) the window is to a bedroom, bathroom, toilet, laundry, storage room, or other non-habitable room; or</p> <p>(b) the window has a minimum sill height of 1.5 metres above floor level; or</p> <p>(c) the window has translucent glazing to a minimum height of 1.5 metres above floor level; or</p> <p>(d) the window is designed to prevent overlooking of more than 50% of the private open space of a lower-level or adjoining dwelling.</p>	<p>Private open spaces have been protected via windowsills being elevated to above 1.5m where potential overlooking impacts may otherwise be generated with the exception of the window identified above in 2.17.</p>
<p>Clause 2.19 – Visual Privacy - Balconies</p>	<p>Council may allow dwelling houses to have an upper floor side or rear balcony solely where the balcony is not accessible from a living area or hallway, and the balcony design:</p> <p>(a) does not have an external staircase; and</p> <p>(b) does not exceed a width of 1.5 metres throughout; and</p> <p>(c) incorporates a form of screening to the satisfaction of Council such as partially recessing the balcony into the building.</p>	<p>No side boundary balcony is proposed as part of this development application. A rear balcony is proposed, however, it has a width of 1.4m.</p>

STANDARD	BDCP 2015 PART B1	
	REQUIRED	COMPLIANCE
Clause 2.21 – Building Design – Roof Pitch	The maximum roof pitch for dwelling houses is 35 degrees.	The development proposes a skillion roof design that does not exceed a roof pitch of 35 degrees.
Clause 2.26 – Building Design – Car Parking	Development must locate the car parking spaces behind the front building line with at least one covered car parking space for weather protection.	Parking spaces are located behind the front building line, with the proposed dwelling containing a double garage.
Clause 2.28 – Car Parking Design	Where development proposes a garage with up to two car parking spaces facing the street, Council must ensure the garage architecturally integrates with the development and does not dominate the street facade.	Parking spaces are located behind the front building line, with the proposed dwelling containing a double garage.
Clause 2.30 – Landscaping – Trees on Site	Development must retain and protect any significant trees on the allotment and adjoining allotments. To achieve this clause, the development may require a design alteration or a reduction in the size of the dwelling house.	No significant trees are considered to be on site. Therefore, this control does not directly apply to the site.
Clause 2.31 – Landscaping on site	Development must landscape the following areas on the allotment by way of trees and shrubs with preference given to native vegetation endemic to the City of Bankstown: (a) a minimum 45% of the area between the dwelling house and the primary road frontage; and (c) plant at least one 75 litre tree between the dwelling house and the primary road frontage	The proposed development has considered control 2.31 of the DCP (Part 1). A minimum 45% of the area between the dwelling house and primary road frontage has been landscaped. Furthermore, the proposal has provided at least one 75 litre tree between the dwelling house and the primary road frontage.
Section 13 – Ancillary Development (Outbuildings)		
Clause 13.1 – Site Cover	The sum of the gross floor area of all the outbuildings on the allotment must not exceed 60m ² .	The GFA of the outbuilding is 51.9m ² .
Clause 13.1 – Site Cover	Outbuildings must not result in the principal dwelling on the allotment having less than the required landscaped area and private open space.	The site still provides for a total landscaped area that exceeds the minimum landscaped area requirement for the site.
Clause 13.3 – Height – Storey Limit	The storey limit for outbuildings is single storey. An attic or basement is not permitted in outbuildings.	The proposed outbuilding is single storey.
Clause 13.3 – Height	The maximum building height for outbuildings is 4.8 metres and the	The height of the outbuilding is 3.7m, however a wall on the south elevation is

STANDARD	BDCP 2015 PART B1	
	REQUIRED	COMPLIANCE
	maximum wall height for outbuildings is 3 metres	3.34m, which exceeds the maximum wall height of 3m by 0.34m. See further discussion below.
Clause 13.3 – Height – Siting	The siting of outbuildings and landscaping works must be compatible with the existing slope and contours of the allotment and any adjoining property.	The siting of the proposed outbuilding is compatible with the existing slope and contours of adjoining allotments.
Clause 13.3 – Height – Adjoining Properties	Any reconstituted ground level on the allotment must not exceed a height of 600mm above the ground level (existing) of an adjoining property.	The proposed ground level of the outbuilding does not exceed a height of 600mm above the ground level of an existing adjoining property.
Clause 13.7 – Primary Road Frontage	Outbuildings must locate behind the front building line.	The proposed outbuilding is located towards the rear of the site.
Clause 13.8 – Side and Rear Boundaries	The minimum setback to the side and rear boundaries of the allotment is: (b) 0.45 metre for non-masonry walls that do not contain a windows, eaves and gutters; or (c) 0.9 metre for walls with windows, or outbuildings that are or are intended to be used for recreation purposes.	The proposed outbuilding possesses a side setback that exceeds 0.9m, with the rear setback being well in excess of the minimum 0.9m setback.
Clause 13.10 – Building Design	The design of outbuildings is limited to the following facilities: (a) a half bowl sink; and (b) a maximum cupboard length of 1.8 metres; and (c) a toilet and shower with external access only; and (d) no cooking facilities or excessive number of large windows.	The outbuilding includes a sink, cupboard (less than 1.8m in length), toilet and shower (external access only).
Clause 13.13 – Landscaping	Development must retain and protect any significant trees on the allotment and adjoining allotments. To achieve this clause, the development may require a design alteration or a reduction in the size of the outbuilding.	No significant trees are deemed to be located on site.
Section 14 – Ancillary Development (Outdoor Structures)		
Clause 14.1 – Front Fences – Height	The maximum fence height for a front fence is 1.8 metres.	The proposed front fence is 1.0m high.

STANDARD	BDCP 2015 PART B1	
	REQUIRED	COMPLIANCE
Clause 14.2 – Front Fences – Front Boundary	The external appearance of a front fence along the front boundary of an allotment or facing a classified road must ensure: (a) the section of the front fence that comprises solid construction must not exceed a fence height of 1 metre above natural ground level;	The front fence is solid construction, however, does not exceed 1.0m in height.
Clause 14.5 – Dividing Fences	Dividing fences require development consent where the average fence height exceeds 1.8 metres.	The proposed dividing fences are 1.8m high.
Clause 14.12 – Swimming Pools and Spas	Swimming pools and spas must locate behind the front building line. The minimum setback between the waterline of swimming pools / spas and the allotment boundary is 1 metre.	The proposed swimming pool is located towards the rear of the site. The proposed swimming pool is located 1.0m from the side boundary.
		BDCP 2015 Part 5
Section 2 – Off Street Parking		
Car parking for a dwelling house	Two car spaces per dwelling behind the front building line.	Two spaces are provided in the garage behind the building line.

Wall Height of Outbuilding

The development application proposes a maximum wall height for the proposed outbuilding (pool room) of 3.559m, exceeding the maximum wall height for an outbuilding by 0.3559m as contained within the DCP.

The objectives of this section of the DCP are:

- (a) *To ensure outbuildings are established in conjunction with the principal dwelling on the same allotment.*
- (b) *To ensure the building form and building design of outbuildings are compatible with the prevailing suburban character of the residential areas.*
- (c) *To ensure the building form and building design of outbuildings do not adversely impact on the amenity of neighbouring properties in terms of visual bulk, access to sunlight and privacy.*
- (d) *To ensure the building form of outbuildings in the foreshore protection area preserves the existing topography, land and rock formations, and the unique ecology of natural bushland and mangrove areas.*



Figure 4: East Elevation of Outbuilding / Pool Room identifying Extent of Wall Height Non-compliance

Source: Applicant's SEE

Comment

The proposed non-compliance is considered acceptable for the following reasons:

- Similar to the exceedance in the wall height for the proposed dwelling, the exceedance is generated from a design perspective and would not have been created had the outbuilding included a typical pitched roof design as shown above.
- The proposed built form does not result in any adverse amenity impacts on adjoining properties in terms of visual bulk, sunlight and privacy, because the wall height adjacent to the side boundary complies with the wall height with the exceedance occurring internal to the subject site, windows have a sill height of more than 1.5m ensuring privacy is protected and the outbuilding is located on the northern side of the site which results in no adverse overshadowing of adjoining properties whilst still ensuring solar access to the subject site complies with Council's controls.

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

There are no planning agreements that apply to this application

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

The proposed development does not raise any issues with respect to the Regulations

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

The proposed development has managed any likely impacts, due to the design of the dwelling, outbuilding and swimming pool. The proposed development is generally compliant with Council's planning controls, with the exception of the exceedance in the maximum wall height for the proposed two-storey dwelling as contained within BLEP 2015 and the wall height of the outbuilding as contained in BDCP 2015. These have been addressed within the report and have been deemed reasonable in this instance.

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

The proposed development is permissible on the subject site and presents a built form that is compatible with the existing and desired future character of the locality. The development does propose a variation to the wall height as per the BLEP 2015 and BDCP 2015, however it is considered that the built form proposed does not generate any adverse bulk and scale with regard to the site's location in an R2 Low Density Residential zone. As a result, the site is considered to be suitable for the proposed development.

Submissions [section 4.15(1)(d)]

No submissions were received during the notification period.

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

With regard to the relevant planning considerations, it is concluded that the proposed development would not contravene the public interest.

CONCLUSION

The Development Application has been assessed in accordance with the provisions of Section 4.15 of the *Environmental Planning and Assessment Act 1979*, the *Bankstown Local Environmental Plan 2015* and the *Bankstown Development Control Plan 2015*.

With the exception of the wall height variations in accordance with the BLEP 2015 and BDCP 2015, the proposed development is compliant with all applicable planning controls. It is recommended that the proposed variations are well founded. As a result, approval for the development application is recommended.

RECOMMENDATION

It is recommended that:

1. The Clause 4.6 variation request in relation to wall height under Clause 4.3(2B)(b) of Bankstown Local Environmental Plan 2015 be supported; and
2. Development Application No. 447/2019 be approved subject to the attached conditions included at Attachment B.

CONDITIONS OF CONSENT

- 1) The proposal shall comply with the conditions of Development Consent. A Construction Certificate shall not be issued until the plans and specifications meet the required technical standards and the conditions of this Development Consent are satisfied.
- 2) Development shall take place in accordance with Development Application No.447/2019, submitted by Kristy and Anthony Bova, accompanied by the drawings as listed in the table below, and affixed with Council's approval stamp, except where otherwise altered by the specific amendments listed hereunder and/or except where amended by the conditions contained in this approval.

Drawing No.	Drawing Title	Revision	Dated	Prepared by
01	Site Analysis	A	02/07/2019	Virtual Y Designs
02	Site Plan	A	02/07/2019	Virtual Y Designs
03	Demolition Plan	A	02/07/2019	Virtual Y Designs
04	Ground Floor – Dwelling	A	02/07/2019	Virtual Y Designs
05	First Floor Plan - Dwelling	A	02/07/2019	Virtual Y Designs
06	Roof Plan – Dwelling	A	02/07/2019	Virtual Y Designs
07	Ground Floor – Pool Room	A	02/07/2019	Virtual Y Designs
08	Roof Plan – Pool Room	A	02/07/2019	Virtual Y Designs
09	Site Section	A	02/07/2019	Virtual Y Designs
10	Elevations 1	A	02/07/2019	Virtual Y Designs
11	Elevations 2	A	02/07/2019	Virtual Y Designs
12	Elevations 3	A	02/07/2019	Virtual Y Designs
13	Sections	A	02/07/2019	Virtual Y Designs
14	Streetscape Elevation	A	02/07/2019	Virtual Y Designs
15	Driveway Section	A	02/07/2019	Virtual Y Designs
16	Shadow Diagrams June 21 st 1	A	02/07/2019	Virtual Y Designs
17	Shadow Diagrams June 21 st 2	A	02/07/2019	Virtual Y Designs
18	Shadow Diagrams June 21 st 3	A	02/07/2019	Virtual Y Designs
21	Finishes Schedule	A	02/07/2019	Virtual Y Designs
L01	Landscape Plan	A	29/06/2019	Virtual Y Designs
A9133(2) - Cover	General Notes	C	23/07/2019	Alpha Engineering & Development
A9133(2) – SW01	Sediment and Erosion Control Plan	C	23/07/2019	Alpha Engineering & Development
A9133(2) – SW02	Ground Floor Drainage Plan	C	23/07/2019	Alpha Engineering & Development
A9133(2) – SW03	First Floor and Roof Drainage Plan	C	23/07/2019	Alpha Engineering & Development

- 3) The second storey side boundary windows to Bedroom two are to include a sill height of 1.5 metres.
- 4) The pool room must not be used for the purpose of a self-contained dwelling.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

Prior to the release of a Construction Certificate the following conditions MUST be satisfied and nominated fees/contributions/bonds paid:

- 5) The Certifying Authority must ensure that any certified plans forming part of the Construction Certificate are not inconsistent with this Development Consent and accompanying plans.
- 6) Landscaping shall be installed in accordance with the approved landscape plan.
- 7) Approval in accordance with Council's Tree Preservation Order (TPO) is granted to lop or remove only the trees identified to be lopped or removed on the approved plans. Separate approval shall be obtained to prune or remove trees on adjoining properties or other trees located on the site. Failure to comply with Council's TPO may result in a fine of up to \$100,000.
- 8) The Council Approved building plans, including demolition plans, must be submitted to Sydney Water for assessment. This will determine if the proposed structure(s) would affect any Sydney Water infrastructure or if there are additional requirements. Building plan approvals can be submitted online via Sydney Water Tap in™.

Please refer to www.sydneywater.com.au/tapin

For Sydney Water's Guidelines for building over or next to assets, visit www.sydneywater.com.au 'Plumbing, building & developing' then 'Building Plan Approvals' or call 13000 TAPIN.

Prior to release of a construction certificate Sydney Water must issue either a Building Plan Assessment letter which states that your application is approved, or the appropriate plans must be stamped by a Water Servicing Coordinator.

- 9) A Construction Certificate shall not be issued until written proof that all bonds, fees and/or contributions as required by this consent have been paid to the applicable authority.
- 10) A long service levy payment which is 0.35% of the total cost of the work is to be paid to the Building and Construction Industry Long Service Payments Corporation.
- 11) Pursuant to section 4.17 of the Environmental Planning and Assessment Act 1979, and the Bankstown Section 94A Development Contributions Plan 2009 (Section 94A Plan), a contribution of \$4,950 shall be paid to Council.

The amount to be paid is to be adjusted at the time of actual payment, in accordance with the provisions of the Section 94A plan. The contribution is to be paid before the issue of the construction certificate.

Note: The Section 94A Contributions Plans may be inspected at Council's Customer Service Centre, located at Upper Ground Floor, Civic Tower, 66-72 Rickard Road, Bankstown, between the hours of 8.30am-5.00pm Monday to Friday.

- 12) Finished surface levels of all internal works and at the street boundary, including driveways, landscaping and drainage structures, must be as shown on the approved plans. The levels at the street boundary must be consistent with the Street Boundary Alignment Levels issued by Council.
- 13) The developer shall apply for a Work Permit and obtain approval from Council, for the following engineering works in front of the site, at the applicant's expense:
 - a) A light duty VFC of maximum width of 5.0 metres at the property boundary for each proposed lot.
 - b) Drainage connection to Council's kerb & gutter system.
 - c) Removal of all driveway surfaces, reinstatement of laybacks to kerb and gutter and reshaping of the footway, all associated with redundant VFCs.
 - d) Repair of any damage to the public road including the footway occurring during development works.
 - e) Reinstatement of the footway reserve and adjustment or relocation of existing public utility services to match the footway design levels as proposed on the approved Work Permit. Adjustment or relocation to any public utility services shall be carried out to the requirements of the public utility authority.

Note: Council is required to prepare a site survey and design in order to determine the necessary information. The developer should make application and payment for the Work Permit at least twenty one (21) days prior to the information being required and prior to the issue of the Construction Certificate. The Work Permit must be approved prior to any works commencing within the Council Road Reserve or on Council's assets.

- 14) Stormwater drainage from the development shall be designed so as to comply with Council's Development Engineering Standards and the requirements of the BASIX Certificate. A final detailed stormwater drainage design shall be prepared by a qualified Professional Civil Engineer in accordance with the concept stormwater drawing number A9133(2)-SW02, A9133(2)-SW03 and A9133(2)-SW04, Revision C, dated – 23.07.2019, prepared by Alpha Engineering and Development. The final plan shall be certified by the design engineer that it complies with Council's Development Engineering Standards, the BASIX Certificate and the relevant Australian Standards.
- 15) The development is to be carried out in accordance with the commitments shown on the BASIX Certificate. The BASIX commitments approved with this Development Application are to be reflected in the Construction Certificate plans and specifications. Any proposed changes to the BASIX commitments after the Construction Certificate has been issued will require an updated BASIX Certificate and a new Construction Certificate.

- 16) Where Council approved cut or fill exceeds 200mm and stable batter of 1 vertical to 3 horizontal maximum grade cannot be achieved, then a masonry or other proprietary material retaining wall, intended and suitable for that purpose, shall be constructed within the development site. Note, filling of the site needs specific approval from Council.

The retaining wall shall be located so that it will not impede or obstruct the natural flow of stormwater. Retaining walls exceeding 600mm in height shall be designed by a qualified professional Civil/Structural Engineer. Plans and details prepared and signed by the Engineer are to be submitted to the Principal Certifying Authority (PCA) prior to the issue of the Construction Certificate.

All works associated with the construction of the wall, including backfilling and drainage, is to be located wholly within the allotment boundaries.

- 17) 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 the developer to obtain a Works Permit and or a Roadway/Footpath Building Occupation Permit prior to issue of any Construction Certificate for this development being issued 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.

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

The developer shall ensure the person or company carrying out the work will carry public liability insurance to a minimum value of twenty million dollars. The developer shall provide proof of the policy, to Council, prior to commencing any work approved by the Work Permit including the Road Opening Permit. The policy must remain valid for the duration of the works.

CONDITIONS TO BE SATISFIED PRIOR TO CONSTRUCTION WORKS COMMENCING

- 18) The building work in accordance with the development consent must not be commenced until:
- a. a construction certificate for the building / subdivision work has been issued by the council or an accredited certifier, and
 - b. the person having benefit of the development consent has:
 - i. appointed a principal certifying authority for the building / subdivision work, and
 - ii. notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
 - c. the person having the benefit of the development consent, if not carrying out the building work as an owner-builder, has:
 - i. appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential building work is involved, and
 - ii. notified the principal certifying authority of any such appointment, and
 - iii. unless the person is the principal contractor, notified the principal contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
 - d. the person having the benefit of the development consent has given at least 2 days' notice to the council of the person's intention to commence the building / subdivision work.
- 19) Existing trees within the vicinity of the construction works or paths of travel for construction vehicles accessing the development that are to be retained shall be protected with temporary fencing of a style non injurious to tree roots, placed 2m from the trunk base of the existing tree to prevent damage during construction, and retained in accordance with Council's Tree Preservation Order. There is to be no stockpiling of materials within the 2m fenced zone.
- 20) Suitable erosion and sediment control measures shall be erected in accordance with the plans accompanying the Construction Certificate prior to the commencement of construction works and shall be maintained at all times.

- 21) Council warning sign for Soil and Water Management must be displayed on the most prominent point of the site, visible to both the street and site works. The sign must be displayed throughout the construction period.
- 22) Prior to the commencement of work, the applicant must provide a temporary on-site toilet if access to existing toilets on site is not adequate.
- 23) 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.

- 24) A sign shall be displayed on the site indicating the name of the person responsible for the site and a telephone number of which that person can be contacted during and outside normal working hours or when the site is unattended.
- 25) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - a. showing the name, address and telephone number of the principal certifying authority for the work, and
 - b. showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - c. stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

- 26) In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of the Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.
- 27) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:

- a) in the case of work for which a principal certifying is required to be appointed:
 - i. the name and licence number of the principal contractor, and
 - ii. the name of the insurer by which the work is insured under Part 6 of the Act,
- b) in the case of work to be done by an owner-builder:
 - i. the name of the owner-builder, and
 - ii. If the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.

CONDITIONS TO BE SATISFIED DURING CONSTRUCTION

- 28) The hours of site works shall be limited to between 7.00am and 6.00pm on weekdays and 7.00am and 1.00pm on Saturdays. No work shall be carried out on Sundays and public holidays, and weekends (Saturdays and Sundays) adjacent to public holidays.
- 29) The building work must be carried out in accordance with the requirements of the Building Code of Australia.
- 30) Prior to the ground floor slab being poured, an identification report by a Registered Surveyor must be submitted to the principal certifying authority verifying that the proposed buildings finished ground floor level and siting to the property boundaries conforms to the approved plans.
- 31) All Civil and Hydraulic engineering works on site must be carried out in accordance with Council's Development Engineering Standards. All Civil and Hydraulic engineering works associated with Council's assets and infrastructure must be carried out in accordance with Council's Work Permit requirements and to Council's satisfaction.
- 32) All excavations and backfilling must be executed safely and in accordance with the relevant Australian Standards.
- 33) If soil conditions require it, retaining walls or other approved methods of preventing movement of the soil must be provided, and adequate provisions must be made for drainage. Separate approval may be required for retaining walls should they be required.
- 34) If the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

- a) protect and support the adjoining premises from possible damage from the excavation, and
 - b) where necessary, underpin the adjoining premises to prevent any such damage.
- 35) The swimming pool is to be enclosed by a child resistant barrier comprising fences and gates designed, constructed, installed and maintained in accordance with Australian Standard 1926-2012 - Swimming Pool Safety Part 1: Safety barriers for swimming pools.

A notice containing the words "Young Children Should be Supervised When Using this Swimming Pool" and "Pool Gates Must Be Kept Closed At All Times" and "Keep Articles, Objects and Structures At Least 900 Millimetres Clear Of The Pool Fence At All Times" together with a simple flow sequence containing details of resuscitation techniques must be displayed in a prominent position in the immediate vicinity of the pool.

Overflow and discharge pipes from the pool and filtration unit must be connected to the sewer.

- 36) The proposed use of the pool / spa filter equipment must not give rise to offensive noise as defined in the Protection of the Environment Operations Act 1997 and Protection of the Environment Operations (Noise Control) Regulation 2000. All noise emitting equipment must be housed in an insulated enclosure or appropriately positioned so as to cause no nuisance to neighbours.
- 37) The stormwater drainage system shall be constructed in accordance with Council's Development Engineering Standards and the engineering plans and details approved by the Principal Certifying Authority (PCA). Should the developer encounter any existing, live, underground stormwater drainage pipes, which carry flow from upstream properties, the developer must maintain the stormwater flow and re-route the stormwater pipes around the subject building or structures at the developer's expense.
- 38) 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.

CONDITIONS TO BE SATISFIED PRIOR TO OCCUPATION

- 39) The occupation or use of the building must not be commenced unless an occupation certificate has been issued for the building.
- 40) 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.

- 41) The premises must be readily identified from the street with the allocated house numbers. Numbering of the development without Council's written approval is not permitted. An official "house numbering" letter will be sent to the applicant indicating the proposed house numbers of the new development. Note: The house numbers of the development are subject to change depending of the type on subdivision that may occur at a later stage.
- 42) A copy of the Work Permit Compliance Certificate shall be submitted to the PCA Prior to the issue of the Occupation Certificate.
- 43) The swimming pool / spa shall not be used until Council or the PCA has issued a final Compliance Certificate.

-END-