



AGENDA FOR THE CANTERBURY BANKSTOWN LOCAL PLANNING PANEL MEETING

9 June 2020 - 6.00pm

Canterbury Bankstown Local Planning Panel - 09 June 2020

ITEM 1	2A Johnston Road, Bass Hill
	Erection and use of temporary structures for 17 circus showtimes, temporary employee accommodation and commercial purposes
FILE	DA-184/2020 – Bass Hill
ZONING	RE1 Public Recreation
DATE OF LODGEMENT	06/03/2020
APPLICANT	Webers Circus
OWNERS	Canterbury Bankstown Council
ESTIMATED VALUE	Nil
AUTHOR	Development Assessment

REPORT

This matter is reported to Council in response to Ministerial Direction under Section 9.1 of the *Environmental Planning & Assessment Act 1979*, Local Planning Panel Directions – Development Applications Schedule 2 Clause 1(a) for a development for which the applicant or land owner is Council.

Development Application No. DA-184/2020 proposes the erection and use of temporary structures for 17 circus performances, temporary employee accommodation and associated commercial purposes.

DA-184/2020 has been assessed against, amongst other things, Bankstown Local Environmental Plan 2015 and Bankstown Development Control Plan 2015. The application complies, with the exception of a minor variation to the requirement for a parking study to be prepared and submitted for Council's consideration.

The application was notified for a period of fourteen days ending 25 March 2020. Council recorded no submissions with regard to the proposed development.

POLICY IMPACT

The proposal is not considered to provide for any policy impacts.

FINANCIAL IMPACT

The proposal does not include any direct financial implications.

RECOMMENDATION

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

ATTACHMENTS

- A. Assessment Report
- B. Conditions of Consent

DA-184/2020 ASSESSMENT REPORT

SITE & LOCALITY DESCRIPTION

The subject site is known as No. 2A Johnston Road, Bass Hill. The site is a collection of regular and irregular sized allotments (Lot 71 DP 746398, Lot 25 DP 13815, Lot 331 DP 132484, Lots 1 – 31 DP 255572, Lot 72 DP 746398, Lot 31 DP 3679 and Lot 123 DP 1067597) that are currently zoned RE1 Public Recreation and are commonly known as Carysfield Reserve. Due to the site's use as a public park, none of the allotments that form part of the site have an individual identity beyond the park itself. As such, any references to the site contained within this report are inclusive of all allotments that make up the site, to be referred to as "Carysfield Reserve".

Carysfield Reserve contains the Bass Hill BMX Track, a skatepark and other sporting facilities as well as expanses of remnant / native vegetation and grassy open spaces. The site benefits from an existing Council car parking facility accessed off Johnston Road. This car park is roughly marked for the parking of around 170 vehicles, shown below:



Figure 1 - Car Parking Area

Surrounding developments consists of Manuka Reserve and the NSW SES Bankstown Unit to the west and Louisa Reserve and residential developments to the south - mostly in the form of low-density dwelling houses. The portion of the site along the northeast boundary is a landscaped buffer along Hume Highway known as the Remembrance Drive Reserve and beyond that on the opposite side of the Hume Highway are various commercial and residential developments.

The property as a whole is shown below, highlighted in red. It is split into east and west components, separated by Johnston Road. The development is proposed within the portion of the site specifically highlighted in pink below:



Figure 2: (Lot 71 of DP 746398). Source: NearMaps 2019

PROPOSED DEVELOPMENT

The Development Application proposes the erection and use of temporary structures in association with 17 circus performances. Specifically, consent is sought for the erection of a tent for circus performances, as well as the temporary siting of mobile dwellings for staff and temporary structures for ancillary commercial purposes including the sale of food and goods. All structures and activities are to be on site for the period of 2 November 2020 to 23 November 2020.

Circus activities have been held on this site in the past, and would continue to be confined to the grassy reserve near the southeast corner of the site, as shaded in red below:



Figure 3: Aerial of subject site in red. Source: NearMaps taken January 22, 2020

Timeframes

The application proposes the following performance show dates and times:

Showtimes:	5/11/2020	7pm
	6/11/2020	7pm
	7/11/2020	3pm & 7pm
	8/11/2020	1pm & 5pm
	12/11/2020	7pm
	13/11/2020	7pm
	14/11/2020	3pm & 7pm
	15/11/2020	1pm & 5pm
	19/11/2020	7pm
	20/11/2020	7pm
	21/11/2020	3pm & 7pm
	22/11/2020	11am

Showtimes last approximately two hours each. All shows are to finish no later than 9:00pm with all patrons having vacated the site within half an hour after the end of each showtime.

Permissibility

Carysfield Reserve is zoned RE1 – Public Recreation, in which a *Recreation facility (major)* is a permitted use with consent. The BLEP 2015 defines a *recreation facility (major)* as ‘a building or place used for large-scale sporting or recreation activities that are attended by large numbers of people whether regularly or periodically, and includes theme parks, sports stadiums, showgrounds, racecourses and motor racing tracks’.

It is considered that the proposed use of this site as a circus is consistent with a recreational facility (major), being a permitted use in Carysfield Reserve.

Additionally, it is noted that Council supports circus type entertainment at appropriate locations and has determined two locations for circuses and carnivals, namely, Carysfield Reserve, Bass Hill, and Gough Whitlam Park, Earlwood (Council Resolution: *USE OF EXOTIC ANIMALS IN CIRCUSES POLICY* endorsed on 16 October 2018)

Site History

Carysfield Reserve has a history of hosting temporary recreation facilities in the form of circuses, as demonstrated by the following approvals:

- DA-276/2018 (Temporary use of site as a circus and associated activities): Approved
- DA-1050/2017 (Temporary use of site as a circus and associated activities): Approved
- DA-68/2017 and DA-68/2017/1 (Temporary use of site as a circus and associated activities): Approved
- DA-821/2015 (Erection of a temporary big top and stage for circus performances): Approved
- DA-52/2015 (Use of site for circus performances): Approved
- DA-416/2014 (Use of site for circus performances): Approved
- CC-129/2014 (Erection of temporary structures for circus performances): Approved
- DA-126/2014 (Use of site for circus performances): Approved

STATUTORY CONSIDERATIONS

When determining this application, the relevant matters listed in 4.15(1) 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:

- Biodiversity Conservation Act 2016
- State Environmental Planning Policy 55 – Remediation of Land (SEPP 55)
- Greater Metropolitan Regional Environmental Plan No 2—Georges River Catchment (Deemed SEPP)
- State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017
- Bankstown Local Environmental Plan 2015 (BLEP 2015)

- Draft Canterbury Bankstown Local Environmental Plan 2020 (CBLEP 2020)
- Bankstown Development Control Plan 2015 (BDCP 2015)
- Bankstown Development Contributions Plan 2019

BIODIVERSITY CONSERVATION ACT 2016

The subject site contains expanses of native and or remnant vegetation. As such, portions of the land have been designated as having significant environmental, ecological or biodiversity values by the State.

The development application does not propose the removal or pruning of any vegetation on site, therefore it is not considered that the proposed development triggers the need for a Biodiversity Development Assessment Report (BDAR).

The development is considered to be consistent with the provisions and objectives of the *Biodiversity Conservation Act 2016*.

SECTION 4.15 ASSESSMENT

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

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

Clause 7 of SEPP 55 – Remediation of Land requires Council to consider whether the land is contaminated prior to granting consent to the carrying out of any development on that land. Should the land be contaminated, Council must be satisfied that the land is suitable in a contaminated state for the proposed use. If the land requires remediation to be undertaken to make it suitable for the proposed use, Council must be satisfied that the land will be remediated before the land is used for that purpose.

Council has no record of approval for use of the site that would be likely to bring about potential contamination and has no record of instances of contamination being recorded. Further, the application was not submitted with any information to indicate that the site might be host to potential contamination. A site inspection did not reveal any visual indicators of contamination.

The subject site has long been used for a variety of recreational purposes and this will not change as part of the development application. 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. The subject site is considered suitable for the development application and therefore satisfies the provisions of SEPP No. 55.

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

The 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.

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

The aims of State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 are to protect the biodiversity value of trees and other vegetation in non-rural areas and to preserve the amenity of non-rural areas through the preservation of trees and other vegetation.

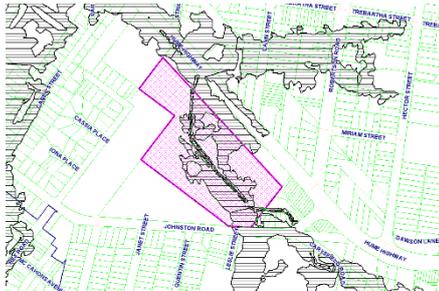
The proposed development does not include the removal or pruning of any vegetation on site. The proposed use of site is not likely to result in adverse impacts on the vegetation on the subject site or within the general vicinity. As such, the application is considered to be consistent with the aims of the policy, subject to inclusion of conditions requiring the protection of existing on-site vegetation.

Bankstown Local Environmental Plan 2015

BLEP 2015			
Clause	Requirement / Provision	Comment	
1.2 Aims of Plan	This Plan aims to make local environmental planning provisions for land in Bankstown in accordance with the relevant standard environmental planning instrument under section 33A of the Act	The proposal has been assessed as being consistent with all relevant aims of the BLEP 2015, including specifically the protection of vegetation and the provision of a range of recreational services for residents	Y
1.3 Land to which Plan applies	Land Application Map	The application pertains to a property specified within the land application map	Y
2.2 Zoning of land to which Plan applies	Land Zoning Map	The zoning of the land is specified within the land zoning map as RE1 Public Recreation	Y
2.3 Zone objectives and Land Use Table	The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone	The proposal has been assessed as being consistent with the objectives of the zone, specifically with the land being used for recreational purposes as well as the protection of the environment	Y
2.6 Subdivision – consent requirements	Land to which this Plan applies may be subdivided, but only with development consent	No subdivision of the land is proposed through this application	N/A
2.7 Demolition requires development	The demolition of a building or work may be carried out only with development consent.	No demolition is proposed through this application	N/A

consent			
<p style="text-align: center;">2.8 Temporary use of land</p>	<p>(1) The objective of this clause is to provide for the temporary use of land if the use does not compromise future development of the land, or have detrimental economic, social, amenity or environmental effects on the land.</p> <p>(2) Despite any other provision of this Plan, development consent may be granted for development on land in any zone for a temporary use for a maximum period of 52 days (whether or not consecutive days) in any period of 12 months.</p> <p>(3) Development consent must not be granted unless the consent authority is satisfied that—</p> <p>a) the temporary use will not prejudice the subsequent carrying out of development on the land in accordance with this Plan and any other applicable environmental planning instrument, and</p> <p>b) the temporary use will not adversely impact on any adjoining land or the amenity of the neighbourhood, and</p> <p>c) the temporary use and location of any structures related to the use will not adversely impact on environmental attributes or features of the land, or increase the risk of natural hazards that may affect the land, and</p> <p>d) at the end of the temporary use period the land will, as far as is practicable, be restored to the condition in which it was before the commencement of the use.</p> <p>(4) Despite subclause (2), the temporary use of a dwelling as a sales office for a new release area or a new housing estate may exceed the maximum number of days specified in that subclause.</p>	<p>(1) The development is proposed as a temporary use of the site, and conditions of consent have been imposed on the determination notice with a requirement that the site be restored to the condition in which it was before the commencement of the use and therefore does not compromise the future development of the land.</p> <p>The proposed use is not likely to result in any adverse economic, social, amenity or environmental impacts on the subject land.</p> <p>(2) The proposed use does not exceed 52 days. A condition of consent has been imposed which limits the consent to 22 days of operation.</p> <p>(3) Council is satisfied that:</p> <p>a) The temporary use will not prevent future uses of the site, in accordance with the BLEP 2015 and any other relevant legislation.</p> <p>b) It is not envisaged that the proposed use will adversely impact surrounding lands or the amenity of the neighbourhood.</p> <p>c) The temporary use will not adversely impact the natural environment of the site.</p> <p>A condition of consent has been imposed on the determination notice regarding the evacuation procedures in the event of flooding.</p> <p>d) Conditions of consent have been imposed to ensure the land be left in a state consistent with which it was prior to the use.</p> <p>(4) Not applicable</p>	<p style="text-align: center;">Y</p>

	(5) Subclause (3)(d) does not apply to the temporary use of a dwelling as a sales office mentioned in subclause (4).	(5) Not applicable	
4.1 Minimum subdivision lot size	To ensure that lot sizes are sufficient to accommodate development that is consistent with the objectives and planning provisions of dual occupancies To minimize any likely adverse impact of the development on the amenity of the area	No subdivision is proposed through this application	N/A
4.3 Height of buildings	To ensure that the height of development is compatible with the character, amenity and landform of the area in which the development will be located	There is no applicable maximum building height for the RE1 Public Recreation zone, however the proposed development has been assessed as being consistent with the aims of this clause and is considered to be appropriate for the intended use.	Y
4.4 Floor space ratio	To establish the bulk and maximum density of development consistent with the capacity and character of the locality of a development site	A floor space ratio does not apply to the site.	N/A
4.6 Exceptions to development standards	To provide an appropriate degree of flexibility in applying certain development standards to particular development	No variations to development standards are proposed through this development application.	N/A
5.1 Relevant acquisition authority	Land Acquisition (Just Terms Compensation) Act 1991	The entirety of the subject site is zoned RE1 with no properties allocated for acquisition. 	N/A
5.4 Controls relating to miscellaneous permissible uses	<ul style="list-style-type: none"> • Bed and breakfast accommodation • Home businesses • Home industries • Industrial retail outlets • Farm stay accommodation • Kiosks • Neighbourhood shops • Neighbourhood supermarkets • Roadside stalls 	No controls of this clause are applicable to the subject development application.	N/A

	<ul style="list-style-type: none"> Secondary dwellings Artisan food and drink industry exclusion 		
6.1 Acid sulfate Soils	The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage	The property is not impacted by an acid sulfate soils affectation	N/A
6.2 Earthworks	The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land	No earthworks are proposed through this application	N/A
6.3 Flood planning	<p>(1) The objectives of this clause are as follows:</p> <ol style="list-style-type: none"> to minimise the flood risk to life and property associated with the use of land, to allow development on land that is compatible with the land's flood hazard, taking into account projected changes as a result of climate change, to avoid significant adverse impacts on flood behaviour and the environment. <p>(2) This clause applies to land at or below the flood planning level.</p> <p>(3) 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> <ol style="list-style-type: none"> is compatible with the flood hazard of the land, and will not significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and incorporates appropriate measures to manage risk to life from flood, and will not significantly adversely affect the 	<p>The site is impacted by High & Medium Risk Flooding (Villawood 2009).</p>  <p>In this instance, due to the temporary nature of the proposal as well as Council's ability to close the Reserve during periods of inclement weather, it is considered that the application is consistent with the objectives of this clause, aiming to minimise flooding's risk to life and property, allowing for development that is compatible with the subject land as well as avoiding impacts on flood behaviour.</p> <p>As the proposal is for a temporary structure, there are no applicable flood planning levels.</p> <p>A condition of consent has been imposed on the determination notice regarding the evacuation procedures in the event of flooding.</p>	N/A

	<p>environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and</p> <p>e) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.</p> <p>(4) A word or expression used in this clause has the same meaning as it has in the Floodplain Development Manual (ISBN 0 7347 5476 0) published by the NSW Government in April 2005, unless it is otherwise defined in this clause.</p> <p>(5) In this clause— flood planning level means the level of a 1:100 ARI (average recurrent interval) flood event plus 0.5 metre freeboard.</p>		
6.4 Biodiversity	The objective of this clause is to maintain terrestrial and aquatic biodiversity by protecting native fauna and flora and protecting the ecological processes necessary for their continued existence and encouraging the conservation and recovery of native fauna and flora and their habitats.	The application has been assessed as being consistent with the objectives of this clause, in this regard it is noted that no vegetation removal or pruning is proposed.	Y
6.4A Riparian land and watercourses	Riparian land and watercourses	The site is not subject to this clause	N/A
6.5 Limited development on foreshore area	The objective of this clause is to ensure that development in the foreshore area will not impact on natural foreshore processes or affect the significance and amenity of the area	The site is not subject to this clause	N/A

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

The proposal has been assessed against the provisions contained within the Draft CBLEP 2020 and has been found not to be inconsistent with the draft instrument.

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

The following table provides a summary of the development application against the controls contained in Parts A2, B2, B5, B11, B12 and B13 of Bankstown Development Control Plan 2015

BDCP 2015			
BDCP 2015 Part A2 Corridors			
CLAUSE	OBJECTIVE / CONTROL	COMMENT	Y/N N/A
Section 1- Introduction	a) To have development that is compatible with the desired character and role of the particular corridor. b) To have development that achieves good urban design in terms of building form, bulk, architectural treatment and visual amenity. c) To have development that provides adequate amenity to people who live in, work in and visit the local area. d) To have transitional areas that are compatible with the prevailing suburban character and amenity of neighbouring residential environments. e) To have specific guidelines for key development sites within the corridors.	Subject site is in Precinct 2 (Bass Hill Small Village Centre) of the Hume Highway Corridor. The proposed development is not inconsistent with this clause.	Y
Section 2.0 - Objectives	a) To ensure the bulk and density of development is compatible with the location of the development to shopping centres and public transport, and the desired character of the Hume Highway Corridor. b) To provide the Hume Highway Corridor with environments that are safe, well landscaped and achieve high amenity. c) To have a landscape buffer zone to the Hume Highway that enhances the Remembrance Driveway landscape corridor and improves the amenity of development.	The proposed development is not inconsistent with this clause.	Y

	<p>d) To have a minimum setback to arterial roads that improves the amenity of dwellings in terms of air quality and acoustic privacy. To encourage business activities and active street frontages to the Hume Highway.</p> <p>e) To have appropriate bulk, density and vehicle access that will not have an adverse impact on land in the vicinity of the key development sites.</p> <p>f) To identify gateway sites and ensure the built form marks the entrance into the Bass Hill Small Village Centre.</p>		
Section 2.1 - Storey Limit	Development within the Bass Hill Small Village Centre must comply with the storey limit that corresponds with the maximum building height shown for the site on the Height of Building Map	<p>No maximum building height or storey limit applies to the site.</p> <p>The proposal is a single-storey tent and is considered to be consistent with the aims of the control.</p>	N/A
Section 2.2 - Building design (gateway sites)	<p>Development at gateway sites as shown in Figure 5 must:</p> <p>a) ensure the building facade incorporates one of the following corner elements at the street corner:</p> <ol style="list-style-type: none"> i. an architectural roof feature at the street corner that emphasises the corner element; or ii. provide a different setback for the top floor at the street corner by emphasising the corner element; or iii. provide a different architectural treatment to the building facade at the street corner to emphasise the corner element; and <p>b) ensure the car parking area and outdoor display area are not visible to the street, or do not</p>	The site is not a gateway site.	N/A

	present as blank walls to the street.		
Section 3.0 - Pedestrian amenity and active street frontages (Bass Hill Small Village Centre)	<p>a) to improve pedestrian access in the Bass Hill Small Village Centre by providing new mid-block connections and enhancing existing links as redevelopment occurs;</p> <p>b) to ensure active street frontages are present in the Bass Hill Small Village Centre and enhance pedestrian amenity; and</p> <p>c) to ensure loading and unloading facilities and car parking do not impact on the safety and visual appearance of the pedestrian network.</p>	Not applicable to the proposed development on public recreation land	N/A
BDCP 2015 – Part B5 - Parking			
CLAUSE	OBJECTIVE / CONTROL	COMMENT	Y/N N/A
Objectives	<p>The objectives of Part B5 of this DCP are:</p> <p>a) To have car parking meet the demands of new development.</p> <p>b) To have the layout and design of car parks function efficiently and safely.</p> <p>c) To have development achieve the parking requirements.</p> <p>d) To have the design of open-air car parks incorporate landscaping areas to minimise the visual impact.</p> <p>e) To have a balance between parking requirements, visual aesthetics and pedestrian safety, which includes access for people with disabilities and convenience for drivers</p>	<p>The proposed development anticipates a maximum of 600 patrons at any one time. Access to the site is provided through a combination of bus routes along Hume Highway and through Council's existing car park accessed off Johnston Road.</p> <p>It is considered that the proposal is consistent with the objectives of this Part of the BDCP 2015</p>	Y
Section 2.2 – Off-street parking spaces	Development not included in the schedule of car parking standards must submit a parking study for Council's consideration. A qualified traffic consultant must prepare the parking study.	<p>No study was submitted with the application.</p> <p>See discussion below.</p>	N

BDCP 2015 – Part B11 - Tree Management Order			
CLAUSE	OBJECTIVE / CONTROL	COMMENT	Y/N N/A
Section 2.3 – Prescribed trees	All trees over 5.0 metres in height	No tree removal or pruning works are proposed	Y
BDCP 2015 - Part B12 – Flood Risk Management			
CLAUSE	OBJECTIVE / CONTROL	COMMENT	Y/N N/A
Section 3.2.1 – Performance Criteria	Not result in increased risk to human life or economic / social loss	The proposal is not considered to increase the risk to life or property as a result of the temporary development on the site A condition of consent has been imposed on the determination notice regarding the evacuation procedures in the event of flooding impacts.	Y
BDCP 2015 Part B13 – Waste Management and Minimisation			
CLAUSE	OBJECTIVE / CONTROL	COMMENT	Y/N N/A
Section 1.1 – Waste Management	Development must be accompanied by a Waste Management Plan	The application has been referred to Council's Waste Team for comment, with associated conditions of consent. The proposed temporary use of the land is not considered to be inconsistent with the objectives of BDCP 2015 – Part 13	Y

As noted above, the application was not submitted with a parking study in accordance with Clause 2.2 of Part B5 of the BDCP 2015 which reads as follows:

Off-street parking spaces

2.2 Development not included in the schedule of car parking standards must submit a parking study for Council's consideration. A qualified traffic consultant must prepare the parking study.

In this particular instance, a parking study is not considered to be necessary for two reasons. Firstly, the site benefits from an existing Council owned car parking facility with a capacity of 170 vehicles. Council has consented to numerous temporary circus uses at this site since 1998 with the most recent applications being DA-276/2018, DA-1050/2017 and DA-68/2017. Council has not recorded any complaints or infractions related to parking as a result of the temporary uses of the site for circuses. Further, the site is one of two sites within the local government area that Council has nominated as a suitable site for a circus use (Council Resolution: *USE OF EXOTIC ANIMALS IN CIRCUSES POLICY* endorsed on 16 October 2018) and is therefore considered specifically capable for the proposed temporary use of the site.

Notwithstanding the above noted non-compliance, the proposal is consistent with the objectives of Part B5 – Parking of the BDCP 2015, namely to have parking provisions meet the demands of the site and to minimise the potential for conflicts with road users and is considered worthy of support.

Bankstown Development Contributions Plan 2019

Due to the temporary nature of the proposal as well as the lack of physical works to site, in accordance with Bankstown Development Contributions Plan 2019 no development contribution applies to the development.

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

No planning agreement has been entered into under section 7.4 nor has the applicant offered to enter into a planning agreement.

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

The proposed development is not inconsistent with the provisions of the Environmental Planning and Assessment Regulation, 2000.

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

The application will have no impact on the natural and built environments with no recognisable social or economic impacts on the locality.

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

The site is considered suitable for the proposed development.

Submissions [section 4.15(1)(d)]

The application was notified for a period of fourteen days ending on 25 March 2020. No submissions have been received by Council with regard to the subject development application.

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*. Based on the above assessment, the proposed development is consistent with the public interest.

CONCLUSION

The Development Application has been assessed in accordance with matters for consideration contained in Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* requiring, amongst other things, an assessment against the provisions contained in Bankstown Local Environmental Plan 2015 and Bankstown Development Control Plan 2015.

Notwithstanding the non-compliance noted in the BDCP 2015, the proposal is consistent with the aims of the BLEP 2015, the objectives of the zone and is considered to be suitable for the site.

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 this Development Consent.
- 2) Development shall take place in accordance with Development Application No. DA-184/2020, submitted by Webers Circus, accompanied by the Bass Hill Circus – Site Plan, dated 12 May 2020 (as marked in red) 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.
- 3) The following documents form part of this development consent. Their recommendations and procedures are required to be complied with at all times during the setup, operation and vacating of the site:

Title	Dated	Prepared By
Statement of Environmental Effects	-	-
Evacuation Plan	-	-
Fire Engineering Assessment & Compliance Report	29 August 2018	Anthony Hulbert (APH Fire)
Engineering Report Temporary Structure Circus Auditorium – Report No. 180729 Issue 1 Revision A	15 October 2018	Ansary Structural & Civil Engineers

- 4) A separate application shall be submitted to Council prior to the erection of any additional signage unless the proposed signage is "exempt development" in accordance with State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.
- 5) Approval for temporary use of the site (Carysfield Reserve) is dependent upon the procurement of a Special Events Park Permit from Canterbury Bankstown City Council and strict compliance with Councils policy titled *USE OF EXOTIC ANIMALS IN CIRCUSES POLICY dated 16 October 2018*. Permission to operate the circus with animals will only be granted if all required approvals have been given by the NSW Department of Primary Industries (DPI) under all relevant legislation including the Exhibited Animals Protection Act 1986 and the Exhibited Animals Protection Regulation 2010. Copies of all DPI Approvals must be attached to Council’s Special Events Application Form. Approval for temporary use of the site is also dependent upon notification to the RMS Traffic Management Centre of the approved Temporary Development on (02) 8396 1513. The conditions of the Special Events Park Permit are to form part of this Determination Notice.
- 6) Council will not permit circuses or carnivals to use exotic animals for performance or display on Council land. Council reserves the right to revoke its permission to operate a circus or carnival with domestic animals on Council land if it is found to be in breach of any legislation or regulation protecting the welfare of animals. This does not apply to mobile petting farms, mobile baby animal zoos, or mobile animal rides for children such as pony rides.

- 7) Prior to the first approved showtime, temporary toilet/sanitary facilities are to be provided for on-site and shall remain on site and in clean working order for the full duration of the events. Specifications of the required facilities can be provided through the Special Events Park Permit.
- 8) Once a permit is secured from Council for use of the site, and prior to bump-in, current photos depicting the condition of the site are to be supplied to Council (Council@CBCity.NSW.gov.au), with attention to: Community Events and Referencing: Condition 7 of this Determination Notice. These photos will serve as a condition report for the site.

Condition photos of the site are required to show as follows:

- Entire grass area to be occupied for the duration of your event
- Condition of Council's toilet facility located within the car parking area.
- Car parking area.
- Access bridge from car park to grassed area
- Bollard fence line, the bollard fence line runs north to south & east to west direction

CONDITIONS TO BE SATISFIED DURING SETUP

- 9) Works to site for the purpose of setting up facilities may only be carried out between 7.00 am and 5.00 pm on Monday to Saturday and no work is to be carried out at any time on a Sunday or a public holiday.
- 10) Vehicle access to the site is limited to as described in Condition 5 of this Determination Notice. There is to be no parking or storing of trucks or vehicles on the grassy areas of the reserve at any time during bump-in or occupation.
- 11) All trees on site are protected from removal and damage for the duration of the development. Tents, structures and building materials, chemical storage, wash out areas and similar shall not be located within the drip line of trees. Trees shall not be damaged or used to display signage, or as fence or cable supports for any reason.

PRIOR TO USE OF THE SITE

- 12) All temporary food handling businesses in NSW are required to notify their local council and provide business and food activity details prior to the event. Business Registration Form must be completed and submitted to Council. This form is available online at www.cbcity.nsw.gov.au.
- 13) A pre-occupation food premises inspection report is to be undertaken by Council's Environmental Health Officer prior to the event performances to ensure they comply with relevant standards.

- 14) Temporary toilet/sanitary facilities are to be provided for on site at the expense of the person with the benefit of Council's permit in accordance with Condition 6 of this Determination Notice.
- 15) Prior to the first performance, adequate flood warning is to be provided on site to allow safe and orderly evacuation without undue reliance on the SES or other authorised emergency personnel. The applicant is to have a flood evacuation plan that comprises of the below requirements;
- Flood management plan designed by practicing and qualified hydraulic engineer
 - Visual and audible warning systems
 - Signage
 - Evacuation drills for staff

USE OF THE SITE

- 16) Showtimes are restricted to the following schedule:

Showtimes:	5/11/2020	7pm
	6/11/2020	7pm
	7/11/2020	3pm & 7pm
	8/11/2020	1pm & 5pm
	12/11/2020	7pm
	13/11/2020	7pm
	14/11/2020	3pm & 7pm
	15/11/2020	1pm & 5pm
	19/11/2020	7pm
	20/11/2020	7pm
	21/11/2020	3pm & 7pm
	22/11/2020	11am

All performances, commercial activities and events are to cease no later than 9:30pm on any day.

- 17) The maximum capacity of the site is to be capped in accordance with Council or State regulations regarding public gatherings, or the maximum capacity of 594 as per the submitted SEE (whichever is the least).
- 18) Off street car parking spaces shall be provided/maintained for the use of visitor and employees to the premises in accordance with the submitted plans within the Carysfield Reserve carpark.
- 19) Any food stalls shall be installed and operated in compliance with the following:
- The *NSW Food Act 2003* and *Food Regulation 2015*;
 - Australia New Zealand Food Standards Code; and
 - NSW Food Authority "Guidelines for Food Business at Temporary Events".

- 20) The installation of barbecue or charcoal cooking appliances or the cooking of food at the premises by barbecue or charcoal methods is not permitted.
- 21) All food shall be prepared and cooked on site at the event. The preparation and cooking of food from external sites are strictly prohibited.
- 22) A fire extinguisher and fire blanket should be supplied in any vehicle or stall where cooking or heating processes are undertaken.
- 23) A designated person shall be responsible for the monitoring and emptying of any clean up waste containers and toilet facilities for the duration of each event listed on the event schedule.
- 24) 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.
- 25) 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.
- 26) Speakers must not be installed, and music must not be played in any of the outdoor areas associated with the premises including the public domain. Speakers located within the premises must not be placed to direct the playing of music towards the outdoor areas associated with the premises.
- 27) The use of the premises shall not give rise to an environmental health nuisance to the adjoining or nearby premises and environment. There are to be no emissions or discharges from the premises, which will give rise to a public nuisance or result in an offence under the *Protection of the Environment Operations Act 1997* and Regulations. The use of the premises and the operation of plant and equipment shall not give rise to the transmission of a vibration nuisance or damage other premises.
- 28) 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. 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.
- 29) Waste generated on site is to be dealt with in accordance with the following:
 - a) All waste generated from the site is to be managed and disposed of in accordance with all applicable regulations and the Statement of Environmental Effects.
 - b) Waste must be collected from the site at minimum once per week.

- c) The person with the benefit of this Determination Notice / operator must provide Council with reasonable evidence of a trade waste service agreement within five (5) business days of occupying the site.
 - d) The person with the benefit of this Determination Notice / operator is to consider how bins will be serviced from within the site, particularly in respect of waste collection vehicle movements, and store bins in a manner that ensures the safety of all users.
 - e) Bins must be stored in a manner so as to prevent unauthorised users from access to the bins.
 - f) The person with the benefit of this Determination Notice / operator is to consider the types of waste that will be generated and the use of recycling bins as part of its waste collection service so that recyclable material (paper, cardboard, glass etc) can be captured for recycling and diverted from landfill.
- 30) 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.
- 31) 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.
- 32) In accordance with the flood management plan required under Condition 14 of this Determination Notice, in the event of a significant weather event where floodwaters rise above average levels, warning from SES and/or Bureau of Meteorology, or an indication from Council that the reserve is to be closed for a weather event, use of the site is to cease with all persons being evacuated to a safe environment.

Motor vehicles are to be relocated, to an area with substantially less risk from flooding.

CONDITIONS TO BE SATISFIED AFTER OPERATION

- 33) The temporary structures must be dismantled and removed from the land within two days after conclusion of the circus performances.
- 34) The site is to be vacated in the state in which it was occupied. Should Council determine that the site has been permanently or significantly damaged as a result of the authorised use, Council may seek to remedy such damages at the cost of the individual with the benefit of this Determination Notice / operator.

-END-

Canterbury Bankstown Local Planning Panel - 09 June 2020

ITEM 2	90 Caroline Crescent, Georges Hall
	Demolition of existing structures and the construction of a two storey dual occupancy and Torrens title subdivision
FILE	DA-239/2020 – Bass Hill
ZONING	R2 Low Density Residential
DATE OF LODGEMENT	20/03/2020
APPLICANT	ACM Civil & Structural Engineers Pty Ltd
OWNERS	Kamal Zakhia Fadia Zakhia
ESTIMATED VALUE	\$650,911.00
AUTHOR	Development Assessment

REPORT

This matter is reported to Council in response to Ministerial Direction under Section 9.1 of the *Environmental Planning & Assessment Act 1979*, Local Planning Panel Directions – Development Applications, Schedule 2, Clause 1(e) for development on a land owned by a relative of a Councillor or Member of Parliament.

Development Application No. DA-239/2020 proposes the demolition of existing site structures and the construction of an attached dual occupancy development followed by Torrens title subdivision.

DA-239/2020 has been assessed against, amongst other things, Bankstown Local Environmental Plan 2015 and Bankstown Development Control Plan 2015 and the application is considered to be compliant with all relevant standards and controls.

The application was notified twice for a period of fourteen days in accordance with the Canterbury Bankstown Community Participation Plan. No submissions have been received by Council.

POLICY IMPACT

The proposal is not considered to have any potential policy impacts.

FINANCIAL IMPACT

The proposal is not considered to provide for any financial impacts.

RECOMMENDATION

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

ATTACHMENTS

- A. Assessment Report
- B. Conditions of Consent

DA-239/2020 ASSESSMENT REPORT

SITE & LOCALITY DESCRIPTION

The subject site is known as No. 90 Caroline Crescent, Georges Hall. The site is a regular allotment, with a site area of 562.8m² and a width at the front building line of 20.3 metres and is currently zoned R2 Low Density Residential.

The site contains a single-storey dwelling and surrounding development consists of dwelling houses to the north, east, south and west. Caroline Crescent is a local residential street, with no direct links to larger arterials.



Figure 1: Aerial of subject site in red. Source: NearMaps 2020

The property has a power pole located within Council's nature reserve. An eight metre tall jacaranda tree sits at the southeast corner of the property, and a five metre tall jacaranda tree sits in the nature reserve, forward of the property boundary with Caroline Crescent. The application proposes to remove, both, however conditions of consent have been imposed requiring the retention of the larger jacaranda and the removal and replacement of the street tree.



Figure 2: Council street tree

PROPOSED DEVELOPMENT

The Development Application proposes the demolition of existing site structures and the construction of an attached dual occupancy development, followed by Torrens title subdivision. The application proposes the removal of the street tree on Council's nature strip forward of the property boundary. A site plan of the development is shown below:

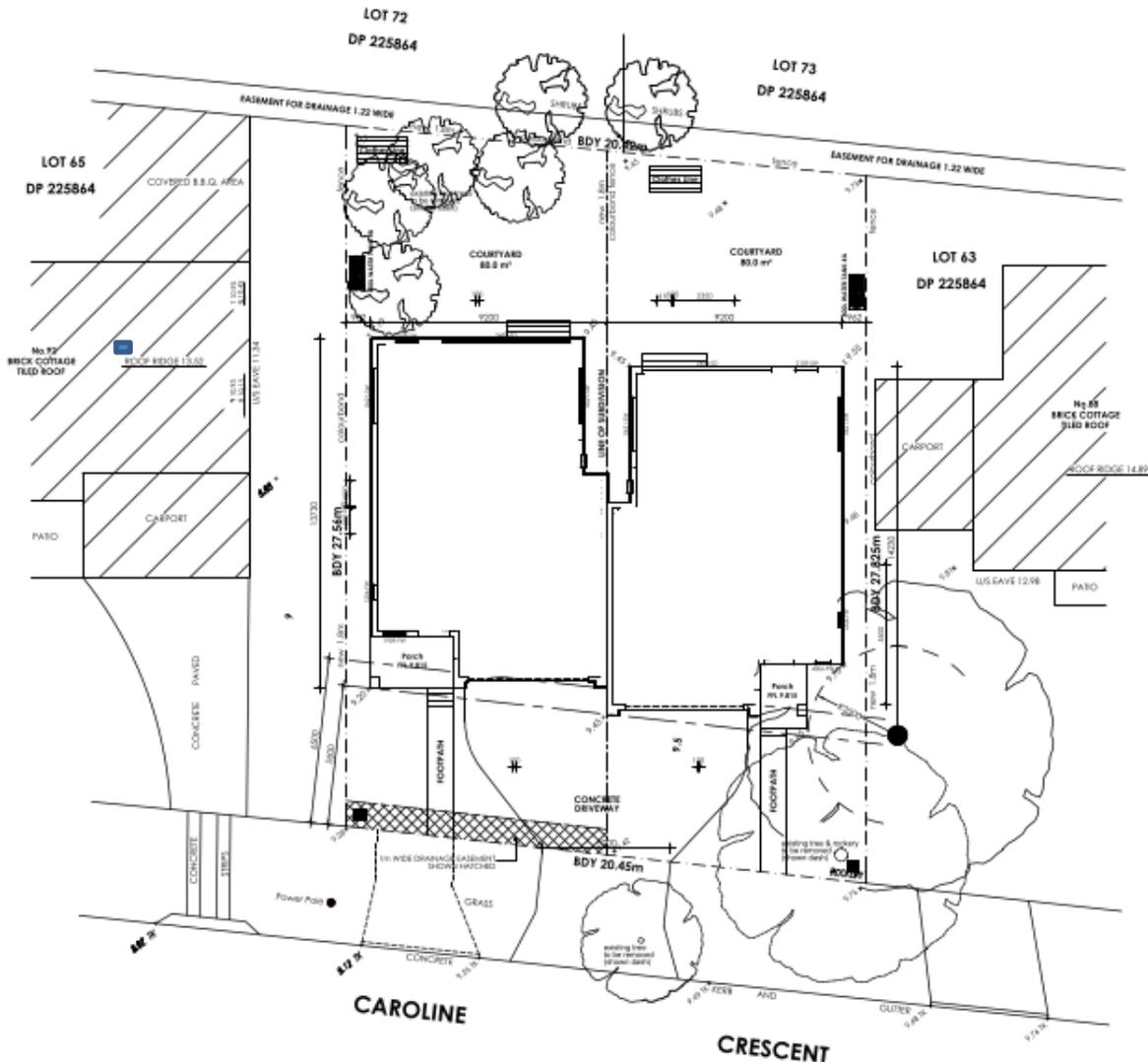


Figure 3: Proposal - Site Plan

Statutory Considerations

When determining this application, the relevant matters listed in 4.15(1) of the *Environmental Planning and Assessment Act 1979* must be considered. In this regard, the following environmental planning instruments, development control plans, codes and policies are relevant:

- State Environmental Planning Policy 55 – Remediation of Land (SEPP 55)
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

- Greater Metropolitan Regional Environmental Plan No 2—Georges River Catchment (Deemed SEPP)
- Bankstown Local Environmental Plan 2015 (BLEP 2015)
- Draft Canterbury Bankstown Local Environmental Plan 2020 (CBLEP 2020)
- Bankstown Development Control Plan 2015 (BDCP 2015)
- Bankstown Development Contributions Plan 2019

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 55 – Remediation of Land (SEPP 55)

Clause 7 of SEPP 55 – Remediation of Land requires Council to consider whether the land is contaminated prior to granting consent to the carrying out of any development on that land. Should the land be contaminated, Council must be satisfied that the land is suitable in a contaminated state for the proposed use. If the land requires remediation to be undertaken to make it suitable for the proposed use, Council must be satisfied that the land will be remediated before the land is used for that purpose.

Council has no record of use of the site other than for residential purposes, and no record of instances of contamination being recorded. Further, the application was not submitted with any information to indicate that the site might be host to potential contamination. A site inspection did not reveal any visual indicators of contamination.

The subject site has long been used for residential purposes and this will not change as part of the development application. 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. The subject site is considered suitable for the development application and therefore satisfies the provisions of SEPP No. 55.

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

A valid BASIX Certificate accompanied the development application. The Certificate details the required thermal comfort and energy and water commitments required of the development. The proposal is considered to satisfy the requirements of the Certificate and thus also of State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004.

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

The aims of State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 are to protect the biodiversity value of trees and other vegetation in non-rural areas and to preserve the amenity of non-rural areas through the preservation of trees and other vegetation.

The application proposes the removal of the existing Jacaranda tree located within Council's nature reserve, forward of the property boundary. Consent has been granted for the removal and replacement of this tree. There is another Jacaranda tree located within the front yard which is 8 metres in height and is conditioned to be protected and maintained. All other vegetation on site is exempt from protection under Council's Tree Management Order and is considered to be suitable for removal.

The site is in close proximity to significant vegetation located on the eastern neighbouring allotment known as No. 88 Caroline Crescent. Conditions of consent have been imposed requiring that this peppercorn tree is to be retained and protected during all works to site, through an exclusion zone around the tree. The proposal was amended to provide for a sufficient setback from the tree, at a minimum of 3.50 metres.

It is considered that the proposal is consistent with the aims of the Vegetation in Non-Rural Areas SEPP.

Greater Metropolitan Regional Environmental Plan No 2—Georges River Catchment (Deemed SEPP)

The 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 (BLEP 2015)

BLEP 2015			
Clause	Requirement / Provision	Comment	Compliance
1.2 Aims of the Plan	This Plan aims to make local environmental planning provisions for land in Bankstown in accordance with the relevant standard environmental planning instrument under section 33A of the Act	The proposal has been assessed as being consistent with all relevant aims of the BLEP 2015, in particular with aim (f) to provide a range of housing opportunities to the community and (i) to achieve good urban design	YES
1.3 Land to which the Plan applies	Land Application Map	The application pertains to a property specified within the land application map	YES
2.2 Zoning of land to which Plan applies	Land Zoning Map	The zoning of the land is specified within the land zoning map as R2 Low Density Residential	YES
2.3 Zone objectives and Land	The consent authority must have regard to the	Council has taken into consideration the	YES

Use Table	objectives for development in a zone when determining a development application in respect of land within the zone	objectives of the R2 Low Density Residential Zone as part of the assessment process, and it is considered that the proposed development is consistent with these objectives.	
2.6 Subdivision – consent requirements	Land to which this Plan applies may be subdivided, but only with development consent	In accordance with BLEP 2015 Clause 4.1A(4)(a), the proposal satisfies the minimum subdivision lot areas of 250m ²	YES
2.7 Demolition requires development consent	The demolition of a building or work may be carried out only with development consent.	Development application proposes the removal of all existing structures and one VFC.	YES
2.8 Temporary use of land	The objective of this clause is to provide for the temporary use of land if the use does not compromise future development of the land, or have detrimental economic, social, amenity or environmental effects on the land	Not applicable to the subject development or land	N/A
4.1 Minimum subdivision lot size	To ensure lots are of sufficient size to accommodate certain development	In accordance with BLEP 2015 Clause 4.1A(4)(a), the proposal satisfies the minimum subdivision lot areas of 250m ²	YES
4.1A Minimum lot sizes and special provisions for dual occupancies	To ensure that lot sizes are sufficient to accommodate development that is consistent with the objectives and planning provisions of dual occupancies To minimize any likely adverse impact of the development on the amenity of the area Within the R2 zone: <ul style="list-style-type: none"> • 15.0 metres width at the front building line • 500m² lot area 	The subject allotment has a width at the front building line of 20.45 metres, with a total site area of 562.8m ² , satisfying both the lot size development standards for an attached dual occupancy development	YES
4.3	to ensure that the height	The development	YES

Height of buildings	of development is compatible with the character, amenity and landform of the area in which the development will be located <ul style="list-style-type: none"> • Wall Height: 7.0 metres • Height of Building: 9.0 metres 	application proposes a maximum wall height of 7.00 metres with a maximum height of building of 7.85 metres	
4.4 Floor space ratio	To establish the bulk and maximum density of development consistent with the capacity and character of the locality of a development site Within the R2 zone: <ul style="list-style-type: none"> • 0.50:1 FSR 	The development applicant proposes a floor space ratio of 0.50:1, satisfying the maximum permitted ratio	YES
4.6 Exceptions to development standards	To provide an appropriate degree of flexibility in applying certain development standards to particular development	No exceptions to development standards are proposed through this development application	N/A
5.1 Relevant acquisition authority	<u>Land Acquisition (Just Terms Compensation) Act 1991</u>	Not applicable to the subject development or land	N/A
5.4 Controls relating to miscellaneous permissible uses	<ul style="list-style-type: none"> • Bed and breakfast accommodation • Home businesses • Home industries • Industrial retail outlets • Farm stay accommodation • Kiosks • Neighbourhood shops • Neighbourhood supermarkets • Roadside stalls • Secondary dwellings • Artisan food and drink industry exclusion 	Not applicable to the subject development or land	N/A
6.1 Acid sulfate Soils	The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage	Not applicable to the subject development or land	N/A

6.2 Earthworks	The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land	The application does not propose earthworks outside of the building footprint and is not considered likely to bring about negative impacts on the site or locality	YES
6.3 Flood planning	To minimise the flood risk to life and property associated with the use of land	Application has been assessed by Council's Development Engineers who have provided conditions of consent	YES
6.4 Biodiversity	The objective of this clause is to maintain terrestrial and aquatic biodiversity by protecting native fauna and flora and protecting the ecological processes necessary for their continued existence, and encouraging the conservation and recovery of native fauna and flora and their habitats.	Not applicable to the subject development or land	N/A
6.4A Riparian land and watercourses	Riparian land and watercourses	Not applicable to the subject land	N/A
6.5 Limited development on foreshore area	The objective of this clause is to ensure that development in the foreshore area will not impact on natural foreshore processes or affect the significance and amenity of the area	Not applicable to the subject development or land	N/A

As per the content of the table above, the development application satisfies the relevant aims, provisions, standards and controls contained within the Bankstown Local Environmental Plan 2015.

Draft Environmental Planning Instruments [Section 4.15(1)(a)(ii)]

Draft Canterbury Bankstown Local Environmental Plan 2020 (CBLEP 2020)

The proposal has been assessed against the provisions contained within the Draft CBLEP2020 and has been found not to be inconsistent with the instrument.

Development Control Plans [Section 4.15(1)(a)(iii)]**Bankstown Development Control Plan 2015 (BDCP 2015)**

The development application has been assessed against the relevant provisions of parts B1, B5, B11, B12 and B13 of the Bankstown Development Control Plan 2015. Relevant provisions are noted as follows:

BDCP 2015 – Part B1 – Residential Development			
Clause	Requirement / Provision	Comment	Compliance
4.1 – Subdivision	The two dwellings forming a dual occupancy (attached) may be subdivided to a minimum lot size of 250m ² per dwelling.	Consistent – lots in excess of 250m ²	YES
4.4 – Storey limit	The storey limit for dual occupancies is 2 storeys.	2-storey development – no basement or attics	YES
4.5 – Siting of development	The siting of dual occupancies, and landscaping works must be compatible with the existing slope and contours of the allotment and any adjoining property. Council does not allow any development that involves elevated platforms on columns; or excessive or unnecessary terracing, rock excavation, retaining walls or reclamation.	The proposal is designed to respond to the topography of the site, most notably the flooding affectation requiring an elevated finished floor level. No external earthworks are proposed	YES
4.6 – Reconstituted ground level	Any reconstituted ground level on the allotment must not exceed a height of 600mm above the ground level (existing) of an adjoining property except where: a. the dual occupancy is required to be raised to achieve a suitable freeboard in accordance with Part B12 of this DCP; or b. the fill is contained within the ground floor perimeter of the dual occupancy to a height no greater than 1 metre above the ground level (existing) of the allotment.	The fill contained within the ground floor perimeter is 700mm above the exiting ground level on site and 900mm above the existing ground level of the adjoining property to the west. The floor level is dictated by the minimum floor level set by the Stormwater Systems Report in accordance with BDCP 2015 – Part B12. The proposed floor level is consistent with the requirements of this clause	YES

4.8 – Setback to primary frontage	The minimum setback for a building wall to the primary road frontage is: a. 5.5 metres for the first storey (i.e. the ground floor); and b. 6.5 metres for the second storey.	Front building walls at 5.50 metre setback First floor at 6.50 metre setback Double garages at 5.50 metre setback	YES
4.10 – Side setback	For the portion of the building wall that has a wall height less than or equal to 7 metres, the minimum setback to the side boundary of the allotment is 0.9 metre. Council may increase the minimum setback to reduce any impact on the amenity of an adjoining dwelling or to avoid the drip line of a tree on an adjoining property.	Minimum 962mm side setbacks	YES
4.12 –Side setback	The minimum setback between a dual occupancy and the side boundary must be clear of obstacles such as a hot water unit, waste storage area, storage shed and the like.	RWT in rear yard, clear of setback	YES
4.14 – Private open space	Dual occupancies must provide a minimum 80m ² of private open space per dwelling behind the front building line. This may be in the form of a single area or a sum of areas per dwelling provided the minimum width of each area is 5 metres throughout.	Plans amended to demonstrate compliance, with each unit having 80m ² of open space	YES
4.15 – Solar access	At least one living area of each dwelling must receive a minimum 3 hours of sunlight between 8.00am and 4.00pm at the mid-winter solstice. Council may allow light wells and skylights to supplement this access to sunlight provided these building elements are not the primary source of sunlight to the living areas.	Alfresco roofs removed, no obstruction for afternoon sun	YES
4.16 – Solar access to	At least one living area of a	Given that the east and	YES

adjoining allotment	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.	west neighbours have carports on the adjacent boundaries, it is considered the proposal will not impact the existing solar access achieved by either of these dwellings	
4.17 – Solar access to open space	A minimum 50% of the private open space required for each dwelling and a minimum 50% of the private open space of a dwelling on an adjoining allotment must receive at least 3 hours of sunlight between 9.00am and 5.00pm at the equinox. Where this requirement cannot be met for a dwelling on an adjoining allotment, the development must not result with additional overshadowing on the affected private open space.	Rear yard areas achieve compliance through unobstructed northerly exposure	YES
4.18 – Solar panel systems	Development should avoid overshadowing any existing solar hot water system, photovoltaic panel or other solar collector on the allotment and neighbouring properties.	No solar hot water system, photovoltaic panel or other solar collector impacted	YES
4.19 – Visual privacy to living areas	Where development proposes a window that directly looks into the living area or bedroom window of an existing dwelling, the development must: a. offset the windows between dwellings to minimise overlooking; or b. provide the window with a minimum sill height of 1.5 metres above floor level; or	Neighbouring properties to the east and west have carports facing the subject development site. As such, it is not considered that side-facing living area windows directly overlook windows to living or bedrooms of adjoining properties	YES

	<p>c. ensure the window cannot open and has obscure glazing to a minimum height of 1.5 metres above floor level; or</p> <p>d. use another form of screening to the satisfaction of Council.</p>		
4.20 – Visual privacy to open space	<p>Where development proposes a window that directly looks into the private open space of an existing dwelling, the window does not require screening where:</p> <p>a. the window is to a bedroom, bathroom, toilet, laundry, storage room, or other non-habitable room; or</p> <p>b. the window has a minimum sill height of 1.5 metres above floor level; or</p> <p>c. the window has translucent glazing to a minimum height of 1.5 metres above floor level; or</p> <p>d. the window is designed to prevent overlooking of more than 50% of the private open space of a lower-level or adjoining dwelling.</p>	<p>East: No. 88 Caroline Crescent has a carport and private open space on the west elevation – no overlooking from living areas.</p> <p>West: No. 92 Caroline Crescent has a carport on the east elevation – no living areas on proposal's west elevation.</p>	YES
4.21 – Upper floor side & rear balconies	<p>Council may allow dual occupancies to have an upper floor side or rear balcony solely where the balcony is not accessible from a living area or hallway, and the balcony design:</p> <p>a. does not have an external staircase; and</p> <p>b. does not exceed a width of 1.5 metres throughout; and</p> <p>c. incorporates a form of screening to the</p>	No first floor or rooftop balconies proposed	N/A

	satisfaction of Council such as partially recessing the balcony into the building.		
4.22 – Rooftop balconies	Not permitted	No rooftop balconies are proposed	N/A
4.23 – Existing dwellings	Development for the purpose of dual occupancies must demolish all existing dwellings (not including any heritage items) on the allotment.	Proposed removal of existing dwelling on site	YES
4.24 – Façade design	<p>The design of dual occupancies must ensure:</p> <ol style="list-style-type: none"> (the street facade of dual occupancies (attached) adopt an asymmetrical design to provide each dwelling with an individual identity when viewed from the street; or the street facade of dual occupancies (attached) or dual occupancies (detached) incorporate architectural elements that are compatible with the asymmetrical appearance of neighbouring dwelling houses, particularly where a pattern is established by a group of adjoining dwelling houses; and the front porch and one or more living area or bedroom windows to each dwelling face the street; and the garage, driveway and front fence do not dominate the front of the building and front yard; and the two dwellings on a corner allotment each face a different frontage. 	<p>Both dwellings have an individual identity through architectural points of difference</p> <p>Front street-facing ground floor window provided, as well as first floor bedroom windows</p> <p>Garages are not considered to dominate the streetscape, due to the site's generous width</p>	YES

4.25 – Roof pitch	Maximum 35 – degrees	20 degree roof pitch proposed	YES
4.30 – Car parking	<p>Development must locate the car parking spaces behind the front building line with at least one covered car parking space for weather protection. Despite this clause, Council may allow one car parking space per dwelling to locate forward of the front building line provided:</p> <p>a. the car parking space forward of the front building line is uncovered and located in a stacked arrangement on the driveway in front of the covered car parking space; and</p> <p>b. the covered car parking space is setback a minimum 6 metres from the primary and secondary frontages.</p>	Each dwelling is provided with two covered car parking spaces within a double garage set back behind the front building line	YES
4.31 & 4.32 – Garage design	Where development proposes a garage with up to two car parking spaces facing the street, Council must ensure the garage architecturally integrates with the development and does not dominate the street facade. Council does not permit internal stacked or tandem garages.	Garages are considered to be incorporated into the designs of the dwellings, with first floors above and entryways clearly visible.	YES
4.33 – Existing trees	Development must retain and protect any significant trees on the allotment and adjoining allotments. To achieve this clause, the development may require a design alteration or a reduction in the size of the dual occupancy.	Proposed development is set back 3.50 metres from the tree on the adjoining property – considered sufficient to protect and retain tree, via conditions of consent	YES
4.34 - Landscaping	Plan includes species taken from Appendix 4 & 5, and Min 45% of area between the building & primary &	49% landscaped front setback Standard landscaping	YES

	secondary frontage be landscaped One 75L tree in primary setback	conditions apply	
BDCP 2015 – Part B5 - Parking			
2.3 – Off-street parking requirements	2 car spaces per 3+ bedroom dual occupancy dwellings	Two garage spaces per dwelling provided	YES
3.4 – Minimum dimensions	5.5 metres in depth by 5.4 metres in width	Garages are 5.50 by 5.50 metres in dimension	YES
BDCP 2015 – Part B11 - Tree Preservation Order			
2.3 – Prescribed trees	All trees over 5.0 metres in height	Retention of trees on a neighbouring property and removal of one street tree – via conditions of consent	YES
BDCP 2015 Part B12 – Flood Risk Management			
3.2.1 – Performance Criteria	Not result in increased risk to human life or economic / social loss	The application has been assessed by Council's development engineers, with conditions of consent provided in specific relation to the site's flooding affectation	YES
BDCP 2015 Part B13 – Waste Management & Minimisation			
1.1 – Waste Management	Development must be accompanied by a Waste Management Plan	A Waste Management Plan accompanied the application	YES
2.4 – Bin Storage	Bin storage area is not to be seen from the public domain and is to be away from habitable rooms	Side setbacks are clear from obstruction and considered a suitable carting path from the rear yard for bins	YES
Bankstown Development Engineering Standards			
1 - Introduction	The guideline is designed to protect the integrity of the City's infrastructure in situations where it is impacted upon by building and subdivision development	The application has been assessed by Council's development engineers who have provided conditions of consent relating to Council infrastructure	YES

As per the content of the table above, the development application satisfies the relevant aims, provisions, standards and controls contained within the Bankstown Development Control Plan 2015.

Bankstown Development Contributions Plan 2019

Pursuant to Part 7 of the *Environmental Planning and Assessment Act, 1979*, and the Bankstown Development Contributions Plan 2019, a contribution of \$20,000 must be paid to Council

Planning Agreements [Section 4.15(1)(a)(iia)]

There are no planning agreements that are applicable to the proposed development or the subject land.

The Regulations [Section 4.15(1)(a)(iv)]

The proposal is not inconsistent with the provisions of the Environmental Planning and Assessment Regulation, 2000.

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

The development is not considered to bring about undue social, environmental or economic impacts on the locality.

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

The site is considered suitable for the above-described development.

Submissions [section 4.15(1)(d)]

The application was advertised/notified for a period of 14 days ending on 3 April 2020. No submissions were recorded by Council, as of the date of this report.

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*. Based on the above assessment, the proposed development is consistent with the public interest.

CONCLUSION

The Development Application has been assessed in accordance with matters for consideration contained in Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* requiring, amongst other things, an assessment against the provisions contained in Bankstown Local Environmental Plan 2015 and Bankstown Development Control Plan 2015. It is considered that the proposed development is compliant with all relevant development standards and controls.

RECOMMENDATION

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

CONDITIONS OF CONSENT

- 1) The development work must comply with the conditions of this Determination Notice. A Construction Certificate must not be issued until the drawings and specifications satisfy the required technical standards and the consent conditions of this Determination Notice. In the event of an inconsistency between this Determination Notice, the approved drawings and supplementary documentation, this Determination Notice shall prevail.
- 2) The development work must be carried out in accordance with the approved drawings and supplementary documentation set out in the table below, except where amended by the conditions specified in this Determination Notice.

Drawing No.	Drawing Title	Revision	Dated	Prepared by
A 1/6	Site Plan / Subdivision Plan	B	01/06/2020	ACM Civil & Structural Engineers Pty Ltd
A 2/6	Ground Floor Plan	C	04/05/2020	
A 3/6	First Floor Plan	C	04/05/2020	
A 4/6	South Elevation / North Elevation	B	01/06/2020	
A 5/6	East Elevation / West Elevation	B	01/06/2020	
A 6/6	Section A-A	B	01/06/2020	
Es 1/1	Demolition Plan	-	13/03/202	

Prior to the issue of a Construction Certificate, the approved development drawings and the supplementary documentation must be amended as follows:

- a) The jacaranda tree located in the southeast corner of the property is to be retained and protected throughout works to the site and for the lifetime of the development. All Construction Certificate and engineering plans are to note a 2.0 metre works exclusion zone from this tree as well as the peppercorn tree on the adjoining property known as No. 88 Caroline Crescent, as shown marked in red on stamped plans.

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

- 3) A detailed landscape drawing prepared by a qualified landscape architect or qualified landscape designer must be approved by the Certifier. The landscape drawing must be prepared in accordance with relevant legislation.

The landscape plan is to include the following features and notations:

- a) The location of existing and proposed structures on the subject property/properties, including existing and proposed trees, impermeable areas, landscaped areas, deep soil zones, fixed furniture, shade structures, lighting and other features.

- b) Details of earthworks and soil depths, including mounding and retaining walls and planted boxes.
 - c) The location, number and type of chosen plant species. Plants chosen are preferred to be drought resistant species suited to the microclimate. Refer to Council's *"Your Native Garden"* guide for recommended native plants within the Canterbury-Bankstown local government area (<https://www.cbcity.nsw.gov.au/environment/biodiversity/native-plants>).
 - d) Details of planting procedures and long-term maintenance.
 - e) Details of drainage and watering systems.
- 4) The following landscaping is to be planted on site, and is to be shown on the landscape plan detailed in Condition 3 of this Determination Notice:

Number of Trees	Location
One	Council reserve, forward of the property boundary with Caroline Crescent

Subject to the following:

Prior to the issuance of a Works Permit, the owner/applicant is to contact Council (9707 9000) to obtain replacement conditions by the Tree Management Officer for a tree to be planted within Council's nature reserve, forward of the subject property's front boundary.

The replacement is to be at full cost to the owner/applicant. The size and type of replacement planting is to be determined by Council's Tree Management Officer prior to the issue of the Work Permit. All conditions imposed by Council's Tree Management Officer shall be complied with.

Inspections by Council's Tree Management Officer of the completed tree planting are to be scheduled once the tree protection fence has been installed, and again once the works have been completed prior to the issue of an occupation certificate. Inspections must be booked at least 5 working days prior to being required.

- 5) The following landscaping is to be planted on site, and is to be shown on the landscape plan detailed in Condition 3 of this Determination Notice:

Number of Trees	Location
One	Front yard of the development
One	Rear yard of the development

Plantings are to comply with the following conditions:

- a) The tree species (at maturity) must be capable of attaining a height of ten (10) metres with a canopy spread of five metres.
- b) Tree species used are not to include any of the exempted plant species listed under clause 2.4 of Bankstown Development Control Plan 2015 Part B11– Tree Management Order.

- c) The trees are to be a minimum container size of 75 litres. They 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.
 - d) The trees are to be planted no closer than 3.5 metres from the wall of any approved dwelling exterior wall on the property.
 - e) All new plantings shall be located so future growth will not be in conflict with electricity wires. Consideration should be given to the location of new electricity poles and wires so that sufficient space is provided.
 - f) The trees are to be planted prior to the issue of an occupation certificate.
 - g) The tree shall be maintained for the life of the development. Any newly planted trees that fail to establish within two years of the initial planting date are to be replaced with trees of comparable qualities and specifications.
- 6) The landscape drawing must include a provision for the replacement of all boundary fencing. The replacement fence must be 1.8 metres high unless otherwise shown on the approved drawings or as stipulated in this Determination Notice. The selected materials and colours of the fence must be agreed upon with the adjoining property owners unless the design of the fence and the type of material is specified to allow for overland flow. Fencing forward of the building line must not be greater than one metre in height. All costs related to fencing must be borne by the person having the benefit of this Determination Notice.
- 7) Approval in accordance with Council's Tree Management Order (TMO) is granted to lop or remove only those trees identified to be lopped or removed on the approved drawings. If not indicated on the approved drawings, separate approval must be obtained to prune or remove trees on adjoining properties or other trees located on the site. A person(s) who contravenes or causes or permits the TMO to be breached shall be guilty of an offence and liable for prosecution.

Approval is granted for the removal of the jacaranda street tree located within Council's nature reserve forward of the property, subject to replacement conditions found within this Determination Notice.

No approval is granted for the removal of the jacaranda tree at the southeast corner of the property, as shown marked in red on stamped plans.

- 8) A Soil Erosion and Sedimentation Control Plan must be prepared as specified in Bankstown DCP 2015. The plan must be prepared by a professional engineer or appropriately qualified person as defined in the National Construction Code (NCC) and approved by the Certifier. It must show north point (true north); scale (ratio and bar scale); date, plan number, revision number (where relevant) and name of person who prepared the plan, their contact details and professional qualifications; contours (initial and final); existing and proposed boundaries; 'site' or 'disturbed area'; location of stockpiles and secure chemical storage area; location of temporary and permanent Soil and Water Management Controls; vehicle access point/s; location of drains, downpipes, pits and watercourses; proposed integration with on-site detention/infiltration; and stormwater discharge point (if proposed). The plan must state that the capacity and

effectiveness of erosion and sediment control devices must always be maintained throughout the construction period.

- 9) The Council approved drawings, including demolition drawings, must be submitted to Sydney Water for assessment. This will determine if the proposed structure(s) will affect any Sydney Water infrastructure or if there are additional requirements. Building plan approvals can be submitted online via Sydney Water Tap in™.

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

Sydney Water must issue either a Building Plan Assessment letter which states that the application is approved, or the appropriate drawings must be stamped by a Water Servicing Coordinator.

- 10) All fees, levies, bonds and/or contributions as required by this Determination Notice must be paid to relevant the authority/entity.
- 11) A long service levy payment which is calculated to be 0.35% of the total cost of the construction work must be paid to the Building and Construction Industry Long Service Payments Corporation.
- 12) Pursuant to Part 7 of the *Environmental Planning and Assessment Act, 1979*, and the Bankstown Section Development Contributions Plan 2019, a contribution of **\$20,000.00** must be paid to Council. The amount must be adjusted at the time of actual payment, in accordance with the provisions of the Development Contributions Plan 2019. The contribution must be paid before the issue of the Construction Certificate. Payment will only be accepted in the form of cash, bank cheque or EFTPOS. Personal cheque and credit card payments will not be accepted.

Note: The Bankstown Development Contributions Plan 2019 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.

- 13) A Work Permit must be obtained from Council for any one or all the following tasks or work related to the development as required under Section 138 of the *Roads Act 1993*:
- a) Footway damage inspection and report,
 - b) One medium-duty VFC of a maximum width of 5.50 metres at the property boundary for units 1 and 2. All existing and / or new infrastructure located on Council's land in front of the development site is to be provided in accordance with Council's Engineering Standard STD DWG N° S-004. All costs associated in achieving compliance with this condition must be borne by the person having the benefit of this Determination Notice. All work must be completed prior to the issue of any Occupation Certificate,

- c) Replace the street tree/s to the satisfaction of Council's Tree Management Officer,
- d) Drainage connection through rain water tank overflows charged to the front street kerb through a newly created inter allotment easement and then to Council's system.
- e) Removal of all driveway surfaces, reinstatement of laybacks to kerb and gutter and reshaping of the footway, all associated with redundant VFCs.
- f) Repair of any damage to the public road including the footway occurring during development works.
- g) 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: A Work Permit must be obtained from Council for the drainage connection to Council's drainage system as required under Section 68 of the *Local Government Act 1993*.

Note: The entity carrying out the work that is mentioned on the Work Permit must carry public liability insurance to a minimum value of twenty million dollars (\$20 Million). Proof of the policy must be submitted to Council, prior to commencing any of the work approved by the Work Permit including the Road Opening Permit. The policy must remain valid throughout the construction period.

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.

- 14) The subject site is located adjacent to private drainage easement is affected by local overland flooding and shall comply with the following:
- a) Proposed buildings shall be located clear of floodways' through the site.
 - b) Habitable floor level shall be constructed to RL 9.9m including freeboard as determined by the Storm water system report prepared by Council. All approved construction details shall be consistent with this requirement.
 - c) The minimum floor level of the proposed structure(s) shall be constructed to RL 9.9m AHD including freeboard. All approved construction details shall be consistent with this requirement.
 - d) The minimum floor level of the proposed garage(s) shall be constructed to RL 9.4m AHD. All approved construction details shall be consistent with this requirement.
 - e) An unobstructed overland flowpath (floodway) for excess stormwater runoff from Council's drainage system and upstream catchment shall be constructed and maintained by the owner.

- 15) 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 CCDRAN (General) with the above requirements and shall generally be in accordance with the concept stormwater plan No. 20003 Sheet no: H 1/1 dated 13/03/2020 prepared by ACM Civil & Structural Pty Ltd.

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.

The final plan shall include the amended design of the structure, as shown on stamped plans in Condition 2 of this Determination Notice. The final plan is also to provide for a 2.0 metre exclusion zone of the jacaranda tree located in the southeast corner of the property as well as the peppercorn tree near the common boundary on the property known as 88 Caroline Crescent. No digging or earthworks are to occur within 2.0 metres of these trees as measured from the centre of the trunk. Any infrastructure shown on preliminary engineering plans are to be relocated to be clear of these zones.

- 16) Retaining walls exceeding 600mm in height must be designed by a professional engineer as defined in the National Construction Code (NCC). These drawings and details must be submitted to the Certifier prior to the issue of the Construction Certificate. All work associated with the construction of the wall, including backfilling and stormwater drainage, must be located wholly within the development site.
- 17) The development must be carried out in accordance with the commitments shown on the provided BASIX Certificate. The BASIX commitments must be reflected in the Construction Certificate drawings and specifications.
- 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) The sum of the impervious areas associated with the car parking area, driveway and paths must not exceed 55% of the area between the dwellings and the primary frontage.

CONDITIONS TO BE SATISFIED PRIOR TO CONSTRUCTION

- 20) A Construction Certificate is required for the erection of a building in accordance with this Determination Notice.

This Determination Notice does not authorise building work until a Certifier has been appointed as the Principal Certifier for the work by (or with the approval of) the person having the benefit of this Determination Notice or other person authorised by the regulations.

The following requirements apply before the commencement of building work in accordance with this Determination Notice:

- a) the Principal Certifier has, no later than 2 days before the building work commences, notified the Consent Authority and the Council (if the council is not the Consent Authority) of his or her appointment as the Principal Certifier,
 - b) the Principal Certifier has, no later than 2 days before the building work commences, notified the person having the benefit of this Determination Notice of any inspections that are required to be carried out in respect of the building work,
 - c) the person carrying out the building work has notified the Principal Certifier that the person will carry out the building work as an owner-builder, if that is the case,
 - d) the person having the benefit of this Determination Notice, if not carrying out the 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 Certifier of the appointment, and
 - iii. unless that person is the principal contractor, notified the principal contractor of any inspections that are required to be carried out in respect of the building work,
 - e) the person having the benefit of this Determination Notice has given at least a 2-day notice to the Council, and the Principal Certifier if not the Council, of the person's intention to commence the erection of the building.
- 21) Residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act and that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

Residential development work within the meaning of the *Home Building Act 1989* must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the following information:

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

Note: If arrangements for carrying out the residential development work are changed while the work is in progress, further work must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

- 22) Existing trees and property within the vicinity of the development site or paths of travel of construction vehicles accessing the development site that are to be retained must be protected with temporary fencing. This must be of a type that prevents injury to tree roots, placed 2 metres away from the trunk base of the existing tree to prevent damage during construction and retained in accordance with Council's Tree Preservation Order. There must not be any stockpiling of materials within the 2-metre fenced zone whilst the construction of the development work is being undertaken and must always be maintained throughout the construction period.
- 23) The peppercorn tree located within the front setback of the adjoining property to the east, known as 88 Caroline Crescent and the jacaranda tree in the front setback of the subject property are to be retained and protected throughout all demolition and construction works. The following measures are to be followed throughout the works to site:
- a) No digging is to occur with a 2.0 metre radius of any of the trees, as measured from the centre of the trunks.
 - b) No vehicular access, excavations for construction or installation of services shall be carried out within a 2.0-metre radius of the trees, as measured from the centre of the trunks.
 - c) All utility services, pipes, stormwater lines and pits shall be located outside the 2.0 metre radius zone.
 - d) Building materials, chemical storage, site sheds, wash out areas, and similar shall not be located within the 2.0 metre radius zone.
 - e) If any tree roots are exposed during any approved works then roots smaller than 50mm are to be pruned. They shall be cut cleanly by hand, by an experienced Arborist/Horticulturist (with a minimum of the Horticulture Certificate or Tree Surgery Certificate). Any roots greater than 50mm are to be assessed by a qualified arborist before any pruning is undertaken. If required, changes in design may need to be considered.
- 24) Erosion and sediment control measures must be installed in accordance with the drawings accompanying the Construction Certificate. The capacity and effectiveness of the erosion and sediment control devices must always be adequately maintained throughout the construction period.
- 25) Council's warning sign for Soil and Water Management must be displayed throughout the construction period at the most prominent point of the site, visible to both the street and site.
- 26) Temporary on-site toilet facilities must be installed and adequately maintained throughout the construction period.
- 27) A Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be obtained from Sydney Water. It is recommended that applicants apply early 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

can be made through an authorised Water Servicing Coordinator. For help either visit www.sydneywater.com.au > Plumbing, building and developing > Developing > Section 73 Compliance Certificates or telephone 13 20 92.

- 28) A fence must be erected around the area of the development site, except where an existing 1.8 metres high boundary fence is in good condition and can secure the area. Any new fencing must be temporary and at least 1.8 metres high. All fencing must be maintained throughout the construction period 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 work proposed. An application for a Work Permit for such hoarding must be submitted to Council for approval prior to the commencement of development work.

- 29) A sign must be erected in a prominent position at the development site and must:
- a) Show the name, address and telephone number of the Principal Certifier for the work,
 - b) Show the name of the licenced builder / owner-builder and a telephone number on which that person may be contacted outside working hours, and
 - c) State that unauthorised entry to the development site is prohibited.

Note: Any such sign must be maintained while the development work is being carried out and must be removed when the development work has been completed.

- 30) The demolition of all structures on the property must be undertaken in accordance with all the following:
- a) Written notice must be issued to adjoining residents a minimum of seven (7) days prior to the commencement of demolition advising of the commencement date,
 - b) Written notice must be issued to Council for inspection a minimum of (7) days prior to the commencement of demolition. Written notice must include the date when demolition work will commence and details of the name, address, contact telephone number and licence number of the demolition contractor,
 - c) Inspections being undertaken by Council including:
 - i. A pre-commencement demolition inspection when all site works required as part of this Determination Notice are installed on the site and prior to demolition work commencing, and
 - ii. A final demolition inspection when the demolition work has been completed to ensure that the site is left in a satisfactory manner, in accordance with the conditions of this Determination Notice,
 - d) Payment of an inspection fee at Council's current rate must be paid prior to inspection. Council requires 48 hours' notice to carry out an inspection,
 - e) A sign must be erected at the front of the property showing the name of the licenced demolition contractor, the licence number and a telephone number on which that person can be contact outside of working hours,

- f) All demolition work must be carried out in accordance with Australian Standard 2601-2001 – The Demolition of Structures,
- g) Where asbestos containing materials are to be removed, demolition must be carried out by contractors who have a current SafeWork NSW licence in asbestos removal,
- h) An asbestos clearance certificate issued under the *Work Health and Safety Act 2011* must be submitted to Council after the completion of demolition work,
- i) Hazardous and intractable wastes arising from the demolition process must be removed and disposed of in accordance with the requirements of SafeWork NSW and the NSW Environment Protection Authority,
- j) Demolition procedures must maximise the reuse and recycling of demolished materials to reduce the environmental impacts of waste disposal, and
- k) Adhere to the requirements stipulated in the approved Waste Management Plan.
- l) Demolition work may only be carried out between 7.00 am and 5.00 pm on Monday to Saturday and no construction is to be carried out at any time on a Sunday or a public holiday.

A copy of the final demolition inspection report must be submitted to the Principal Certifier prior to the commencement of any construction work.

CONDITIONS TO BE SATISFIED DURING CONSTRUCTION

- 31) The development work must be carried out in accordance with the requirements of the National Construction Code (NCC).
- 32) Erosion and sediment control measures must be installed in accordance with the drawings accompanying the Construction Certificate and the capacity and effectiveness of the erosion and sediment control devices must always be adequately maintained throughout the construction period.
- 33) Construction may only be carried out between 7.00 am and 5.00 pm on Monday to Saturday and no construction is to be carried out at any time on a Sunday or a public holiday.
- 34) There must not be any stockpiling of building spoil, materials, or storage of equipment on the public road during the construction period. The footway and the road reserve must always be maintained in a safe condition. No work can be carried out on the public road, including the footway, unless a Work Permit authorised by Council has been obtained.
- 35) A report by a registered surveyor must be submitted to the Principal Certifier prior to the construction of any floor level of the development verifying that the proposed finished floor level and the wall setbacks to the property boundary conform to the approved drawings.

- 36) All civil and stormwater engineering work must be carried out in accordance with Council's Bankstown Development Engineering Standards - Stormwater Disposal Controls. All civil and hydraulic engineering work associated with Council's assets and infrastructure must be carried out in accordance with Council's Work Permit requirements and to Council's satisfaction.
- 37) All precautions must be taken to prevent any damage likely to be sustained to adjoining properties. Where damage occurs to an adjoining property, all necessary repairs or suitable agreement for such repairs must be undertaken by the person having the benefit of this Determination Notice in consultation with, and with the approval of, the affected property owner as soon as practical. All costs associated in achieving compliance with this condition must be borne by the person having the benefit of this Determination Notice.
- 38) If the development involves an excavation that extends below the level of the base of the footings of a building, structure or work (including any structure or work within a road or rail corridor) on adjoining land, the person having the benefit of this Determination Notice must, at the person's own expense:
- a) Protect and support the building, structure or work from possible damage from the excavation, and
 - b) Where necessary, underpin the building, structure or work to prevent any such damage.

This consent condition does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

- 39) The stormwater drainage system must be constructed in accordance with Bankstown Development Engineering Standards - Stormwater Disposal Controls and the engineering plans and details approved by the Certifier. Should any existing underground stormwater drainage pipes, which carry flow from upstream properties be encountered during construction, then the stormwater flow and the stormwater pipes must be re-routed around the proposed building or structures. All costs must be borne by the person having the benefit of this Determination Notice. A final detailed stormwater drainage design must be certified by a professional engineer (as defined in the NCC) stating that it complies with Council's relevant stormwater disposal controls, the BASIX Certificate and the relevant Australian Standards.
- 40) All boundary fencing behind the building line must be replaced by a 1.8-metre-high fence unless shown otherwise on the approved drawings or as stipulated in this Determination Notice. The selected materials and colours of the fence must be agreed with the adjoining property owners unless the design of the fence and the type of material is specified to allow for overland flow. Fencing forward of the building line must not be greater than 1 metre in. All costs related to fencing must be borne by the person having the benefit of this Determination Notice.

CONDITIONS TO BE SATISFIED PRIOR TO OCCUPATION

- 41) The occupation or use of the building must not commence unless an Occupation Certificate has been issued. All consent conditions related to this Determination Notice must be satisfied and a Work Permit Compliance Certificate must be issued by Council.
- 42) All landscaping work and methods nominated and materials and plants specified on the drawings approved by the Certifier must be completed accordingly.
- 43) Lighting must be provided to the entries of the dwellings, driveways and parking areas to promote a high level of safety and security at night and during periods of low light. All lighting must be hooded, shielded or directed away from neighbouring dwellings and public areas to minimise glare and associated nuisances to residents and the public.
- 44) The buildings must be readily identified from the street with the allocated house numbers. An official "house numbering" letter is issued to the applicant indicating the proposed numbering of the new development. House numbering without Council's written approval is not permitted.
- 45) The Section 73 compliance certificate under the *Sydney Water Act 1994* must be submitted to the Principal Certifier.
- 46) A report by a registered surveyor must be submitted to the Principal Certifier verifying that the height of floor structures at each level, the height of external walls, the height of roof structures/roof eaves overhangs and that the external wall setbacks to the property boundaries all conform with the approved plans.
- 47) A registered surveyor shall prepare a Work As Executed Plan, and a suitably qualified Hydraulic Engineer shall provide certification of the constructed stormwater 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 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.

- 48) A Copy of the Work Permit Compliance Certificate shall be submitted to the PCA Prior to the issue of the Occupation Certificate.

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

49) Prior to the issue of a Subdivision Certificate, the following must be complied with:

- a) Easements have been created where necessary over the relevant lots on the plan of subdivision under provisions of the *Conveyancing Act 1919* as follows:
 - i. Easements to drain water (for inter-allotment drainage),
 - ii. Easement for services (for utilities),
 - iii. Right of carriageway (for internal driveway, vehicle manoeuvring), and
 - iv. Easement for overhang (for eaves and gutters).

Note: a statement must be placed on the Section 88B Instrument that nominates Canterbury-Bankstown Council as the authority empowered to release, vary or modify the easements created.

- b) The following information must be submitted to Council or the Principal Certifier with an application for a Subdivision Certificate:
 - i. Original Plan of Subdivision signed by a registered surveyor, plus five (5) copies,
 - ii. Copy of this Determination Notice and any approved Section 4.55 modifications,
 - iii. Evidence that all conditions of consent relevant to the release of the Subdivision Certificate have been complied with,
 - iv. A Compliance Certificate (Section 73 of the Sydney Water Act 1994) from Sydney Water,
 - v. Certification by a registered surveyor that all services such as stormwater, drainage, water, gas, electricity and telephone are contained separately within each lot or within easements created to accommodate such services,
 - vi. A report by a registered surveyor verifying that the external wall setbacks and roof eaves overhang to the proposed subdivision boundaries all conform with the approved plans,
 - vii. A Work As Executed Plan prepared by a registered surveyor, together with certification from a professional engineer as defined in the National Construction Code (NCC), of the constructed on-site drainage and/or stormwater detention system, must be obtained prior to the release of the linen plans. The Work As Executed plans must be shown on a copy of the approved stormwater drainage plan and must contain all information specified in Council's Bankstown Development Engineering Standards. The Work As Executed information must be shown in red ink on a copy of the approved drawings. The information must be prepared by a professional engineer as defined in the NCC and completed on Council's standard form "On-Site Stormwater Detention System – Certificate of Compliance", contained in Council's Bankstown Development Engineering Standards. A copy of the Work As Executed Plan together with the certification must be submitted to Council for information prior to issue of the linen plan,
 - viii. A copy of the Work Permit Compliance Certificate, where required,

- ix. A copy of the Compliance Certificate for the subdivision work, and
 - x. A copy of the Occupation Certificate for the building.
- c) An application for the issue of a Subdivision Certificate must be lodged with Council and appropriate fees must be paid at the time of submitting the information referred to in part (b) of this condition.

The subdivision certificate must not be issued until the requirements of this condition have been complied with.

ONGOING CONDITIONS OF CONSENT

- 50) The approved landscaping and external work must be maintained post occupation and must not be altered or changed without Council approval or unless the altered work is carried out in accordance with the relevant provisions of the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

-END-