



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

**14 October 2019 - 6.00pm**

**Location:**

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

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## ORDER OF BUSINESS

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### APOLOGIES AND DECLARATIONS OF INTEREST

### CONFIRMATION OF MINUTES OF PREVIOUS MEETING

### BANKSTOWN WARD

- 1      66 Cambridge Avenue, Bankstown – DA-87/2019**  
Demolition of existing structures, construction of a two storey, 47 place child care centre (5 x 2-3 years, 42 x 3-6 years), seven employees (five staff maximum at any time) with on-site parking and landscaping 3
- 2      573 Punchbowl Road, Lakemba – DA-486/2019**  
Alterations and additions to the existing Lakemba Sports club house for the construction of a store room. 43

### CANTERBURY WARD

- 3      118 Duntroon Street and 36 Floss Street, Hurlstone Park – DA-264/2018**  
Construction of a three storey mixed use development comprising two commercial units and a 32 room boarding house. 65

### REVESBY WARD

- 4      7-11 Queensbury Road, Padstow Heights DA-855/2017**  
Demolition of existing residence and construction of a new building/wing for use as an extension to the existing aged care facility 121

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## Canterbury Bankstown Local Planning Panel - 14 October 2019

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<b>ITEM 1</b>	<b>66 Cambridge Avenue, Bankstown</b>
	<b>Demolition of existing structures, construction of a two storey, 47 place child care centre (5 x 2-3 years, 42 x 3-6 years), seven employees (five staff maximum at any time) with on-site parking and landscaping</b>
<b>FILE</b>	<b>DA-87/2019 – Bankstown</b>
<b>ZONING</b>	<b>R2 Low Density Residential</b>
<b>DATE OF LODGEMENT</b>	<b>4 March 2019</b>
<b>APPLICANT</b>	<b>Mario Mourad</b>
<b>OWNERS</b>	<b>N Sadek and M Mourad</b>
<b>ESTIMATED VALUE</b>	<b>\$703,021.00</b>
<b>AUTHOR</b>	<b>City Development</b>

### REPORT

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This matter is reported to the Canterbury Bankstown Local Planning Panel due to the number of submissions received.

Development Application No. DA-87/2019 proposes demolition of existing structures, construction of a two storey, 47 place child care centre (5 x 2-3 years, 42 x 3-6 years), seven employees (five staff maximum at any time) with on-site parking and landscaping.

DA-87/2019 has been assessed against the provisions of the relevant environmental planning instruments including State Environmental Planning Policy No. 55 – Remediation of Land, State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017, Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment, Bankstown Local Environmental Plan 2015 and Bankstown Development Control Plan 2015 and the application complies with the applicable controls, with the exception of the car parking control contained in Part B5 of the BDCP 2015.

The application was advertised and notified for a period of 21 days from 13 March 2019 to 2 April 2019 and re-notified for an additional 14 days in response to the submission of amended plans from 15 August 2019 to 28 August 2019. A total of eight submissions and two petitions containing 20 and 33 signatures were received which raised concerns relating to noise generation, traffic, parking, nature and size of development, need for development, amenity issues, devaluation of properties and loss of natural light. The concerns raised in the submissions have been considered and are summarised below in the report, and do not warrant refusal of the proposed development.

## **POLICY IMPACT**

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This matter has no direct policy impacts.

## **FINANCIAL IMPACT**

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This matter has no direct financial implications.

## **RECOMMENDATION**

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It is recommended that the application be approved subject to the conditions of consent included in Attachment B.

## **ATTACHMENTS**

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- A. Assessment Report
- B. Conditions of Consent

## **ASSESSMENT REPORT**

### **SITE & LOCALITY DESCRIPTION**

The subject land is known as No 66 Cambridge Avenue, Bankstown and is legally described as Lot 12 in DP 534666.

The development site is of a slightly irregular shape and has a total area of 714.5sqm by survey, with a frontage of 22.255m to Cambridge Avenue. The site is currently zoned R2 Low Density Residential.

The site contains a single-storey clad cottage and a detached outbuilding with attached awnings. The site is oriented to the north and is relatively flat with a mid-allotment fall to the street and the rear portion slightly falling to the rear boundary. There is no significant vegetation located on the site.

The surrounding development consists of single dwellings and dual occupancy developments. Immediately to the west is a two storey dwelling house and attached dual occupancy, to the east a two storey detached dual occupancy and to the south the rear yard of a two-storey dwelling at 54 Clarence Street, Bankstown.



Figure 1: Aerial image referencing the subject site.

## PROPOSED DEVELOPMENT

The development application proposes demolition of existing structures and construction of a two-storey child care centre with on-site parking and landscaping. The operational details of the proposed centre are as follows:

- Number of children: 47
  - 5 x 2-3 years
  - 42 x 3-6 years
- Number of employees: 7
  - 5 x Educators (required as part of the Child Care Regulations)
  - 1 x Administration Assistant
  - 1 x Maintenance Staff
- Hours of operation
  - Monday to Friday – 7.00am to 6.00pm

A condition in the development consent is to require a maximum of five employees at any time with the staff roster as follows:

STAFF ROSTER						
	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
<b>Educator 1</b>	7:00 - 18:00	7:00 - 18:00	7:00 - 18:00	7:00 - 18:00	7:00 - 18:00	-
<b>Educator 2</b>	7:00 - 18:00	7:00 - 18:00	7:00 - 18:00	7:00 - 18:00	7:00 - 18:00	-
<b>Educator 3</b>	7:00 - 18:00	7:00 - 18:00	7:00 - 18:00	7:00 - 18:00	7:00 - 18:00	-
<b>Educator 4</b>	7:00 - 18:00	7:00 - 18:00	7:00 - 18:00	7:00 - 18:00	7:00 - 18:00	
<b>Educator 5</b>	7:00 - 18:00	7:00 - 18:00	7:00 - 18:00	7:00 - 18:00	7:00 - 18:00	
<b>Administration Manager</b>	18:15 - 19:00	-	18:15 - 19:00	-	18:15 - 19:00	9:00 - 12:00
<b>Maintenance</b>	-	-	18:30 - 19:30	-	-	12:15 - 13:30

#### SECTION 4.15 ASSESSMENT

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

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

#### ***State Environmental Planning Policy No. 55 – Remediation of Land***

SEPP 55 requires Council to consider whether the development site is contaminated and, if it is, whether it is suitable for the proposed development either in its contaminated state or following remediation works.

In this instance, it is considered that the consent authority can be satisfied that the development site is suitable for the proposed development, in accordance with Clause 7 of SEPP 55. The site has a history of use for low density residential purposes and while a child care centre is a more sensitive land use, there is no evidence to suggest that the site has been subject to any contaminating land uses.

A preliminary site investigation report, prepared by iEnvironmental Australia Pty Ltd titled, 'Preliminary Site and Soil Investigation 66 Cambridge Avenue, Bankstown', dated 8 February 2019, Reference Number: 20190111 was also submitted with the development application with the following conclusions provided:

- The site was developed from open space to residential use between 1955 and 1961.
- There is low potential for current and historical site activities to have resulted in subsurface impacts.
- The age of the buildings at the site is within the period when asbestos has been used as a building material. The presence or absence of asbestos within buildings has not been confirmed.
- The age of the buildings at the site is within the period when lead-based paint has been used as a building material. The presence or absence of asbestos within buildings has not been confirmed.
- The overall contamination risk associated with this site is low.

The report recommends that the building materials should be assessed and confirmed that they do not contain asbestos or lead paint. If ACM or lead paint is observed, then standard asbestos management provisions should be put in place during construction and for ongoing safe management, and consideration of the potential for ACM fragments or lead paint in soil should be assessed based on the location and depths of any detected ACM or lead paint material. The report has been reviewed by Council's Environmental Health Officer and is considered to be acceptable. The report and recommendation are to form part of the development consent.

**State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017**

*State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017*, was gazetted on 1 September 2017. This policy applies to the subject application with the table below providing a summary of the assessment against the applicable requirements of Part 3, Early Education and Care Facilities of the SEPP.

<b><i>State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017</i></b>	<b>Provided</b>	<b>Compliance</b>
<b><i>Part 3 Early education and care facilities—specific development controls</i></b>  Clause 22 <u>Concurrence of Regulatory Authority required for certain development</u>  (1) This clause applies to development for the purpose of a centre-based child care facility if: a) the floor area of the building or place does not comply with regulation 107 (indoor unencumbered space requirements) of the Education and Care Services National Regulations, or	The child care centre meets the unencumbered indoor and outdoor space requirements.	Not Applicable.



b) the outdoor space requirements for the building or place do not comply with regulation 108 (outdoor unencumbered space requirements) of those Regulations.		
<p>Clause 23  <u>Matters for consideration by consent authorities</u></p> <p>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.</p>	Assessment table provided below.	Yes.
<p>Clause 24  <u>Zone IN1 or IN2 additional matters for consideration by consent authorities</u></p> <p>The object of this clause is to minimise land use conflicts with existing developments on surrounding land and to ensure the safety and health of people using or visiting a centre-based child care facility on land in Zone IN1 General Industrial or Zone IN2 Light Industrial.</p>	The development site is zoned R2 Low Density Residential.	Not Applicable.
<p>Clause 25  <u>Non-discretionary development standards</u></p> <p>(1) The object of this clause is to identify development standards for particular matters relating to a centre-based child care facility that, if complied with, prevent the consent authority from requiring more onerous standards for those matters.</p> <p>(2) The following are non-discretionary development standards for the purposes of section 4.15 (2) and (3) of the Act in relation to the carrying out of development for the purposes of a centre-based child care facility:</p> <p><b>(a) location</b>  The development may be located at any distance from an existing or proposed early education and care facility.</p>	<p>The non-discretionary <b>site area and site dimensions</b> standard allows development to be located on a site of any size and have any length of street frontage or any allotment depth. This overrides the minimum frontage requirements and the prescribed child care centre children numerical requirements of Clause 3.2 of Part B6 of the Bankstown Development Control Plan 2015.</p>	Yes.

<p><b>(b) indoor or outdoor space</b></p> <p>(i) for development to which regulation 107 (indoor unencumbered space requirements) or 108 (outdoor unencumbered space requirements) of the Education and Care Services National Regulations applies—the unencumbered area of indoor space and the unencumbered area of outdoor space for the development complies with the requirements of those regulations, or</p> <p>(ii) for development to which clause 28 (unencumbered indoor space and useable outdoor play space) of the Children (Education and Care Services) Supplementary Provisions Regulation 2012 applies—the development complies with the indoor space requirements or the useable outdoor play space requirements in that clause,</p> <p><b>(c) site area and site dimensions</b></p> <p>The development may be located on a site of any size and have any length of street frontage or any allotment depth,</p> <p><b>(d) colour of building materials or shade structures</b></p> <p>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.</p>		
<p>Clause 26 <u>Development control plans</u></p> <p>(1) A provision of a development control plan that specifies a requirement, standard or control in relation to any of the following matters (including by reference to ages, age ratios, groupings, numbers or the like, of children) does not apply to development for a centre-based child care facility:</p> <p>(a) operational or management plans or arrangements (including hours of operation),</p> <p>(b) demonstrated need or demand for child care services,</p>	<p>Not inconsistent with the requirements.</p>	<p>Yes.</p>

<p>(c) proximity of facility to other early education and care facilities,</p> <p>(d) any matter relating to development for the purpose of a centre-based child care facility contained in:</p> <p>(i) the design principles set out in Part 2 of the Child Care Planning Guideline, or</p> <p>(ii) the matters for consideration set out in Part 3 or the regulatory requirements set out in Part 4 of that Guideline (other than those concerning building height, side and rear setbacks or car parking rates).</p> <p>(2) This clause applies regardless of when the development control plan was made.</p>		
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*State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017* also determines that a consent authority must take into consideration the *Child Care Planning Guideline* when assessing a development application for a centre based child care facility. In this instance, it is considered that the development is consistent with Parts 2, 3 and 4 of the Guideline and the table below provides a summary of Council's assessment of the proposal with the *National Quality Framework Assessment Checklist*.

<b><i>National Quality Framework Assessment Checklist</i></b>	<b>Provided</b>	<b>Compliance</b>
<p>Regulation 104 <u>Fencing or barrier that encloses outdoor spaces</u></p> <p>Outdoor space that will be used by children will be 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.</p>	The proposed child care centre is to incorporate fencing to the front, side and rear boundaries to a height of 1.8m.	Yes.
<p>Regulation 106 <u>Laundry and hygiene facilities</u></p>	The laundry and hygiene facilities are provided on-site and are contained within an enclosed and secured room.	Yes.

<p>The proposed development includes laundry facilities or access to laundry facilities OR explain the other arrangements for dealing with soiled clothing, nappies and linen, including hygienic facilities for storage of soiled clothing, nappies and linen prior to their disposal or laundering. Laundry/hygienic facilities are located where they do not pose a risk to children.</p>		
<p>Regulation 107 <u>Unencumbered indoor space</u></p> <p>The proposed development includes at least 3.25 square metres of unencumbered indoor space for each child.</p>	<p>The development seeks 47 children within the child care centre.</p> <p>Required: 152.75sqm.</p> <p>Provided: 155.69sqm.</p>	<p>Yes.</p>
<p>Regulation 108 <u>Unencumbered outdoor space</u></p> <p>The proposed development includes at least 7.0 square metres of unencumbered outdoor space for each child.</p>	<p>The development seeks 47 children within the child care centre.</p> <p>Required: 329sqm.</p> <p>Provided: 332.7sqm.</p>	<p>Yes.</p>
<p>Regulation 109 <u>Toilet and hygiene facilities</u></p> <p>The proposed development includes adequate, developmentally and age appropriate toilet, washing and drying facilities for use by children being educated and cared for by the service. The location and design of the toilet, washing and drying facilities enable safe and convenient use by the children.</p>	<p>The proposed toilets and washing facilities are considered adequate in terms of size, location, and fixtures suitable for the use of children.</p>	<p>Yes.</p>
<p>Regulation 110 <u>Ventilation and natural light</u></p> <p>The proposed development includes indoor spaces to be used by children that:-</p> <ul style="list-style-type: none"> <li>• will be well ventilated; and</li> <li>• will have adequate natural light; and</li> <li>• can be maintained at a temperature that ensures the safety and well-being of children.</li> </ul>	<p>The proposed child care contains multiple north facing windows to ensure natural light and ventilation to internal areas.</p>	<p>Yes.</p>
<p>Regulation 111 <u>Administrative space</u></p>		<p>Yes.</p>

<p>The proposed development includes an adequate area or areas for the purposes of conducting the administrative functions of the service; and consulting with parents of children; and conducting private conversations.</p> <p>Note: This space cannot be included in the calculation of unencumbered indoor space – see regulation 107.</p>	<p>The administrative space is split into two components. The reception and office area to the ground floor are intended to greet parents and general office duties.</p> <p>The secondary area is situated on the upper level by way of an office area for the main administrative duties.</p>	
<p>Regulation 112 <u>Nappy change facilities</u></p> <p>(To be completed only if the proposed development is for a service that will care for children who wear nappies)</p> <p>The proposed development includes an adequate area for construction of appropriate hygienic facilities for nappy changing including at least one properly constructed nappy changing bench and hand cleansing facilities for adults in the immediate vicinity of the nappy change area. The proposed nappy change facilities can be designed and located in a way that prevents unsupervised access by children.</p>	<p>The proposed nappy change facility is located within the toilet area and will provide supervision from educators. The area contains two nappy change benches and sanitary facilities.</p>	Yes.
<p>Regulation 113 <u>Outdoor space—natural environment</u></p> <p>The proposed development includes outdoor spaces that will allow children to explore and experience the natural environment.</p>	<p>The space accommodates a mixture of turfed areas, sand pits and internal outdoor space areas for use by children.</p>	Yes.
<p>Regulation 114 <u>Outdoor space—shade</u></p> <p>The proposed development includes adequate shaded areas to protect children from overexposure to ultraviolet radiation from the sun.</p>	<p>The ground floor outdoor space incorporates a slab over the rear terrace and a shade sail to provide two areas with shade. The first floor area incorporates a roof over part of the first floor outdoor area.</p>	Yes.

<p>Regulation 115</p> <p><u>Premises designed to facilitate supervision</u></p> <p>The proposed development (including toilets and nappy change facilities) are designed in a way that facilitates supervision of children at all times, having regard to the need to maintain the rights and dignity of the children.</p>	<p>The childcare facility provides vision panels between nappy change facilities, the staffroom and kitchen to the designated play areas, and partitions between each toilet to maintain the dignity of the children.</p>	<p>Yes.</p>
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### ***Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment***

The subject site is located within land identified as being affected by *Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment*, being a deemed SEPP under Clause 120 of Schedule 6 of the *EP&A Act, 1979*. The GMREP 2 contains a series of general and specific planning principles which are to be taken into consideration in the determination of development applications. An assessment of the proposal indicates that the development is generally consistent with the aims and objectives of the plan, as well as the planning principles as set out in Clause 8 of the GMREP 2.

### ***Bankstown Local Environmental Plan 2015***

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

- Clause 1.2 – Aims of Plan
- Clause 2.1 – Land use zones
- Clause 2.2 – Zoning of land to which Plan applies
- Clause 2.3 – Zone objectives and Land Use Table
- Clause 2.7 – Demolition requires development consent
- Clause 4.1B – Minimum lot sizes and special provisions for certain dwellings
- Clause 4.3 – Height of buildings
- Clause 4.4 – Floor space ratio
- Clause 4.5 – Calculation of floor space ratio and site area
- Clause 6.3 – Flood planning
- Clause 6.8 – Special provisions applying to centre-based child care facilities

The following table provides a summary of the development application against the primary numerical controls contained in BLEP 2015.

STANDARD	PERMITTED/REQUIRED	PROPOSED	COMPLIANCE
Height of buildings	Max. 9m building height.	Max. 8.4m building height.	Yes.
Floor space ratio	Max. 0.4:1 (for non-residential use).	0.4:1.	Yes.

Allotment Width	Min. 20m at the front building line (5.5 metres).	22.255m.	Yes.
Vehicular access	Not permitted from a classified road.	Cambridge Avenue is not a classified road.	Yes.
	Not permitted from a cul-de-sac road.	Cambridge Avenue is not a cul-de-sac road.	Yes.
	Not permitted from a road where the carriageway between kerbs is < 10m.	Carriageway width is 10.7m.	Yes.

An assessment of the development application demonstrates that the proposal complies with the matters raised in each of the above clauses of *Bankstown Local Environmental Plan 2015*.

**Proposed Instruments [section 4.15(1)(a)(ii)]**

A proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority does not apply at this time.

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

The following table provides a summary of the development against the primary controls contained in *Parts B5 – Parking* and *B6 – Child Care Centres* of *Bankstown Development Control Plan 2015*.

CONTROL	PERMITTED/REQUIRED	PROPOSED	COMPLIANCE
Traffic management (environmental capacity)	<p>Development for the purpose of child care centres must not result in a street in the vicinity of the development site to exceed the environmental capacity maximum.</p> <p>If the environmental capacity maximum is already exceeded, the development must maintain the existing level of absolute delay of that street.</p>	<p>A traffic and parking impact assessment report was submitted with the development application.</p> <p>Following the review from Council's Traffic and Transport Unit the development is considered suitable for support and did not exceed the environmental capacity maximum.</p>	Yes.

Traffic management (level of service)	<p>Development for the purpose of child care centres must not result in a street intersection in the vicinity of the development site to have a level of service below Level B.</p> <p>If the existing level of service is below Level B, the development must maintain the existing level of absolute delay of that street intersection.</p>	Following the review from Council's Traffic and Transport Unit the development did not result in a street intersection in the vicinity of the development site to have a level of service below Level B.	Yes.
Capacity	<p>The consent authority may grant consent to development for the purpose of a child care centre on an allotment of land within Zone R2 Low Density Residential provided:</p> <p>(a) the maximum number of licensed places is 40 children, and</p> <p>(b) the allotment is at least 20 metres wide at the front building line if the number of licensed places in the child care centre is up to 29 children, or</p> <p>(c) the allotment is at least 25 metres at the front building line if the number of licensed places in the child care centre is up to 40 children.</p>	<p>The site has an allotment width of 22.255m to Cambridge Avenue.</p> <p>The non-discretionary <b>site area and site dimensions</b> standard of Clause 25(2)(c) of Part 3 of the <i>State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017</i> allows development to be located on a site of any size and have any length of street frontage or any allotment depth.</p>	Yes - State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 prevails.
Storey limit	The storey limit for child care centres is 2 storeys.	Two storeys.	Yes.
Setbacks	<p>The minimum setback for child care centres in Zone R2 Low Density Residential, Zone R3 Medium Density Residential and Zone R4 High Density Residential is:</p> <p>(a) 5.5 metres to the primary road frontage;</p>	<p>Front setback: 6.575 to 10.3m.</p> <p>Side setback: 1.535m to 1.543m.</p>	Yes.



	(b) 3 metres to the secondary road frontage; and (c) 1.5 metres to the side boundary.		
Outdoor Areas	<p>Child care centres must ensure the siting of outdoor areas (such as a balcony or deck) and outdoor play areas avoids:</p> <p>(a) A living area or bedroom of an adjoining dwelling.</p> <p>(b) A road and driveway that may have noise or a possible pollution impact on children.</p> <p>(c) Any other potential noise or pollution source.</p> <p>(d) Any potential traffic hazard locations where an out-of-control vehicle may injure children.</p>	<p>The development site does not adjoin a major road, nor are the siting of outdoor areas likely to create high noise impacts.</p> <p>The acoustic recommendations have been incorporated into the design and are conditioned as part of the development consent.</p>	Yes.
Deep soil zones	<p>Child care centres in Zone R2 Low Density Residential, Zone R3 Medium Density Residential and Zone R4 High Density Residential must provide:</p> <p>(a) a minimum 2-metre-wide deep soil zone along the primary road frontage and secondary road frontage of an allotment; and</p> <p>(b) a minimum 1.5 metre wide deep soil zone around the perimeter of the outdoor play area, to act as a buffer to the fence, provide spatial separation to neighbouring properties and enhance the aesthetic quality of the space.</p> <p>The deep soil zone must be landscaped by way of deep soil plantings and canopy trees.</p>	<p>Yes. The landscape plan provides suitable deep soil zones including:</p> <ul style="list-style-type: none"> <li>• 2m along the primary road frontage.</li> <li>• 1.5m around the perimeter of the outdoor play area.</li> </ul>	Yes.

Access	Child care centres must be easily accessible to people with disabilities and must comply with the Building Code of Australia and Australian Standard 1428 Parts 1 to 4–Design for Access and Mobility.	Referred to Council's Building Unit for review and conditions of consent provided in support of the development.	Yes.
Car park requirements	The minimum number of car parking spaces required for child care centres is one car space per employee (stack parking is permitted) and two additional car spaces for the exclusive use of any associated dwelling.	The development provides five (x5) off-street parking spaces for staff, including one accessible parking space. The child care centre consists of seven employees in total: <ul style="list-style-type: none"> <li>• 5 x Educators (required as part of the Child Care Regulations)</li> <li>• 1 x Administration Assistant</li> <li>• 1 x Maintenance Staff</li> </ul>	Adequate parking is provided for the staff subject to a condition to allow only a maximum of five employees on site at any one time (Condition 63) and the staff roster (Condition 64) which confirms that this can be achieved on site.
Car park design	The siting and design of car parks and driveways must ensure the safe movements of people and vehicles to and from child care centres.	The siting and design was reviewed by Council's Development Engineering Unit and considered suitable.	Yes.
Energy efficiency	Child care centres must make efficient use of natural resources and optimise amenity in the design, construction and occupation of buildings and facilities, such as: (a) good orientation and natural light to rooms and play areas; (b) limiting building depth to provide natural cross-ventilation and natural light; (c) minimal use of mechanical ventilation; (d) use of sun shading devices;	The layout of the child care centre has been appropriately designed so that indoor and outdoor play areas maximise solar access, shade devices have been applied to play areas and cross ventilation is provided throughout the building.  The development siting does not consist of excessive cut and fill.	Yes.

	<p>(e) preventing UV factor to open areas; and</p> <p>(f) ensuring the development adapts to the existing topography by avoiding excessive cut and fill.</p>		
Access to sunlight	The design of buildings should achieve a northern orientation to maximise solar access.	Achieved.	Yes.
Design of Buildings - Access to sunlight	<p>The design of buildings must ensure that:</p> <p>(a) 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. Where this requirement cannot be met, the development must not result with additional overshadowing on the affected living areas of the dwelling.</p> <p>(b) A minimum 50% of the required private open space for a dwelling that adjoins a development receives at least 3 hours of sunlight between 9.00am and 5.00pm at the equinox. Where this requirement cannot be met, the development must not result with additional overshadowing on the affected private open space.</p>	The shadow diagrams demonstrate that the requirements are achieved.	Yes.

Building design	Child care centres with more than 29 children in Zone R2 Low Density Residential, Zone R3 Medium Density Residential and Zone R4 High Density Residential must locate in a purpose-built centre. The external building design must give the appearance of a dwelling house.	The scale of the proposed child centre is such that it will appropriately complement the existing and future residential character of the surrounding area. The development provides an appearance of a two-storey dwelling house when viewed from Cambridge Avenue, as well as surrounding properties.	Yes.
Architectural Elements	<p>Development for the purpose of new buildings must incorporate architectural elements to articulate the building form and avoid large expanses of blank walls. Architectural elements may include but not be limited to:</p> <ul style="list-style-type: none"> <li>(a) Defining the base, middle or top of a building using different materials and colours.</li> <li>(b) Incorporating horizontal or vertical elements such as recessed walls or banding.</li> <li>(c) Incorporating recessed or partially recessed balconies within the building wall.</li> <li>(d) Defining the window openings, fenestration, balustrade design, building entrances, and doors.</li> <li>(e) Using sun shading devices.</li> <li>(f) Any other architectural feature to the satisfaction of Council.</li> </ul>	<p>The design and architectural treatment of the development proposal is considered to respond to and integrate with the existing streetscape.</p> <p>The materials provide visual interest and a consistent finish.</p>	Yes.

Active Frontages	Development for the purpose of new buildings must provide active frontages to the streets and must orientate buildings and pedestrian entrances to the streets.	The development provides a defined front building entrance and pedestrian link to Cambridge Avenue.	Yes.
Roof Design	Development for the purpose of new buildings must have roof designs that: (a) unify separate or attached buildings with a contemporary architectural appearance; and (b) combine good quality materials and finishes.	The roof design is of a suitable design and acceptable finish. It remains consistent to those within the R2 Low Density Residential zone.	Yes.
Front Fences	<p>The maximum fence height for front fences is 1.8 metres.</p> <p>The external appearance of front fences along the front boundary of allotments must ensure:</p> <p>(a) the section of the front fence that comprises solid construction (not including pillars) does not exceed a fence height of 1 metre above ground level (existing); and</p> <p>(b) the remaining height of the front fence comprises open style construction such as spaced timber pickets or wrought iron that enhance and unify the building design.</p> <p>Council does not allow the following types of front fences:</p> <p>(a) chain wire, metal sheeting, brushwood, and electric fences; and</p> <p>(b) noise attenuation walls.</p>	The front fence is consistent with the requirements and consists of an open style construction and incorporates a mixture of masonry and timber infill pickets.	Yes.

Hours of operation	Council may limit the hours of operation of child care centres to 7.00am to 6.00pm Monday to Friday.	7.00am to 6.00pm Monday to Friday.	Yes.
Acoustic privacy	Air conditioning, mechanical ventilation or any other continuous noise source must not exceed the ambient level at any specified boundary by more than 5dB(A).	The acoustic report was reviewed by Council's Environmental Health Unit and considered suitable with the recommendations provided in the report.	Yes.
Projection of Noise	The location and design of child care centres must consider the projection of noise from various activities to avoid any adverse impacts on the residential amenity of adjoining land.	The location, siting, design and acoustic treatment of the development was reviewed and not considered to result in adverse impacts on the residential amenity of adjoining land.	Yes.
Noise Attenuation Walls	The maximum height for noise attenuation walls and fences along the boundary of an allotment is 2 metres.	Fencing to satisfy the acoustic recommendations are identified as 1.8 metre high colourbond fence with a 200mm canopy addition.	Yes.

As demonstrated in the above table the proposal complies with the provisions of the *Bankstown Development Control Plan 2015* and the non-discretionary site area and site dimensions standard of Clause 25(2)(c) of Part 3 of the *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017*.

The development proposal was also reviewed and considered to be consistent with Part B12 - Flood Risk Management and Part B13 - Waste Management and Minimisation of the *Bankstown Development Control Plan 2015*.

**Planning agreements [section 4.15(1)(a)(iiia)]**

There are no planning agreements or draft planning agreements applicable to the proposed development.

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

The proposed development satisfies the relevant provisions of the Environmental Planning and Assessment Regulation, 2000.

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

The development proposal is accompanied by a traffic and parking assessment report and an acoustic report. An assessment of these reports is provided below;

**Noise Impacts**

An acoustic report, prepared by Acoustic Logic Consultancy titled '66 Cambridge Avenue, Bankstown: Child Care Centre Acoustic Assessment' Acoustic Assessment Report, Reference No 20181736.1/2901A/R2/MF was submitted in support of this development.

The noise attenuation recommendations stated in the report were reviewed by Council's Environmental Health Unit and are recommended to form part of the development consent.

The proposed noise control measures include:

- External glazing to the play rooms and general areas.
- A 1.8m high fence with a 200mm high addition as a 45-degree canopy is required along the eastern, southern and western boundary of the site.
- A management plan for the use of outdoor play areas.

From the above assessment, it is considered that the proposed development satisfies the noise criteria and is not likely to adversely impact the amenity of the adjoining residents subject to the noise attenuation measures recommended in the acoustic report including the erection of an acoustic fence being carried out.

**Access, Traffic and Parking**

A Traffic and Parking Impact Assessment prepared by Hemanote Consultants Pty Ltd was submitted in support of the application. Council's Council's Traffic and Transport Unit has reviewed the report findings, the parking layout of child care centre and relevant sections of the BDCP 2015 and have raised no objection on traffic and parking grounds subject to conditions of consent.

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

The site is considered suitable for the development. The proposed use is permitted in the zone and provides sufficient area and width to accommodate the required car-parking, play areas and on-site facilities.

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

The application was advertised and notified for a period of 21 days from 13 March 2019 to 2 April 2019 and re-notified for an additional 14 days in response to the submission of amended plans from 15 August 2019 to 28 August 2019. A total of eight submissions and two petitions containing 20 and 33 signatures were received. A summary of the concerns raised and responses to these concerns are provided below:

*Objection:* Size and nature of development

- The proposed development is an overdevelopment of the site
- The site is not suitable for such a large development.

*Comment:* The proposed development is permissible on the site. The development complies with the FSR, setback and height control and provides sufficient indoor and outdoor space for the users of the proposed child care centre. Adequate parking is provided for the staff subject to a condition in the development consent to allow aonly a maximum of five employees on site at any one time.

The building is a two-storey development and has a contemporary appearance consistent with the changing nature of the R2 zone. It is of an acceptable bulk and scale, accommodates the required play areas for the proposed child numbers and is compatible with the one and two storey developments in the vicinity of the site. For these reasons the development is not considered to be an overdevelopment of the site.

*Objection:* Adverse acoustic effects from children arrivals/departures and playing in the outdoor area.

*Comment:* The noise impact from the child care centre has been assessed through a Noise Impact Assessment prepared by an acoustics consultant, submitted with the application and reviewed by Council's Environmental Health Officers. The report recommends a series of noise attenuation measures as discussed earlier in this report, which will be incorporated in the construction and operation of the facility.

Additionally the operator will be required to prepare a noise management plan to address any noise concerns from the surrounding residents.

*Objection:* Traffic and parking concerns:

- Increased traffic causing levels of congestion, noise and air pollution.
- Lack of on-site drop off/pick up area.
- Risk to pedestrian and children using the street.
- An independent Traffic Report was also submitted with contrasting conclusions.



**Comment:** Council's Traffic and Transport Unit has reviewed the report submitted by the applicant with regard to the environmental capacity and the layout of the development and raised no objection on traffic and parking grounds subject to conditions of consent.

There is no requirement in Council's Development Control Plan 2015 to provide a drop-off/pick-up area on-site.

**Objection:** The development will take away natural light.

**Comment:** The proposed child care centre building is a two-storey structure that meets the setbacks to the side and rear boundaries. There is sufficient separation to allow natural light to the adjoining properties, with the solar access requirements of Part B6 of the Bankstown Development Control Plan 2015 maintained.

**Objection:** Devaluation of properties.

**Comment:** Insufficient evidence has been provided confirming that the proposed development will devalue properties in the immediate area.

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

Having regard to the relevant planning considerations, it is concluded that the approval of the development would not be in contradiction of the wider public interest.

**CONCLUSION**

The Development Application has been assessed in accordance with the provisions of the relevant environmental planning instruments including *State Environmental Planning Policy No. 55 – Remediation of Land*, *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017*, *Greater Metropolitan Regional Environmental Plan No. 2*, *Bankstown Local Environmental Plan 2015* in addition to the provisions contained in the *Bankstown Development Control Plan 2015*.

The proposed development represents an appropriate built form for the site. Relevant planning controls have been appropriately responded to and no significant or unresolved matters have been raised in public submissions. Approval of this application is consistent with the R2 Low Density Residential zone and would not result in unacceptable or unreasonable impacts on the surrounding locality.

## 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. DA-87/2019, submitted by Mario Mourad & Uzair Khan, 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
DA.002	Demolition Plan	Issue B	July 2019	SPG
DA.004	Site Plan	Issue B	July 2019	SPG
DA.005	Ground Floor Plan	Issue B	July 2019	SPG
DA.006	First Floor Plan	Issue B	July 2019	SPG
DA.007	Roof Plan	Issue B	July 2019	SPG
DA.008	Elevations	Issue B	July 2019	SPG
DA.009	Section 1 & Front Fence Detail	Issue B	July 2019	SPG

The development plans shall be amended as follows:

- a) Sight line triangles to pedestrians shall be shown on the site plan at the driveway exit, in accordance with AS 2890.1-2004 to comply with Fig 3.3. The Construction Certificate plans shall reflect this requirement.
- b) The architectural plans shall be amended to comply with the following requirements of the Building Code of Australia:
  - One additional stairway exit from the first floor of the development shall be provided to comply with the minimum number of exits required for early childhood centres (NCC Vol. One D1.2(d)(iv)). This amendment must be incorporated into the design of the development in a manner that does not alter the approved setbacks of the building or result in structures outside of the approved building envelope, without prior approval from Council.
  - Fire protection of openings on the external walls (NCC Vol. One C3.2).
  - Swing gate for the outdoor play space (NCC Vol. One G1.3).

The Construction Certificate plans shall reflect these requirements.

- 3) A separate application shall be submitted to Council prior to the erection of any signage unless the proposed signage is "exempt development" in accordance with State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

- 4) The acoustic report submitted in support of this application, prepared by Acoustic Logic Consultancy titled '66 Cambridge Avenue, Bankstown: Child Care Centre Acoustic Assessment' Acoustic Assessment Report, proposed child care'; dated 29 January 2019, Reference No 20181736.1/2901A/R2/MF and the noise attenuation recommendations stated in the report, forms part of the development consent.
- 5) Any warm-water system installed in the premises, must be installed, operated and maintained in accordance with the prescribed requirements in the Public Health Act 2010 and Public Health Regulation 2012. A warm-water system is defined as a system being designed to heat and deliver water at a temperature of less than 60°C and includes thermostatic mixing valves. The warm water system must be registered with Council.
- 6) The food preparation area (kitchen) within the childcare centre must be designed, constructed and operated in accordance with the requirements of:
  - i) The *NSW Food Act 2003* and *Food Regulation 2015*;
  - ii) Australia New Zealand Food Standards Code;
  - iii) Australian Standard 4674-2004;
  - iv) Australian Standard 1668 Part 1; and
  - v) Australian Standard 1668 Part 2.
- 7) The preliminary contamination assessment submitted in support of the development application, prepared by iEnvironmental Australia Pty Ltd titled, 'Preliminary Site and Soil Investigation 66 Cambridge Avenue, Bankstown', dated 8 February 2019, Reference Number: 20190111 and the recommendations stated in the report form part of the development consent.

Any new information which comes to light during demolition/excavation/construction works which has the potential to alter previous conclusions about site contamination, shall be notified to Council immediately. Works are to cease until the new information is evaluated by an appropriately qualified and experienced environmental consultant and an appropriate response determined by the applicant and/or owner which is agreed to by Council. Council may also request that a NSW EPA accredited site auditor is involved to assist with the assessment of the new contamination information.

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

- 8) 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.
- 9) The Construction Certificate plans shall demonstrate full compliance with the relevant provisions of *Children (Education and Care Services) Supplementary Provisions Regulation 2012* and *Education and Care Services National Regulations*.

- 10) A detailed landscape plan prepared by a qualified landscape architect or designer is to be approved prior to the issue of a Construction Certificate. The landscape plan is to be prepared in accordance with the relevant DCP and is to show all features, built structures including retaining walls, irrigation, mulch and natural features such as significant gardens, landscaping, trees, natural drainage lines and rock outcrops that occur within 3 metres of the site boundary. The landscape plan shall consider any stormwater, hydraulic or overland flow design issues where relevant.
- 11) The landscape plan shall include the provision for the replacement of all boundary fencing. A new 1.8m fence is to be erected along all side and rear boundaries of the subject allotment at full cost to the developer. The colour of the fence is to complement the development and the fence is to be constructed of lapped and capped timber paling, sheet metal or other suitable material and shall be designed in accordance with the recommendations contained in the Acoustic Report, prepared by Acoustic Logic Consultancy, titled '66 Cambridge Avenue, Bankstown: Child Care Centre Acoustic Assessment', dated 29 January 2019, Reference No. 20181736.1/2901A/R2/MF. The selection of materials and colours of the fence is to be determined in consultation with the adjoining property owners. Fencing forward of the building line shall be no higher than 1m unless otherwise approved by Council.
- 12) 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.
- 13) A soil erosion and sediment control plan must be prepared by a suitably qualified professional in accordance with Council's Demolition and Construction Guidelines and Development Engineering Standards and submitted to the certifying authority for approval prior to the issue of a construction certificate.
- 14) 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](http://www.sydneywater.com.au/tapin)

For Sydney Water's Guidelines for building over or next to assets, visit [www.sydneywater.com.au](http://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.

- 15) 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.
- 16) 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.
- 17) 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 \$7,030.21 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.

- 18) 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.
- 19) 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) A heavy duty VFC of maximum width of 5.5 metres at the property boundary.
  - b) Drainage connection through an underground on – site detention system discharging to the front street kerb gutter. The discharge line to the street kerb gutter should be confined to the frontage of the subject site and not encroach on neighbouring site's frontage. Also, the discharge point at the gutter should have a minimum setback of 200mm from the splayed end of the proposed VFC. Requires amendment to the details in the concept plan submitted.
  - c) A 1.2 metre wide concrete footway paving along the sites entire frontage.
  - d) Removal of all driveway surfaces, reinstatement of laybacks to kerb and gutter and reshaping of the footway, all associated with redundant VFCs.
  - e) Repair of any damage to the public road including the footway occurring during development works.
  - f) 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 21 days prior to the information being required and must be approved prior to the issue of the Construction Certificate.

- 20) Stormwater run-off from within the property shall be collected and controlled by means of an on-site detention system in accordance with Council's Development Engineering Standards. The runoff from the detention storage shall be conveyed to an inspection pit to be located at the north western corner of the site and from there to street kerb gutter at the north eastern corner of the site. Stormwater runoff from areas naturally draining to the site shall be collected, conveyed and piped to the inspection pit downstream of the detention storage basin.

A final stormwater drainage and on-site detention system plan shall be prepared by a qualified professional Civil Engineer in accordance with the above requirements and the requirements contained in Council's Development Engineering Standards. The final stormwater drainage plan shall also be generally in accordance with the Concept Plan No. H495 – S1/2, Revision – A, dated 01/03/2019, prepared by TAA Consulting Engineers. The final plan shall be certified by the design engineer that it complies with Council's Development Engineering Standards and the relevant Australian Standards.

- 21) 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.

- 22) The Construction Certificate plans shall include details of the garbage receptacle area. The garbage receptacle area shall not be visible from the street. The garbage receptacle area shall be located within the building or screened from the street by dense landscaping.
- 23) As any works within, or use of, the footway or public road for construction purposes requires separate Council approval under Section 138 of the Roads Act 1993 and/or Section 68 of the Local Government Act 1993, Council requires that prior to any Construction Certificate for this development being issued, a Works Permit and or a Roadway/Footpath Building Occupation Permit shall be obtained where one or more of the following will occur, within, on or over the public footway or public road:

## A PRIVATE CERTIFIER CANNOT ISSUE THESE PERMITS

### WORKS REQUIRING A 'WORKS PERMIT'

- a) Dig up, disturb, or clear the surface of a public footway or public road,
- b) Remove or interfere with a structure or tree (or any other vegetation) on a public footway or public road,
- c) Connect a road (whether public or private) to a classified road,
- d) Undertake footway, paving, vehicular crossing (driveway), landscaping or stormwater drainage works within a public footway or public road,
- e) Install utilities in, under or over a public road,
- f) Pump water into a public footway or public road from any land adjoining the public road,
- g) Erect a structure or carry out a work in, on or over a public road
- h) Require a work zone on the public road for the unloading and or loading of vehicles
- i) Pump concrete from within a public road,
- j) Stand a mobile crane within a public road
- k) Store waste and recycling containers, skips, bins and/or building materials on any part of the public road.
- l) The work is greater than \$25,000.
- m) Demolition is proposed.
- n) 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.

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

In determining a Works Permit, Council can impose conditions and require inspections by Council Officers.

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

Part of any approval will require the person or company carrying out the work to carry public liability insurance to a minimum value of ten million dollars. Proof of the policy is to be provided to Council prior to commencing any work approved by the Work



Permit including the Road Opening Permit and must remain valid for the duration of the works.

The commencement of any works on public land, including the footway or public road, may incur an on the spot fine of not less than \$1100 per day that work continues without a Works Permit and/or a Roadway/Footpath Building Occupation Permit.

All conditions attached to the permit shall be strictly complied with prior to occupation of the development. Works non-conforming to Council's specification (includes quality of workmanship to Council's satisfaction) shall be rectified by the Council at the applicant's expense.

- 24) Prior to the issue of a Construction Certificate, the applicant is to apply to the Canterbury Bankstown Traffic Committee, and to the satisfaction of Council's Traffic Engineer, for a "P10 minute 7am-6pm Mon-Fri" zone to be provided along the property frontage at the developer's cost.

## **CONDITIONS TO BE SATISFIED PRIOR TO CONSTRUCTION WORKS COMMENCING**

- 25) 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 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 two days' notice to the council of the person's intention to commence the building work.
- 26) 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.

- 27) 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.
- 28) 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.
- 29) 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.
- 30) A compliance certificate must be must be obtained from Sydney Water under section 73 of the Sydney Water Act 1994. An assessment will determine the availability of water and sewer services, which may require extension, adjustment or connection to the mains.

A section 73 Compliance Certificate must be completed before an occupation certificate will be issued. Sydney Water will assess the development and if required will issue a Notice of Requirements letter detailing all requirements that must be met. Applications can be made either directly to Sydney Water or through a Sydney Water accredited Water Servicing Coordinator.

Go to [sydneywater.com.au/section73](http://sydneywater.com.au/section73) or call 1300 082 746 to learn more about applying through an authorised WSC or Sydney Water.

- 31) 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.

- 32) 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.
- 33) A sign must be erected in a prominent position on any site on which building 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 or demolition work is being carried out, but must be removed when the work has been completed.

34) The demolition of all structures currently existing on the property must be undertaken, subject to strict compliance with the following: -

- a) The developer is to notify adjoining residents seven 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) The hours of demolition work shall be limited to between 7.00am and 6.00pm on weekdays, 7.00am and 1.00pm on Saturdays and no work shall be carried out on Sundays and public holidays, and weekends (Saturdays and Sundays) adjacent to public holidays.
- h) 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.
- i) 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'.
- j) Demolition procedures shall maximise the reuse and recycling of demolished materials in order to reduce the environmental impacts of waste disposal.
- k) 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.
- l) 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.
- m) The burning of any demolished material on site is not permitted and offenders will be prosecuted.
- n) 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.

- o) Suitable erosion and sediment control measures shall be erected prior to the commencement of demolition works and shall be maintained at all times.
- p) 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 coated with lead paint, method of demolition, the precautions to be employed to minimise any dust nuisance and the disposal methods for hazardous materials.

### **CONDITIONS TO BE SATISFIED DURING CONSTRUCTION**

- 35) 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.
- 36) The building work must be carried out in accordance with the requirements of the Building Code of Australia.
- 37) 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.
- 38) 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.
- 39) All excavations and backfilling must be executed safely and in accordance with the relevant Australian Standards.
- 40) 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.
- 41) 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.
- 42) All boundary fencing behind the building line shall be replaced by a 1.8m high lapped and capped timber or sheet metal fence, or as stipulated in a flood study prepared for the site, or as determined in consultation with the adjoining property owners at the developer's expense, and shall be designed in accordance with the recommendations contained in the Acoustic Report, prepared by Acoustic Logic Consultancy, titled '66 Cambridge Avenue, Bankstown: Child Care Centre Acoustic Assessment', dated 29 January 2019, Reference No. 20181736.1/2901A/R2/MF. The selection of materials and colours of the fence is to be determined in consultation with the adjoining property owners. Fencing forward of the building line shall be no higher than 1m unless otherwise approved by Council.
- 43) 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.
- 44) 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 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.
- 45) To ensure that adequate provision is made for ventilation of the building, mechanical and/or natural ventilation shall be provided. These systems shall be designed, constructed and operated in accordance with the provisions of Australian Standard 1668 Part 1 and Australian Standard 1668 Part 2.

### **CONDITIONS TO BE SATISFIED PRIOR TO OCCUPATION**

- 46) The occupation or use of the building must not be commenced unless an occupation certificate has been issued for the building.
- 47) 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.
- 48) Five off-street car spaces for use by employees are to be provided in accordance with the approved plans. One of the car parking spaces is to be provided for people with mobility impairment in accordance with AS 2890.1. All car parking spaces shall be allocated and marked according to these requirements.

- 49) Landscaping is to be installed in accordance with the approved landscape plan. All works and methods nominated and materials and plants specified on the approved landscape plan are to be completed prior to the issue of an occupation certificate. The landscaping shall be maintained for the life of the development.
- 50) Lighting must be provided to the entry of the child care centre, driveway and parking area to promote a high level of safety and security at night and during periods of low light. Lighting provided should be hooded, shielded or directed away from neighbouring dwellings to minimise glare and associated nuisances to residents.
- 51) A suitably qualified Professional Civil Engineer shall certify that the driveways, parking bays, and service areas have been constructed in accordance with the approved plans and specifications. Such Certification shall be submitted prior to the issue of the Occupation Certificate or occupation of the site.
- 52) The premises must be readily identified from the street with the allocated number. Numbering of the development without Council's written approval is not permitted.
- 53) A Copy of the Work Permit Compliance Certificate shall be submitted to the PCA Prior to the issue of the Occupation Certificate.
- 54) A registered surveyor shall prepare a Work As Executed Plan, and a suitably qualified Hydraulic Engineer shall provide certification of the constructed on-site stormwater detention system.

The Work As Executed information shall be shown in red on a copy of the approved stormwater plan and shall include all information specified in Council's Development Engineering Standards. The Work As Executed plan shall be submitted to the Hydraulic Engineer prior to certification of the on-site stormwater detention system.

The engineer's certification of the on-site stormwater detention system should be carried out similar to Council's standard form "On-Site Stormwater Detention System - Certificate of Compliance", contained in Council's Development Engineering Standards.

A copy of the Work As Executed Plan and Hydraulic Engineer's Certification shall be submitted to Council for information prior to issue of the final occupation certificate.

- 55) The developer shall register, on the title of the subject property, a Restriction on the Use of Land and Positive Covenant, in accordance with the standard terms for "Registration of OSD on title", as outlined in Council's Development Engineering Standards and in accordance with the appropriate provisions of the Conveyancing Act.

The developer shall submit to Council evidence of the final registration of the Restriction and Positive Covenant on the title of the property.

- 56) A section 73 Compliance Certificate under the Sydney Water Act 1994 must be submitted to the principal certifying authority before an occupation certificate will be issued.
- 57) An identification report by a registered surveyor must be submitted to the principal certifying authority to verify the buildings wall and roof eaves setback, floor level and height conform to the approved plans.
- 58) The Principal Certifying Authority shall obtain a report from a qualified acoustic consultant, stating that the recommendations outlined in the Acoustic Report referenced in Condition 4 have been completed and that relevant noise criteria has been satisfied prior to the issue of any Occupation Certificate.
- 59) Prior to the issue of any Occupation Certificate or the occupation or use of the premises, certification from a suitably qualified professional engineer shall be submitted to the Principal Certifying Authority verifying that the exhaust system in the premises is installed and constructed in accordance with Condition 45. All mechanical exhaust ventilation systems shall be serviced regularly in accordance with the manufacturers and/or installers specifications. A record of all maintenance activities to the exhaust extraction equipment shall be maintained at the premises and provided to Council upon request.
- 60) The operator of the premises must register the business with the Compliance Unit of Council and arrange an inspection with Council's Environmental Health Officer.
- 61) Prior to the issue of an Occupation Certificate, a *Food Premises Registration Form* must be completed and submitted to Council. This form is available on Council's website at: <https://www.cbcity.nsw.gov.au/environment/public-health/food-businesses>
- 62) Operation of the childcare centre must not commence until a final inspection has been carried out by Council's Environmental Health Officer to ensure the kitchen is designed and constructed in accordance with the Australia New Zealand Food Standards Code and AS 4674-2004, 'Design, construction and fit-out of food premises'.

## USE OF THE SITE

- 63) Car parking spaces for five vehicles shall be provided in marked spaces in the manner shown on the approved plans. The car parking spaces, driveways and manoeuvring areas are to be used for employee vehicles only.
- 64) The landscaping on site shall be maintained under best horticultural practise at all times.
- 65) The hours of operation of the child care centre shall be limited to between 7.30am and 6.00pm on weekdays.



- 66) Inspections of the child care centre by parents are permitted to occur between 9.00am and 12.00pm on Saturdays, provided there is a maximum of one family inspecting the premises and one administration employee accompanying the family at any one time.
- 67) The childcare centre is restricted to a maximum of 47 children at any one time, comprising:
- a) 5 x children aged 2-3 years
  - b) 42 x children aged 3-5 years
- 68) A maximum of five employees are permitted within the premises at any one time.
- 69) A maximum of ten children are permitted to be in the ground floor outdoor play area at any one time, and a maximum of five children are permitted to be in the first floor simulated outdoor play area at any one time.
- 70) The operator must organise and chair a Neighbourhood Liaison Committee in accordance with the requirements of Clause 5.5, Part B6 of the Bankstown Development Control Plan 2015. The Neighbourhood Liaison Committee must be formed within six months of the premises commencing operation and the meeting minutes from each meeting must be forwarded to the Council before the following meeting.
- 71) The child care centre shall operate in accordance with the details contained in the Operational Management Plan submitted to Council titled *66 Cambridge Avenue Bankstown, Operational Management Plan, Child Care Centre*.
- 72) Access to the child care centre by parents upon drop-off and pick-up of children is to be via an electronic swipe card or code system installed at the ground floor entry of the building. Parents are responsible for taking their children to the indoor play area on Level 1 of the premises.
- 73) Appropriate security measures, including security doors and CCTV cameras, shall be installed at the main pedestrian and vehicular entrance and exits, and the ground floor area of the premises. All CCTV cameras shall have the capacity to store footage for a minimum of 21 days.
- 74) No food is to be prepared on site by staff members for the children. Parents are responsible for providing a packed lunch and snacks for their children.
- 75) The child care centre shall operate in accordance with the recommendations contained in the Acoustic Report, prepared by Acoustic Logic Consultancy titled '66 Cambridge Avenue, Bankstown: Child Care Centre Acoustic Assessment' Acoustic Assessment Report, proposed child care'; dated 29 January 2019, Reference No 20181736.1/2901A/R2/MF.
- 76) Following occupation of the premises, should it be found that the measures recommended in the acoustic assessment are not sufficient, or have been incorrectly



installed or a noise issue (relating to the development) not previously identified arises (through complaint or otherwise), the owner/ occupier must, upon request by Council, employ the services of a qualified acoustic consultant to undertake a post occupation assessment of the development and complete an assessment report with recommendations to rectify the situation. A copy of this report must be submitted to Council for approval and from there, noise attenuation works must be implemented.

- 77) No music is to be played outside at any time.
- 78) Air conditioning units must only be used during the childcare centre's hours of operation, those being Monday to Friday 7.30am – 6.00pm.
- 79) All loading and unloading of goods shall take place within the site or from the street in a manner that does not interfere with parking areas, driveways or landscaping.
- 80) The premises shall be operated so as to avoid unreasonable noise or vibration and cause no interference to adjoining or nearby occupants. In the event of Council receiving complaints and if it is considered by Council that excessive noise is emanating from the premises, the person(s) in control of the premises shall, at their own cost arrange, for an acoustic investigation to be carried out (by an accredited acoustic consultant) and submit a report to Council specifying the proposed methods for the control of excessive noise emanating from the premises. The measures shall be approved by Council prior to implementation and shall be at full cost to the applicant.
- 81) All waste materials associated with the use shall be stored in containers located either within the building or behind screen walls in accordance with the approved plans.
- 82) All filtration devices for odour control shall be regularly maintained to prevent odour problems.
- 83) To minimise the noise impact on the surrounding environment, the use of the premises, building services, equipment, machinery and ancillary fittings shall not give rise to "offensive noise" as defined under the provisions of the Protection of the Environment Operations Act 1997.
- 84) Any activity carried out in accordance with this approval shall not give rise to offensive odour, offensive noise or pollution of air, land or water as defined in the Protection of the Environment Operations Act 1997 and Regulations.
- 85) No signs or goods are to be displayed or trading of any description is to be carried out on the public road, public footway, utility service land, customer and/or employee parking area or the driveways or pedestrian walkways outside or in the immediate vicinity of the premises.
- 86) An identification number is to be conspicuously displayed at the front of the premises.

- 87) Instructions concerning procedures to be adopted in the event of an emergency are to be clearly displayed on the premises for both public and staff information at all times.
- 88) No external signage is approved under this development consent. External signage details must be submitted to Council for approval prior to installation.
- 89) Any lighting of the premises shall be installed in accordance with Australian Standard 4282-1997, Control of the obtrusive effects of outdoor lighting so as to avoid annoyance to the occupants of adjoining premises or glare to motorists on nearby roads. Flashing, moving or intermittent lights or signs are prohibited. The intensity, colour or hours of illumination of the lights shall be varied at Council's discretion if Council considers there to be adverse effects on the amenity of the area.
- 90) The applicant shall enter into a commercial contract for the collection of wastes and recycling. A copy of the commercial waste and recycling contract shall be lodged with Council and invoices should be available for inspection at any time.

-END-

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## Canterbury Bankstown Local Planning Panel - 14 October 2019

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<b>ITEM 2</b>	<b>573 Punchbowl Road, Lakemba</b>
	<b>Alterations and additions to the existing Lakemba Sports club house for the construction of a store room.</b>
<b>FILE</b>	<b>DA-486/2019 – Bankstown Ward</b>
<b>ZONING</b>	<b>RE1 - Public Recreation</b>
<b>DATE OF LODGEMENT</b>	<b>11 July 2019</b>
<b>APPLICANT</b>	<b>Lakemba Sports and Recreation Club</b>
<b>OWNERS</b>	<b>City of Canterbury Bankstown</b>
<b>ESTIMATED VALUE</b>	<b>\$20,000.00</b>
<b>AUTHOR</b>	<b>Planning</b>

### REPORT

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This matter is reported to the 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 Parry Park is crown land and is managed and controlled by Canterbury Bankstown Council.

This DA proposes an addition to the existing Lakemba Sports Club House to construct a store room attached to the north west elevation of the building.

DA-486/2019 has been assessed against the *Canterbury Local Environmental Plan 2012*, and *Canterbury Development Control Plan 2012* and was found to satisfy the relevant controls.

The application was notified for a period of 21 days, from 7 August 2019 to 27 August 2019. No objections were received.

### POLICY IMPACT

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The matter has no direct policy implications.

## **FINANCIAL IMPACT**

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The matter has no direct financial implications.

## **RECOMMENDATION**

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

## **ATTACHMENTS**

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

## **DA-486/2019 ASSESSMENT REPORT**

### **SITE & LOCALITY DESCRIPTION**

The subject site is an irregular allotment which forms part of Parry Park and is zoned RE1 Public Recreation. Parry Park is Crown land controlled by Canterbury Bankstown Council.

The site contains recreation facilities such as soccer fields, the Lakemba Sports Club and the Australian National Sports Club. The surrounding development consists of single and two storey dwelling house and older style residential flat buildings.

The existing clubhouse building is of single storey brick construction with a pitched roof and is located at the central southern portion of the park fronting Punchbowl Road.

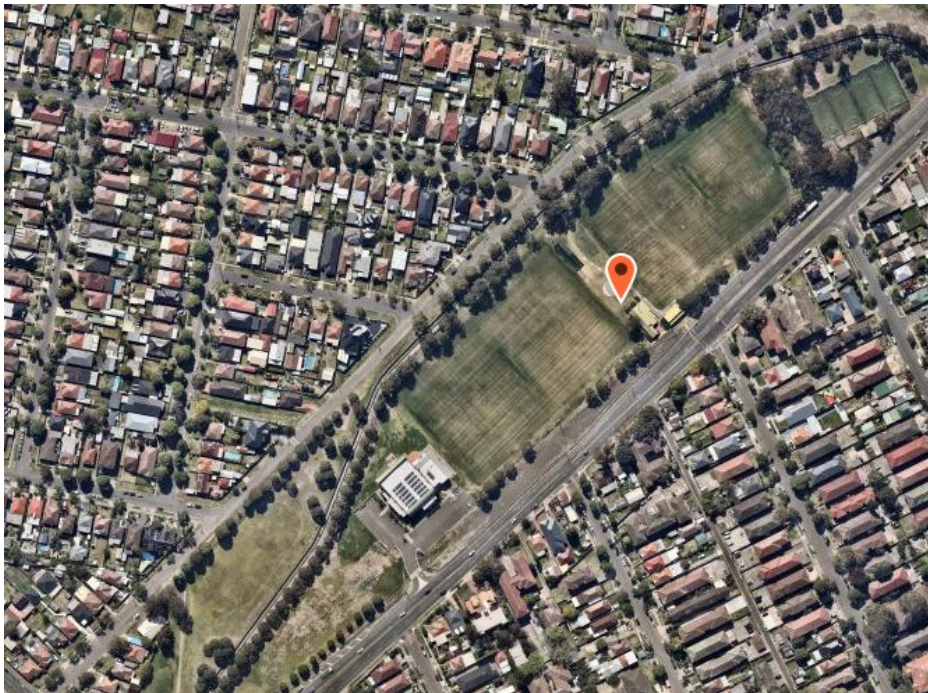


Figure : Aerial of subject site in orange. Source: NearMaps 2019



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

### **PROPOSED DEVELOPMENT**

The Development Application proposes an addition at the western elevation of the existing clubhouse building to provide a storeroom. The storeroom will have a gross floor area of 45.5m<sup>2</sup> and will include a roller door on the western elevation, with a window on the southern and northern elevations. It will extend 5.7m beyond the north-western external wall of the clubhouse. There will be no internal access to the proposed storage room.

An existing garden of small shrubs and trees is proposed to be removed to accommodate the addition.

The proposed addition is 5.7m x 7.9m with a height of 4.61m. It will be built of face brick to match the existing building and a separate roof structure.

### **SECTION 4.15 ASSESSMENT**

#### **Statutory Considerations**

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

- *State Environmental Planning Policy (Infrastructure) 2007*
- *Canterbury Local Environmental Plan 2012 (CLEP 2012)*
- *Canterbury Development Control Plan 2012 (CDCP 2012)*

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

## Crown Land Management Act, 2016

The subject site, known as Parry Park is Crown Land that is managed and controlled by Canterbury Bankstown Council. Pursuant to the Act, the subject application is not required to be referred to The Crown for owners consent. Owners consent can be given by Canterbury Bankstown Council. The application was signed by the General Manager of Canterbury Bankstown Council and therefore satisfies the Crown Land Management Act, 2016.

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

- *Canterbury Local Environmental Plan (CLEP) 2012*

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

Standard	Requirement	Proposal	Complies
<b>Zoning</b>	RE1 Public Recreation	Addition to an existing 'Recreation Facility (Outdoor)' to provide an ancillary storeroom.	Yes
<b>Building height</b>	No maximum building height provision	No maximum building height provision. Existing height = 4.99m Proposed storeroom height = Ridge RL 27.11 – NGL RL 22.50 = 4.61m The ridge of the proposed storeroom is below the existing clubhouse ridge height.	Yes
<b>Floor Space Ratio</b>	N/A	N/A	N/A

The site is zoned RE1 Public Recreation under Canterbury LEP 2012. The proposed use is classified as a "Recreation Facility (Outdoor)" which is defined as follows:

*"Means a building or place (other than a recreation area) used predominantly for outdoor recreation, whether or not operated for the purposes of gain, including a golf course, golf driving range, mini-golf centre, tennis court, paint-ball centre, lawn bowling green, outdoor swimming pool, equestrian centre, skate board ramp, go-kart track, rifle range, water-ski centre or any other building or place of a like character used for outdoor recreation (including any ancillary buildings), but does not include an entertainment facility or a recreation facility (major)".*

Recreation Facilities (Outdoor) are permitted with development consent within the RE1 zone.

The objectives of the RE1 zone are as follows:

- *To enable land to be used for public open space or recreational purposes.*
- *To provide a range of recreational settings and activities and compatible land uses.*
- *To protect and enhance the natural environment for recreational purposes.*

The proposed development is considered to satisfy the relevant objectives of the zone, primarily given it is an existing facility that will assist in providing a range of recreational activities. The existing clubhouse and the proposed storeroom will provide a storage area for the associated sporting equipment and utilities used for the day to day use and maintenance of the sporting ground.

The Development Application 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 B1 – Transport and Parking**

An assessment of the proposal against the car and bicycle parking rates in Part B1 of CDCP 2012 is provided below:

Standard	Requirement	Proposal	Complies
<b>Recreation Facilities</b>	A traffic and parking assessment report must be submitted	The proposal is an addition to the existing clubroom for the use of a storeroom. A storeroom is considered to be ancillary to the existing use and does not result in an intensification of the use. Therefore, additional parking is not required, and as such a traffic and parking assessment report is not necessary.	Yes

**Part B3 – Tree Preservation**

The development involves the removal a small garden which consists of small trees, shrubs and plants.

The application was referred to Council's Tree Management Section who have not raised any objections subject to conditions of consent, including the planting of replacement trees.

**Part B7 Crime Prevention and Safety**

B7- General Objectives:

- O1 To reduce the potential for crime through creating safer urban environments.*
- O2 To contribute to the safety and liveliness of the street by allowing for natural overlooking of the street.*



*O3 To raise community awareness and promote design as a genuine crime prevention strategy and identify the community's role in the crime prevention process.*

Standard	Requirement	Proposal	Complies
<b>B7.2- All Types of Development</b>			
<b>B7.2.1 CPTED</b> <b>Principle: Surveillance</b>	C1. Avoid blind corners in pathways, stairwells, hallways and car parks	the proposed storeroom is an extension of the north-western wall of the existing clubhouse. Therefore, no new blind corners would be created as part of the addition.	Yes
	C2. Provide natural surveillance for communal and public areas	The addition to the existing clubhouse will not obstruct natural surveillance within the park.	Yes
	C3. Provide clearly visible entries	The entry to the storeroom via a roller door is clearly identifiable. The existing entry to the park itself and the clubhouse are not impacted by the proposed storeroom.	Yes
	C4. Design the fence to maximise natural surveillance from the street to the building, and from the building to the street, and minimise opportunities for intruders to hide	No change to existing fence around Parry Park.	N/A
	C5. Avoid landscaping that obstructs natural surveillance	No new landscaping proposed as part of the development. The replacement trees imposed via condition of consent are small in nature and will not obstruct natural surveillance.	Yes
	C6. Ensure lighting does not produce glare or dark shadows.	No changes proposed to the existing lighting to the clubhouse and sporting fields.	Yes
	C7. Entrances, exits, service areas, pathways, car parks are to be well-lit after dark when they are likely to be used.	No changes proposed to the existing lighting to the clubhouse and sporting fields.	Yes
	C8. Where permitted, provide appropriate mixed uses within buildings to increase opportunities for natural surveillance	Parry Park provides mixed uses such as sporting fields, sports clubs and ancillary buildings. The storeroom provides another ancillary use and is not considered to decrease natural surveillance.	Yes
	C9. Security measures	Noted.	Yes

	allow for natural observation and are sympathetic to the style of the building.		
<b>B7.2.2 CPTED Principle: Access Control</b>	C1. Ensure buildings, dwellings and other premises are clearly identified by street numbers	Parry Park and the subject clubhouse provide identification signage along Punchbowl Road.	Yes
	C2. Provide clear entry points	Achieved.	Yes
	C3. Use vegetation as barriers to deter unauthorised access	The proposed storeroom is considered minor in nature and does not affect the overall access to Parry Park or the subject clubhouse. Therefore, this control is not applicable.	N/A
	C4. Avoid large trees/shrubs and building works that could enable an intruder to access a dwelling, or a neighbouring dwelling.	Achieved.	Yes
	C5. Use security hardware and/or human measures only where required to reduce opportunities for unauthorised access,	The proposed storeroom is considered minor in nature and does not affect the overall access to Parry Park or the subject clubhouse. Therefore, this control is not applicable.	
<b>B7.2.3 CPTED Principle: Territorial Reinforcement</b>	C1. Create a 'cared for' image	Achieved.	Yes
	C2. Use materials that reduce the opportunity for vandalism,	The proposed extension comprises of brick for the external walls which matches the existing building. The extension avoids long flat walls as the external walls are broken up by windows on the side elevations and a roller door on the north-west elevation. Therefore, reducing the opportunity for vandalism.	Yes
	C3. Clearly define spaces to express a sense of ownership and reduce illegitimate use/entry	Parry Park is defined as 'Public Recreation' therefore it has been designed as an open space with transparent boundary fencing to improve public surveillance for the entire park. No changes are proposed to this and therefore this control is not applicable.	N/A

	C4. Encourage design that promotes pride and a sense of place for community	Parry Park has been designed as an open space with transparent boundary fencing to improve public surveillance for the entire park. This creates sense of place for community. The proposed storeroom will not create any adverse impacts on this sense of place or natural surveillance.	Yes
<b>B7.6 Additional Provisions for Open Space</b>			
<b>Controls</b>	C1. Illuminate access points to open spaces and pathways.	Existing lighting around Parry Park is not proposed to be changed and is considered satisfactory.	Yes
	C2. Locate brighter lights in highly used areas.	Existing lighting around Parry Park is not proposed to be changed and is considered satisfactory.	Yes
	C3. Encourage activity and allow natural surveillance.	Achieved.	Yes
	C4. Design and locate open space so it is clearly designated and situated at locations easily observed by people. Locate parks and playgrounds in front of buildings or facing streets rather than back lanes.	Achieved.	Yes
	C5. Provide seating, play equipment and BBQ areas to encourage use of open space.	The proposal does not seek changes to the facilities around Parry Park therefore this control is not applicable.	N/A
	C6. Locate seating so that it is convenient and easily seen	The proposal does not seek changes to the facilities around Parry Park therefore this control is not applicable.	N/A
	C7. Locate facilities (such as toilets and telephones) close to areas of active use.	The proposal does not seek changes to the facilities around Parry Park therefore this control is not applicable.	N/A
	C8. Design and locate access to facilities so that it is direct and free of obstruction	The proposal does not seek changes to the facilities around Parry Park therefore this control is not applicable.	N/A
	C9. Ensure that signage is clearly visible, easy to read and simple to understand.	No change to existing park signage.	Yes
	C10. Provide both	No change to existing park	Yes

	directional and behavioural signage at entrances to parks.	signage.	
	C11. Offer a choice of clearly defined pathways.	A clearly defined path exists through Parry Park adjacent to the subject clubhouse and proposed storeroom. A condition of consent has been imposed requiring a new path be constructed to allow for safe access from the existing path to the entrance of the storeroom.	Yes
	C12. Design and locate pathways so they are direct and follow pedestrian desire lines.	No change to existing paths within Parry Park. The new path that is required to be constructed is designed so that it is direct from the existing path to the entrance of the storeroom.	Yes

The application was assessed against the controls outlined within Part B7 of Canterbury DCP 2012 and is considered to satisfy the crime prevention and safety controls for open space.

Notwithstanding this, conditions of consent requiring security lighting to be provided on the external wall of the north west elevation, above the roller door, of the proposed storeroom are recommended. This lighting will be required to be switched on and off from an internal switch to ensure the lights are not on at times when the sporting fields and clubhouse are not in use. As well, a condition requiring a new path to be constructed, which allows safe access to the storeroom roller door from the existing footpath is recommended.

#### B9 Waste

A waste management plan was submitted with the application which outlined waste management controls in regard to waste management during and after construction. The waste management plan is considered to be acceptable and satisfies the controls outlined within Part B9 of Canterbury DCP 2012.

#### **Planning agreements [section 4.15(1)(a)(iiia)]**

There are no planning agreements applicable to the development application.

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

The proposal satisfactorily addresses the relevant provisions of the regulations.

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

The proposal is 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 site is considered suitable to support the proposal.

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

The application was notified for a period of 21 days (from 7 August 2019 to 21 August 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 proposal will improve the functionality of the existing club house and sports fields to meet the day to day needs of Lakemba Sports Club. Based on the above assessment, approval of the proposal is in 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 addition to the existing clubhouse is consistent with the relevant objectives and standards outlined within, *Canterbury Local Environmental Plan 2012 and Canterbury Development Control Plan 2012*.

**RECOMMENDATION**

It is recommended that development application DA-486/2019 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.	Sheet No.	Prepared by	Dated
Site Plan & Site Analysis Plan	LAK	DA02	Gec Design	03.07.19
Floor Plan	LAK	DA03	Gec Design	03.07.19
Elevations & Section	LAK	DA04	Gec Design	03.07.19
Stormwater & Sediment Control Plan	-	CDC04	ozy homes	27.05.19
Schedule of Colours and Finsihs	-	-	Gec Design	11.07.19

- 3) Security lighting must be provided on the external wall of the north west elevation, above the roller door, of the proposed storeroom. The lights are to be controlled via an internal switch within the storeroom. The lights must not be illuminated between the hours of 9.30pm and 7.00am.
- 4) A new footpath is to be constructed which allows safe access to the roller door on the north west elevation of the storeroom, from the existing footpath.
- 5) The building must comply with the Category 1 fire safety provisions as are applicable to the storeroom.

**Note:** The obligation to comply with the Category 1 fire safety provisions may require building work to be carried out even though none is proposed or required in relation to the relevant development consent.

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

- 6) 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.
- 7) 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.

- 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](http://www.sydneywater.com.au/tapin)

For Sydney Water's Guidelines for building over or next to assets, visit [www.sydneywater.com.au](http://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) 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.
- 11) Stormwater drainage from the development shall be designed so as to comply with Canterbury Development Control Plan 2012 Part B5 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 above requirements. The existing system shall be upgraded or replaced as necessary to comply with the requirements above. The final plan shall be certified by the design engineer that it complies with Council's Canterbury Development Control Plan 2012 Part B5, the BASIX Certificate and the relevant Australian Standards.
- 12) 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.

- 13) 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](http://www.cbcity.nsw.gov.au)

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

The commencement of any works on public land, including the footway or public road, may incur an on the spot fine of not less than \$1100 per day that work continues without a Works Permit and/or a Roadway/Footpath Building Occupation Permit.

All conditions attached to the permit shall be strictly complied with prior to occupation of the development. Works non-conforming to Council's specification (includes quality of workmanship to Council's satisfaction) shall be rectified by the Council at the applicant's expense.

14) Approval is granted for the removal of the following trees:

- Any tree/s where the base of the trunk of the tree is located within 3 metres of the external wall of an approved dwelling;
- Any declared noxious plant. The applicant, builder and all contractors are to ensure that all noxious plants are properly identified, controlled and/or removed on this site without injury or death of any protected plants;
- Any tree species listed under clause 3.4 of Canterbury Development Control Plan 2012 Part B3 – Tree Management Order;
- Any of the following tree/s:

Tree Species / Vegetation	Location
2x Grevillea Moonlights (Grevillea)	Within proposed storeroom footprint.

12 x Clumps Lamandra Grass	Within proposed storeroom footprint.
2x Leptospermum (Tea Tree)	Within proposed storeroom footprint.
2x Grevillea Juniperinas (Grevillea)	Within proposed storeroom Footprint.
1x Doryanthes excelsa (Gynea Lilly)	Within proposed storeroom footprint.

- 15) All tree removal works must comply with the Amenity Tree Industry – Code of Practice, 1998 (Workcover, NSW) and Guide to Managing Risks of Tree Trimming and Removal Work (Safe Work Australia 2016).
- 16) All other vegetation not specifically identified above, and protected by Councils Tree Management Order, is to be retained and protected from construction damage and pruning. The Tree Management Order protects trees over 5m in height.

#### **CONDITIONS TO BE SATISFIED PRIOR TO CONSTRUCTION WORKS COMMENCING**

- 17) 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.
- 18) 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.

- 19) 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.
- 20) 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.
- 21) 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.
- 22) 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.

- 23) 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

- 24) 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**

- 25) The hours of site works shall be limited to between 7.00am and 5.00pm Monday to Saturday. No work shall be carried out on Sundays and public holidays, and weekends (Saturdays and Sundays) adjacent to public holidays.
- 26) The building work must be carried out in accordance with the requirements of the Building Code of Australia.
- 27) All Civil and Hydraulic engineering works on site must be carried out in accordance with Canterbury Development Control Plan 2012 Part B5. 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.

- 28) An identification report by a registered surveyor must be submitted to the principal certifying authority prior to the ground floor slab being poured to verify the buildings wall setbacks and floor level conform to the approved plans.
- 29) All excavations and backfilling must be executed safely and in accordance with the relevant Australian Standards.
- 30) 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.
- 31) The stormwater drainage system shall be constructed in accordance with Canterbury Development Control Plan 2012 Part B5 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
- 32) 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.
- 33) If any trees to be retained and protected are threatened by demolition, building or other site works through accidental omission or unforeseen circumstances, the approving authority is to be notified immediately in writing before such work is continued so that this issue can be resolved.

#### **CONDITIONS TO BE SATISFIED PRIOR TO OCCUPATION**

- 34) The occupation or use of the extension must not be commenced unless any occupation certificate has been issued for the building.
- 35) 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.
- 36) A Copy of the Work Permit Compliance Certificate shall be submitted to the PCA Prior to the issue of any Occupation Certificate.

- 37) An identification report by a registered surveyor must be submitted to the principal certifying authority to verify the buildings wall and roof eaves setback, floor level and height conform to the approved plans.
- 38) The applicant is to plant 2 x replacement tree/s on the site as follows:
- 2 x replacement trees Grevillea Moonlights to be planted on the south western side of the clubhouse in the existing garden bed.
  - The tree/s shall have a container size not less than 75 litres, shall comply with NATSPEC Specifying Trees: a guide to assessment of tree quality (2003) or Australian Standard AS 2303 – 2015 Tree stock for landscape use
  - The tree/s shall be planted no closer than 3.5metres from the wall of any approved dwelling on the property.
  - The tree/s shall be planted so that future growth is not in conflict with overhead electricity wires.
  - The tree/s shall be maintained for the life of the development.

#### **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.

-END-



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## Canterbury Bankstown Local Planning Panel - 14 October 2019

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<b>ITEM 3</b>	<b>118 Duntroon Street and 36 Floss Street, Hurlstone Park.</b>
	<b>Construction of a three storey mixed use development comprising two commercial units and a 32 room boarding house.</b>
<b>FILE</b>	<b>DA-264/2018 – Canterbury</b>
<b>ZONING</b>	<b>B2 – Local Centre</b>
<b>DATE OF LODGEMENT</b>	<b>21 June 2018</b>
<b>APPLICANT</b>	<b>Mr Anthony Vasiliades and Mr Constantine Vasiliades</b>
<b>OWNERS</b>	<b>Mr Anthony Vasiliades and Mr Constantine Vasiliades</b>
<b>ESTIMATED VALUE</b>	<b>\$5,156,211</b>
<b>AUTHOR</b>	<b>Planning</b>

### REPORT

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This matter is reported to Canterbury-Bankstown Local Planning Panel due to the number of objections, received in relation to this Development Application, exceeding 10.

Development Application No. DA-264/2018 proposes the construction of a three storey mixed use development comprising a 32 room boarding house above two commercial tenancies over a single level basement carpark.

DA-264/2018 has been assessed against the relevant plans, policies, and controls. The key topics for consideration are height, design, parking and access, and waste. Despite some variations from the controls, the application is being recommended for approval.

The application was advertised and notified on two separate occasions. When advertised between 4 July 2018 and 8 August 2018, 274 objections were received from 213 different addresses, including 28 individual letters with the remaining being in various pro-forma letters. When advertised between 25 March 2019 and 26 April 2019, 196 objections were received from 145 different addresses, comprising 20 individual letters, and 18 different pro-

forma letters. Four further late pro-forma submissions were received on 13 May 2019. In total, 474 objections have been received.

## **POLICY IMPACT**

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There are no direct policy implications.

## **FINANCIAL IMPACT**

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There are no direct financial implications.

## **RECOMMENDATION**

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It is recommended that Development Application DA-264/2018 be approved subject to the conditions outlined in Attachment B.

## **ATTACHMENTS**

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- A. Assessment Report
- B. Conditions of Consent

## **DA-264/2018 ASSESSMENT REPORT**

### **SITE & LOCALITY DESCRIPTION**

The subject site is legally described as Lots 3, 4 and 5 in DP 6709 and has a street address of 118 Duntroon Street and 36 Floss Street, Hurlstone Park. The site has a frontage to Floss and Duntroon Streets of 13.375m and 20.155m respectively. The combined site area is 1,111.9m<sup>2</sup> and the site falls to the rear (north-east) boundary. Until relatively recently, the site contained two residential dwellings, which have been demolished.

The site falls within a proposed Heritage Conservation Area (HCA) known as Floss Street HCA, and is located in proximity of Hurlstone Park Railway Station which is listed on the State Heritage Register. A Planning Proposal to amend the Canterbury Local Environmental Plan 2012 to identify the Heritage Conservation Area was approved at Gateway and exhibited between 6 June and 7 July 2017. The Planning Proposal introduces zoning and height control changes to support the Heritage Conservation Areas. The residential zone adjoining the site to the south changes from R3 Medium Density Residential to R2 Low Density Residential. The height control of the subject site changes from 14m to 11m. The Planning Proposal is due to be re-exhibited shortly which proposes a 9m maximum building height standard for the subject site.

Adjoining the site to the north is a single storey building which forms the start of a small grouping of commercial buildings directly opposite the railway overpass. The central building in the group (30 Floss Street) is two storeys with a tall stuccoed parapet which gives it an equivalent height of 9.5m.

To the south of the site is an interwar period two storey residential flat building (124 Duntroon Street) which is setback from the street and has a pitched roof. Further to the south the form of development is characterised by single storey residential dwellings that are characteristic of the proposed HCA.

To the south-east (rear) of the site is R3 Medium Density zoned land characterised by a mix of single and two storey residential dwellings.



Figure 1: Aerial Map (Source: NearMaps)

### **PROPOSED DEVELOPMENT**

The application seeks development consent for the construction of a three-storey mixed use development over a single level basement carpark. The design is discussed in detail below.

The proposed boarding house element will contain 32 rooms, including a manager's room (which is a double room). Of the remaining rooms, nine will be single boarder rooms and 22 will be double boarder rooms. The plans show the maximum capacity of the proposed boarding house element will be 54 boarders (not including manager).

### **Basement**

- 17 x residential car parking spaces, including four x accessible parking spaces and a manager's car parking space;
- Eleven x motorcycle parking spaces;
- Eleven x bicycle parking spaces;
- Storage;
- Plant and store room;
- Fire stairs and stairs to upper levels; and
- Two x lift shafts.

### **Ground Floor**

- 125sq.m. shop tenancy;
- 71sq.m. shop tenancy;
- Vehicular access from Duntroon Street;
- Pedestrian/Residential Access from Duntroon Street
- Five x commercial car parking spaces, including one accessible parking space;
- Residential and Commercial waste storage areas;

- Bulky storage room;
- Fire stairs and stairs to other levels;
- Two x lift shafts; and
- Landscaping.

### **Level 1**

- Four x single lodger boarding rooms;
- Twelve x double lodger boarding rooms;
- One x managers room
- One x Communal living room
- Private open space areas associated with all boarding rooms
- Communal open space areas;
- Fire stairs and stairs to other levels; and
- Two x lift shafts.

### **Level 2**

- Four x single lodger boarding rooms
- Eleven x double lodger boarding rooms;
- Private open space areas associated with all boarding rooms;
- Fire stairs and stairs to other levels; and
- Two x lift shafts.

## **BACKGROUND**

On 20 December 2016, Council (under delegation) refused DA-579/2015. That application sought consent for the *construction of a five storey Shop Top Housing development comprising two retail ground floor tenancies, 26 residential apartments and two levels of basement car parking*. The application was refused for the following reasons:

1. *The Clause 4.6 variation seeking to vary the development standard for building height is not well founded in that it does not adequately demonstrate that the departure is necessary to better achieve the objectives of the standard and that there are sufficient environmental planning grounds for exceeding the standard. The non-compliant height does not produce a better planning or architectural outcome and is not supported.*
2. *The proposed development is unsatisfactory pursuant to the provisions of Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979 in that it fails to satisfy Principle 1 of the design quality principles contained in the Apartment Design Guide which deals with Context and Neighbourhood in that the proposal exceeds the development standard for building height by 14.3% and 9.3% which serves no purpose in enhancing the design response or contributing to the streetscape.*
3. *The proposed development is unsatisfactory pursuant to the provisions of Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979 in that it fails to satisfy Principle 2 of the design quality principles contained in the Apartment Design Guide which deals with Built Form and Scale. The proposed fifth storey has inadequate regard for the desired future character, does not relate appropriately to*



*its traditional surrounding context and sets a new height reference on which future buildings will be measured.*

- 4. The proposal fails to comply with State Environmental Planning Policy 65 in that it does not meet the minimum requirements for building separation as stipulated by Part 3F of the Apartment Design Guide. The drawings show the first four storeys (except the ground floor) at a setback of 3m, which represents a 66.67% departure to the Apartment Design Guide building separation requirements. The fifth storey is set back 3m (balcony) from the boundary and represents a 75% departure to the Apartment Design Guide building separation requirements. The departures indicate that the development does not support the desired future character and exhibits inappropriate massing and spaces between buildings. It also results in a reduced amenity between buildings including visual and acoustic privacy, sunlight and daylight access and outlook. The failure to comply with the building separation requirements demonstrates an inappropriate design response for the site.*
- 5. The proposal fails to comply with State Environmental Planning Policy 65 in that it does not meet the Apartment Design Guide which requires that living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9am and 3pm at mid-winter. Instead, 61% of the total number of apartments meets this minimum requirement. This demonstrates a poor design response for the site.*
- 6. The proposal fails to comply with State Environmental Planning Policy 65 in that it does not meet the Apartment Design Guide stipulation that no more than 15% of the total number of apartments in a building may receive no direct sunlight between 9am and 3pm at mid-winter. The applicant's submission on 18 October 2016 confirms that 6 of the 26 units (23%) do not receive any direct sunlight between 9am and 3pm in mid-winter and demonstrates a poor design response for the site.*
- 7. The proposal fails to comply with State Environmental Planning Policy 65 in that it does not meet Objective 4C-1 of the Apartment Design Guide which requires 3.3m floor to ceiling height for ground floors of mixed use developments to promote internal amenity for the users of the space and the future adaptable use of the space. This non-compliance demonstrates a poor design response and disregard for the controls.*
- 8. The proposal fails to comply with State Environmental Planning Policy 65 in that it does not meet the Apartment Design Guide with respect to floor to ceiling heights at each residential level. The floor to floor heights of the apartments are 2.9m which will not permit at least 2.7m floor to ceiling height in accordance with Objective 4C-1 of the Apartment Design Guide which seeks this height to ensure apartments achieve sufficient natural ventilation and daylight access and achieve a satisfactory level of internal residential amenity.*
- 9. The proposal fails to comply with State Environmental Planning Policy 65 in that it does not meet the Apartment Design Guide with respect to habitable room depths, which are to be limited to 2.5m x the ceiling height. Some units fail to comply with this requirement which diminishes the internal residential amenity of apartments.*
- 10. The proposal fails to comply with State Environmental Planning Policy 65 in that it does not meet the Apartment Design Guide with respect to combined living/dining rooms' depths. The Apartment Design Guide requires that the width of combined*

*living/dining rooms have a minimum width of 3.6m for 1 bedroom apartments (and 4m for 2 bedroom apartments). Units 9 and 17 are one bedroom apartments with a width of combined living/dining rooms of 3m which represents a departure of 16.67% to the requirement and is indicative of a poor design response to the site.*

- 11. The proposal fails to comply with the building height plane setback requirement stipulated in Part 3.1.8 of the Canterbury Development Control Plan 2012 which aims to establish the desired spatial proportions of the street, minimise building size and bulk by setting back upper storeys and minimise amenity impacts on adjoining properties. The failure of the proposal to meet the requirements for building height plane setback is contrary to the desired future character of the area.*
- 12. The proposal does not adequately respond to the traditional context in which the site is located. The overall height and street wall to boundary is excessive, inappropriate and incompatible with the surrounding traditional context. The aesthetic appearance and qualities of the proposal are inconsistent, unresolved and incompatible resulting in an unsuitable and 'confused' aesthetic.*
- 13. The proposal is considered inappropriate with respect to Section 79(C)(1)(b) of the Environmental Planning and Assessment Act 1979 which requires the consideration of the likely impacts of that development. It is considered that the bulk and scale of the development responds inappropriately to the site, is not adequately separated from residentially zoned properties and does not accord with the surrounding traditional context or the desired future character of the area.*
- 14. The site is not suitable for the proposed development under the provisions of Section 79(C)(1)(c) of the Environmental Planning and Assessment Act 1979 in that it is not identified as a 'key site' or a corner site that calls for the architectural punctuation and massing proposed. Also, the site is located on the border with residentially zoned properties and calls for an appropriate transition, which the proposal fails to achieve.*
- 15. The proposal is not in the public interest with respect to Section 79(C)(1)(e) of the Environmental Planning and Assessment Act 1979 because it fails to achieve the desired future character of the area.*

On 9 December 2016, the applicant lodged another Development Application (DA) DA-560/2016 for the *construction of a four storey mixed use development comprising of ground floor commercial space with ground floor and basement car parking with three levels of boarding rooms above, including a roof terrace.*

On 27 January 2017 the applicant commenced proceedings to the NSW Land and Environment Court appealing the deemed refusal of DA-560/2016. The appeal went to a defended hearing on 4 and 5 September 2017. The appeal was dismissed on 20 September 2017. The primary reason for the dismissal was that Commissioner Dickson found that the development was not compatible with the character of the local area and that the application warranted refusal on the ground that the development has detrimental impact on the current and desired future character of the locality.

## Statutory Considerations

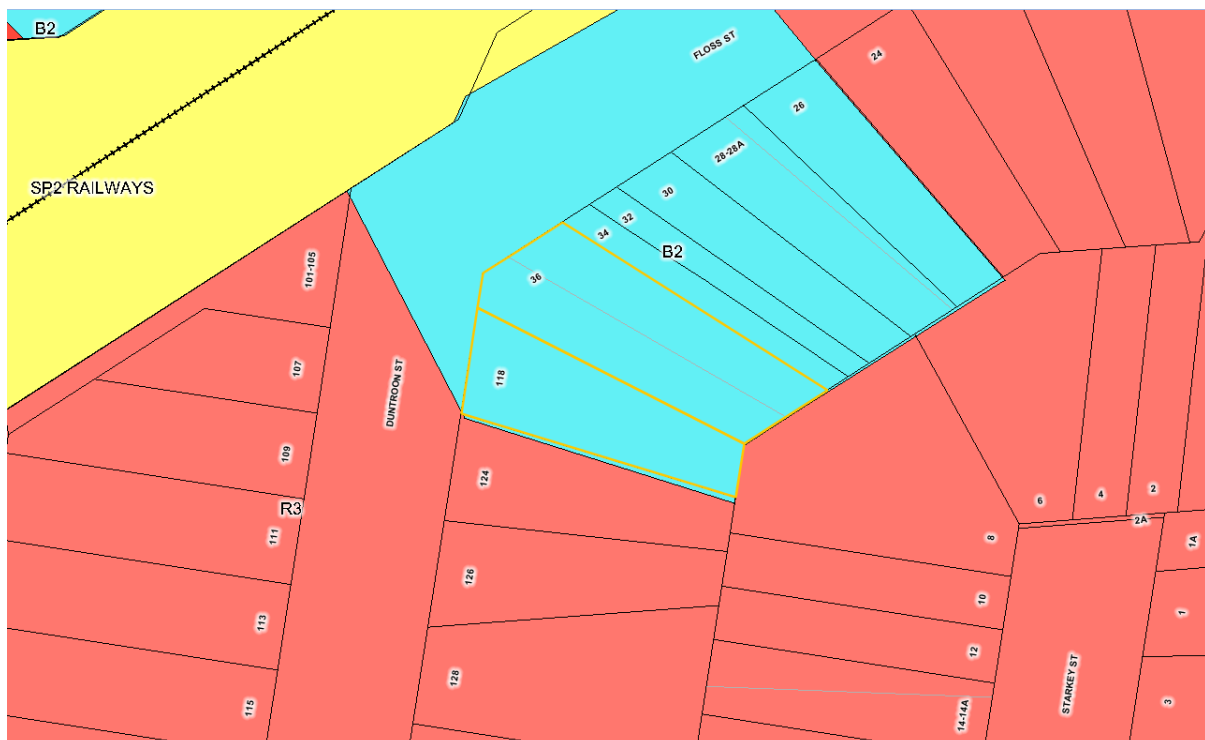
When determining this application, the relevant matters listed in Section 4.15C of the Environmental Planning and Assessment Act 1979 must be considered. In this regard, the following environmental planning instruments, development control plans, codes and policies are relevant:

- State Environmental Planning Policy 55 – Contaminated Land (SEPP 55)
- State Environmental Planning Policy (Infrastructure) 2007 (SEPP 2007)
- State Environmental Planning Policy 2004 (Building Sustainability Index: BASIX)
- State Environmental Planning Policy – Affordable Rental Housing (SEPP ARH) 2009
- Canterbury Local Environmental Plan 2012 (CLEP 2012)
- Canterbury Development Control Plan 2012 (CDCP 2012)
- Canterbury Development Contributions Plan 2013 (Contributions Plan 2013)

## SECTION 4.15 ASSESSMENT

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

## PERMISSIBILITY



**Figure 2 - Zoning Map (site highlighted in orange outline)**

The site is zoned B2 Local Centre under Canterbury LEP 2012. The applicant seeks consent for a mixed use development comprising ground floor commercial premises with boarding



house above. Boarding houses and commercial premises are permitted within the B2 zone, with development consent. The objectives of the B2 zone are as follows:

- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*
- *To encourage employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*
- *To facilitate and support investment, economic growth and development for active, diverse and well-designed centres.*

The development complies with the objectives of the B2 zone as it comprises a mixed use development within close proximity to public transport. The combined 196sqm. two ground floor commercial premises can facilitate a range of retail, business, entertainment and community uses that serve the needs of people who live and work within the locality as well as provide for employment opportunities in an accessible location.

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

**State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARH SEPP).**

The ARH SEPP aims to facilitate the delivery of affordable housing in NSW through incentivising home owners, developers and social housing providers to invest and create new affordable rental housing. Division 3 (Clauses 25-30) of the ARH SEPP provides the planning framework for the facilitation of boarding houses. The subject site is zoned B2 Local Centre and triggers Division 3 of the ARH SEPP, as per Clause 26.

Clauses 29-30A provide the development standards for the assessment of a boarding house. An assessment of the proposal against these standards is provided below:

<i>Clause 29: Standards that cannot be used to refuse consent;</i>		
Requirement	Proposal	Complies
1. Floor Space Ratio <b><i>The existing maximum floor space ratio for any form of residential accommodation permitted on the land (0.5:1)</i></b>	A maximum floor space ratio does not apply to the site or any form of residential development on the site.	N/A
2(a). Building Height <b><i>If the building height of all proposed buildings is not more than the maximum building height permitted under another EPI for any building on the land.</i></b>	Canterbury Local Environmental Plan 2012 – Maximum height 14m.  Draft Local Environmental Plan – Maximum height 11m  Recommendation of Local Planning Panel on 1 April 2019, endorsed by Council on 30 April 2019 – Maximum height 9m	Yes, See discussion below.

	Proposed Maximum height 9.1m	
2(b). Landscaped Area <i>If the landscape treatment of the front setback area is compatible with the streetscape in which the building is located.</i>	The site is located in a B2 Local Centre. The neighbouring business premises to the north have no front landscaping and this proposal includes ground floor commercial premises. As such, the landscape treatment of the front setback is considered compatible with the streetscape and the zoning of the area.	Yes
2(c). Solar Access <i>Where the development provides for one or more communal living rooms, if at least one of those rooms receives a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter.</i>	The common room is located at the northern corner of the site. The view from the sun plans submitted with the application show the common room receiving 3 hours solar access between 12 noon and 3pm at midwinter.	Yes
2(d). Private Open Space <i>If at least the following private open space areas are provided (other than the front setback area):</i> <i>i) One area of at least 20sqm with a minimum dimension of 3 metres is provided for the use of the lodgers,</i> <i>ii) If accommodation is provided on site for a boarding house manager – one area of at least 8sqm with a minimum dimension of 2.5 metres is provided adjacent to that accommodation.</i>	<i>i) Two communal open space areas have been provided on first floor, both the areas exceed 20sq.m. and meet the minimum 3m dimension requirement.</i> <i>ii) A Boarding House Manager Room (Room 2) is proposed. The manager will have a private balcony facing Duntroon/Floss Streets and has an overall area in excess of 8sq.m. and a dimension of greater than 2.5 in any direction.</i>	Yes
2(e). Parking <i>i) In the case of development in an accessible area – at least 0.5 parking spaces are provided for each boarding room.</i>  <i>ii) N/A</i>  <i>iii) in the case of any development – not more than 1 parking space is provided for each person</i>	<i>i) The proposed board house element includes 32 rooms, which at a rate of 0.5 spaces per room, requires 16 spaces. 17 spaces have been provided, including 1 managers space. The proposal meets the minimum parking requirements.</i>  <i>ii) N/A</i>  <i>iii) An on site manager is proposed to live on the premises and a managers car parking space has been identified.</i>	Yes

<b><i>employed in connection with the development and who is a resident on site.</i></b>		
<p>2(f). Accommodation Size</p> <p><b><i>i) If each boarding room has a gross floor area of at least: 12sqm in the case of a boarding room intended to be used by a single lodger, or</i></b></p> <p><b><i>ii) 16sqm in any other case</i></b></p>	<p>If approved a condition can be placed on a consent which limits the number of boarders per room.</p> <p>The applicant has nominated the rooms as either single or double. The following rooms, fail to meet the minimum accommodation size requirements: -</p> <p>Room 14, which is identified as a double room, has a gross floor area (as measured by Council) of 15.8sq.m.. The room size exceeds 12sq.m. and as such, Council will condition that this unit is classed as a single boarding room.</p> <p>Room 19, which is identified as a double room, has a gross floor area (as measured by Council) of 13.5sq.m.. This is because the kitchen/laundry area has been excluded from all other units. The room size exceeds 12sq.m. and as such, Council will condition that this unit is classed as a single boarding room.</p> <p>Room 20, which is identified as a double room, has a gross floor area (as measured by Council) of 15.8sq.m.. The room size exceeds 12sq.m. and as such, Council will condition that this unit is classed as a single boarding room.</p> <p>Conditions can be placed to restrict occupants to comply with the minimum room sizes, this would reduce the capacity of the boarding house to 51 boarders.</p>	Yes, by Condition
<b>3. A boarding house may have private kitchen or bathroom facilities in each boarding room but is not required to have those facilities in any boarding room.</b>	All rooms contain private kitchen and bathroom facilities.	Yes
<b>4. A consent authority may consent to development to which</b>	Noted	N/A

<b>this Division applies whether or not the development complies with the standards set out in subclause (1) or (2).</b>		
<i>Clause 30: Standards for Boarding Houses;</i>		
Requirement	Proposal	Complies
1(a). <b><i>If a boarding house has 5 or more boarding rooms, at least one communal living room will be provided</i></b>	A communal living room has been provided	Yes
1(b). <b><i>No boarding room will have a gross floor area (excluding an area used for the purposes of private kitchen or bathroom facilities) of more than 25 square metres.</i></b>	No boarding room exceeds 25 square metres.	Yes
1(c). <b><i>No boarding room will be occupied by more than 2 adult lodgers</i></b>	All rooms are limited to single or double rooms, a condition can be placed on any consent to restrict occupancy.	Yes
1(d). <b><i>Adequate bathroom and kitchen facilities will be available within the boarding house for the use of each lodger.</i></b>	Each proposed room contains a private bathroom and kitchen.	Yes
1(e). <b><i>If the boarding house has capacity to accommodate 20 or more lodgers, a boarding room or on site dwelling will be provided for a boarding house manager</i></b>	The boarding house has the capacity for more than 20 boarders. A Boarding House Manager Room (Room 2) is proposed.	Yes
1(f). REPEALED		
1(g). <b><i>If the boarding house is on land zoned primarily for Commercial purposes, no part of the ground floor of the boarding house that fronts a street will be used for residential purposes unless another environmental planning instrument permits such a use.</i></b>	The site is Zoned B2 – Local Centre which is primarily for a commercial use.  The ground floor frontage is commercial in nature.	Yes

1(g). <b><i>At least one parking space will be provided for a bicycle, and one will be provided for a motorcycle, for every five boarding rooms.</i></b>	32 rooms are provided, which would require seven bicycle and seven motorcycle spaces.  11 bicycle and 11 motorcycle spaces are provided.	Yes
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### **BUILDING HEIGHT AND CHARACTER**

On 1 April 2019, the Canterbury-Bankstown Local Planning Panel considered the Hurlstone Park Heritage Review.

In relation to this specific site, the Panel noted in the report reference to the Land and Environment Court judgement (Vasiliades v Canterbury Bankstown Council, Commissioner Dickson, 20 September 2017), which discusses the future character of this area having regard to the draft LEP at that time which proposed a change in height from 14 to 11 metres.

This judgement was given after the public exhibition of the draft LEP as at that time.

In the Commissioners opinion as stated in the judgment:

- a. Three storeys was an appropriate height form for this site having regards to the existing and future character.
- b. The Consult Group building, 30 Floss Street, [also known as ‘the Chambers’] was the foremost building in this group of buildings located at the top of a prominent rise and that it set the datum for an appropriate maximum height for this group of buildings. The proposed development which was under the 14 metre height limit would compete and detract from the existing Consult Group building’s prominence.
- c. The proposed draft LEP at that time – (which proposed an 11 m height limit) was seeking to preserve the existing character and should also be 9 metres.

The panel noted that the Council’s surveyed level of the datum building (30 Floss Street) is between 9 and approximately 9.5m.

Having regard to the proposal to make the datum building (30 Floss Street) a heritage item the panel was not convinced that there should be a specific 11 m height limit for this site and that it should also be limited to 9 metres.

In relation to the other buildings, the Panel agreed that the 9 metre height limit is the appropriate height limit which is supported in the judgement.

In Reporting the matter to Council on 30 April 2019, Council Officers noted the following:

“It is noted that in relation to the height limit recommendation for 36 Floss Street and 118 Duntroon Street there is currently a development application (DA) for a three storey shop top housing development with boarding house accommodation on this site. The appeal decision referred to in the Panel discussion also stated that three storey development is an appropriate building form for this site. A three storey building is unlikely to be achievable within a 9 metre height limit. If Council decides to proceed with the Local Planning Panel recommendations, this issue will need to be resolved as part of the determination of the DA.”

The Council endorsed the decision of the Local Planning Panel and has recommended that the maximum height of the building should be 9m. Whilst the matter is in draft, it is the resolution of Council that is the latest position and direction of suitable height and character, therefore for the purposes of this Report, it is assumed a maximum building height of 9m is acceptable.

The Applicant was asked to provide comment on the decision of the Panel, which they were aware of, in response, the Applicant provided the following comment:

“We had four levels on our previous DA that was taken to court. It was only refused due to the 4th level that we have now removed on this proposal. The other 3 levels were agreed in court and by council during those procedures as stated in the [Council Report].”

The applicant then reduced the height further in amended plans received on 15 July 2019, as part of this application. Bringing the maximum height of the proposal to 9.1m. This breach extends for 4m of the length of the building, between 7m and 11m behind the front building line of the proposed development. However, the development shows a floor to ceiling height of 2.5m for the boarding house element. This level is 100mm in excess of the minimum floor to ceiling height of 2.4m, a condition can therefore be placed on a consent which reduces the overall height of the building by 100mm to comply with the 9m height limit and ensure that the development is compliant with the aims of Council.

### **Clause 30A – Character of local area**

Clause 30A of the ARH SEPP states that:

*“A consent authority must not consent to development which this Division applies unless it has taken into consideration whether the design of the development is compatible with the character of the local area”.*

For the purposes of this assessment, reference is made to the case Project Venture Developments v Pittwater Council [2005] NSWLEC191 which determined that “the most important contributor to urban character is the relationship of built form to surrounding space, a relationship that is created by building height, setbacks and landscaping”.

A discussion relating to height has taken place above, and it is now not considered that an 11m height is not in keeping with the character of the area, given the importance of “The Chambers” (30 Floss Street) building. Instead, the maximum height limit should be as the Local Planning Panel’s recommendation, as endorsed by Council, of 9m. A 9 metre height limit means any proposed development would be subservient to “The Chambers” (30 Floss Street) and would be in keeping with the character of the area.

Whilst the maximum height of the development is measured by Council as 9.1m, a condition is recommended to reduce the height to 9m which would be in line with Local Planning Panel and Council’s most recent decisions.

### **State Environmental Planning Policy (Infrastructure) 2007 (ISEPP).**

Hurlstone Park Railway Station is located opposite the site, on the northern side of Duntroon/Floss Street. Therefore Council is required to consider the provisions outlined within Clause 85-88 of the ISEPP. The relevant provisions are considered below:

Clause 85 of the ISEPP states the following:

#### *85 Development adjacent to rail corridors*

- (1) *This clause applies to development on land that is in or adjacent to a rail corridor, if the development:*
- (a) is likely to have an adverse effect on rail safety, or*
  - (b) involves the placing of a metal finish on a structure and the rail corridor concerned is used by electric trains, or*
  - (c) involves the use of a crane in air space above any rail corridor, or*
  - (d) is located within 5 metres of an exposed overhead electricity power line that is used for the purpose of railways or rail infrastructure facilities.*

Furthermore, Clause 86 of the ISEPP states the following:

#### *86 Excavation in, above, below or adjacent to rail corridors*

- (1) *This clause applies to development (other than development to which clause 88 applies) that involves the penetration of ground to a depth of at least 2m below ground level (existing) on land:*
- (a) within, below or above a rail corridor, or*
  - (b) within 25m (measured horizontally) of a rail corridor, or*
  - (b1) within 25m (measured horizontally) of the ground directly below a rail corridor, or*
  - (c) within 25m (measured horizontally) of the ground directly above an underground rail corridor.*

The site is located greater than 25m from the railway corridor by virtue of Duntroon Street and pedestrian footpaths. The development is not considered to have an adverse effect on rail safety. Notwithstanding, the application was referred to RailCorp for comment. No comments were received.



Clause 87 of the ISEPP states the following:

*87 Impact of rail noise or vibration on non-rail development*

*(1) This clause applies to development for any of the following purposes that is on land in or adjacent to a rail corridor and that the consent authority considers is likely to be adversely affected by rail noise or vibration:*

- (a) residential accommodation,*
- (b) a place of public worship,*
- (c) a hospital,*
- (d) an educational establishment or centre-based child care facility.*

*(2) Before determining a development application for development to which this clause applies, the consent authority must take into consideration any guidelines that are issued by the Secretary for the purposes of this clause and published in the Gazette.*

*(3) If the development is for the purposes of residential accommodation, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded:*

- (a) in any bedroom in the residential accommodation—35 dB(A) at any time between 10.00 pm and 7.00 am,*
- (b) anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.*

An acoustic report was submitted by an acoustic consultant to confirm that the design achieves compliance with the requirements of Clause 87 of the ISEPP. Subject to conditions requiring the recommendations of the acoustic report being satisfactory, the proposal can be in accordance with Clause 87 if the application were to be approved.

On this basis, the development satisfies the relevant provisions of the ISEPP.

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

A revised BASIX Certificate No.848443M\_04 dated 15 February 2019, was submitted to Council which indicated a series of commitments for the DA. The relevant commitments have been shown on the plans and conditions can be placed on any consent which requires that the BASIX is complied with. The design achieves a pass mark for water, thermal comfort and energy scores and therefore meets the relevant requirements of BASIX. A further revised BASIX will be required as a condition placed on any consent to reflect updated plans received 15 July 2019.

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

This site is zoned B2 Local Centre under Canterbury LEP 2012. The controls applicable to this application are:



Standard	Requirement	Proposed	Complies
Zoning	B2 – Local Centre	<p>The proposal is for a mixed use building, containing ground floor commercial tenancies and boarding house.</p> <p>Commercial premises and boarding houses are permitted within the B2 zone.</p>	Yes
Building Height	14m	Proposed: Max 9.1m (calculation by Council).	<p>No, conditioned to comply.</p> <p>See comment regarding height previously discussed.</p> <p>A condition will limit the height to 9m.</p>
Heritage Conservation	<p>The consent authority may, before granting consent to any development:</p> <ul style="list-style-type: none"> <li>(a) on land on which a heritage item is located, or</li> <li>(b) on land that is within a heritage conservation area, or</li> <li>(c) on land that is within the vicinity of land referred to in paragraph (a) or (b), require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.</li> </ul>	The application has been reviewed by Council's Heritage Advisor who considered the proposal to be acceptable subject to conditions.	Yes
Acid Sulfate Soils	Class 5 within 500m of Class 1 and 2.	A desktop Geotechnical Report, dated 12 July 2019, has been submitted.	Yes

		The report notes that there is low risk of lowering the ground water table, and states that no further investigation is required.	
Earthworks	<p>Before granting consent to development including earthworks, the following must be considered:</p> <ul style="list-style-type: none"> <li>(a) drainage patterns and soil stability</li> <li>(b) the likely future use or redevelopment of the land,</li> <li>(c) quality of the fill or the soil to be excavated, or both,</li> <li>(d) effect of development on existing and likely amenity of adjoining properties,</li> <li>(e) the source of any fill material and the destination of any excavated material,</li> <li>(f) the likelihood of disturbing relics,</li> <li>(g) the potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,</li> <li>(h) appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</li> </ul>	<p>The survey states that "No data was recorded in the driller's notes regarding ground water table.</p> <p>We do not anticipate that groundwater would be encountered during excavation works involved with the project."</p> <p>Given the above, it is unlikely that there will be hydrological impacts which would require concurrence from Water NSW.</p>	Yes
Stormwater Management	<p>Consent must not be granted unless:</p> <ul style="list-style-type: none"> <li>(a) Water permeable surfaces are maximized having regard to soil characteristics affecting on-site stormwater infiltration</li> <li>(b) Includes on-site detention if practical as an alternative means of water supply</li> <li>(c) Avoids significant impacts of run-off on adjoining land or the environment or</li> </ul>	<p>The development incorporates deep soil zones and permeable services at the ground level, along the rear boundary.</p> <p>The application is generally consistent with the provisions requirements for stormwater management as shown later in this report.</p>	Yes

	minimises and mitigates impacts.		
Essential Services	<p>Essential services must be available or adequate arrangements have been made to make them available, including:</p> <ul style="list-style-type: none"> <li>- the supply of water;</li> <li>- the supply of electricity;</li> <li>- the disposal and - management of sewage;</li> <li>- stormwater drainage or on-site conservation;</li> <li>- suitable vehicular access.</li> </ul>	<p>The site has adequate access to water, electricity, sewage and vehicular access.</p> <p>In terms of fire services, the design includes a fire booster valve that is integrated within the design and will not result in any significant adverse impact on the streetscape appearance of the site.</p> <p>The Applicant has provided details that a new substation is not required for the development.</p>	Yes

Given the above and subject to conditions, the proposal complies with the requirements of the Canterbury Local Environmental Plan 2012.

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

**Draft Canterbury Local Environmental Plan 2012 (Amendment 16) Site Area Controls for Boarding Houses.**

This amendment has recently been gazetted. The amendment introduces provisions relating to minimum frontage and site area controls for boarding houses. This will align planning controls from the former Canterbury Council with those of the former Bankstown Council. This amendment relates to Boarding House Developments in R2, R3, R4 and B5 zones and therefore, as the site sits within a B2 zone, is not applicable to this application.

**Planning proposal to include new local heritage items and heritage conservation areas in Hurlstone Park.**

This amendment is currently in the post exhibition stage and has been discussed briefly above.

The subject site lies within the Proposed Floss Street Heritage Conservation Area (HCA) as identified within the proposal.

Council's Heritage Advisor has reviewed and supported the proposal subject to conditions.

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

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

The proposed development has been compared to the requirements of CDCP 2012 as follows:

### Part B1 – Transport and Parking

An assessment of the proposal against the car and bicycle parking rates in Part B1 of CDCP 2012 is provided below:

Standard	Requirement	Proposal	Complies
<b>Car Parking</b>  Please note that B1.2.2 of the General Parking Controls states that where a parking calculation results in a fraction, this is rounded to the nearest whole number	<u>Commercial</u> Shop: 1 space per 40sqm  <u>Shop 1 - 125sq.m. and</u> <u>Shop 2 – 71 sq.m.</u> <u>Total commercial area =</u> <u>196sq.m</u> (196/40=5 spaces)	5 commercial spaces proposed.	Yes
<b>Bicycle Parking</b>	One space per 300sqm (196/300 = 1).	One space shown	Yes

The proposal was also considered by Council's Development Engineer and Traffic Sections.

The Traffic Section has recommended conditions to a variety of issues including:

- No stopping zones
- Redundant driveways
- Construction Traffic Management Plan

In addition, there are a number of other issues including ensuring that the accessible parking is suitably designed, allocation of parking spaces and other minor matters which can be suitably determined by conditions if the application were to be approved.

The matter can therefore be supported and the proposal complies with Part B1 of Canterbury Development Control Plan 2012.

### Part B2 – Landscaping and Part B3 – Tree Preservation

The application was referred to Council's Landscape Architect who raised no concern subject to the imposition of appropriate conditions if the application were to be accepted.

The matter was also sent to the Council's Tree Officer for comment. The Council's Tree Officer noted that there are 14 trees on site, six near the front of the site and eight trees to the rear. The group of 4 trees located forward of the proposed development are visually important landscape elements and should be retained and protected. A tree to the rear of the site is also a significant tree and should be retained.

The tree to the rear has been retained through the landscape plan, however to accord with the required setbacks for the Local Centre, it is not considered that maintenance of the trees to the front is suitable or necessary. Given this, whilst the removal of the trees would

be contrary to the provisions of Part B2 and Part B3 of Canterbury Development Control Plan 2012, to retain visually important trees, maintaining the trees would detrimentally affect the ability of the site to achieve an appropriate design to accord with the provisions of Parts B1, B4, B9, C5 and D1 of Canterbury Development Control Plan 2012. On balance, therefore, it is considered that the removal of the trees is acceptable.

#### Part B4 – Accessible and Adaptable Design

The application was reviewed by Council's Building Surveyor who raised no objection to the application. The proposal is therefore considered, subject to the imposition of these conditions, consistent with Part B4 of Canterbury Development Control Plan 2012.

#### Part B5 – Stormwater and Flood Management

Conditions have been recommended to ensure that the proposed drainage design is in keeping with the requirements of Part B5 of Canterbury Development Control Plan 2012.

#### Part B7 – Crime Prevention and Safety

An assessment of the proposed design against the relevant provisions of Part B7 is provided in the table below:

Standard	Requirement	Proposal	Complies
Crime Prevention Through Environmental Design	Avoid blind corners	The development has been designed to avoid blind corners.	Yes
	Provide natural surveillance for communal and public areas.	The design incorporates windows to habitable rooms. These windows are orientated towards the street as well as internal communal areas.	Yes
	Provide clearly visible entries.	The Commercial Tenancies are not accessible from the car park and require access to be taken either through the residential lobby, or through the car access. This is not considered a safe or coherent access for those visiting the commercial tenancy by car.  The entrance of the residential component of the development is	No, discussed below

		clearly visible.	
	Design the fence to maximise natural surveillance from the street to the building.	No front fence proposed.	N/A
	Avoid landscaping that obstructs natural surveillance.	The proposed landscaping does not obstruct natural surveillance.	Yes
	Ensure buildings are clearly identified by street numbers.	This requirement can be enforced via condition of consent.	Yes – via condition of consent should the application be supported
	Use materials that reduce the opportunity for vandalism.	This requirement can be enforced via condition of consent.	Yes – via condition of consent should the application be supported
	Provide an appropriate level of security for individual dwellings and communal areas through use of intercoms, self closing doors and signage.	This requirement can be enforced via condition of consent.	Yes – via condition of consent should the application be supported

The commercial units are both accessible to pedestrians from the street, which meets the visible entry requirements of Part B7 of the Canterbury Development Control Plan 2012. However, to gain access to the commercial units from the car park, the path of travel is either through the entry foyer for the boarding house and then exiting through the front door to the street and back into the shops from the street, or through the vehicular access point to the street and then back into the shops from the street. The former of these options is the safer route of travel however leads to safety and security concerns. The latter leads to conflicts between vehicular and pedestrian travel. A condition has been recommended to ensure that secure access is maintained and access to the shops where at all possible is safe and secure.

Subject to the above, the proposal is consistent with Part B7 of the Canterbury Development Plan 2012.

#### Part B8 – Heritage

The application has been reviewed by Council's Heritage Advisor who raised no objection subject to the imposition of conditions to do with finishing materials and screen fences. As a result, it is considered that design meet the requirements of Part B8 of the Canterbury Development Control Plan 2012.

#### Part B9 - Waste Management

Part B9 – Waste Management of Canterbury Development Control Plan 2012 provides the

controls for the assessment of applications in relation to waste management. The following table provides an assessment against the relevant controls

The proposed development includes separate residential and commercial waste storage rooms and a bulky storage room, and a waste collection area located to the front of the Commercial Area of Shop 2.

Standard	Requirement	Proposal	Complies
<b>Part B9.4 – Waste Storage For Residential Accommodation</b>			
C1	The waste storage area is of sufficient size to accommodate all the allocated bin requirements		See discussions in the table
C4	An onsite bin presentation area is to be provided within 15m of the street kerb	The presentation area is located at the kerbside	Yes
C5(c) – Boarding Houses	Allocation sizes are as follows:  (i) Rubbish allocation is one x 240 litre bin per 4 rooms. (ii) Recycling allocation is one x 240 litre bin per 8 rooms. (iii) Garden vegetation is one x 240 litre bin per property	The allocation for the boarding house is therefore: (i) 8 bins  (ii) 4 bins  (iii) 1 bin  Total 13 bins.  The Residential Waste Room shown in plan B103 shows space for 19 bins.	Yes
<b>Part B9.5 – Waste Storage For Non-Residential Development</b>			
C1	Allocation sizes are as follows:  (i) Rubbish allocation is one x 240 litre bin per separately titled property. (ii) Recycling allocation is one x 240 litre bin per separately titled property. (iii) Garden vegetation – Council's Waste Recovery Officer is to be consulted	The allocation for the 2x commercial units is therefore: (i) 1 bin  (ii) 1 bin  (iii) None required Total 2 bins.  The Commercial Waste Room shown in plan B103 shows space for 8 bins.	Yes
<b>Part B9.6 Design and Access Waste Bin Storage Areas</b>			

Part B9.6.1 Specifications and Design			
C1	Waste bin storage areas and bin presentation areas must be capable of containing the required number and bins.	Enough space is provided in all the locations to accommodate the required number of bins	Yes
C2	Provide separated storage areas for waste and recycling bins	The storage space is of sufficient size to accommodate the bins	Yes
C3	Clearly signpost all waste recycling areas to differentiate between waste and recycling and residential and non-residential waste	No information provided. However, this matter can be conditioned.	Yes, by condition
C4	Where presentation areas are provided use landscaping to screen the bins	No information is provided. However, this matter can be conditioned	Yes, by condition
C6	Provide separate bin storage areas for commercial and residential occupants	Provided	Yes
Part B9.6.2 Construction			
C2	Use concrete or similar hardstand impervious surface on bin presentation areas	No information is provided. However, this matter can be conditioned	Yes, by condition
C3	Provide access openings minimum 1.2m wide for collection.	Doors are provided at 900mm, this matter can be dealt with by condition	Yes, by condition
C5	Provide light and storage to bin storage areas	No information is provided. However, this matter can be conditioned	Yes, by condition
C6	Provided water supply to the bin storage area or presentation area for in cleaning and connect to sewer requirements	No information is provided. However, this matter can be conditioned	Yes, by condition

### C5 - Shop Top Housing

The CDCP 2012 does not comprise specific controls relating to boarding houses. Therefore the controls outlined within C5.3 are used as a guide to ensure the design is in keeping with the existing and desired future character of the area.

Standard	Requirement	Proposal
C5.3.1.3 – Balconies and Communal Open Space	The apartment layout and communal open space requirements specified within Clause 29 and 30 ARH SEPP override the balcony and communal open space controls outlined within Part C5.3.1.3 of CDCP 2012. An assessment of the proposal against these ARH SEPP controls has been undertaken earlier within this report.	
C5.3.1.4 – Layout and	Orientate development to	Solar access to the site is covered by the



Orientation	maximise solar access and natural lighting.	SEPP. The common room receives adequate solar access.
	Site the development to avoid casting shadows onto neighbouring dwelling's primary living area, private open space and solar cells.	Shadow diagrams have been provided to assess the impact on neighbouring properties. Whilst no controls exist to limit overshadowing, there will be some impact on the ground floor units located to the south of the site. Given the maximum height of 9m is complied with, it is considered that this is acceptable.
	Site new development and private open space to avoid existing shadows cast from nearby dwellings.	Solar access to the site is covered by the SEPP. The common room receives adequate solar access.
	Site a building to take maximum benefit from cross-breezes and prevailing winds.	Through the inclusion of the void within the middle of the development, the building can benefit from the northerly and southerly prevailing winds.
	Do not compromise the creation of active street frontage or casual surveillance of the street, communal space and parking areas, through the required orientation.	The development has not compromised the creation of an active street front.
C5.3.2.1 – Floor Space Ratio	The development is to comply with the maximum FSR development control stipulated within CLEP 2012.	A maximum FSR development standard does not apply to the site pursuant to CLEP 2012.
C5.3.2.2 – Floor to Ceiling Height	Floor to ceiling heights must: (a) Provide a minimum 3.3m floor to ceiling height for the ground floor. (b) Provide a minimum 2.7m floor to ceiling height for residential floors.	The floor plan has been stepped to meet the maximum building height of 9m as a result a 3.5m floor to floor height is provided for the ground floor and a 2.1/2.5m floor to ceiling height is provided for the residential floors.  There are no specific floor to ceiling height controls for boarding houses and therefore the Building Code of Australia (BCA) heights are considered the minimum acceptable.  The BCA allows a minimum floor to ceiling of 2.1/2.4m, the proposal is therefore consistent with the Building Code of Australia.
C5.3.2.3 - Setbacks	The development is assessed against the relevant setback controls outlined within Part D1 of CDCP 2012 pursuant to Part C5.3.2.3(C1) of CDCP 2012.	
C5.3.2.4 – Building Depth	Maximum 18m depth from glass line to glass line	No boarding room is greater than 18m in depth.
	Light source is not to include a	N/A – no boarding room is greater than 18m

	light well when calculating the 18m depth.	in depth.
	Upper levels are setback to limit the depth of residential floors above deeper commercial or retail floors.	N/A – no boarding room is greater than 18m in depth.
C5.3.2.5 – Building Separation	Min 6m building separation is to be provided for habitable rooms/balconies between buildings on the adjoining sites, or on the same site.	<p>Within the site: Min 6m provided between habitable rooms/balconies within the site.</p> <p>Southern Boundary: Windows are shown for rooms 23, 24 and the access corridors at the 6m building line. The room windows are high level and will not impact on privacy.</p> <p>Eastern Boundary (rear): Habitable windows/balconies are setback minimum 6m to rear boundary.</p> <p>Northern Boundary: Blank wall provided along the northern boundary, therefore this control is not applicable pursuant to C5.3.2.5 (C6).</p>
Part C5.3.3 – Building Design		
Building Entries	Provide accessible entries for all potential use such as the transporting of furniture.	Double entry doors are provided to the residential component of the development to facilitate the transporting of furniture.
	Face habitable rooms towards the street, private open space, communal space, internal driveways etc in order to promote passive social interaction and community safety.	The design includes habitable rooms with windows facing towards the street, private open space, communal space and internal driveways.
Façade Treatment	The development is assessed against the relevant façade treatment controls outlined within Part D1 of CDCP 2012 pursuant to Part C5.3.3.1(C3) of CDCP 2012.	
C5.3.3.2 – Roof Design and Features	This Part of CDCP 2012 relates to rooftop terraces. No rooftop terrace is proposed as part of this application. A podium terrace is proposed within the building footprint, on level 1 of the development. Therefore, the controls outlined within this Part of CDCP 2012 do not apply to the application.	
C5.3.3.3 - Dwelling Layout and Dwelling Mix	Dwelling layout controls applicable to boarding house developments are outlined within the ARH SEPP, which have been considered earlier within this report.	
	Min 10% of apartments to be adaptable or accessible	4 of the 32 boarding rooms proposed (12.5%) are proposed to be

		accessible/adaptable.
C5.3.3.4 - Building services	All letterboxes be installed to meet Australia Post Standards	This can be conditioned.
	Design and provide discretely located mailboxes at the front of the property.	Mailboxes are integrated within the pedestrian entry point.
	Integrate systems, services and utility areas within the design of the whole development.	Air conditioning units are shown on the balconies of each room. All other services can be provided.
C5.3.4.1 - Solar Access and Overshadowing	Section 29 of ARH SEPP comprises solar access provisions to be considered for boarding houses. These controls override the solar access provisions (to proposed development) outlined within CDCP 2012. An assessment against the solar access provisions within the ARH SEPP has been undertaken earlier within this report.	
Solar Access and Overshadowing – Adjoining Development	Development to retain a minimum of 2 hours of sunlight between 9am-3pm on 21 June for existing living areas and 50% of the principal private open space.	<p>Given the orientation and scale of the proposal, the residences impacted by the proposal are located at 124 Duntroon Street and 8 Starkey Street.</p> <p><u>124 Duntroon Street</u> The Applicant has provided amended solar access plans which demonstrate for 124 Duntroon Street, 2 hours of solar access are retained for living spaces and private opens spaces between 1pm and 3pm at midwinter.</p> <p><u>8 Starkey Street</u> The development does not overshadow the property until 3pm and therefore adequate solar access is provided to the principle dwelling. The garage located at the rear of the site is overshadowed, however given this is not habitable space, it does not require further assessment.</p> <p>In terms of solar access to POS, the shadow cast by the proposed development does not impact the property until 2pm. Therefore at least 50% of solar access is maintained from 9am-1pm. The proposal complies with the standards for both properties.</p>
Shading Devices	Windows and openings shall be appropriately located and shaded to reduce summer heat load and maximize sunlight in winter.	Larger windows have been incorporated along the north-western elevation and smaller windows are incorporated along the southern elevation. Appropriate shading devised have been included along the north-western elevation.

Acoustic Privacy	Communal balconies are not to be located directly adjoining bedroom window.	An acoustic report was submitted with the application which states that the proposal is generally acceptable subject to the imposition of conditions.
	Design to address all requirements in 'Development Near Rail Corridors and Bust Roads- Interim Guideline'	An acoustic report was submitted with the application which states that the proposal is generally acceptable subject to the imposition of conditions.
	Screen balconies or windows in living rooms or bedrooms that would face a driveway or basement ramp	This can be conditioned.

### D1 – Business Centres - General

The CDCP 2012 does not comprise specific controls relating to boarding houses. Therefore, the controls outlined within D1 are used as a guide to ensure the design is in keeping with the existing and desired future character of the area. Where appropriate the controls do consider the commercial tenancies within the B2 Local Centre. The relevant controls are as follows

Standard	Requirement	Proposal
D1.2.1 – Minimum Frontage	A minimum frontage of at least 18m shall be provided.	The site has a combined frontage of 33.53m
D1.3.3 – Floor to Ceiling Height	These have been considered as part of the assessment against the relevant floor to ceiling height provisions contained in Part C5.3 of CDCP 2012.	
D1.3.4 – Setbacks	1-3 storeys built to front boundary	1-3 storeys built to front boundary.
	Proposed developments that adjoin residential zone boundaries to the side are to comply with the side setback that is defined by D1.3.4(C4). a) 45° building height plane projected at 6m from the residential zone. b) 1.5m minimum setback from the residential zone boundary, c) Two storey limit on side boundary with residential zone	The setbacks for the side boundary are clearly set out in the cross section. The proposal meets the required side setback controls with 3m side setback at first floor and 6.5m at second floor.
	Proposed developments that adjoin residential zone boundaries to the side are to comply with the rear setback that is defined by D1.3.4(C6).	The development is setback 6m from the residential boundary which complies with the setback requirements.
	Building depth for commercial	The proposal complies with the minimum

D1.3.5 – Building Depth	premises must be a minimum 10m in depth	10m depth
	Max Street frontage wall length of 50m.	The street frontage is 33.53m the proposal therefore complies.
D1.4 – Building Design	Design and orient development to maximise solar access and natural light, without unduly increasing the building's heat load.	The commercial tenancies are orientated to the north-west and therefore is designed to maximise solar access and natural light.
	Locate entries so they relate to existing street and are clearly visible	The design of the commercial tenancies provide for an activated street front. Sliding doors are provided along the street front.
	Provide entries to upper levels from the street front façade to encourage activities on the ground floor.	Separate entry to the residential component on the upper floors is provided along the street front.
	Provide an awning over entry to contribute to legibility and the public domain	Awning provided.
	The façade of the building shall be built to the front street boundary	The main building line is built at the street boundary.
	Cantilevered awning to overhang the footpath a minimum width of 3m	Cantilevered awning overhangs; can be considered by condition.
	Cantilevered awning height to be in the range of 3.2m-4.2m	3.4m-3.6m
	Posted awnings or colonnades will not be supported.	Colonnade design not proposed
	Windows on the street frontage must not be mirrored.	Can be conditioned
	Do not place external solid roller shutters or brick walls on shopfronts	Can be conditioned.
	Security grilles must be discreet.	Can be conditioned
D1.4.3 – Façade Treatment	New building forms and design features shall not mimic traditional features.	The proposed building is of a modern form in keeping with traditional elements. Further, no concerns were raised by Heritage Officer
	Incorporate contrasting elements in facades	The proposed building is of a modern form in keeping with traditional elements. Further, no concerns were raised by Heritage Officer

	Use a harmonious range of high quality materials, finishes and detailing.	The council's heritage officer has considered the materials as generally acceptable, subject to conditions.
	Consideration in the design of commercial premises is to be made for mechanical ventilation required by potential future food shops and restaurants	This matter can be conditioned.
	Refer to existing height datum for new development to existing buildings such as eave and parapet lines, as a guide to aligning the height to levels of adjoining development	The height of the building will result in a development sympathetic to the neighbouring buildings and to a development which will be subservient to the building known as "The Chambers" (30 Floss Street)
D1.4.4 – Roof Design	Roofs must not exceed pitch of 10 degrees	The skillion roof is considered acceptable.
	Relate roof design to the desired built form and context.	Flat roof is in keeping with roof design of buildings located in the B2 zone.

### **Canterbury Development Contributions Plan 2013**

The proposed development attracts a contribution of under the provisions of the Development Contributions Plan 2013 and a condition could be placed on any consent to this end.

The relevant contributions would be as follows:

Community Facilities	\$29,131.45
Open Space and Recreation	\$284,573.96
Plan Administration	\$8,205.99
<b>TOTAL</b>	<b>\$321,911.40</b>

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

There are no relevant planning agreements in relation to the application site.

### **The Regulations [section 4.15(1)(a)(iv)]**

The proposed development is consistent with the relevant provisions of the Environmental Planning and Assessment Regulation 2000.

### **Coastal Zone Management Plans [section 4.15(1)(a)(v)]**

There is no Coastal Zone Management Plan that applies to this site.

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

The key impacts of the development have been discussed throughout this report. Apart from those matters already addressed, the following likely impacts are considered: -

#### National Construction Code

The development application has been reviewed and assessed by the Council's Building Officer who raised no objection to the proposal subject to appropriate conditions being imposed, which include full compliance with the National Construction Code.

#### Proposed Excavation Works

The proposed development involves excavation and construction works near property boundaries and neighbouring properties. Should the application be approved, relevant conditions have been recommended requiring the Applicant to provide a dilapidation report for the adjoining properties, prior to the issue of the Construction Certificate. Should any damage occur, from the proposed excavation works, the applicant would be required to rectify all damages.

#### Sediment and Erosion Control

Standard conditions have been recommended regarding the installation and maintenance of the sediment and erosion control measures as part of the pre- and during construction phase of development.

#### Construction/Excavation Waste

The development will involve excavation of part of the site to accommodate the development. Any excavated material not utilised elsewhere on the property, will require proper disposal and transportation in accordance with the Waste Avoidance and Recovery Act, and the Protection of the Environment Operations Act. A condition can be imposed with this regard.

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

The application has been assessed under Section 4.15 of the Act, and as demonstrated throughout the body of this report, the application seeks variation to a number of planning controls and standards.

The applicant has addressed these matters to the satisfaction of Council.

The proposed development is permissible in the zone subject to consent and the site is suitable for the proposed development.

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

The application was notified, on two occasions, as required under Part A3 in CDCP 2012. In total 474 submissions were received either through unique letter or pro-forma letter. The matters raised have been summarised and commented upon below: -

#### **Height**

The proposal does not breach the maximum height as defined in the Canterbury Local Environmental Plan 2012, which is 14m. However, based on the Local Planning Panel's recommendation of 1 April 2019 and the Council's decision of 30 April 2019, in relation

to the Hurlstone Park Heritage Conservation Areas Review, the proposed development exceeds the 'maximum' building height level of 9m by 100mm. A condition has been recommended to reduce the overall height of the development to comply with the 9m height restriction.

#### **Impact on Heritage Conservation Area and Heritage Items**

Whilst height of the building on the plans exceeds the 9.0 metre height determined as acceptable by Council at its meeting on 30 April 2019, a condition has been recommended to reduce the height of the maximum development of the development to 9m. It is not considered that the proposed height of (9.0m) the development will have a detrimental impact on the Heritage Conservation Area or 'The Chambers' (30 Floss Street). The proposal has also been referred to Council's Heritage Advisor who has not objected to the proposal subject to the imposition of appropriate conditions. Given this, it is not considered that the proposal is out of keeping with the Heritage Area.

#### **Impact on the Character of the Area**

Planning case law indicates that height, setbacks and landscaping area are three of the key considerations in assessing the impact of a proposal on the character of the area. Council has considered these aspects in the consideration of the application and has recommended conditions to remove the exceedance on height. This means that the proposal is not out of keeping with the character of the area and this would not form a reason for a refusal.

#### **Inappropriate Design**

Council has considered the proposed design of the development and has noted that the initial proposal was not in keeping with the character of the area. The Council's Heritage Officer has also considered the application. Conditions have been placed to change the height and materials of the development. Given this, the proposed design of the development is considered appropriate.

#### **Type of Development (Boarding House and Commercial) and Zoning**

The site is currently zoned B2 – Local Centre, this is a commercial zoning and it is anticipated that there will be a mixture of appropriate residential and commercial uses within B2 zones. The Canterbury Local Environmental Plan 2012 sets out the types of development which may be appropriate in different zones across the Canterbury area. Both Boarding Houses and Commercial premises are permissible in the zone and the proposal meets the objectives of the zoning.

Whether the proposed uses are commercially viable is not a material planning consideration.

#### **Access and Parking**

The application was considered by both the Council's Traffic Section and Development Engineer. In terms of car parking spaces, the development shows there is an



appropriate number of spaces for the proposed development in line with State Environmental Planning Policies and the Canterbury Development Control Plan 2012.

However, the Traffic Section has requested that conditions be placed on any consent to overcome issues, including potential conflicts, between access and traffic movement. Given this, Council considers that, subject to conditions being placed on a consent, the application is suitable in terms of access and parking.

### **Traffic Safety**

The application has been considered by the Council's Traffic Section, particularly given the location of the site on a bend and the nature of the development. In order to slow down vehicles navigating the bend, and thereby increasing safety for vehicles exiting the site, the Traffic Section has requested that a speed cushion be installed on the northern approach to the site. This matter could be dealt with by means of an appropriate condition.

### **Waste Collection**

The Council's Traffic Section and Council's Waste Section have both been consulted on the location and amount of waste collection. Both sections have raised matters which can be dealt with by the imposition of appropriate conditions, including location of bin storage, the creation of traffic calming measures and the location and signage on waste areas.

### **Overshadowing and Solar Access**

The applicant has provided shadow diagrams which shows that there will be an impact on the southern neighbouring property resulting in a loss of some solar access. However, solar access will be maintained to the windows of the neighbouring southerly properties to the minimum requirements of 2 hours between 9am and 3pm at midwinter.

The communal room provided within the Boarding House receives three hours of solar access as required by the State Environmental Planning Policy – Affordable Rental Housing 2009.

### **Inconsistent and Incomplete information**

The plans submitted are suitable for the purposes of an assessment under Section 4.15 of the Act.

There are some inconsistencies between the Statement of Environmental Effects and the plans, particularly due to revised and amended plans however this matter can be dealt with by condition to ensure that all relevant plans and information can be submitted and approved by the relevant authorities prior to the commencement of works on site, these include a revised BASIX Certificate, Landscaping Plan, Stormwater Drainage Plans.

**Construction Waste**

Any excavated material not utilised elsewhere on the property, will require proper disposal and transportation in accordance with the Waste Avoidance and Recovery Act, and the Protection of the Environment Operations Act. A condition has been imposed with this regard.

**Fire Safety**

The application has been considered by the Council's Building Surveyors who have assessed the design for fire safety. The Surveyors have raised no objection to the proposal, subject to the imposition of suitable conditions including those to ensure suitable fire safety measures are in place.

**Accessibility and Access**

The application has been considered by the Council's Building Surveyors who have assessed the design against the accessibility standards. The Surveyors have raised no objection to the proposal, subject to the imposition of suitable conditions.

**Loss of Trees / Removal of Trees**

The application has been considered by the Council's Tree Assessment Officer. The location of onsite trees is such that no trees at the front of the site can be retained and also meet the other planning controls, in particular the setback and built form controls related to the commercial zoning. The landscaping measures provided are considered to be satisfactory for the proposed development and will assist in the off-set of the loss of the trees.

**Accommodation Size**

State Environmental Planning Policy (SEPP) – Affordable Rental Housing requires that all boarding rooms have a minimum size, which varies depending on the room being for a single boarder or for two boarders. The room sizes of all the boarding rooms have been assessed by Council. A number of the rooms are undersized. As a result a condition will be placed on the consent limiting these rooms to single boarder rooms.

A common room is provided within the boarding house. The SEPP requires only that a communal living room is provided and that that room receives adequate solar access. This proposal meets these requirements.

**Loss of Privacy**

The design meets the minimum setbacks as required under the Canterbury Development Control Plan 2012. To the south, highlight windows are provided in the boarding rooms which will limit views and maintain some privacy. Whilst windows and balconies are proposed along the western elevation, the proposal meets the setback controls.

**Construction Noise, Dust and Odours**

Conditions of consent can be placed on any consent which limits the hours of operation and ensures effective measures for dust and odour control during construction.

**Noise**

The applicant has provided an Acoustic Report which has been considered by the Council's Environmental Health Officer. The Acoustic Report recommended mitigation measures to address any noise concerns from the nearby rail line and road traffic to the boarding house.

Conditions have been placed on the consent to deal with noise from the proposed car park and boarding house to neighbouring properties.

**Drainage and Water**

The application has been considered by the Council's Development Engineer who has assessed the design for drainage and water. Conditions have been placed on the consent to ensure the drainage design is compliant with the Canterbury Development Control Plan 2012.

**Lack of Local Services to Cater for the Development**

The perceived or actual lack of local services is not a material planning consideration for the assessment of this application.

**Impacts on Existing Mobile Phone Tower**

The applicant has provided information from the telecommunications provider (Telstra) which includes details of Compliance and details of calculated radiofrequency electromagnetic energy and states that the telecommunications provider is satisfied that the tower, located on 30 Floss Street, is designed to comply with the relevant safety standards. The information from Telstra states: 'The safety standard works by limiting the network signal to a level low enough to protect all people, in all environments, 24 hours a day. The safety limit itself has a significant safety margin built into it'. In addition, the proposed development will not impact on the tower.

**Building Services**

The applicant has provided some information as to address concerns in relation to the need for an electricity substation, air conditioning for the boarding rooms and the location of fire hydrants. The acoustic report requires additional forms of ventilation for the shops. This matter has been dealt with by condition.

**Crime Prevention and Safety**

The application has been considered against part B7 of the Canterbury Development Control Plan 2012 which relates to Crime Prevention Through Environmental Design and found to be generally consistent with these provisions.

**Heat/Microclimate**

The proposed development has been assessed against the provisions of the State Environmental Planning Policy 2004 – Building Sustainability Index (BASIX). The proposed development meets the requirements of the SEPP and as such it is not considered that increase in localised heat or impacts on the microclimate are such that it would warrant a reason for refusal.

**Nature and Actions of Potential Boarders**

The potential future occupants, in terms of their nature, their personal habits or their personal affectations are not matters which can be considered in the assessment of this development application.

The proposed boarding house is of a size that a manager is required on site, and conditions have been recommended which would require an adequate plan of management for the boarding house to ensure that disturbance and disruption to neighbouring properties is minimised.

**Litter**

The Council's Waste Service was consulted and raised no objection to the proposal in terms of litter. Residential, commercial and bulky storage is provided within the site and the proposal complies with the provisions of the Canterbury Development Control Plan 2012.

**ICAC Matters**

The investigation into the former Canterbury Council by the Independent Commission Against Corruption is not a valid planning matter in relation to this application.

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

The public interest is served through the consistent and measured application of the relevant plans, policies and standards. The proposal is generally consistent with these policies and, as such, is in the public interest.

However, 474 objections were received in relation to this proposal, including from the Hurlstone Park Association. This high level of public interest must be considered in the assessment of the application. However, determining whether a matter is contrary to the public interest is not solely a product of the number of submissions for or against a particular proposal. The objections raised a number of pertinent points, however most matters can be dealt with by condition, or are matters which do not warrant refusal of the application.

Given this, despite the high number of objections, Council generally considers that the proposal meets the planning controls and should be supported and this would be in 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*, *Canterbury Local Environmental Plan 2012* and *Canterbury Development Control Plan 2012* and the relevant codes, plans and policies. Given the assessment above, it is considered that the development application can be supported.

**RECOMMENDATION**

That the development application DA-264/2018 be **APPROVED** subject to conditions set out in appendix 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. DA-264/2018, accompanied by the Stamped Approved Drawings as listed in the table below, 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	Issue	Dated	Prepared by
B102	Basement	B	14 May 2019	Katris Architects
B103	Ground Level	B	14 May 2019	Katris Architects
B104	Level 1	B	14 May 2019	Katris Architects
B105	Level 2	B	14 May 2019	Katris Architects
B106	Proposed Roof Plan	B	14 May 2019	Katris Architects
B107	East and West Elevations	B	14 May 2019	Katris Architects
B108	North and South Elevations	B	14 May 2019	Katris Architects
B112	Window and Door Schedule	A	14 May 2019	Katris Architects
B115	Materials and Finishes	B	14 May 2019	Katris Architects
101	Basement Stormwater Plan	C	31 May 2017	Lomford Engineers
201	Ground Floor Stormwater Plan	H	11 May 2018	Lomford Engineers
301	Level 1 Stormwater Plan	E	31 May 2017	Lomford Engineers
401	Level 2 Stormwater Plan	C	31 May 2017	Lomford Engineers
501	Roof Stormwater Plan	C-2	5 December 2016	Lomford Engineers
LA-01	Landscape Plan – Ground Floor	A	20 November 2017	Susan Stratton Landscape Architects Pty Ltd
LA-02	Landscape Plan – Level 1	A	20 November 2017	Susan Stratton Landscape Architects Pty Ltd
LA-03	Landscape Details	A	20 November 2017	Susan Stratton Landscape Architects Pty Ltd
	Plan Management for Boarding House			Bruce Threlfo Pagan Pty Ltd
	Noise Impact Assessment	0	11 February 2019	Rodney Stevens Acoustic Consultants

- 3) **The development shall be constructed and operated in a manner that ensures compliance with the definition of 'boarding house' as contained in Canterbury Local Environmental Plan 2012.**
- 4) **The boarding house must be designed, constructed and operated in accordance with:**
  - *Local Government (General) Regulation 2005, Schedule 2, Part 1 Standards for places of shared accommodation;*
  - *Boarding Houses Act 2012; and*
  - *Boarding Houses Regulation 2013.*
- 5) **The boarding house must be registered with NSW Fair Trading within 28 days, where an operator/proprietor takes over an existing, or begins operating a new, registrable boarding house.**

Council will carry out initial inspection within the first twelve (12) months and on-going inspections in accordance with the Boarding Houses Act 2012, subject to payment of inspection fees as detailed in Council's Fees and Charges schedule.

- 6) **The operation of the development must not adversely affect the amenity of the neighbourhood or interfere unreasonably with the comfort or repose of a person who is outside the premises by reason of the emission or discharge of noise, fumes, vapour, odour, steam, soot, ash, dust, waste water, waste products, grit, oil or other harmful products.**
- 7) **Strata subdivision of the boarding house is not permitted.**
- 8) **The proposed development must be constructed and provided to comply with all applicable provisions as outlined in AS1428.1, AS1735.14 and the Disability (Access to Premises – Buildings) Standards 2010.**
- 9) **All service and utility elements such as air conditioning, communal antennas and clothes drying area must be integrated into the design and screened from public view.**
- 10) **The location of hot water systems are to be decided prior to the issuing of a Construction Certificate. The systems are to be integrated within the design of the building and are to be screened from public view. Details of the location of hot water systems are to be presented to the Principal Certifying Authority prior to the issuing of a Construction Certificate.**
- 11) **Intercom, code or card locks or similar must be installed at main entries to the building to control access.**
- 12) **No approval is granted for the siting of any substation on the site. A modification application must be lodged to Council if a substation is required. Any such**

**application must demonstrate how the structure/ facility will be integrated into the design of the building without relying on the front setback area.**

- 13) Any required fire hydrants, boosters and other services must be contained within cabinets using materials and colours from the approved external finishes and shall not impede on the approved landscaped areas.**
- 14) The proposed development must comply with all recommendations the Desktop Geotechnical Investigation report, 116-118 Duntroon Street, Hurlstone Park, NSW 2193 – Report No. WittC-Vasiliades-R-C-REV4, dated 12 July 2019, prepared by Witt Consulting Pty Ltd. Should any matters encountered during the build be inconsistent with the findings and recommendations of the Desktop Geotechnical Investigation report, a revised report must be prepared and submitted to the PCA. All development must be carried out in accordance with the Recommendations of any revised Report.**

#### **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:

- 15) 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.**
- 16) The approved development plans shall be amended as follows and provided to the Principal Certifying Authority prior to the issue of any Construction Certificate:**
  - a) In the interests of sustainable design, and given the amended plans submitted dated 14 May 2019, a revised or updated BASIX Certificate shall be submitted to the which ensures that the revised development design achieves a pass mark for water, thermal comfort and energy and therefore meets the relevant requirements of State Environment Planning Policy 2004 (Building Sustainability Index: BASIX).**
  - b) In the interests of visual amenity and to ensure that the proposed development is in keeping with the heritage nature of the area.**
    - a. Face bricks are to be dry pressed equivalent to Borwal Brown, Gertrudis Brown or Renovated Gertrudis Brown.**
    - b. The words “(or Similar)” shall be removed from each proposed colour and finishing material as shown on Plan B115 – Materials and Finishes.**
    - c. The finishing materials and colours must be as described subject to the changes outlined in this condition.**
    - d. Privacy Screens are to be added to the first floor street facing balconies. These screens are to be a maximum height of 1.8m and taper down to 1.2m to the front of the building.**



- e. Any change to the finishing materials must be submitted to Council for approval by means of a Section 4.55(1A) Modification.
- c) In the interests of residential amenity and to comply with the provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009, given the measured size of the boarding rooms, Rooms 14, 19 and 20 shall be limited to single boarders. In respect to other rooms, occupancies are limited to one occupant per single or two occupants per double rooms as per Plans B104 and B105.
- d) In the interests of visual amenity and to ensure public safety, all finishing materials and construction materials must reduce the opportunity for vandalism.
- e) In the interests of residential amenity and to comply with the provisions of Canterbury Development Control Plan 2012 Part B9.6.1 Control C3, the Residential Waste Storage Room, as identified in Plan B103, must be clearly identified as "Residential Waste and Recycling" on all entrances.
- f) To comply with the provisions of Canterbury Development Control Plan 2012, Part B9.6.1 Control C3, the Commercial Waste Storage Room, as identified on Plan B103, must be clearly identified as "Commercial Waste and Recycling" on all entrances.
- g) To comply with the provisions of Canterbury Development Control Plan 2012, Part B9.6.1 Control C3, the Bulky Storage Room, as identified on Plan B103, must be clearly identified as "Bulky Storage" on all entrances.
- h) To comply with the provisions of Canterbury Development Control Plan 2012, Part B9.6.2 Control C3, all entrances to the Residential Waste Storage Room, the Commercial Waste Storage Room and the Bulky Storage Room and any entrances or doorways between on the journey between the storage room and the Waste Collection Area as identified on Plan B103, must be as a minimum 1.2m in width to ensure ease of transfer.
- i) All waste and bulky storage rooms must be appropriately lit and ventilated to comply with the provisions of Canterbury Development Control Plan 2012, Part B9.6.2 Control C5.
- j) To comply with the provisions of Canterbury Development Control Plan 2012, parts B9.6.2 Control C6, a water supply and drainage area must be provided in each waste and bulky store area to allow for cleaning and washing of bins.
- k) In the interests of residential amenity and to ensure public safety, all mailboxes must be located within the lobby and behind the front door entrance of the boarding house.
- l) In the interests of local amenity and to ensure public safety, to comply with Canterbury Development Control Plan 2012 Part D1.4, the windows on the ground floor facing the street must not be mirrored.
- m) In the interests of local amenity, to ensure public safety and to comply with Canterbury Development Control Plan 2012 Part D1.4, all window shutters and/or security grills must be installed on the interior of the commercial properties and be no more than 50% solid.



- n) In the interests of visual amenity, to ensure appropriate internal amenity and to comply with Canterbury Development Control Plan 2012 Part D1.4 all commercial units must be ventilated for any potential future use as a food shop or restaurant. All potential ventilation must not result in any impacts on any neighbouring residential property and must comply with the provisions of all relevant Australian Standards.
  - o) Any roof based services, including any mobile phone towers or masts, must not be constructed in a means which would be visible from the street.
  - p) To comply with legislative requirements, confirmation from Water NSW regarding any appropriate concurrence or that such concurrence is not required, under the Water Management Act 2000.
  - q) A revised stormwater and drainage engineering plan must be submitted to comply with Canterbury Development Control Plan 2012, Part B5, and to ensure appropriate drainage design.
  - r) A revised basement car parking design which complies with the Australian Standards.
  - s) In the interests of protecting local heritage, the maximum height of the development is not to exceed 9m above natural ground level at any point. Revised plans are required to be submitted to the Private Certifying Authority which show the development below the maximum level. No consent is granted or implied for any part of the development to exceed 9m above Natural Ground Level. For the avoidance of doubt, the minimum floor to ceiling height of residential properties is to be 2.4m to comply with the Building Code of Australia.
  - t) The existing 'No Stopping Zone' along the frontage of the site along Floss Street and Duntroon Street is to be retained and extended (at no cost to Council) to include the whole frontage. This requires the approval of the Council's Local Traffic Committee.
  - u) Once the extended 'No Stopping Zone' has been approved by Local Traffic Committee, 'No Stopping' 'No Stopping – Waste Vehicles Excepted' Zone signs are, the signs are to be installed (at no cost to Council) adjacent to the site and no later than three months prior to occupation of the site.
  - v) To comply with the provisions of Part B7 of the Canterbury Development Control Plan 2012, the building will be clearly identified by street numbering for both commercial premises and the boarding house visible from the street.
  - w) To accord with the provisions of Part D1.4 of the Canterbury Development Control Plan 2012, all awnings must be of a height of between 3.2m and 4.2m above the footpath level with a minimum width of 3m from the building.
  - x) The recommendations of the Noise Impact Assessment (Revision 0, dated 11 February 2019), Prepared by Rodney Stevens Acoustic Consultants, found at 6.2 and 6.3 within that Report, shall be fully complied with.
- 17) Prior to the release of any Construction Certificate, an amended landscape plan must be submitted to Council and certifier to accord with the revised architectural plans dated 14 May 2019, the provisions of Part B2 of Canterbury Development Control Plan 2012 and to address the issues outlined below:

- a) All the tree supply stocks shall comply with the guidance given in the publication *Specifying Trees: a guide to assessment of tree quality* by Ross Clark (NATSPEC, 2003).
  - b) All scheduled plant stock shall be pre-ordered, prior to issue of Construction Certificate or 3 months prior to the commence of landscape construction works, whichever occurs sooner, for the supply to the site on time for installation. Written confirmation of the order shall be provided to Council's Landscape Architect, prior to issue of any Construction Certificate. The order confirmation shall include name, address and contact details of supplier; and expected supply date.
  - c) The landscape plan shall include the provision for the replacement of all boundary fencing. A new 1.8m fence is to be erected along all side and rear boundaries of the subject allotment at full cost to the developer. The colour of the fence is to complement the development and the fence is to be constructed of lapped and capped timber paling, sheet metal or other suitable material. The selection of materials and colours of the fence is to be determined in consultation with the adjoining property owners. Fencing forward of the building line shall be no higher than 1.2m unless otherwise approved by Council.
- 18) **The bin presentation area (entitled Waste Collection on Plan B103) must be constructed of hardstand or concrete and enclosed and not emit any odours or landscaped to a minimum height of 1.2m to the north and south of the area restrict distance views to the area. Details shall be provided to the Principal Certifying Authority prior to the issue of any Construction Certificate which comply with Part B9 of the Canterbury Development Control Plan 2012.**
- 19) An Essential Fire Services Statement shall be submitted to the Principal Certifying Authority with the lodgement of the Construction Certificate for approval.
- 20) A photographic survey must be prepared of all adjoining properties, (12 Duntroon Street, 30-34 Floss Street and 8 Starkey Street) detailing the physical condition of those properties, both internally and externally, including such items as walls, ceilings, roof, structural members and other similar items, shall be submitted to the Principal Certifying Authority and Canterbury Bankstown Council, if Council is not the Principal Certifying Authority, prior to the issue of the relevant Construction Certificate. On completion of the excavation and building works and prior to the occupation of the building, a certificate stating to the effect that no damage has resulted to adjoining premises is to be provided to the Principal Certifying Authority and Canterbury Bankstown Council if Council is not the Principal Certifying Authority. If damage is identified which is considered to require rectification, the damage shall be rectified or a satisfactory agreement for rectification of the damage is to be made with the affected person(s) as soon as possible and prior to the occupation of the development. All costs incurred in achieving compliance with this condition shall be borne by the persons entitled to act on this Consent.

- 21) A dilapidation report prepared by an Accredited Engineer, detailing the structural adequacy of the adjoining properties (12 Duntroon Street, 30-34 Floss Street and 8 Starkey Street) and their ability to withstand any proposed excavation, and any measures required to be incorporated into the work to ensure that no damage will occur during the course of the works, shall be submitted to Council, or the Principal Certifying Authority prior to the issue of a Construction Certificate. All costs to be borne by the applicant.
- 22) 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.
- 23) The Council Approved building 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<sup>TM</sup>.

Please refer to [www.sydneywater.com.au/tapin](http://www.sydneywater.com.au/tapin)

For Sydney Water's Guidelines for building over or next to assets, visit [www.sydneywater.com.au](http://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.

- 24) 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.
- 25) 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.
- 26) This condition has been levied on the development in accordance with Section 7.11 of the Environmental Planning and Assessment Act 1979 and in accordance with Canterbury Development Contributions Plan 2013, after identifying the likelihood that this development will require or increase the demand on public amenities, public services and public facilities in the area.

The amount of the contribution (as at the date of this consent) has been assessed as \$321,911.40. The amount payable is based on the following components:

Contribution Element	Contribution
Community Facilities	\$29,131.45
Open Space and Recreation	\$284,573.96
Plan Administration	\$8,205.99
<b>TOTAL</b>	<b>\$321,911.40</b>

Note: The contributions payable may be adjusted, at the time of payment, to reflect Consumer Price Index increases (All Groups Index) for Sydney as published by the Australian Bureau of Statistics.

The contribution is to be paid to Council in full prior to the release of the Construction Certificate, (or for a development not involving building work, the contribution is to be paid to Council in full before the commencement of the activity on the site) in accordance with the requirements of the Contributions Plan.

The Development Contributions Plan 2013 may be inspected at Council's Campsie Customer Service Centre, 137 Beamish Street, Campsie or from Council's website [www.cbcity.nsw.gov.au](http://www.cbcity.nsw.gov.au). A copy of the Plan may be purchased from Council's Administration Centre, 137 Beamish Street, Campsie during office hours.

- 27) 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.
- 28) For this development, Council requires that the stormwater runoff from within the development site shall be collected and controlled by means of an on-site stormwater detention system, in accordance with Council's Canterbury Development Control Plan 2012 Part B5. The developer shall engage a suitably qualified Engineer to prepare a final stormwater drainage and on site detention system plan to in accordance with the requirements contained in Council's Canterbury Development Control Plan 2012 Part B5. The Engineer shall certify that the design and plans comply with Council's Canterbury Development Control Plan 2012 Part B5 and the relevant Australian Standards.
- 29) **Where Council approved cut or fill exceeds 200mm and stable batter of one vertical to three 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.

- 30) **An all-weather pavement shall be designed to withstand the anticipated wheel loads for all areas subjected to vehicular movements. Internal pavements specification prepared and certified by all qualified professional Civil Engineer to comply with the relevant Australian Standards, shall be submitted to the Principal Certifying Authority (PCA) for approval prior to the issue of a construction certificate.**
- 31) **Prior to the issue of any Construction Certificate for this development, the applicant must obtain approval from Council's Traffic Section for a Site, Pedestrian and Traffic Management Plan (SPTMP). This Plan must address the measures that will be implemented for pedestrian safety and traffic management as specified below.**

A PRIVATE CERTIFIER CANNOT APPROVE YOUR SITE, PEDESTRIAN & TRAFFIC MANAGEMENT PLAN

This plan shall include details of the following:

- a) Proposed ingress and egress points for vehicles to and from the construction site;
- b) Proposed protection of pedestrians, adjacent to the constructions site;
- c) Proposed pedestrian management whilst vehicles are entering/exiting the construction site;
- d) Proposed method of loading and unloading excavation machines, building material, construction materials and waste containers during the construction period;
- e) Proposed traffic control measures such as advanced warning signs, barricades, warning lights, after hours contact numbers etc. are required to be displayed and shall be in accordance with Council's and the NSW Roads and Maritime Services requirements and AS1742.3.
- f) Proposed route for transportation of any bulk and excavation materials to and from the development site.

The route for transportation to and from the development site of bulk and excavation materials shall generally be by the shortest possible route to the nearest "State Road" via "Regional Roads", with every effort to avoid school zones on public roads. Alternate longer routes will only be considered in order to bypass school zones during school zone hours. If school zones cannot be avoided no heavy construction vehicle movements are to arrive or depart the site during signposted school zone periods 8:00am - 9:30am and 2:30pm - 4:00pm on school days.

An Agreement to Council's satisfaction, signed by the applicant/owner specifying the approved route and acknowledging responsibility to pay Council to rectify damages to public property adjacent to the site as a consequence of building works shall be lodged with Council prior to release of any Construction Certificate. Damage will be rectified as required by Council to remove unsafe conditions. All damage must be rectified upon completion of work to the satisfaction of Council.

The approved Site, Pedestrian and Traffic Management Plan is to be implemented prior to the commencement of any works on the construction site.

In addition a RMS Approval / Road Occupancy Licence will be required for works on Regional or State Roads or within 100m of a traffic facility including roundabouts and traffic signals. Refer to Council's Development Engineering Standards for a list of Regional and State Roads.

**32) 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 Heavy Duty Vehicle Footpath Crossing of maximum width of 5.5 metres at the property boundary. The driveway is to be joined with the adjoining neighbouring driveway.
- b) Relocate the power pole to the satisfaction of the energy utility asset owner.
- c) Drainage connection to Council's underground drainage system. The developer must extend the Council drainage system to the satisfaction of the Work Permit Officer. The new kerb inlet / junction pit shall be located to not have impact on the existing street tree, to the satisfaction of the Council tree Preservation Officer.
- d) Removal of all driveway surfaces, reinstatement of laybacks to kerb and gutter and reshaping of the footway, all associated with redundant Vehicle Footpath Crossings.
- e) Repair of any damage to the public road including the footway occurring during development works.
- f) 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.

**33) 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**

34) 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 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.
- 35) 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.
- 36) 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.
- 37) 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.
- 38) A section 73 compliance certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation. Make early application for the certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design.
- Application must be made through an authorised Water Servicing Coordinator. For help either visit [www.sydneywater.com.au](http://www.sydneywater.com.au) > Building and Developing > Developing your Land > Water Servicing Coordinator or telephone 13 20 92.
- 39) 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.
- 40) 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.
- 41) 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.

#### **CONDITIONS TO BE SATISFIED DURING CONSTRUCTION**

- 42) The hours of site works shall be limited to between 7.00am and 5.00pm Monday to Saturdays. No work shall be carried out on Sundays or on public holidays.
- 43) No heavy vehicles associated with demolition, construction or the delivery of materials are to arrive or depart the site during active school zone periods (i.e. from 8.00am – 9.30am and 2.30pm – 4.00pm on school days).
- 44) Appropriate measures should be considered for site access, storage and the operation of the site during all phases of the construction process in a manner which respects adjoining owner's property rights and amenity in the locality, without unreasonable inconvenience to the community.
- 45) The building work must be carried out in accordance with the requirements of the Building Code of Australia.
- 46) 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.
- 47) All Civil and Hydraulic engineering works on site must be carried out in accordance with Council's Canterbury Development Control Plan 2012 Part B5. 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.
- 48) All excavations and backfilling must be executed safely and in accordance with the relevant Australian Standards.
- 49) 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.

50) 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.**

51) All boundary fencing behind the building line shall be replaced by a 1.8m high lapped and capped timber or sheet metal fence, or as determined in consultation with the adjoining property owners at the developer's expense. Fencing forward of the building line shall be no higher than 1.2m unless otherwise approved by Council.

52) The stormwater drainage system shall be constructed in accordance with Council's Canterbury Development Control Plan 2012 Part B5 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.

53) A suitably qualified Professional Civil or Structural Engineer shall be engaged by the developer to carry out inspections relating to construction of internal driveways and parking areas. The work shall be carried out in accordance with the approved plans and specifications and certification from the Civil or Structural Engineer is to be provided upon completion.

54) 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, 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.

55) Works on downstream properties is to be carried out in accordance with the following:

- a) The owners of downstream property shall be given at least seven days notice in writing of intention to commence work within their property, together with particulars of the proposed work.

- b) Where drainage excavation works extend below the level of the base of the footings of buildings the Applicant shall, at his own expense: -
  - I. Preserve and protect such building from damage; and
  - II. If necessary underpin and support such buildings
- c) Restoration of drainage works in the downstream properties shall be to the satisfaction of the owners of the property/these properties.

56) Any excavation works carried out on site should be closely monitored to ensure no signs of potential acid sulfate soil or actual acid sulfate soil are observed. Indicators may include grey to greenish blue clays, unusual gold-yellow mottling or 'rotten egg' odours. If any of these indicators are observed, excavation of the site must be stopped and Council is to be notified immediately. A suitably qualified environmental consultant must be contracted to further assess the site.

57) In the instance works cause the generation of odours or uncovering of unexpected contaminants works are to immediately cease, Council is to be notified and a suitably qualified environmental consultant appointed to further assess the site. The exposed material/excavation is to be evaluated by the supervising environmental consultant and an appropriate response determined in consultation with the applicant, which is agreed to by Council.

Council may also request that a NSW EPA Accredited Site Auditor is involved to assist with the assessment of any unexpected finds, review any contamination information and prepare a Site Audit Report and Site Audit Statement. The applicant must adhere to any additional conditions which may be imposed by the NSW EPA Accredited Site Auditor

58) Any soils to be excavated and disposed of from the site must be analysed and classified by a suitably qualified environmental consultant, in accordance with relevant NSW EPA guidelines including the 'Waste Classification Guidelines' (NSW EPA, 2014) prior to off-site disposal. Any waste material is to be transported to an appropriately licensed waste facility by an EPA licensed waste contractor in accordance with relevant NSW EPA guidelines. Evidence of the waste classification to be provided to the principal certifying authority prior to removal of material from site.

#### **CONDITIONS TO BE SATISFIED PRIOR TO OCCUPATION**

- 59) The occupation or use of the building must not be commenced unless an occupation certificate has been issued for the building.
- 60) 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.

- 61) Five off street car spaces and one bicycle space must be provided at ground level for the commercial uses in accordance with plan B103. 17 off street car spaces, including one managers car space at grade, and a minimum of seven motorcycle spaces and seven bicycle spaces must be provided in the basement in accordance with plan B102. The accessible car parking space is to be provided for people with mobility impairment in accordance with AS 2890.1. All car parking spaces shall be allocated and marked according to these requirements.
- 62) Prior to the issue of an Occupation Certificate, under the Boarding Houses Act 2012, Boarding House proprietors are required to register their boarding house with NSW Fair Trading. Failure to do so is an offence and action may be taken.
- 63) The lots 3, 4 and 5 in DP 6709 must be consolidated. The plan of consolidation being lodged and registered with the Land and Property Information NSW prior to the release of any Occupation Certificate or occupation of the building.
- 64) The applicant must contact Council to confirm Street Addressing prior to the issue of an Occupation Certificate, and supply a schedule of Lots and Addresses. Please contact Council's Customer Services on 9707 9700 (or email [Council@cbc.city.nsw.gov.au](mailto:Council@cbc.city.nsw.gov.au)) to do so.
- 65) Allocation of street numbers will be based on the NSW Address Policy and Rural and Urban Addressing Standard AS/NZS 4819:2011.
- 66) Landscaping is to be installed in accordance with an amended landscape plan as required in Condition 17. All works and methods nominated and materials and plants specified on the approved landscape plan are to be completed prior to the issue of an occupation certificate. The landscaping shall be maintained for the life of the development.
- 67) A suitably qualified Professional Civil Engineer shall certify that the driveways, parking bays, and service areas have been constructed in accordance with the approved plans and specifications. Such Certification shall be submitted prior to the issue of the Occupation Certificate or occupation of the site.
- 68) Lighting must be provided to the entries of the boarding house, driveways and parking areas to promote a high level of safety and security at night and during periods of low light. Lighting provided should be hooded, shielded or directed away from neighbouring dwellings to minimise glare and associated nuisances to residents.
- 69) The Section 73 compliance certificate under the Sydney Water Act 1994 must be submitted to the principal certifying authority before occupation of the development.
- 70) A registered surveyor shall prepare a Work As Executed Plan, and a suitably qualified Hydraulic Engineer shall provide certification of the constructed on-site stormwater detention system.

The Work As Executed information shall be shown in red on a copy of the approved stormwater plan and shall include all information specified in Council's Canterbury Development Control Plan 2012 Part B5. The Work As Executed plan shall be submitted to the Hydraulic Engineer prior to certification of the on-site stormwater detention system.

A copy of the Work As Executed Plan and Hydraulic Engineer's Certification shall be submitted to Council for information prior to issue of the final occupation certificate.

- 71) A Copy of the Work Permit Compliance Certificate shall be submitted to the PCA Prior to the issue of the Occupation Certificate.
- 72) The developer shall register, on the title of the subject property, a Restriction on the Use of Land and Positive Covenant, in accordance with the standard terms for "Registration of OSD on title", as outlined in Council's Canterbury Development Control Plan 2012 Part B5 and in accordance with the appropriate provisions of the Conveyancing Act. Where subdivision is not proposed, the surveyor shall show the location of the "On-Site Stormwater Detention System" on an A4 size site plan attached to the Section 88E Instrument to be registered, on the title of the subject property, prior to the issue of the Final Occupation Certificate. Alternatively, where subdivision is proposed, the developer shall register, on the title of the subject property, a Restriction on the Use of Land and Positive Covenant, in accordance with the standard terms for "Registration of OSD on title", as outlined in Council's Canterbury Development Control Plan 2012 Part B5 and in accordance with the appropriate provisions of the Conveyancing Act. The surveyor shall show the location of the "On-Site Stormwater Detention System" on the plan of subdivision. The developer shall submit evidence of the final registration of the Restriction and Positive Covenant on the title of the property, to Council.

#### USE OF THE SITE

- 73) **The boarding house shall operate and be managed in accordance with the stamped approved Plan of Management prepared by Bruce Threlfo Pagan Pty Ltd at all times, except where amended by any conditions of consent in this notice of determination. The Plan and Management and House Rules shall be amended to ensure consistency with the following and with the conditions of consent:**
- a) **The plan of management shall be amended to include the following details:**
    - a. **List of furnishings/fittings to be provided to each boarding room (with separate lists for single, double rooms set up with a double bed and double rooms set up in a twin bed arrangement);**
    - b. **List the maximum capacity of each room, taking on board the requirements of Condition 16(c);**
    - c. **List of furnishings and fittings to be provided for the common room;**
    - d. **List of furnishings and fittings to be provided in each of the common open space areas;**

- e. **List of cleaning materials to be provided for us by boarders to clean their rooms (e.g. mop, bucket, vacuum, broom and the like);**
  - f. **Identification of the method for allocating use of the parking, bicycle and motorcycle parking spaces;**
  - g. **Identification for the method of allocation or use of accessible rooms.**
- 74) The Plan of Management submitted in support of this application, prepared by Bruce Threlfo Pagan Pty Ltd, and stamped as approved, forms part of the development consent. In the event of any inconsistency, the conditions of this consent will prevail over the Plan of Management.
- 75) The Operator is to monitor the number and nature of complaints/incidents, shall formally register all incidents/complaints received and shall detail the action taken to rectify the problems that have arisen. This information shall be collated into an Incidents/Complaints Register. This Register must be produced upon demand by Council or NSW Police. The Register must contain a direction that all complaints/incidents of a criminal nature are to be reported to the Police immediately.
- 76) The Plan of Management shall be submitted to the Principal Certifying Authority as well as Council's Team Leader Public & Environmental Health and Council's Team Leader Environmental Protection & Compliance prior to the operation of the use.
- 77) **Bins will be emptied as a 'wheel out, wheel back' service from the bin presentation area. The building manager will be responsible for transferring bins from the Residential, Commercial and Bulky Waste storage areas located on the ground floor to the temporary presentation area as shown on Plan B102 for collection and returning them to the permanent storage area once emptied.**
- 78) **This approval is granted for the use of the land for the purposes of a Boarding House comprising a maximum of sixteen (32) boarding rooms comprising of:**
- (a) 17 boarding rooms [and a manager's room] on the first floor; and
  - (b) 15 boarding rooms on the second floor.
- 79) **Each boarding room sleeping no more than one adult lodger and no more than two adult lodgers in rooms with a gross floor area greater than 16m<sup>2</sup> (excluding any area used for the purposes of private kitchen or bathroom facilities). Condition 16(c) details the maximum number of boarders which may occupy certain rooms at any one time. Room 2 must be maintained as the Managers Room to comply with the provisions of State Environmental Planning Policy Affordable Rental Housing 2009.**
- 80) **The communal room shall not be occupied between 10pm and 8am each day.**
- 81) **All lodgers shall enter into a residential tenancy agreement before occupation of any room in the development.**

- 82) All lodgers are to be provided with a copy of the Plan of Management.
- 83) Appropriate security measures, including security doors and CCTV cameras, shall be installed at the main pedestrian and vehicular entrances and exits. All CCTV cameras shall have the capacity to store footage for a minimum of twenty-one days.
- 84) The premises shall be operated so as to avoid unreasonable noise or vibration and cause no interference to adjoining or nearby premises. In the event of Canterbury Bankstown Council receiving complaints and if it is considered by Council that excessive and/or offensive noise is emanating from the premises, the boarding house operator shall arrange for an acoustic investigation to be carried out (by an accredited acoustic consultant) and submit a report to Council detailing the proposed methods for the control of noise emanating from the premises. The measures shall be approved by Council prior to implementation and shall be at full cost to the boarding house operator. Submission of the acoustic report must be within 30 days from the date requested by Council.
- 85) The use of the premises and the operation of plant and equipment must not give rise to the transmission of a vibration nuisance or damage to other premises as defined in the 'Assessing Vibration: A Technical Guideline' (NSW Department of Environment and Conservation, 2006).
- 86) The boarding house operator shall ensure that the operation of the premises complies with the relevant sections of the *Protection of the Environment Operations Act 1997* and the Noise Policy for Industry (2017) and shall not give rise to "offensive noise" as defined under the provisions of the *Protection of the Environment Operations Act 1997*.
- 87) Any lighting of the premises shall be installed in accordance with *Australian Standard AS 4282: Control of the Obtrusive Effects of Outdoor Lighting* so as to avoid annoyance to the occupants of adjoining premises or glare to motorists on nearby roads. The intensity, colour or hours of illumination of the lights shall be varied at Council's discretion if Council considers there to be adverse effects on the amenity of the area.
- 88) Instructions concerning procedures to be adopted in the event of an emergency are to be clearly displayed within the boarding house for lodgers information at all times.
- 89) Signage to be installed at the front of the Boarding House that includes a contact number for the registering of all complaints.
- 90) The Operator of the building must ensure that the forecourt and the surrounds of the building including pavements and gutters are to be kept clean and free of litter at all times.



**SCHEDULE A: ADVICE TO APPLICANTS**

1. 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.
2. 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.
3. 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.
4. This Determination Notice does not constitute permission to begin works associated with the development. A Construction Certificate (where applicable) must be obtained prior to the commencement of any development works.
5. This Determination Notice operates or becomes effective from the endorsed date of Consent.
6. Sections 9.37 and 9.50 of the Environmental Planning and Assessment Act, 1979 confers the authority to direct any person to comply with the terms and conditions of any Consent and any person failing to comply with such a direction shall be guilty of an offence under that Act.
7. This consent will lapse 5 years from the endorsed date of consent unless the use has commenced, or any building works have physically commenced.
8. The applicant or any other person entitled to act on this Consent may apply to modify the Development Consent in accordance with Section 4.55 of the Environmental Planning and Assessment Act, 1979.
9. Failure to comply with a condition contained within this Development Consent may result in a fine or prosecution by Council.
10. If you are dissatisfied with this decision, you may apply for a review of determination pursuant to Division 8.2 of the Environmental Planning and Assessment Act, 1979 or appeal to the Land and Environment Court pursuant to Sections 8.7 and 8.10 of the Environmental Planning and Assessment Act, 1979. Any application for a review of determination pursuant to Division 8.2 must be received, assessed and determined by Council within 6 months after the date of receipt of this Notice.

-END-



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## Canterbury Bankstown Local Planning Panel - 14 October 2019

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<b>ITEM 4</b>	<b>7-11 Queensbury Road, Padstow Heights</b>
	<b>Demolition of existing residence and construction of a new building/wing for use as an extension to the existing aged care facility</b>
<b>FILE</b>	<b>DA-855/2017 – Revesby</b>
<b>ZONING</b>	<b>R2 Low Density Residential RE2 Public Recreation</b>
<b>DATE OF LODGEMENT</b>	<b>14 September 2017</b>
<b>APPLICANT</b>	<b>Martin O’Toole Architects</b>
<b>OWNERS</b>	<b>Christadelphian Homes Limited</b>
<b>ESTIMATED VALUE</b>	<b>\$9,991,080.00</b>
<b>AUTHOR</b>	<b>Samantha Mitchell</b>

### REPORT

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This matter is reported to the Council’s Local Planning Panel in accordance with the Panel’s delegation from the New South Wales Minister for Planning, as the application seeks to vary a development standard by more than 10%. The development standard the applicant seeks to vary relates to the maximum building height control contained in Clause 4.3 of Bankstown Local Environmental Plan 2015. The application proposes a building height of up to 15.6 metres, resulting in a 73% variation to the 9 metre maximum building height development standard.

Development Application No. DA-855/2017 proposes the demolition of the existing dwelling house at No. 7 Queensbury Road and construction of a new building/wing for use as an extension to the existing aged care facility.

DA-855/2017 has been assessed against *State Environmental Planning Policy No. 55 – Remediation of Land*, *State Environmental Planning Policy No. 19 – Bushland in Urban Areas*, *Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment*, *Bankstown Local Environmental Plan 2015* and *Bankstown Development Control Plan 2015* and the application fails to comply with the maximum building height development standard. As detailed in this report, the proposed departure is justified and is considered to be worthy of support.

The application was advertised for a period of 21 days from 27 September 2017 to 17 October 2017. Three submissions were received. The application was subsequently re-notified for a period of 14 days from 5 April 2019 to 19 April 2019. Three additional submissions were received.

The submissions received during the advertising and notification periods raise concerns relating to the setback to the western boundary, visual and acoustic privacy impacts, lighting impacts, security impacts, impact on property values in the locality, environmental impacts associated with the removal of trees, traffic and car parking impacts, landscaping requirements, view loss associated with the location and height of the building, construction hours, evacuation procedures, the density and capacity of the expanding development and use, the at-grade car park area, the location of the garbage enclosure, replacement boundary fencing, and the staging of proposed development relative to approved car park area.

## **POLICY IMPACT**

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This matter has no direct policy implications.

## **FINANCIAL IMPACT**

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This matter has no direct financial implications.

## **RECOMMENDATION**

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

## **ATTACHMENTS**

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

## **DA-855/2017 ASSESSMENT REPORT**

### **SITE & LOCALITY DESCRIPTION**

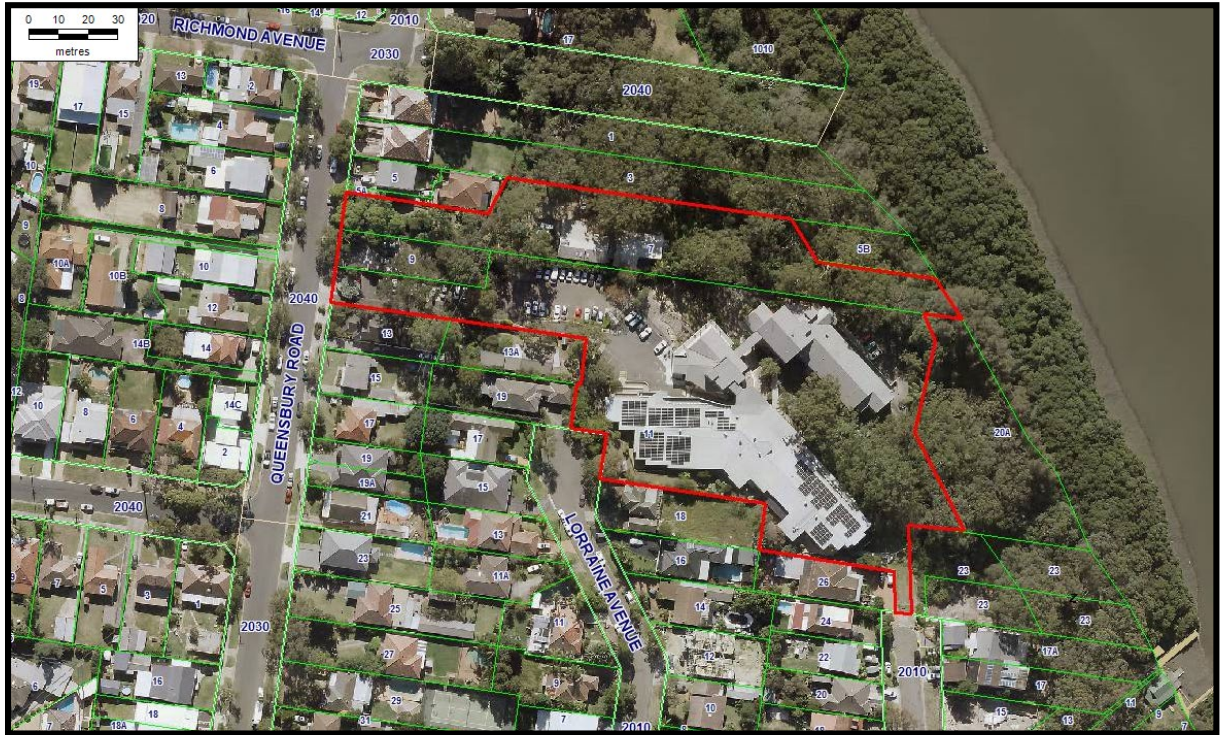
The subject site is legally described as Lot 11 in Deposited Plan 833353, Lot A in Deposited Plan 409706 and Lot 123 in Deposited Plan 818660, however is more commonly referred to as Nos. 7-11 Queensbury Road, Padstow Heights. The majority of the site is zoned R2 Low Density Residential under Bankstown Local Environmental Plan 2015, however the rear portion of Nos. 7 and 11 is zoned RE1 Public Recreation. The site is located on the eastern side of Queensbury Road, approximately 35 metres south of the intersection with Richmond Avenue and approximately 225 metres north of the intersection with Villiers Road.

The site comprises three allotments with a combined frontage of 37.2 metres to Queensbury Road and a maximum depth of approximately 200m. The allotments have a combined site area of 15,102.7m<sup>2</sup>. The site has a fall of 19.5 metres from the western (front) boundary to the eastern (rear) boundary. The site is currently occupied by three buildings/wings ('Riverside', 'Southhaven' & 'Treetops') used for the purposes of seniors housing, associated at-grade car parking areas, driveways and pathways, and a two storey dwelling house (to be demolished). The at-grade car park layout shown on the architectural plans is the layout approved on 12 December 2016 under DA-634/2016, which is yet to be constructed. A Council stormwater drainage easement traverses the front portion of the site from north to south.

The subject site is in a Biodiversity Corridor incorporating a Core Conservation Parcel as detailed in the Bankstown City Council Biodiversity Strategic Plan 2015-2025 and a larger connected biodiversity corridor for the greater Sydney area as highlighted by NSW Government Local Land Services. The existing on-site vegetation in the location of the proposed building comprises one mature *Eucalyptus pilularis* (Blackbutt) tree proposed for removal, and a number of smaller trees and shrubs. There is also a number of trees on the adjoining property at No. 3 Queensbury Road that are in close proximity to the proposed building, including three *Eucalyptus pilularis* (Blackbutt) positioned approximately 2 metres from the northern (side) boundary of the site.

The adjoining sites to the north and south, and the sites on the opposite side of Queensbury Road, predominantly comprise of single and two storey detached dwelling houses. The subject site adjoins land zoned RE1 Public Recreation to the east, adjacent to Salt Pan Creek, that is owned by Canterbury Bankstown Council and the Department of Planning and Environment.

The image below identifies the allotment boundaries of the site, and existing structures on the site and surrounding sites.



*Image 1 – Allotment boundaries*

### **PROPOSED DEVELOPMENT**

The Development Application proposes the demolition of the existing dwelling house at No. 7 Queensbury Road and construction of a new two storey building/wing for use as an extension to the existing aged care facility. The proposed building adjoins the existing 'Southhaven' building that is positioned in between the existing 'Riverside' and 'Treetops' buildings.

The lower floor of the building comprises a lobby, a plant room, a store room, a large caged storage area, water tanks and an at-grade undercover car park containing eleven car parking spaces (including five accessible spaces) and seven bicycle racks.

The upper floor of the building comprises 27 care units, a lobby, a nurses station, a treatment room, a servery, two pan rooms, three store rooms, and a combined dining and lounge room.

The building provides a connection to the existing 'Southhaven' building to the south-east on both levels.

The development application also seeks approval for the construction of two new porticos and the extension of the existing internal pedestrian pathway with an awning providing access to the existing 'Southhaven' building.

## **SECTION 4.15 ASSESSMENT**

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

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

#### **State Environmental Planning Policy No. 55 – Remediation of Land**

The provisions of Clause 7(1) of *State Environmental Planning Policy No. 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 long 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. Accordingly, it is considered that the development application satisfactorily addresses SEPP 55.

#### **State Environmental Planning Policy No. 19 – Bushland in Urban Areas**

Clause 9 of *State Environmental Planning Policy No. 19 – Bushland in Urban Areas* applies to land which adjoins bushland zoned or reserved for public open space purposes. The eastern (rear) part of the subject site is zoned RE1 Public Recreation, and also adjoins land zoned RE1 Public Recreation.

Clause 9(2) states that a public authority shall not grant approval or development consent in relation to land adjoining land zoned or reserved for public open space unless it has taken into account the following:

- (c) *the need to retain any bushland on the land,*
- (d) *the effect of the proposed development on bushland zoned or reserved for public open space purposes and, in particular, on the erosion of soils, the siltation of streams and waterways and the spread of weeds and exotic plants within the bushland, and*
- (e) *any other matters which, in the opinion of the approving or consent authority, are relevant to the protection and preservation of bushland zoned or reserved for public open space purposes.*

The proposed development is located approximately 35 metres from the land zoned RE1 Public Recreation, and achieves a greater setback to that land than the existing development on the subject site (the 'Treetops' and 'Riverside' buildings). Accordingly, the proposed development is not likely to adversely affect the protection and preservation of the existing bushland or land reserved for public open space purposes. It is considered that the development application satisfactorily addresses SEPP 19.

State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004

The applicant has stated that the subject development application does not seek to rely upon *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*. The proposed development is permissible in the R2 Low Density Residential zone under Bankstown Local Environmental Plan 2015.

Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment

The subject site is located within the Georges River Catchment and accordingly GMREP No. 2 applies.

Clause 21 'Development in Vegetated Buffer Areas' is relevant to the assessment of the development application as it is for the purposes of '*development on land within the Catchment that adjoins, and is within 100 metres of, a drainage line, creek, wetland or river foreshore area within the Catchment*'.

An assessment of the proposed development against Clause 21 of GMREP No. 2 is provided in the table below.

Planning control	
Development consent required.	Development consent is sought by the subject development application.
Specific matters for consideration	
Bushfire hazard reduction measures are not to be confined to the vegetated buffer area.	The subject site is not located within a bushfire prone area.
Whether the proposed vegetated buffer will act as a buffer between developed land and environmentally sensitive areas, including adjacent waterways.	The majority of the existing development on site is located within the vegetated buffer area. As such, the vegetated land does not currently act as a buffer between developed land and environmentally sensitive areas.
Whether the following specifications have been satisfied for the proposed vegetated buffer area:	The vegetated buffer area is a width of 100 metres from the edge of the gorge or the top of the banks of Salt Pan Creek. The majority of the existing development on site is located within the vegetated buffer area.



<p>(a) 100 metre minimum buffer width from the edge of the gorge or the top of the banks of the Georges River and its tributaries on currently forested Crown lands and natural bushland classified as community land under the <i>Local Government Act 1993</i>,</p> <p>(b) 40 metre minimum buffer width from the edge of the gorge or the top of the banks of the Georges River and its tributaries on freehold land that has not been previously developed or cleared,</p> <p>(c) 40 metre minimum buffer widths from wetlands identified by the National Parks and Wildlife Service and local council State of the Environment Reports required under the Local Government Act 1993,</p> <p>(d) 40 metre minimum buffer width from other environmentally sensitive areas, including remnant vegetation and steep slopes, identified on maps prepared by and available from the National Parks and Wildlife Service.</p>	
<p>The requirements of the document entitled <i>Planning for Bush Fire Protection</i>, ISBN 0 9751033 2 6, prepared by the NSW Rural Fire Service in co-operation with the Department of Planning, dated December 2006.</p>	<p>As stated above, the subject site is not located within a bushfire prone area.</p>
<p>The requirements of the <i>NSW State Rivers and Estuaries Policy</i> prepared by and available from the Department of Land and Water Conservation and the <i>NSW Wetlands Management Policy</i> prepared by and available from that Department where the development proposal are likely to impact on the quality of water and river flows of the Georges River or its tributaries.</p>	<p>Due to the location of existing development on site and the setback of the proposed development from Salt Pan Creek, the development is not considered likely to impact on the quality of water and river flows of the Georges River or its tributaries.</p>
<p>The need to filter runoff from developed areas to improve water quality within the Georges River and its tributaries.</p>	<p>Runoff from the proposed development is to be captured into a stormwater drainage system that connects to the existing Council stormwater drainage easement that traverses the western side of the site. The stormwater drainage concept plan has been reviewed by Council's Development Engineer and Catchment Management Planner, and is considered to be acceptable.</p>

The need to reduce the loss of riparian vegetation and to remove invasive weed species.	The proposed development does not result in the loss of any riparian vegetation, nor does it require the removal of any invasive weed species.
The need to minimise damage to river banks and channels so as to reduce bank erosion.	Due to the setback from Salt Pan Creek, the proposed development is not likely to result in damage to riverbanks or channels.
The need to increase or maintain terrestrial and aquatic biological diversity and to provide fauna habitat and corridors.	Due to the setback from Salt Pan Creek, the proposed development is not likely to result in any adverse impacts on terrestrial or aquatic biological diversity. Furthermore, while the subject site forms part of a biodiversity corridor, the removal of trees to accommodate the building footprint has been reviewed by Council's Tree Management Planner and is considered to be acceptable subject to replacement planting requirements. This is outlined in further detail below under Part B11 of BDCP 2015.

As outlined in the table above, the proposed development is acceptable with respect to the provisions of GMREP No. 2 and the associated planning control table.

#### Bankstown Local Environmental Plan 2015

The following clauses of the *Bankstown Local Environmental Plan 2015* were taken into consideration:

- Clause 1.2 – Aims of Plan
- Clause 2.1 – Land use zones
- Clause 2.2 – Zoning of land to which Plan applies
- Clause 2.3 – Zone objectives and Land Use Table
- Clause 2.7 – Demolition requires development consent
- Clause 4.3 – Height of buildings
- Clause 4.4 – Floor Space Ratio
- Clause 4.5 – Calculation of floor space ratio and site area
- Clause 4.6 – Exceptions to development standards
- Clause 5.1A – Development on land intended to be acquired for public purposes
- Clause 5.9 – Preservation of trees or vegetation (*repealed for DAs lodged on or after 20/12/17*)
- Clause 6.1 – Acid sulfate soils
- Clause 6.2 – Earthworks
- Clause 6.3 – Flood planning

The following table provides a detailed assessment of the proposal against the above clauses.

Provision/ Standard	Requirement	Proposal	Compliance
<b>Part 1 – Preliminary</b>			



Provision/ Standard	Requirement	Proposal	Compliance
1.2 – Aims of Plan	Development is to satisfy the relevant aims of the Plan.	The proposed development is considered to satisfy the relevant aims of the Plan. In particular, the development manages growth in a manner that recognises the needs of the community; protects and enhances the landform and vegetation (where necessary); provides development opportunities that are compatible with the prevailing suburban character and amenity of the residential area; provides a range of housing opportunities to cater for the changing demographic and population needs; and achieves good urban design in terms of site layouts and building form.	Yes
<b>Part 2 – Permitted or prohibited development</b>			
2.1-2.3 Zoning	The subject site is zoned R2 Low Density Residential and RE1 Public Recreation.	Seniors housing is permitted with consent in the R2 Low Density Residential zone. The proposed development is wholly clear of the RE1 Public Recreation zone to the rear of the site.	Yes
2.7 – Demolition requires development consent	The demolition of a building or work may be carried out only with development consent.	Approval is sought for the demolition of the existing dwelling house at No. 7 Queensbury Road. A demolition plan was included with the architectural plans submitted to Council.	Yes
<b>Part 4 – Principal development standards</b>			
4.3 – Height of buildings	Max. 9 metres	The proposed development is up to 15.6 metres above the existing natural ground level to the topmost point of the building.	<b>No, refer to comments below</b>
4.4 – Floor space ratio	Max. 0.50:1	0.48:1 (i.e. 6,717sqm of GFA)	Yes
4.5 – Calculation of floor space ratio and site area	The following land must be excluded from the site area: (a) land on which the proposed development is prohibited,	For the purposes of calculating site area in the assessment of the development against the floor space ratio control, Council has taken 'site area' to be exclusive of	Yes

Provision/ Standard	Requirement	Proposal	Compliance
	whether under this Plan or any other law.	the portion of the site zoned RE1 Public Recreation in accordance with this clause. The area of the site excluding the RE1 zone equates to 13,931.6m <sup>2</sup> .	
4.6 – Exceptions to development standards	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.	The applicant has provided a submission under Clause 4.6 of BLP 2015 with respect to the contravention to the height of buildings development standard. Further assessment is provided below with respect to this matter.	Yes
<b>Part 5 – Miscellaneous provisions</b>			
5.1A – Development on land intended to be acquired for public purposes	Development consent must not be granted to any development in zone RE1 Public Recreation and marked “local open space” or “regional open space” other than for the purposes of recreation areas.	The eastern (rear) part of the subject site is zoned RE1 Public Recreation adjacent to the Georges River. The proposed development is wholly clear of the portion of the site zoned RE1 Public Recreation.	Yes
5.9 – Preservation of trees or vegetation ( <i>repealed for DAs lodged on or after 20/12/17</i> )	A person must not ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree or other vegetation to which any such development control plan applies without the authority conferred by: (a) development consent, (b) a permit granted by the Council.	The subject application seeks approval to remove all trees and vegetation within the footprint of the proposed development, and to prune trees on the adjoining property at No. 3 Queensbury Road that overhang the boundary. The proposal was reviewed extensively by Council’s Tree Management Officer throughout the assessment of the application, and was determined to be acceptable due to the condition of the impacted trees on site and the proximity of overhanging branches of trees on the adjoining property to the proposed development. These matters are outlined in detail below under Part B11 of BDCP 2015, and conditions of consent are to be imposed to address replacement planting and pruning requirements. The proposed development is therefore considered to satisfy this clause.	Yes, subject to conditions of consent

Provision/ Standard	Requirement	Proposal	Compliance
<b>Part 6 – Local provisions</b>			
6.1 – Acid sulfate soils	<p>An acid sulfate soils management plan is required for any works on Class 1 land.</p> <p>An acid sulfate soils management plan is required for works on Class 5 land within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.</p>	<p>Class 1 acid sulfate soils applies to a small portion of the eastern part of the subject site adjacent to Salt Pan Creek, however the proposed development is wholly clear of this area. There are no works proposed on Class 1 land.</p> <p>Class 5 acid sulfate soils applies to the remainder of the subject site, and the works are located within 500m of adjacent Class 1 land.</p> <p>The proposed development requires excavation to approximately RL 17.8 metres AHD to accommodate the lower floor of the building. The proposed development is not likely to lower the watertable below 1 metre AHD on the adjacent land, however a precautionary condition of consent has been imposed requiring work to cease if acid sulfate soils are encountered during excavation or construction, and for further investigation and evaluation to take place prior to the re-commencement of works.</p>	Yes, subject to condition of consent
6.2 – Earthworks	<p>In deciding whether to grant development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters:</p> <p>(a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,</p> <p>(b) the effect of the development on the likely future use or redevelopment of the land,</p>	<p>The proposed development requires excavation to a maximum depth of approximately 3 metres below the existing natural ground level to accommodate part of the lower floor of the building. The excavation is not likely to result in any unreasonable impacts with respect to the considerations of clause 6.2.</p>	Yes

Provision/ Standard	Requirement	Proposal	Compliance
	<ul style="list-style-type: none"> <li>(c) the quality of the fill or the soil to be excavated, or both,</li> <li>(d) the effect of the development on the existing and likely amenity of adjoining properties,</li> <li>(e) the source of any fill material and the destination of any excavated material,</li> <li>(f) the likelihood of disturbing relics,</li> <li>(g) the proximity to, and potential for adverse impacts on, any waterways, drinking water catchment or environmentally sensitive area,</li> <li>(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</li> </ul>		
6.3 – Flood planning	<p>Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:</p> <ul style="list-style-type: none"> <li>(a) is compatible with the flood hazard of the land, and</li> <li>(b) will not significantly adversely affect flood behavior resulting in detrimental increases in the potential flood affectation of other development or properties, and</li> <li>(c) incorporates appropriate measures to manage risk to life from flood, and</li> <li>(d) will not significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in</li> </ul>	<p>The subject site is affected by low to high risk riverine flooding and medium to high risk stormwater flooding. However, the area of the site where the proposed development is to be accommodated is wholly clear of riverine flooding, and high risk stormwater flooding. The area of the site immediately to the west of the proposed development that contains a Council stormwater drainage easement is affected by medium risk stormwater flooding. The proposed building footprint marginally encroaches on this area, however all habitable floor levels are wholly clear of the flood risk due to the undercover car park area. The subject application was reviewed by Council's Development Engineer and is considered to be</p>	Yes

Provision/ Standard	Requirement	Proposal	Compliance
	the stability of river banks or watercourses, and (e) is not likely to result in unsustainable social and economic costs of the community as a consequence of flooding.	acceptable in this regard. The proposed development is considered to satisfy the provisions of clause 6.3.	

As demonstrated above, the proposal is generally consistent with the aims, objectives and development standards of BLEP 2015. Further discussion is provided below with respect to the contravention to the height of buildings development standard contained in Clause 4.3, and the associated Clause 4.6 submission to seek flexibility in the application of this development standard.

#### Clause 4.3 – Height of Buildings

The proposal complies with the development standards contained in BLEP 2015, with the exception of Clause 4.3(2), which reads as follows:

- (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.*

The Height of Buildings Map contained in BLEP 2015 allows a maximum building height of 9 metres for the subject site. The proposed building is up to 15.6 metres above the existing natural ground level to the topmost point of the building. The building height departure is limited to a single portion of the roof in the north-eastern corner of the building above the upper floor lounge room. The applicant has described the departure as an intentional design feature that aims to capture light and improve the amenity of the lounge area for the residents.

Pursuant to Clause 4.6 of BLEP 2015, the applicant has made a submission seeking a variation to the provisions contained in Clause 4.3 of BLEP 2015. An assessment of the development against Clause 4.6(2), (3) and (4) of BLEP 2015, including an extract from the applicant's submission, is provided below:

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

Clause 4.3(2) prescribes a maximum building height of 9 metres on the subject site. The proposed development is up to 15.6 metres above the existing natural ground level to the topmost point of the building, which reflects a departure of

up to 73%. The area of encroachment into the building height plane applies to 6.9% of the total roof area of the building.

This clause is not expressly excluded from the operation of Clause 4.6.

- (3) ***Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:***

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and***
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.***

An extract from the applicant's submission with respect to this point is provided below:

*"The current development proposal is consistent with the height provisions contained within the LEP and remains consistent with the objectives based on the following:*

- The increase in height is largely limited to the roof design, which is a pitched roof and is visually recessive in its form. In particular the location of the non-compliance is away from public view and obscured from the view of nearby residents; and*
- The overall building height of the vast majority of the building is consistent with the planning control, noting that the site is undulating;*

*As outlined above the proposal remains consistent with the underlying objectives of the control and as such compliance is considered unnecessary or unreasonable in the circumstances. The above discussion demonstrates that there are sufficient environmental planning grounds to justify the minor departure from the control.*

*The unique circumstances of the case that warrant support of the departure are:*

- The departure provides significant amenity to the residents and visitors of the building, through the provision of northerly oriented glazing with views over bushland; and*
- The extent of overshadowing is nullified as it self-shadows the proposed building; and*
- The point of non-compliance is not visible from public places and does not impact upon neighbours.*

*As outlined above the proposal remains consistent with the underlying objectives of the control and as such compliance is considered unnecessary or unreasonable in the circumstances. The above discussion demonstrates that there are sufficient environmental planning grounds to justify the departure from the control."*

The applicant's submission adequately demonstrates that compliance with the development standard is both unreasonable and unnecessary in the circumstances of the case. The intention of the development standard is to regulate the bulk of building envelopes on sites zoned R2 Low Density Residential, and the development is appropriately designed in this regard.

The applicant's submission also adequately demonstrates that there are sufficient environmental planning grounds to justify contravening the development standard. The proposal achieves the intention of the development standard, while also allowing for a building design that results in a greater amenity outcome for the residents of the aged care facility.

**(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 sub-clause (3);**

The applicant's written submission adequately addresses the matters required by sub-clause (3).

**(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;**

The proposed development is in the public interest because it is in keeping with the objectives of Clause 4.3 – Height of Buildings and the R2 Low Density Residential zone of BLEP 2015. The applicant's submission acknowledges that the proposal will provide a facility that is compatible with the residential uses and will not adversely affect the living environment or amenity of the area due to its location and separation from adjoining dwellings and neighbours. The careful siting of the building, along with the architectural merit of the design, ensures that the proposal will make a valuable contribution to the R2 zone.

The development satisfies the objectives relating to compatibility with the character and amenity of the area, maintaining the suburban character by limiting the height of development to a maximum of two storeys, providing appropriate height transitions between development, and providing for the housing needs of the community within a low density residential environment.

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

The concurrence of the Director General is assumed having regard to previous advice received from the Department of Planning and Environment in Circular PS 17-006.

With regard to the above, it is considered appropriate in this instance to support the submission under Clause 4.6 of BLEP 2015 to permit the proposed development.

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

*State Environmental Planning Policy (Coastal Management) 2018* and the *Coastal Management Act 2016* were gazetted on 3 April 2018 during the assessment of the subject application. Clause 21(1) of the SEPP states that the former planning provisions continue to apply (and this Policy does not apply) to a development application lodged, but not finally determined, immediately before the commencement of this Policy. As such, the SEPP is a matter for consideration in the assessment of the proposed development as a draft environmental planning instrument.

The maps accompanying the SEPP identify the subject site as being located within the following coastal management areas:

- Proximity Area for Coastal Wetlands;
- Coastal Environment Area; and
- Coastal Use Area.

There are various considerations under the SEPP that are applicable to the areas outlined above, and these considerations aim to appropriately manage development in the coastal zone and protect the environmental assets of the coast.

Given the draft status of the SEPP at the time the development application was lodged, and due to the location of existing development on the site and the setback of the proposed development from the Georges River, no further assessment is considered to be necessary. The proposed development is not likely to contravene the provisions of this policy.

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

**Part B1 – Residential Development**

Part B1 of *Bankstown Development Control Plan 2015* supplements BLEP 2015 by providing additional objectives and development controls to enhance the liveability and appearance of residential development. The development controls apply to conventional residential land uses, such as dwelling houses, dual occupancies, multi-dwelling housing, residential flat buildings and the like. Part B1 does not contain any specific development controls that apply to seniors housing development in the R2 Low Density Residential zone.



Notwithstanding the above, it is considered that the proposed development has been appropriately designed with respect to the typical objectives and controls that would apply to the assessment of a development in the R2 Low Density Residential zone. The proposed building envelope is of a bulk and scale that is consistent with the existing development on the subject site, and has been designed in a manner that is sympathetic and compatible with the surrounding residential properties and the characteristics of the subject site and locality.

#### Part B4 – Sustainable Development

Part B4 of *Bankstown Development Control Plan 2015* supplements BLEP 2015 by providing additional objectives and development controls for water and energy efficiency. Part B4 applies to building with a classification of Class 5 to Class 9 under the Building Code of Australia.

For new development where the floor area is below 5,000m<sup>2</sup> or an extension to an existing building below 5,000m<sup>2</sup> where the extension involves 50% or more of the existing floor area, Part B4 of BDCP 2015 requires the following requirements:

- W1 – Water efficient fixtures must be installed;
- E1 – Building must be designed to enhance energy efficiency; and
- E2 – Energy efficient hot water systems, air conditioners and lighting must be installed.

Council's standard condition of consent has been imposed with respect to the abovementioned requirements. The proposed development is therefore considered to satisfy Part B4 of BDCP 2015.

#### Part B5 – Parking

Part B5 of *Bankstown Development Control Plan 2015* supplements BLEP 2015 by providing additional objectives and development controls to enhance the function and appearance of off-street parking.

The proposed development has been assessed against the applicable controls contained in Part B5 of BDCP 2015. Part B5 prescribes the following car parking rate for residential care facilities:

- *one parking space for each ten beds in the residential care facility (or one parking space for each 15 beds if the facility provides care only for persons with dementia), and*
- *one parking space for each two persons to be employed in connection with the development and on duty at any one time, and*
- *one parking space suitable for an ambulance.*

A Traffic and Parking Impact Assessment report was submitted with the development application. This report contains an assessment of the car parking demand for the existing and proposed buildings on site with respect to the car parking rate contained in Part B5 of BDCP 2015. It is noted that the rate contained in BDCP 2015 is consistent with the rate contained in *State Environmental Planning Policy (Housing for Seniors of People with a Disability) 2004*.

The following table contains a summary of the existing buildings on site, number of beds / employees and car parking requirements.

	<b>Number of beds / employees</b>	<b>Car parking requirement</b>
'Treetops', 'Riverside' & 'Southhaven' (existing)	86 beds + 55 beds (including 21 dementia beds)	13.4 spaces
	43 employees	21.5 spaces
'Southhaven' extension (proposed)	27 beds (no dementia beds)	2.7 spaces
	6 employees	3 spaces
<b>Total spaces required</b>	<b>40.6 spaces (i.e. 41 spaces)</b>	
<b>Total spaces proposed</b>	<b>59 spaces</b>	

As demonstrated in the table above, the existing and proposed number of beds and employees associated with the aged care facility generates the demand for a total of 41 on-site car parking spaces. The architectural plans demonstrate that the subject site will accommodate a total of 59 on-site car parking spaces, two doctor drop off / pick up spaces, and one ambulance bay. The proposed development therefore complies with the car parking rate contained in Part B5 of BDCP 2015.

It is noted that 37 of the on-site car parking spaces are to be accommodated within a new at-grade car park area approved on 12 December 2016 under DA-634/2016. The construction of the new car park area is yet to commence. While there will be a surplus of 18 on-site car parking space upon the completion of the car park area and the proposed building, it is critical that the site caters for on-site car parking demands at all times throughout the staging of the development. Accordingly, a condition of consent has been imposed requiring an Occupation Certificate for the works approved under DA-634/2016 to be issued prior to the issue of an Occupation Certificate for the works approved under the subject development application.

Council's Development Engineer and Traffic Engineer have reviewed the application and confirmed that the configuration of the undercover car park area of the proposed development, and vehicular access within the site based on the connection to the at-grade car park approved under DA-634/2016, complies with the applicable development controls and Australian Standards.

Based on the above, the proposed development is considered to be acceptable with respect to Part B5 of BDCP 2015.

#### Part B11 – Tree Preservation Order

At the Ordinary Meeting of 28 November 2017, Council adopted amendments to Part B11 of BDCP 2015 that included an update to the tree management provisions to reflect the requirements of *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017*. It is noted that the SEPP replaced Clause 5.9 of BLEP 2015.

Despite this, the amendments to Part B11 came into effect on 20 December 2017 and apply to development applications lodged on or after this date. As such, the former version of Part B11 of BDCP 2015 applies to the assessment of the subject application.

The objectives of Part B11 of BDCP 2015 are to maintain amenity through the preservation of trees, and to have the removal or pruning of trees carried out in accordance with the DCP.

Clause 2.4(a), Part B11 of BDCP 2015 reads as follows:

*Council must consider (but not be limited to) the following matters when determining an application under Part B11 of this DCP:*

- (a) the existing and likely future amenity of the area by considering if the tree is:*
  - (i) significant as a single specimen than as part of a group of trees;*
  - (ii) of historic or cultural significance;*
  - (iii) registered on Council's register of significant trees;*
  - (iv) prominent due to its height, size, position, or age;*
  - (v) endemic, rare, or endangered;*
  - (vi) provides a significant visual screen;*
  - (vii) part of an important wildlife habitat;*

Council's Tree Management Officer has reviewed the proposed development with respect to its impact on trees on the subject site and trees on the adjoining property at No. 3 Queensbury Road.

Council's Tree Management Officer initially did not support the removal of the *Eucalyptus pilularis* (Blackbutt) to the north of the existing dwelling house at No. 7 Queensbury Road and the pruning of the three *Eucalyptus pilularis* (Blackbutt) on the adjoining property at No. 3 Queensbury Road for the following reasons:

- The site is in a Biodiversity Corridor incorporating a Core Conservation Parcel as detailed in the Bankstown City Council Biodiversity Strategic Plan 2015-2025 and a larger connected biodiversity corridor for the greater Sydney area as highlighted by SNW Government LLS (Local Land Services).
- The trees in question are mapped as Sydney Hinterland Apple-Blackbutt Gully Forest (S\_DSF17) in the Native Vegetation of the Sydney Metropolitan Area Map (OEH, 2016).

- The *Eucalyptus pilularis* (Blackbutt) on the subject site is a bushland tree that has been left to grow like that for many years. The tree is classed as an A2 Tree under TreeAZ and the tree has a form that will be viable for at least another 20 years under SULE.

However, following the Applicant's submission of an Arborist Report examining the condition of the *Eucalyptus Pilularis* (Blackbutt) on the subject site, Council's Tree Management Officer determined the following:

- The tree exhibits a shallow root system, with visible roots extending for a few metres before entering cracks in the rock.
- There are concerns with the long term environmental impacts that the proposed development may have on the stability of the tree in this location.
- The viable retention of the tree in the long term is unlikely.
- Conditions of consent can be imposed requiring replacement trees in excess of Council's 3 to 1 policy. A replacement planting increase of 6 to 1 is justified in this instance to offset the canopy loss, effects on micro and macro fauna, heat reflection and the general amenity.

With respect to the requirement to prune three *Eucalyptus Pilularis* (Blackbutt) on the adjoining property at No. 3 Queensbury Road, Council's Tree Management Officer determined the following:

- The pruning is required to reduce the branches overhanging the site and to allow for appropriate building clearance from the proposed development.
- While the applicant has indicated that they do not believe approval is required as the pruning to the trees is for the removal of branches below 150mm in diameter and does not constitute 10% of the canopy, Council is unable to provide consent for the pruning of trees on an adjoining property without the consent of the owner, and it is prudent to provide an additional level of protection in the form of conditions requiring the consent of the adjacent property owner for any pruning, and for monitoring of the trees throughout the construction process.

Council's Tree Management Officer raised no objection to the removal of any other trees or vegetation on the subject site within the footprint of the proposed development. Similarly, Council's Tree Management Officer noted that the proposed development is not likely to impact the root system of trees on the adjoining property at No. 3 Queensbury Road as a large portion of the building is supported on piers with a void between the finished floor level and the existing natural ground level, which will be sufficient to retain and protect trees on the adjoining site.

Based on the above, the proposed development is considered to be acceptable with respect to Part B11 of BDCP 2015, subject to the conditions of consent described above.

### Part B12 – Flood Risk Management

Part B12 of *Bankstown Development Control Plan 2015* supplements BLEP 2015 by providing additional objectives and development controls to manage the development of flood liable land.

The subject site is located within the Georges River Catchment (Salt Pan Creek) and is consequently subject to low, medium and high risk riverine flooding. The site is also subject to medium and high risk stormwater flooding. The proposed development is located wholly clear of all riverine flooding, and is also wholly clear of high risk stormwater flooding.

Part B12 of BDCP 2015 contains criteria for determining applications, which includes specific controls for certain land use categories within each flood risk precinct. The proposed development incorporates two separate land use categories, being 'critical uses and facilities' (nursing homes) and 'sensitive uses and facilities' (seniors housing). Schedule 5, Part B12 of BDCP 2015 relates to catchments affected by stormwater flooding, and identifies 'critical uses and facilities' and 'sensitive uses and facilities' as a 'potentially unsuitable land use' in a medium risk stormwater flood precinct.

With respect to the suitability of the land use, the proposed development relates to an existing residential aged care facility therefore the land use currently exists on the subject site. Furthermore, the medium risk stormwater flooding within proximity of the proposed development is associated with the Council stormwater drainage easement that traverses the western side of the site. The proposed building footprint marginally encroaches on this area, however all habitable floor levels are clear of the flood risk due to the undercover car park area.

The application was reviewed by Council's Development Engineer and is considered to be acceptable in this regard. The application was also reviewed by Council's Catchment Management Planner, who raised no objection to the proposed development.

Based on the above, the proposed development is considered to be acceptable with respect to Part B12 of BDCP 2015.

### Part B13 – Waste Management and Minimisation

Part B13 of *Bankstown Development Control Plan 2015* supplements BLEP 2015 by providing additional objectives and development controls to ensure the design and operation of waste management systems are consistent with Council's commitment to building and creating a sustainable city.

The proposed development has been assessed against the applicable controls contained in Part B13 of *Bankstown Development Control Plan 2015*.

A Waste Management Plan prepared in accordance with the Waste Management Guide for New Development and the Bankstown Demolition and Construction Guidelines was submitted with the development application.

The subject site contains an established aged care facility. The facility has an existing waste contractor that manages waste collection on site. The existing waste collection arrangements are considered to be capable of catering for the increased waste generation associated with the proposed development. A garbage enclosure was approved under DA-634/2016 in the north-western corner of the at-grade car park area. The proposed development also contains a number of store rooms that are capable of functioning as temporary waste storage areas, if required.

Based on the above, the proposed development is considered to be acceptable with respect to Part B13 of BDCP 2015.

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

A planning agreement has not been entered into under section 7.4 of the *Environmental Planning & Assessment Act 1979*, nor has the applicant offered to enter into a draft planning agreement.

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

The development is consistent with the provisions contained in the *Environmental Planning and Assessment Regulation 2000*.

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

The proposed development is not likely to result in any significant adverse environmental, social or economic impacts on the locality. As detailed in this report, where non-compliances with the relevant development standards or controls occur, these are sufficiently justified. As such, it is considered that the impact of the proposed development on the locality is acceptable.

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

The site is considered suitable for the proposed development. The development results in an appropriate built form for the site, which is consistent with the existing and desired future character of the locality as reflected in Bankstown Local Environmental Plan 2015 and Bankstown Development Control Plan 2015.

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

The application was advertised for a period of 21 days from 27 September 2017 to 17 October 2017. Three submissions were received. The application was subsequently re-notified for a period of 14 days from 5 April 2019 to 19 April 2019. Three additional submissions were received.

The submissions received during the advertising and notification periods raise concerns relating to the setback to the western boundary, visual and acoustic privacy impacts, lighting impacts, security impacts, impact on property values in the locality, environmental impacts associated with the removal of trees, traffic and car parking impacts, landscaping requirements, view loss associated with the location and height of the building, construction hours, evacuation procedures, the density and capacity of the expanding development and use, the at-grade car park area, the location of the garbage enclosure, replacement boundary fencing, and the staging of proposed development relative to approved car park area. The concerns are addressed below.

*Setback to adjacent residential properties to the west*

The proposed development is setback a minimum of 5.5 metres from the western boundary. This results in a separation of approximately 7.3 metres between the proposed development and the rear patio of the residential dwelling house at No. 5A Queensbury Road. The proposed development has a maximum wall height of approximately 6.2 metres and a maximum building height of approximately 7.0 metres at the point at which it is immediately adjacent to the rear boundary of No. 5A Queensbury Road. As such, the bulk and scale of the western wing of the proposed development, as viewed from No. 5A Queensbury Road, is not dissimilar to a typical building envelope of a low density residential development.

As stated previously in this report, Part B1 of BDCP 2015 does not contain any specific development controls that apply to seniors housing developments in the R2 Low Density Residential zone. However, with consideration given to the setback controls that apply to residential developments that are permissible in the zone (such as multi-dwelling housing and boarding houses), the proposed development achieves a greater setback to the western boundary than the controls that apply to those forms of development.

The proposed development does not result in any adverse overshadowing impacts on the living areas or private open space of the adjacent residential properties, and visual and acoustic privacy impacts have been appropriately addressed (as discussed in further detail below).

The proposed development is therefore considered to be acceptable with respect to the setback to the western boundary.

*Visual privacy impacts on adjacent residential properties*

The architectural plans were amended throughout the assessment process to address visual privacy impacts. The windows on the western elevation of Rooms 25 and 27 will be fitted with external sunshades to restrict views towards the adjacent residential properties. The window on the western elevation of the small sitting room was deleted. The windows on the southern elevation of the development orientate within the subject site and are positioned at ground level. All other windows on the northern elevation of the building orientate towards dense vegetation and Salt Pan Creek. The



proposed development is therefore considered to be acceptable with respect to visual privacy impacts.

*Acoustic privacy impacts on adjacent residential properties*

Concerns were raised in the public submissions with respect to the acoustic impacts associated with vehicle movements, hours of operation, deliveries, waste collection, and additional staff and visitors.

The subject site contains an existing aged care facility. The proposed development is for the purposes of a new building containing an additional 27 rooms managed by an additional six employees. While the proposed development results in an intensification of the existing use, the intensification is not considered to be significant or unreasonable relative to the scale of the existing use. The proposed development does not seek approval for any changes to the operational aspects of the existing facility in terms of hours, deliveries or waste collection.

The applicant submitted an Acoustic Report during the assessment of the application, which had specific regard to acoustic impacts associated with the hours of operation, noise from on-site services, noise from on-site traffic, noise from plant equipment, and noise from waste disposal. Based on the findings and recommendations of the Acoustic Report, the proposed development is considered to be acceptable subject to conditions of consent relating to the management of vehicle movements along the northern boundary during night time periods and mitigation measures for roof-mounted mechanical plant equipment during night-time periods.

The proposed development is therefore considered to be acceptable with respect to acoustic privacy impacts on the adjacent residential properties.

*Lighting impacts on adjacent residential properties*

The applicant submitted a lighting layout plan showing the location and spread of the proposed external lighting. The applicant has advised that the lights are localised lights facing down, and that no broad flood lights are proposed. Furthermore, the applicant has advised that the internal lighting within the proposed development will be of a residential nature and all bedrooms will be fitted with blinds that will be shut at night time.

Any light pollution associated with traffic movements in and out of the undercover car park area and driveway will not be constant in terms of impact. Furthermore, as stated above, the Acoustic Report recommended that vehicle movements to the undercover car park area be managed between 10pm and 6am, and that employees park in the visitor's car park area during these hours. This will minimise headlight glare on the residential properties immediately to the west of the proposed development.

*Security impacts on adjacent residential properties*



The proposed development is not likely to result in an increase in security impacts on adjacent residential properties. The development is for the purposes of an extension to the existing aged care facility, and the development is to operate in a manner that is consistent with the operations of the existing facility.

*Impact on property values in the locality*

There is no evidence to suggest that the proposed development will result in a direct impact on property values in the locality.

*Environmental impacts associated with the removal of trees*

The removal of trees has been discussed in detail throughout this report. The application was assessed by Council's Tree Management Officer and is considered to be satisfactory subject to conditions of consent relating to tree removal, tree protection and replacement planting requirements. The proposed development is not considered to result in any adverse environmental impacts.

*Traffic and car parking impacts associated with intensification of the use*

The subject application seeks approval for an additional 27 rooms and 6 employees. This generates the demand for an additional 6 on-site car parking spaces in accordance with Part B5 of BDCP 2015. The proposed undercover car park area, and the previously approved at-grade car park area, caters for the additional car parking demand, and in fact results in a surplus of 18 on-site car parking spaces. The proposed development is therefore not likely to result in adverse impacts on street parking in Queensbury Road or the surrounding locality.

The proposed development is an extension to an existing aged care facility, and is to operate in a manner that is consistent with the existing facility. The subject application was reviewed by Council's Development Engineer and Traffic Engineer in relation to the configuration of the proposed undercover car park area, how this connects to the previously approved at-grade car park area, compliance with Australian Standards, and potential traffic impacts. No concerns were identified with respect to these matters, subject to conditions of consent.

The increase in traffic movements will be minor relative to the existing use of the site and the existing car park areas approved on the site. The intensification of the use is therefore considered to be acceptable with respect to potential traffic and car parking impacts.

*Landscaping requirements*

The site plan includes buffer/screen landscaping along the northern and western elevations of the building. The applicant has advised that this landscaping will comprise of native species (e.g. Lilly-Pilly, Paperbark, Banksia and Bottlebrush) known to attain a height of 2.5-3 metres at maturity. This will assist in providing a visual and

acoustic barrier between the proposed development and the adjacent residential properties, while also addressing the visual impact of the building by softening the façade. A condition of consent has been imposed to require the landscape plan to reflect this requirement prior to the issue of a Construction Certificate.

Furthermore, the proposed development has been reviewed by Council's Tree Management Officer and is considered to be acceptable subject to conditions of consent. This includes the requirement for six replacement trees to be planted to offset the loss of the mature *Eucalyptus Pilularis* (Blackbutt) that falls within the building footprint.

*View loss associated with location and height of building*

The proposed development is not considered to result in any unreasonable impact on views and vistas for the surrounding residential properties.

The site slopes towards Salt Pan Creek to the east. The proposed development resembles a single storey building when viewed from the southern elevation, and a two storey building when viewed from the western elevation, due to the excavation proposed to accommodate the lower floor of the building.

The ridge of the eastern and western wings of the proposed development (RL 27.50) sits below the ridge of the adjacent 'Treetops' building (RL 28.96) and 'Southhaven' building (RL 28.55) to the south. Furthermore, the ridge of the eastern and western wings of the proposed development is only marginally higher than the ridge of the existing dwelling house (RL 25.87) that is to be demolished to accommodate the proposed development.

The ridge of the north-eastern corner of the proposed development (RL 30.10) that sits above the upper floor lounge room is limited to a single point only and is therefore not considered to adversely impact the views and vistas of surrounding residential properties.

It is also noted that the proposed development will not be particularly visible from Salt Pan Creek due to the location of the existing 'Riverside' building and tree canopy to the east. As such, the proposed development is not likely to result in any unreasonable loss of views from the river or to impact the appearance of the vegetated buffer at the rear of the site as viewed from the river.

*Construction hours and associated noise / vehicle movements*

Council's standard condition of consent is recommended with respect to hours of site works, which are limited to between 7.00am and 6.00pm on weekdays and 7.00am and 1.00pm on Saturdays, with no work permitted on Sundays and public holidays and weekends adjacent to public holidays. While it is expected that there will be noise and vehicle movements associated with the demolition, excavation and construction process, these impacts are manageable and will be temporary only.

*Evacuation procedures*

The aged care facility has an Emergency Evacuation Plan in place for the existing buildings on the subject site. The applicant has confirmed that residents and employees accommodated within the proposed building will be discharged from the upper and lower floors to the south of the building in the location of the car park area where existing assembly points are located. It is recommended that a condition of consent be imposed requiring an Emergency Evacuation Plan for the proposed building, in conjunction with the evacuation procedures for the existing aged care facility, to be prepared by a suitably qualified professional and submitted to the PCA prior to the issue of an Occupation Certificate.

*Density and capacity of expanding development and use*

Seniors housing is a permissible form of development on the subject site. An increase in the density and capacity of the existing aged care facility is acceptable in this instance as the development remains generally consistent with the applicable development standards and controls, and does not result in any unreasonable adverse impacts on the surrounding properties or the broader locality. Potential issues associated with the additional aged care facility building, such as acoustic and visual privacy impacts, traffic and parking impacts, and bulk and scale, were examined throughout the assessment of the development application and have been detailed throughout this report. The density and capacity that results from the extension to the existing aged care facility is considered to be satisfactory.

*Concerns regarding layout of at-grade car park area and proximity to residential properties to south*

The at-grade car park layout shown on the architectural plans was previously approved under DA-634/2016. This car park area is yet to be constructed. The subject development application does not seek approval for any changes to the approved car park area, therefore this matter is not relevant to the assessment.

*Location of garbage enclosure*

The location of the garbage enclosure to the north of the approved car park area was previously approved under DA-634/2016. The subject development application does not seek approval for any changes to the approved location of the garbage enclosure, therefore this matter is not relevant to the assessment.

*Replacement of boundary fencing required by previous approval for car park area*

The replacement of the boundary fencing shared with the adjoining properties at Nos. 5A, 13 and 13A was a condition of consent for DA-634/2016. The construction works approved under that development consent are yet to commence, therefore the boundary fencing is not required to be replaced at this stage. This matter is not relevant to the assessment of the subject development application.

*Staging of proposed development relative to approved car park area*

Council has imposed a condition of consent requiring an Occupation Certificate for the civil car park works approved under DA-634/2016 to be issued prior to the issue of an Occupation Certificate for works approved under the subject development application.

As outlined above, the proposed development is considered to be acceptable with respect to the concerns raised in the public submissions.

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

The proposed development would not contravene the public interest. The public interest is best served by the consistent application of the requirements of the relevant environmental planning instruments and by ensuring that any adverse impacts on the surrounding area and the environment are avoided. As the report has demonstrated, the development appropriately responds to the provisions and development standards of all applicable environmental planning instruments, in addition to the development controls contained in Bankstown Development Control Plan 2015. The matters raised in the public submissions have been satisfactorily addressed, and there is not likely to be any unreasonable impacts on the locality.

**CONCLUSION**

The development application has been assessed against the matters for consideration contained in Section 4.15 of the EP&A Act 1979 requiring, amongst other things, an assessment against the provisions contained in *State Environmental Planning Policy No. 55 – Remediation of Land*, *State Environmental Planning Policy No. 19 – Bushland in Urban Areas*, *Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment*, *Bankstown Local Environmental Plan 2015* and *Bankstown Development Control Plan 2015*.

The proposed development results in an appropriate built form that is consistent with the existing and likely future character of the site and the locality. The applicable development standards and controls have been satisfactorily addressed and no significant or unresolved matters have been raised in the public submissions. Approval of the development application would facilitate the provision of additional seniors housing on the subject site, which already contains an established aged care facility, without any unacceptable or unreasonable impacts on the surrounding properties or broader locality.

**RECOMMENDATION**

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

## 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. DA-855/2017, submitted by Martin O'Toole Architects, accompanied by the Drawings as listed in the table below, dated 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	Issue	Dated	Prepared by
A01	Proposed Site Plan	G	07/19	Martin O'Toole Architects
A03	Parking & Demolition Plans	D	07/19	Martin O'Toole Architects
A04	Part Site Plan & Roof Plan	D	03/19	Martin O'Toole Architects
A05	Ground Floor Plan & Elevation	F	07/19	Martin O'Toole Architects
A06	Lower Floor, Sections & Elevations	G	03/19	Martin O'Toole Architects
A08	Lighting Layout Plan	C	07/19	Martin O'Toole Architects

- 3) The area identified as 'cage storage & water tanks', as marked in red by Council, on the lower floor plan (Drawing No. A06, Issue G, dated 03/10) is approved as an open area only and shall not be enclosed by walls, windows or similar obstructions. The area shall not be altered in any way that would meet the definition of 'gross floor area' in Bankstown Local Environmental Plan 2015. The area shall remain unenclosed for the life of the development, unless further approval is obtained from Council.
- 4) A separate application shall be submitted to Council prior to the erection of any signage unless the proposed signage is "exempt development" in accordance with the applicable legislation.
- 5) The acoustic report submitted in support of this application prepared by GUZ BOX design + audio, titled '*Environmental Noise Assessment For Proposed Residential Aged Care Facility, 11 Queensbury Road, Padstow Heights NSW*', dated 18 April 2018 and the recommended acoustic treatments stated within the report, forms part of the development consent. The report shall be amended to reflect the approved architectural plans.

## 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:*

- 6) 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.
- 7) A detailed landscape plan prepared by a qualified landscape architect or designer is to be approved prior to the issue of a Construction Certificate. The landscape plan is to be prepared in accordance with the relevant DCP and is to show all features, built structures including retaining walls, irrigation, mulch and natural features such as significant gardens, landscaping, trees, natural drainage lines and rock outcrops that occur within 3 metres of the site boundary. The landscape plan shall consider any stormwater, hydraulic or overland flow design issues where relevant.

The landscape plan shall include details of dense buffer/screen landscaping comprising native species (e.g. Lilly-Pilli, Paperbark, Banksia and Bottlebrush) known to attain a height of 2.5-3 metres at maturity adjacent to the western and northern elevations of the development, as detailed on the approved site plan.

The landscape plan shall also include details of the following replacement planting requirements:

- 6 x replacement trees known to attain a minimum height of 15 metres at maturity within the property of 7-11 Queensbury Road, Padstow Heights;
- A minimum of one replacement tree shall be a *Eucalyptus Pilularis* (Blackbutt) with a container size not less than 400 litres shall comply with NATSPEC Specifying Trees: a guide to assessment of tree quality (2003) or Australian Standard AS 2303 – 2015 Tree stock for landscape use;
- Other tree species used shall be locally occurring indigenous tree species selected from the Sydney Hinterland Apple-Blackbutt Gully Forest - S\_DSF17 (OEH, 2016);
- The other trees shall have a container size not less than 100 litres, shall comply with NATSPEC Specifying Trees: a guide to assessment of tree quality (2003) or Australian Standard AS 2303 – 2015 Tree stock for landscape use
- The trees shall be planted no closer than 3.5metres from the wall of any approved dwelling on the property.
- The trees shall be planted so that future growth is not in conflict with overhead electricity wires.
- The trees shall be maintained for the life of the development.

**NOTE:** *The abovementioned replacement planting requirements are in addition to any other planting required under any previous development consents.*

- 8) 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.

9) Trees on adjoining properties: Protection Measures

The following tree protection measures are to be complied with to protect the three *Eucalyptus Pilularis* (Blackbutt) located on the adjoining property at 3 Queensbury Road, Padstow Heights along the adjoining boundary line:

- A qualified arborist - minimum Australian Qualification Framework (AQF) Level 5 Diploma of Horticulture (Arboriculture) and/or equivalent experience - shall be retained and regularly consulted throughout all demolition, clearing and construction work to ensure protection of the trees on the adjoining site and compliance of all work with Australian Standard AS4373-2007 Pruning of amenity trees and Australian Standard AS4970-2009 Protection of trees on development sites.
- The site arborist shall determine appropriate tree protections to these trees in accordance with Australian Standard AS4970-2009 Protection of trees on development sites as required, document those protections, and certify those protections are complied with during works.
- The applicant shall seek the written consent of the owner(s) of the 3 Queensbury Road, Padstow Heights for the proposed pruning of the three *Eucalyptus Pilularis* (Blackbutt) to remove the lowest branch on the southern side of each tree for the provision of building clearance. The owner's written consent shall be in the form of a Tree Management Order Application to Council.
- The trees are not to be pruned in anyway without a completed Tree Management Order Application being made to Council and that application being subsequently approved.

10) Tree Preservation Conflicts

If any trees to be retained and protected are threatened by demolition, building or other site works through accidental omission or unforeseen circumstances, the approving authority is to be notified immediately in writing before such work is continued so that this issue can be resolved.

11) Tree Removal: On-Site

Approval is granted for the removal of the following trees:

- Any tree/s where the base of the trunk of the tree is located within 3 metres of the external wall of an approved dwelling;



- Any declared noxious plant. The applicant, builder and all contractors are to ensure that all noxious plants are properly identified, controlled and/or removed on this site without injury or death of any protected plants;
- Any tree species listed under clause 2.4 of Bankstown Development Control Plan 2015 Part B11 – Tree Management Order
- Any of the following tree/s:

Tree Species	Location
1x <i>Eucalyptus Pilularis</i> (Blackbutt)	North of the dwelling at 7 Queensbury Road, Padstow Heights, Listed as Tree 1 in the Arborist report by Peter Richards Dated 17/5/17.

All tree removal works must comply with the Amenity Tree Industry – Code of Practice, 1998 (Workcover, NSW) and Guide to Managing Risks of Tree Trimming and Removal Work (Safe Work Australia 2016).

All other vegetation not specifically identified above, and protected by Councils Tree Management Order, is to be retained and protected from construction damage and pruning. The Tree Management Order protects trees over 5m in height.

- 12) A soil erosion and sediment control plan must be prepared by a suitably qualified professional, in accordance with Council's Demolition and Construction Guidelines and Council's Development Engineering Standards, and submitted to the certifying authority for approval prior to the issue of a construction certificate.
- 13) 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](http://www.sydneywater.com.au/tapin)

For Sydney Water's Guidelines for building over or next to assets, visit [www.sydneywater.com.au](http://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.

- 14) All of the relevant and appropriate water conservation and energy efficiency requirements of Bankstown DCP 2015 – Part B4 'Sustainable Development' shall



be complied with. Details of the proposed measures to demonstrate compliance with the above DCP shall be submitted with the Construction Certificate.

- 15) 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.
- 16) 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.
- 17) Pursuant to section 4.17 of the Environmental Planning and Assessment Act 1979, and the Bankstown City Council Section 94A Development Contributions Plan 2009 (Section 94A Plan), a contribution of \$99,910.80 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.

- 18) 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.
- 19) 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 21 days prior to the information being required and must be approved prior to the issue of the Construction Certificate.

- 20) 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 above requirements and shall generally be in accordance with the concept Stormwater Plan No. 16066-CI-005, 010 & 015, Revision 1, dated 12 July 2017, prepared by Cubo Consulting Pty Ltd, except where amended by the approved architectural plans. 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.
- 21) Where Council approved cut or fill exceeds 200mm and stable batter of one vertical to three 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.

- 22) Prior to the issue of any Construction Certificate for this development, the applicant must obtain approval from Council's Traffic Section for a Site, Pedestrian and Traffic Management Plan (SPTMP). This Plan must address the measures that will be implemented for pedestrian safety and traffic management as specified below.

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This plan shall include details of the following:

- a) Proposed ingress and egress points for vehicles to and from the construction site;
- b) Proposed protection of pedestrians, adjacent to the construction site;
- c) Proposed pedestrian management whilst vehicles are entering/exiting the construction site;
- d) Proposed method of loading and unloading excavation machines, building material, construction materials and waste containers during the construction period;
- e) Proposed traffic control measures such as advanced warning signs, barricades, warning lights, after hours contact numbers etc. are required

to be displayed and shall be in accordance with Council's and the NSW Roads and Maritime Services requirements and AS1742.3.

- f) Proposed route for transportation of bulk and excavation materials to and from the development site.

The route for transportation to and from the development site of bulk and excavation materials shall generally be by the shortest possible route to the nearest "State Road" via "Regional Roads", with every effort to avoid school zones on public roads. Alternate longer routes will only be considered in order to bypass school zones during school zone hours. If school zones cannot be avoided **no heavy construction vehicle movements are to arrive or depart the site during signposted school zone periods 8:00am - 9:30am and 2:30pm - 4:00pm on school days.**

An Agreement to Council's satisfaction, signed by the applicant/owner specifying the approved route and acknowledging responsibility to pay Council to rectify damages to public property adjacent to the site as a consequence of building works shall be lodged with Council prior to release of any Construction Certificate. Damage will be rectified as required by Council to remove unsafe conditions. All damage must be rectified upon completion of work to the satisfaction of Council.

The approved Site, Pedestrian and Traffic Management Plan is to be implemented prior to the commencement of any works on the construction site.

In addition a RMS Approval / Road Occupancy Licence will be required for works on Regional or State Roads or within 100m of a traffic facility including roundabouts and traffic signals. Refer to Council's Development Engineering Standards for a list of Regional and State Roads.

- 23) Prior to the issue of any Construction Certificate for this development, the Principal Certifying Authority must approve a Site Operations Management Plan (SOMP). This Plan must address the measures that will be implemented for the ongoing management of operations on and around the construction site, the protection of adjoining properties, and other requirements as specified below.

This plan shall include details of the following:

- a) Proposed hoardings, scaffolding and/or fencing to secure the construction site;
- b) Proposed measures to be implemented, under the separately approved Works Permit issued by Council, for the protection of all public roads and footway areas surrounding the construction site from building activities, crossings by heavy equipment, plant and materials delivery and static load from cranes, concrete pumps and the like;

- c) Proposed method of support of any excavation, adjacent to adjoining buildings or the public road. The proposed method of support is to be certified by a Civil Engineer with National Professional Engineering Registration (NPER) in the construction of civil works.
- d) Proposed measures to be implemented in order to ensure that no soil/excavated material is transported on wheels or tracks of vehicles or plant and deposited on the public road.
- e) Proposed measures for protection of the environment, according to the relevant provisions of the Protection of Environment Operations (POEO) Act, 1997 including procedures to control environmental impacts of work e.g. sediment control, proper removal, disposal or recycling of waste materials, protection of vegetation and control/prevention of pollution i.e. water, air noise, land pollution.

A number of the above matters may require separate approval from Council, particularly those relating to works on or adjacent to Council property. These may be covered by separate conditions of consent contained in this Determination Notice. Appropriate approvals will need to be obtained prior to the approval of this plan.

The approved Site Operations Management Plan is to be implemented prior to the commencement of any works on the site, and an approved copy provided to Council for information. Ongoing compliance with the matters detailed in the SOMP shall be monitored by the appointed Principal Certifying Authority.

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

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WORKS REQUIRING A 'WORKS PERMIT'

- a) Dig up, disturb, or clear the surface of a public footway or public road,
- b) Remove or interfere with a structure or tree (or any other vegetation) on a public footway or public road,
- c) Connect a road (whether public or private) to a classified road,
- d) Undertake footway, paving, vehicular crossing (driveway), landscaping or stormwater drainage works within a public footway or public road,
- e) Install utilities in, under or over a public road,
- f) Pump water into a public footway or public road from any land adjoining the public road,
- g) Erect a structure or carry out a work in, on or over a public road

- h) Require a work zone on the public road for the unloading and or loading of vehicles
- i) Pump concrete from within a public road,
- j) Stand a mobile crane within a public road
- k) Store waste and recycling containers, skips, bins and/or building materials on any part of the public road.
- l) The work is greater than \$25,000.
- m) Demolition is proposed.
- n) Subdivision is proposed.
- o) A Swimming pool is proposed.

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

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

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

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

In determining a Works Permit, Council can impose conditions and require inspections by Council Officers.

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

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

The commencement of any works on public land, including the footway or public road, may incur an on the spot fine of not less than \$1100 per day that work continues without a Works Permit and/or a Roadway/Footpath Building Occupation Permit.

All conditions attached to the permit shall be strictly complied with prior to occupation of the development. Works non-conforming to Council's specification (includes quality of workmanship to Council's satisfaction) shall be rectified by the Council at the applicant's expense.

## **CONDITIONS TO BE SATISFIED PRIOR TO CONSTRUCTION**

- 25) 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 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 two days' notice to the council of the person's intention to commence the building work.
- 26) 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.

- 27) 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.
- 28) 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.
- 29) 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.
- 30) A section 73 compliance certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation. Make early application for the certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design.

Application must be made through an authorised Water Servicing Coordinator. For help either visit [www.sydneywater.com.au](http://www.sydneywater.com.au) > Building and Developing > Developing your Land > Water Servicing Coordinator or telephone 13 20 92.

- 31) 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.

- 32) 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.
- 33) 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.

- 34) The demolition of the existing structures at No. 7 Queensbury Road must be undertaken, subject to strict compliance with the following:

- a) The developer is to notify adjoining residents seven 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) The hours of demolition work shall be limited to between 7.00am and 6.00pm on weekdays, 7.00am and 1.00pm on Saturdays and no work shall be carried out on Sundays and public holidays, and weekends (Saturdays and Sundays) adjacent to public holidays.
- h) 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.
- i) 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'.
- j) Demolition procedures shall maximise the reuse and recycling of demolished materials in order to reduce the environmental impacts of waste disposal.
- k) 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.
- l) 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.
- m) The burning of any demolished material on site is not permitted and offenders will be prosecuted.

- n) Care shall be taken during demolition to ensure that existing services on the site (ie. sewer, electricity, gas, and phone) are not damaged. Any damage caused to existing services shall be repaired by the relevant authority at the applicant's expense.
- o) Suitable erosion and sediment control measures shall be erected prior to the commencement of demolition works and shall be maintained at all times.
- p) 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 coated with lead paint, method of demolition, the precautions to be employed to minimise any dust nuisance and the disposal methods for hazardous materials.

### **CONDITIONS TO BE SATISFIED DURING CONSTRUCTION**

- 35) 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. All deliveries and loading/unloading in relation to the demolition, excavation and construction works shall strictly occur within these hours.
- 36) The building work must be carried out in accordance with the requirements of the Building Code of Australia.
- 37) 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.
- 38) 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.
- 39) All excavations and backfilling must be executed safely and in accordance with the relevant Australian Standards.
- 40) 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.

- 41) 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.
- 42) 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.
- 43) 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.
- 44) If acid sulfate soils are encountered during excavation and/or construction works, all work is to cease and Canterbury Bankstown Council is to be notified immediately. The acid sulfate soil situation is to then be evaluated by an appropriately qualified and experienced environmental consultant who has proven experience in the assessment and management of acid sulfate soils. An appropriate response is to be determined by the applicant, which is agreed to by Council, prior to re-commencement of works.

### **CONDITIONS TO BE SATISFIED PRIOR TO OCCUPATION**

- 45) The occupation or use of the building must not be commenced unless an occupation certificate has been issued for the building.
- 46) The occupation certificate must not be issued for the building until an occupation certificate has been issued for the civil car park works approved under DA-634/2016 on 12 December 2016.
- 47) 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.

- 48) Consolidation of the existing allotments must be registered by the office of Land and Property Information prior to the issue of an occupation certificate.
- 49) Fifty-nine off street car spaces, two doctor drop-off/pick-up car spaces, and one ambulance bay shall be provided in accordance with the submitted plans.

Seven of the above car parking spaces are to be provided for people with mobility impairment in accordance with AS 2890.1. All car parking spaces shall be allocated and marked according to these requirements.

- 50) Landscaping is to be installed in accordance with the approved landscape plan. All works and methods nominated and materials and plants specified on the approved landscape plan are to be completed prior to the issue of an occupation certificate. The landscaping shall be maintained for the life of the development.
- 51) Post Construction Management: Views and Structures

Consent will not be granted for the pruning or removal of any protected (existing or replacement) tree or vegetation due to any of the following:

- Maintenance or enhancement of views;
- Damage to minor or ancillary structures (including driveways and fences);
- The dropping of leaves, fruit, bark and minor branches;
- The obscuring of advertising signage.

- 52) Post Construction Management: Leaf Barriers

The applicant is to install an effective Leaf Barrier to all gutters to collect falling leaves and debris to reduce potential conflicts between trees and building maintenance issues.

- 53) Tree Planting: On-Site

The following planting is in addition to any planting required under any previous Development Consent Approvals.

The applicant is to plant 6 x replacement trees on the site as follows:

- 6 x replacement trees known to attain a minimum height of 15 metres at maturity within the property of 7-11 Queensbury Road, Padstow Heights;
- A minimum of one replacement tree shall be a *Eucalyptus pilularis* (Blackbutt) with a container size not less than 400 litres shall comply with NATSPEC Specifying Trees: a guide to assessment of tree quality (2003) or Australian Standard AS 2303 – 2015 Tree stock for landscape use;
- Other tree species used shall be locally occurring indigenous tree species selected from the Sydney Hinterland Apple-Blackbutt Gully Forest - S\_DS17 (OEH, 2016);
- The other trees shall have a container size not less than 100 litres, shall comply with NATSPEC Specifying Trees: a guide to assessment of tree

quality (2003) or Australian Standard AS 2303 – 2015 Tree stock for landscape use

- The trees shall be planted no closer than 3.5metres from the wall of any approved dwelling on the property.
  - The trees shall be planted so that future growth is not in conflict with overhead electricity wires.
  - The trees shall be maintained for the life of the development.
- 54) A suitably qualified Professional Civil Engineer shall certify that the driveways and parking bays have been constructed in accordance with the approved plans and specifications. Such Certification shall be submitted prior to the issue of the Occupation Certificate or occupation of the site.
- 55) Lighting must be provided to the entries of the building, driveway and parking area to promote a high level of safety and security at night and during periods of low light. The lighting provided to the car park area shall comprise of low level bollard lighting. The lighting shall be hooded, shielded and directed away from neighbouring dwellings to minimise glare and associated nuisances to residents.
- 56) The Section 73 compliance certificate under the Sydney Water Act 1994 must be submitted to the principal certifying authority before occupation of the development / release of the plan of subdivision.
- 57) A Copy of the Work Permit Compliance Certificate shall be submitted to the PCA prior to the issue of the Occupation Certificate.
- 58) An Emergency Evacuation Plan for the proposed building, in conjunction with the evacuation procedures for the existing aged care facility, shall be prepared by a suitably qualified professional and submitted to the PCA prior to the issue of an Occupation Certificate.
- 59) The Principal Certifying Authority shall obtain a report from an appropriately qualified acoustic consultant, stating that the recommendations outlined in the amended acoustic report referenced in Condition 5 of this development consent have been completed and that relevant noise criteria have been satisfied prior to the issue of any Occupation Certificate. A copy of the report is to be submitted to Council prior to the issue of any Occupation Certificate.

## USE OF THE SITE

- 60) A maximum of one bed shall be accommodated in each of the 27 rooms.
- 61) A maximum of six additional employees shall be associated with the use at any one time.
- 62) Fifty-nine off street car spaces, two doctor drop-off/pick-up car spaces, and one ambulance bay shall be provided in marked spaces in the manner generally

shown on the approved site plan. The parking spaces, driveways and manoeuvring areas are to be used for employees and visitors vehicles only and not for the storage of materials, goods or commercial vehicles.

- 63) Noise from on-site traffic and vehicle movements shall be managed in accordance with the recommendations contained in Section 7.3 of the acoustic report prepared by GUZ BOX design + audio, titled '*Environmental Noise Assessment For Proposed Residential Aged Care Facility, 11 Queensbury Road, Padstow Heights NSW*', dated 18 April 2018, except where amended to reflect the approved architectural plans.
- 64) Noise from plant and equipment shall be managed in accordance with the recommendations contained in Section 7.4 of the acoustic report prepared by GUZ BOX design + audio, titled '*Environmental Noise Assessment For Proposed Residential Aged Care Facility, 11 Queensbury Road, Padstow Heights NSW*', dated 18 April 2018, except where amended to reflect the approved architectural plans.
- 65) A Staff Parking Management Plan shall be prepared and implemented to ensure that the lower level parking area is not used between the hours of 10pm and 6am, and that during these hours, staff are to park in front of the 'Southhaven' building in the central parking bay, which accommodates 16 parking spaces.
- 66) Landscaping shall be maintained under best horticultural practise at all times.
- 67) All loading and unloading of goods shall take place within the site or from the adjoining service lane in a manner that does not interfere with parking areas, driveways or landscaping.
- 68) All chemicals shall be stored, handled and disposed of in accordance with:
  - a) AS 1940 – 2004 The Storage & Handling of Flammable and Combustible Liquids.
  - b) NSW EPA 'Storing and Handling Liquids, Environmental Protection, Participants Manual 2007'.
  - c) NSW EPA 'Environmental Guidelines: Assessment, Classification and Management of Liquid and Non-Liquid Wastes 2004'.
- 69) Instructions concerning procedures to be adopted in the event of an emergency are to be clearly displayed on the premises for both public and staff information at all times.
- 70) Medical wastes shall be disposed of by an authorised waste disposal contractor. Contractor details are to be submitted to the PCA before the occupation of the premises.

- 71) Any use of the premises for skin penetration and associated activities shall comply with the Public Health Act 2010, Public Health (Skin Penetration) Regulation, Local Government Act 2012, Local Government (Orders) Regulation, the NSW Health Guidelines and Codes of Practice on Skin Penetration.
- 72) The applicant shall enter into a commercial contract for the collection of wastes and recycling. A copy of the commercial waste and recycling contract shall be lodged with Council and invoices should be available for inspection at any time.
- 73) Waste collection shall not occur between the hours of 10pm and 6am.
- 74) No external signage is approved under this development consent. External signage details must be submitted to Council for approval prior to installation.
- 75) No storage or preparation of food shall be undertaken at the proposed serveries without prior approval from Canterbury Bankstown Council. The storage and preparation of food shall be undertaken in the designated kitchen facilities licenced by the NSW Food Authority.
- 76) The use of the premises shall comply with the requirements of the Environmental Protection Authority's Noise Policy for Industry (2017) and shall not give rise to the transmission of offensive noise as defined in the *Protection of the Environment Operation Act 1997 (NSW)*.
- 77) The implementation of this development shall not adversely affect the amenity of the neighbourhood or interfere unreasonably with the comfort or repose of a person who is outside the premises by reason of the emission or discharge of noise, fumes, vapour, odour, steam, soot, ash, dust, waste water, waste products, grit, oil or other harmful products.
- 78) The premises shall be operated so as to avoid unreasonable noise or vibration and cause no interference to adjoining or nearby occupants. In the event of Council receiving complaints and if it is considered by Council that excessive or offensive noise is emanating from the premises, the person(s) in control of the premises shall, at their own cost, arrange for an acoustic investigation to be carried out (by an accredited acoustic consultant) and submit a report to Council specifying the proposed methods for the control of the excessive or offensive noise. The measures shall be approved by Council prior to implementation and shall be at full cost to the applicant.
- 79) Any lighting of the premises shall be installed in accordance with *Australian Standard 4282-1997, Control of the obtrusive effects of outdoor lighting*, so as to avoid annoyance to the occupants of adjoining premises or glare to motorists on nearby roads. Flashing, moving or intermittent lights or signs are prohibited. The intensity, colour or hours of illumination of the lights shall be varied at Council's discretion if Council considers there to be adverse effects on the amenity of the area.

- 80) All waste generated on the site is to be stored, handled and disposed of in such a manner as to not create offensive odour, offensive noise or pollution of land and/or water as defined under the *Protection of the Environment Operations Act 1997*. All waste generated shall be removed and disposed of by an authorised waste removal contractor and in accordance with the requirements of NSW Environment Protection Authority. A copy of the waste removal agreement and receipts shall be made available to Council on request.
- 81) Any warm-water system installed in the premises, must be installed, operated and maintained in accordance with the prescribed requirements in the *Public Health Act 2010* and *Public Health Regulation 2012*. A warm-water system is defined as a system being designed to heat and deliver water at a temperature of less than 60°C and includes thermostatic mixing valves. The warm water system must be registered with Council.

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