



AGENDA FOR THE CANTERBURY BANKSTOWN LOCAL PLANNING PANEL MEETING

1 March 2021 - 6.00pm

ORDER OF BUSINESS

ORDER OF BUSINESS

APOLOGIES AND DECLARATIONS

CONFIRMATION OF MINUTES OF PREVIOUS MEETING

BANKSTOWN WARD

- 1 10 Juno Parade, Greenacre**
Demolition of existing structures and construction of a two-storey attached dual
occupancy with Torrens title subdivision 3

CANTERBURY WARD

- 2 35-41 Crinan Street, Hurlstone Park**
Construction of a new single storey community building with associated landscaping,
car parking and loading/unloading areas 33
- 3 3 Highcliff Road, Earlwood**
Remediation of portion of the property subject to historical contamination including
re-profiling, capping and re-vegetation works. 87

Canterbury Bankstown Local Planning Panel - 01 March 2021

ITEM 1	10 Juno Parade, Greenacre Demolition of existing structures and construction of a two-storey attached dual occupancy with Torrens title subdivision
FILE	DA-1044/2020 – Bankstown
ZONING	R2 Low Density Residential
DATE OF LODGEMENT	17 November 2020
APPLICANT	Pinnacle Plus
OWNERS	Rabah Maraby
ESTIMATED VALUE	\$739,837
AUTHOR	Aidan Harrington

REPORT

This matter is reported to Council's Local Planning Panel due to the proposed departure of a numerical development standard by greater than 30%, which renders the determination of the Development Application, outside of the delegation of Council officers.

Development Application No. DA-1044/2020 proposes demolition of existing structures and construction of a two-storey attached dual occupancy with Torrens title subdivision.

DA-1044/2020 has been assessed, amongst other things, against the provisions contained within *Bankstown Local Environmental Plan 2015* and *Bankstown Development Control Plan 2015* and the application fails to comply in regards to minimum lot size for dual occupancies, wall height, floor space ratio, the provision of private open space, solar access, landscaping, design and engineering standards.

The application is integrated development in accordance with Section 4.46 of the Environmental Planning and Assessment Act 1979 and Section 138 of the Roads Act 1993. The application was referred to Transport for New South Wales who did not provide concurrence for the proposed development.

The application was notified for a period of fourteen (14) days as required by the Canterbury Bankstown Community Participation Plan. No submissions were received.

POLICY IMPACT

The Development Application proposes a number of extensive variations to the relevant policies, namely the Bankstown Local Environmental Plan 2015 and the Bankstown Development Control Plan 2015. Support of the proposed variations would undermine the intent of the policies and their future application.

FINANCIAL IMPACT

There are no direct financial impacts as a result of the subject Development Application.

RECOMMENDATION

It is recommended that the application be refused, for the reasons contained in attachment B.

ATTACHMENTS

- A. Section 4.15 Assessment Report
- B. Reasons for Refusal

DA-1044/2020 ASSESSMENT REPORT

SITE & LOCALITY DESCRIPTION

The subject site is known as 10 Juno Parade, Greenacre. The site is a regular shaped allotment that is zoned R2 Low Density Residential under the Bankstown Local Environmental Plan 2015.

The site currently contains a single storey dwelling house with a detached garage and is situated in a medium risk flooding zone (overland flow path). The surrounding development predominately consists of single storey detached dwelling houses. There are very few interruptions to this streetscape other than a few two storey dwellings (one opposite the site, the other approximately 80 metres to the west of the site). The northern side of Juno Parade is a part of the Strathfield Municipality. The sites context can be seen in the below aerial photograph.



PROPOSED DEVELOPMENT

The development application proposes the demolition of existing structures and construction of a two-storey attached dual occupancy with Torrens title subdivision.

Statutory Considerations

When determining this application, the relevant matters listed in Section 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:

- Roads Act 1993
- State Environmental Planning Policy No 55 –Remediation of Land (SEPP 55)
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- Bankstown Local Environmental Plan 2015 (BLEP 2015)
- Draft Canterbury Bankstown Local Environmental Plan
- Bankstown Development Control Plan 2015 (BDCP 2015)
- Bankstown Development Engineering Standards

ROADS ACT 1993

Section 138 of the Roads Act 1993 requires that Transport for New South Wales (TfNSW) grant concurrence for proposed connections to a classified road. Juno Parade is listed as a State road on the Schedule of Classified Roads and Unclassified Regional Roads and as such, concurrence is required for the proposed two vehicle access points.

In correspondence dated 10 December 2020, TfNSW refused to grant concurrence for the following reasons:

1. *The Australian Guidelines “Planning for Road Safety” is based on the widely accepted principle of conflict reduction by separating the traffic movement and land access functions as much as possible. As such, the number of access points should be minimised. As such, the proposed development is to have one driveway crossing only.*
2. *TfNSW require the site to provide a singular driveway to service the site which would be subject to:*
 - (a) *Sight distances from the proposed vehicular crossings to vehicles on Juno Parade are to be in accordance with the Austroads Guide to Road Design: Part 4A: Unsignalised and Signalised Intersections (Section 3 – Sight Distance) and AS 2890. Vegetation and proposed landscaping/fencing must not hinder sight lines to and from the vehicular crossings to pedestrians, cyclists and motorists; and*
 - (b) *Vehicles are to enter and exit the site in a forward direction. Swept paths would need to be provided to demonstrate that this can be achieved. Turn around facilities may be required to enable this manoeuvre.*

SECTION 4.15 ASSESSMENT

The proposed development has been assessed pursuant to section 4.15(1) of the *Environmental Planning and Assessment Act, 1979*.

Environmental planning instruments [section 4.15(1)(a)(i)]***State Environmental Planning Policy No. 55 – Remediation of Land***

The provisions of Clause 7(1) of *State Environmental Planning Policy No. 55 – Remediation of Land* specifies that a consent authority must not consent to the carrying out of any development on land unless:

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

The subject site has long been used for residential purposes with no history of contamination. Given the site history, and no evidence to suggest otherwise at the site inspection, it is considered that the site is not contaminated. The provisions contained within Clause 7(1) of the SEPP are therefore deemed to have been satisfied.

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

A valid BASIX Certificate did not accompany the development application, as the submitted certificate was older than 3 months at the time of lodgment. Notwithstanding this, the proposal fails to provide the location and specifications of the hot water system or the rainwater tank as required by the submitted certificate. The proposal therefore fails to meet the requirements of *State Environmental Planning Policy (Building and Sustainability Index: BASIX) 2004*.

State Environmental Planning Policy (Infrastructure) 2007

Juno Parade is listed as a State road by TfNSW. As such, Clause 101 of SEPP (Infrastructure) 2007 applies to the development. Clause 101(2)(b) is of relevance to the proposed development and provides as follows:

- (2) The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that—*

...

- (b) *the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of—*
- (i) *the design of the vehicular access to the land, or*
 - (ii) *the emission of smoke or dust from the development, or*
 - (iii) *the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*

Given the comments received from TfNSW, in relation to the integrated development referral, concern is raised as to the affect the development will have on the safety, efficiency and ongoing operation of Juno Parade as a result of the number of vehicle crossings proposed and the inability for motorists to exit the site in a forward direction (i.e. the 'design' of the crossings). As such, the development is considered to fail Clause 101(2)(b)(i) of SEPP (Infrastructure) 2007.

Bankstown Local Environmental Plan 2015

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

Clause 1.2 – Aims of Plan

Clause 2.1 – Land use zones

Clause 2.2 – Zoning of land to which Plan applies

Clause 2.3 – Zone objectives and Land Use Table

Clause 4.1A – Minimum lot sizes and special provisions for dual occupancies

Clause 4.3 – Height of buildings

Clause 4.4 – Floor space ratio

Clause 4.5 – Calculation of floor space ratio and site area

Clause 4.6 – Exceptions to development standards

Clause 6.2 – Earthworks

Clause 6.3 – Flood planning

An assessment of the development application revealed that the proposal fails to comply with a number of the provisions contained in the *Bankstown Local Environmental Plan 2015* namely to Clause 1.2 Aims of Plan, Clause 4.1A Minimum lot sizes and special provisions for dual occupancies, Clause 4.3 Height of buildings, Clause 4.4 Floor space ratio, and Clause 4.6 Exceptions to development standards.

The table below is provided to demonstrate the proposals compliance with the numerical controls as set out in the BLEP 2015.

STANDARD	PERMITTED	PROPOSED	COMPLIANCE
4.1A Minimum lot sizes and special provisions for dual occupancies	Minimum 15m allotment width	14.02m	No – See comments below
	Minimum site area 500sqm	512sqm	Yes

4.3 Height of Buildings	Max 7m - wall Max 9m - building	Max. of 8m (wall height) Max. of 8m (building height)	No – See comments below Yes
4.4. Floor space ratio	Max. 0.50:1	0.73:1	No – See comments below

Clause 1.2 – Aims of the Plan

Council's assessment of the subject application has identified that the proposed development is inconsistent with the following relevant aims contained in Clause 1.2(2) of BLEP 2015:

- (d) to provide development opportunities that are compatible with the prevailing suburban character and amenity of residential areas of Bankstown,*
- (i) to achieve good urban design in terms of site layouts, building form, streetscape, architectural roof features and public and private safety,*
- (k) to enhance the quality of life and the social well-being and amenity of the community*

The prevailing suburban character of the residential areas in Bankstown are set and shaped, in the most part, by development standards such as minimum allotment widths, height and wall height of buildings and floor space ratios. The proposed non-compliance with a number of these development standards results in a development which is larger and more imposing than other similar development in the area that is both existing and that which is envisaged. The non-compliances therefore result in a development which is not compatible with the prevailing suburban character and amenity of the residential areas of Bankstown.

The proposed development is considered to be a poor design in regards to site layout, building form, streetscape and the safety of the public.

Supporting the development and the proposed variations would undermine the aims of the Bankstown Local Environmental Plan 2015 and result in a poor development outcome.

4.1A Minimum lot sizes and special provisions for dual occupancies

Clause 4.1A of the BLEP 2015 contains provisions which relate to dual occupancies. Clause 4.1A(2)(a) is of relevance and provides as follows:

(2) Development consent must not be granted to development for the following purposes—

- (a) a dual occupancy (attached) on a lot in Zone R2 Low Density Residential unless the lot has an area of at least 500 square metres and is at least 15 metres wide at the front building line,*

The subject site, being 10 Juno Parade, Greenacre has a site area of 512sqm however the allotment is only 14.02m wide at the front building line. This represents a non-compliance of 98cm, or a 6.53% departure from the development standard.

The applicant submitted a written variation request pursuant to Clause 4.6 of the BLEP 2015, for which the merits are discussed below.

Clause 4.6(4) of the BLEP 2015 provides a set of criteria that must be achieved for consent to be granted to development that contravenes a development standard. Clause 4.6(4) requires the following:

- (a) *the consent authority is satisfied that—*
 - i. *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*

Subclause (3) provides the following matters that are required to be addressed by the applicant:

- (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*

The applicants Clause 4.6 submission outlines the following reasons for why they believe compliance with the development standard is unreasonable or unnecessary in the circumstances of the case (*the applicant's statements are provided in italics in the boxes within this report*):

Note – referenced tables/figures have not been included in this report but can be found in the supplementary information

The proposal complies with the objectives of the development standard and the R2 Low Density Residential zone, indicated in the assessment at Table 1 below. Furthermore, compliance with the development standard is unreasonable and unnecessary as it is in the public interest given it is consistent with the objectives for the development within the zone.

The proposed development is inconsistent with the objectives of the development standard which are as follows:

- (a) *to ensure that lot sizes are sufficient to accommodate development that is consistent with the objectives and planning provisions for dual occupancies,*

As evidenced by the fact that a large number of the non compliances with Council's '*objectives and planning provisions for dual occupancies*' arise directly as a result of the reduced width of the allotment, it would suggest that, in fact, the lot width is not sufficient to accommodate the development.

(b) to minimise any likely adverse impact of development on the amenity of the area.

Further to the comment provided immediately above, the development that is proposed on the allotment will have an adverse impact on the amenity of the future occupants of the development, the immediately land owners to the east and west and provide for a development that is out of character with the locality. These impacts will be discussed in greater detail later in the report.

The proposed development is also inconsistent with the following objectives of the R2 Low Density Residential zone:

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

The proposed development fails the above objectives of the R2 Low Density Residential Zone in so far as;

- The BLEP 2015 provides for the development standards which provide for the scale and form of the development envisaged in the R2 zone. The fact that the development fails 2 of these development standards in addition to a large number of the controls contained within the BDCP 2015 suggests that the housing proposed has not had 'regard to local amenity'.
- With respect to landscaping, minimal opportunity exists within the front setback for any effective landscape treatment, the applicant seeks to remove all vegetation on site (although the retention of the Camphor Laurel in the sites rear south eastern corner has merit), while the private open space provided for the future residents is insufficient in area.

Provision of a high level of internal amenity as demonstrated by compliance with the key amenity criteria within the DCP including storey height limit, private open space, overshadowing and cross ventilation.

The proposed development receives a poor level of internal amenity. As a direct consequence of the allotment width, north facing living areas are not able to be accommodated within the development as the northern elevation is consumed by garages and narrow entrances to the two dwellings. Living area windows that receive solar access are therefore confined to being provided along the eastern and western elevations of the development which are likely to be overshadowed by any future two storey development on the adjoining sites.

The proposed development fails to comply with the minimum private open space requirements and insufficient information has been submitted demonstrating compliance with the overshadowing controls. The BDCP 2015 does not contain any cross-ventilation provisions.

The existing lot width is of a suitable dimension to accommodate the 900mm side setbacks to the proposed dual occupancy development.

While it is stated that the 'existing lot width is of a suitable dimension to accommodate ... 900mm side setbacks', given the wall heights along the eastern and western elevations of the development are in excess of 7 metres high, minimum 1.5 metre side setbacks are required.

The minimum lot width variation will not be responsible for any unreasonable bulk or scale impacts.

The applicant's proposal would suggest that, in fact, a variation to the lot width does result in the development providing for additional 'bulk and scale' in so far as the proposed development sits at an FSR of 0.73:1. Conversely the argument may have more merit were the applicant to have provided a compliant floor space ratio.

Notwithstanding the above, on an allotment of greater width there exists greater flexibility to accommodate the footprint of a development hence an ability to minimise the developments bulk and scale.

The proposed minimum lot width variation is not responsible for any unreasonable adverse impacts to surrounding properties including overshadowing, visual bulk impacts, visual or acoustic privacy, or view loss.

It is considered that the proposed variation to the minimum lot width has directly contributed to a number of the departures that have been identified in Council's planning controls. The limited width of the site has meant that the applicant has had to rely on east and west facing windows to obtain adequate solar access to these units. For solar access to be sufficiently retained to these units in the future, it is highly likely that the development potential of the immediately adjoining sites to the east and west will be compromised.

Compliance with established front, side, and rear setbacks ensures the proposed additional floor space provides a good level of building separation, access, landscaping, privacy, plus natural lighting and ventilation for both the new development and adjoining properties.

The above, where it refers to the 'proposed additional floor space', is not considered to provide any justification to a variation to the minimum allotment width.

The minimum lot width variation would be indiscernible due to the high-quality, articulated design of the proposed dual occupancy dwellings, which ensures that the proposed built form will contribute positively to the locality.

It is considered that the variation would be discernable from the street due to the fact that it would result in a built form (being a dual occupancy) which could not be replicated on the adjoining sites given their similar width. The northern side of Juno Parade is within the Strathfield LGA, where in the R2 Low Density Residential zone (which the northern side of the road is), dual occupancies are prohibited.

On the southern side of Juno Parade, there is not a 'dual occupancy site' (being a site that complies with the requirements of Clause 4.1A of the BLEP 2015) within 600m of the site.

The development fails to comply with a number of Council's planning controls namely landscaping within the front setback, side boundary setbacks whilst also failing to satisfy the concerns raised by TfNSW. The extent of these DCP departures are detailed later in this report.

Were the applicant to propose a two storey dwelling (where the allotment width standard would not apply), then only a single vehicle crossing is necessary, the provision of a single pedestrian accessway and a single front door would be required while the 'pressure' to accommodate these features for one instead of two dwellings would allow opportunity for compliance to be achieved with the applicable side setback controls. This would allow for additional landscaping within the front setback and provisions being made for vehicles to enter and exit the site in a forward direction. It is arguable that the allotment width contributes significantly to the departures and concerns that have arisen with this development.

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

The applicant's Clause 4.6 outlines the following environmental planning grounds that, in the applicants opinion, justify contravening the development standard.

The existing lot width suitably accommodates the dual occupancy dwellings and will not result in any significant adverse environmental amenity impacts, such as overshadowing, acoustic or visual privacy, and loss of views or outlook.

This report identifies numerous environmental amenity impacts arising directly as a result of the departure to the allotment width standard.

The proposal still achieves the objectives of the R2 Low density residential zone and that of the development standard.

For reasons as indicated earlier in this report, Council is not of the view that the development satisfies the objectives of the R2 Low Density Residential zone and those of the development standard.

The existing lot width and proposed subdivision lot sizes represent an orderly and economic use of the site, with no adverse environmental impacts above and beyond that of a compliant lot size.

The environmental planning ground suggests that any 'environmental impacts' arising from this development would be no different to the environmental impacts that would arise had the allotment width been satisfied.

It is argued that with additional allotment width, opportunity would exist to provide increased landscaped area within the front setback while a less car dominated presentation would be provided to the street.

It is not considered that suitable environmental planning grounds have been demonstrated by the applicant, as the grounds listed rely on a supposed absence of impact, for which Council does not agree is afforded to the proposed development.

ii. the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out,

Council does not consider that the proposed development will be in the public interest as it is inconsistent with both the objectives of the development standard and the objectives for development within the R2 Low Density Residential zone. The objectives aim to minimise the impact of development while providing a suitable level of amenity to the adjoining residents, the future occupants of the development and the immediate locality. This is not considered to have been achieved in this instance.

There's no evidence to suggest that the development standard has been abandoned. In allowing for a variation to the minimum allotment width, in this instance, would undermine the integrity of the standard. This would not be in the public interest.

Taking into account the above, it is not considered that the proposed variation to Clause 4.1A of the Bankstown Local Environmental Plan 2015 should be supported.

Clause 4.3 – Height of buildings

Clause 4.3 of the BLEP 2015 contains controls relating to the height of buildings. The site is mapped under the BLEP 2015 as having a maximum building height of 9 metres. While compliance with the maximum building height has been demonstrated, Clause 4.3 contains a subclause which is of relevance to dual occupancy development and provides as follows:

(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.

...

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

...

(b) for a dwelling house or a dual occupancy—the maximum wall height is 7 metres,

...

(2C) In this clause, wall height means the vertical distance between ground level (existing) and the underside of the eaves at the wall line or the top of the parapet or the flat roof (whichever is the highest).

The development proposes a maximum wall height of 8m measured from the existing ground level to the top of the blade wall separating the units. The applicant has not provided a written variation request in accordance with the provisions of Clause 4.6 of the BLEP 2015 and therefore, development consent cannot be granted.

Clause 4.4 – Floor Space Ratio

Clause 4.4 of the BLEP 2015 permits a maximum floor space ratio of 0.5:1 for the subject site on the Floor Space Ratio Map.

The FSR has been assessed as being 0.73:1, an exceedance in gross floor area of 111.4sqm above the maximum permitted under the BLEP 2015.

The applicant acknowledges the non-compliance and has submitted a written request pursuant to Clause 4.6 of the BLEP 2015 which is discussed below.

Clause 4.6(4) of the BLEP 2015 provides a set of criteria that must be achieved for consent to be granted to development that contravenes a development standard. Clause 4.6(4) requires the following:

- (a) the consent authority is satisfied that—*
 - i. the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*

Subclause (3) provides the following matters that are required to be addressed by the applicant:

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*

The applicant provides the following reasons for why they believe compliance is unreasonable or unnecessary in the circumstances of the case (a reminder, the applicant's statements are provided in italics in the boxes within this report):

Note – referenced tables/figures have not been included in this report but can be found in the supplementary information

The proposal complies with the objectives of the development standard and the R2 Low Density Residential zone, indicated in the assessment at Table 1 below. Furthermore, compliance with the development standard is unreasonable and unnecessary as it is in the public interest given it is consistent with the objectives for the development within the zone.

It is disputed that the proposed variation is consistent with the objectives of the development standard and the zone. The objective of the development standard which the proposal is inconsistent with is as follows:

- (a) to establish the bulk and maximum density of development consistent with the capacity and character of the locality of a development site,*

The proposed variation will result in a bulk and scale which not only exceeds the maximum permitted for the site, but a building almost one third larger than the expected bulk and scale of adjoining development in the locality. A variation to this extent will be inconsistent with the character of the R2 Low Density Residential zone as envisaged and reflected by the development standards contained in BLEP 2015 and the relevant development controls as contained in BDCP 2015.

The objectives of the zones that the proposal is inconsistent with are as follows:

- To provide for the housing needs of the community within a low density residential environment.*

The development would 'provide for the housing needs of the community' however the scale, size and built form of the development is not consistent with that envisaged 'within a low density residential environment'. The proposed FSR is similar to that adopted in the R3 Medium Density Residential zone under the BLEP 2015 (being 0.75:1).

- To allow for the development of low density housing that has regard to local amenity.*

The development is both inconsistent with the amenity of the existing character and the character as envisaged through the controls contained in BDCP 2015. The development will provide for an increase in overshadowing and additional visual bulk or dominance to that of a compliant development. The development would be out of character with the adjoining built form.

- *To require landscape as a key characteristic in the low density residential environment.*

The report later identifies a departure to Council's controls relating to the required landscaping in the front setback, to the required areas of private open space (for both units) and to our concern as to the removal of the Camphor Laurel tree in the sites south eastern corner. It is arguable that a development with a 'lesser' floor area would allow for an opportunity for the tree to be retained and for the required areas of private open space to be provided.

Provision of a high level of internal amenity as demonstrated by compliance with the key amenity criteria within the DCP including storey height limit, private open space, overshadowing, and cross ventilation.

The proposed development fails to comply with the minimum private open space requirements and insufficient information has been submitted demonstrating compliance with the overshadowing controls. Further the BDCP 2015 does not contain any cross-ventilation provisions.

Compliance with established front, side, and rear setbacks ensures the proposed additional floor space provides a good level of building separation, access, landscaping, privacy, plus natural lighting and ventilation for both the new development and adjoining properties.

The 'established front, side and rear setbacks' that the applicant argues they maintain 'compliance with' consists of building stock that is well in excess of 30 years old. The vast majority of the development within the immediate vicinity of the site are single storey dwellings that pre-date the current planning controls as contained in the BLEP 2015 and BDCP 2015. Notwithstanding this, the report in fact identifies a number of departures to Council's development controls referred to above including setbacks, private open space, 'natural lighting' and landscaping.

The proposal does not generate any unreasonable privacy impacts as the proposed windows to side elevations do not overlook any primary living or private open space areas, and first-floor decks are proposed with privacy screens.

Privacy or overlooking impacts, in its absence or otherwise, is not an overriding indicator as to whether the size, scale and built form of a development, as measured in gross floor area, should be varied.

The site is well serviced by public transport being within close proximity to bus routes/ stops within Juno Parade, providing accessible access to shops, facilities and services.

Similar to the comment provided immediately above, the sites proximity to 'bus routes/stops' is not a reason to support a variation to the permitted gross floor area.

The proposed height of 7.2m above natural ground level is significantly below the 9m maximum height that is permitted under the LEP, which demonstrates that a potentially larger built form could be provided in comparison to that proposed.

The BLEP 2015 provides for development standards relating to, amongst other things, FSR, wall height and building height. Council does not disagree that the overall building height could be increased. The development standard being considered here relates to the floor space ratio. The absence of maximising available building height are not grounds to support a departure to an FSR or, as alluded to above, a further departure to the FSR to that which has been proposed in this application.

As illustrated in the street streetscape elevations in Figures 2 and 3, the proposed dual occupancy dwellings are contained within a building envelope that is compatible with the established built form of the surrounding area. It is therefore considered that the proposed development does not represent an overdevelopment of the site, or a development with an FSR expressed as bulk and scale that is not compatible with the context in which it is located. In this regard, it is considered that the proposed FSR would be compatible with and subservient in the context of the surrounding built environment.

It is questionable as to what is referred to above as being ‘the surrounding area’ (in the first sentence) or the ‘context in which it is located’ (in the second sentence). The built form, in the immediate vicinity of the site, comprises essentially single storey dwellings with a limited number of two storey dwelling. The building stock is relatively consistent in age with limited new developments being introduced. In the absence of any specific reference to the built form the development is seeking to replicate, then it is considered that the above comment more reflects that of a generic statement.

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

The applicant provides the following as environmental planning grounds that warrant the contravention of the development standard:

The proposal seeks a variation to the development standard contained within Clause 4.4 of the BLEP2015 – maximum FSR of 0.5:1 (GFA: 127.8m² / each proposed lot). The proposed development will have a maximum FSR of 0.69:1 (GFA: 176.8m²/ each proposed lot), which represents a variation of 38% (49m²/ each proposed lot) from the numerical FSR development standard in the LEP.

This is a statement of fact as to the extent of the departure and does not constitute an environmental planning ground.

No unacceptable adverse impacts on neighbouring development or the streetscape, given that the additional FSR will not result in any additional adverse overshadowing, visual or acoustic privacy impacts, visual bulk and scale impacts, or view loss, additional to the impact from a two-storey dwelling house on the site.

Notwithstanding that this report concludes that the proposal fails a number of the above amenity provisions, Council would seek that a compliant development have '*no unacceptable adverse impacts on neighbouring development or the streetscape*'. The applicant has failed to demonstrate that it is only as a consequence of the breach that any adverse impacts on the neighbouring developments or the streetscape are avoided.

Visual and acoustic privacy impacts to adjoining neighbours has also been carefully considered, with living rooms oriented to the rear of the site, and compliant side setbacks confirm good separation distance exists between adjoining neighbours.

In the vast majority of cases, applicants orientate 'living rooms' of a dual occupancy development to the rear of the site. The floor plan / layout of this development is not fundamentally different to any other dual occupancy development that Council receives. That is, the level of visual and acoustic privacy afforded to the adjoining property owners remains consistent of a development with a compliant FSR. The additional floor area has not contributed to an improved amenity for the 'adjoining neighbours'.

Furthermore, as the report later identifies, the development is in fact not in compliance with Council's side setback controls.

The proposed variation to the FSR will not have any unreasonable visual bulk and scale impacts onto the Juno Parade streetscape. The FSR variation contributes to a compatible streetscape outcome with the existing developments in the locality.

The above comment is essentially generic in nature. Given the prevailing built form in the immediate vicinity of the site, it would be hard to sustain an argument that the development is consistent with the 'existing developments' and that it would not have 'any unreasonable visual bulk and scale impacts on the Juno Parade streetscape'.

- ii. the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out,*

Council does not consider that the proposed development will be in the public interest as it is inconsistent with both the objectives of the development standard and the objectives for development within the R2 Low Density Residential zone. The objectives aim to minimise the impact of development while providing a suitable level of amenity to the adjoining residents and the future occupants of the development. This is not considered to have been achieved in this instance.

There's no evidence to suggest that the development standard has been abandoned. In allowing for a variation to the maximum permissible floor space ratio, in this instance, would undermine the integrity of the standard. This would not be in the public interest.

Summary

A regular, rectangular shaped allotment of land that is absent of any significant fall or restrictive affectations cannot be argued as being constrained, that is situated within a locality that is uncharacteristic of the LGA in general, and that the type of development is so unique, that there would any grounds to justify varying the floor space ratio and the allotment width development standards in this instance.

The majority of arguments presented in both Clause 4.6 submissions are either generic in nature or incorrectly rely on an absence of impact or harm. Phrases relating to the development being consistent with the character of the adjoining built form or the character of the locality have not been supported by any substantive evidence.

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

The Draft Canterbury Bankstown Local Environmental Plan (CBLEP) applies to the subject site. The Draft CBLEP has been publicly exhibited and was adopted by the Canterbury Bankstown Local Planning Panel on 30 June 2020 and is now under review by the Department of Planning Industry and Environment. While the draft instrument proposes the introduction of some additional provisions, in the most part, the Draft CBLEP provides for an administrative conversion of both the BLEP 2015 and CLEP 2012 into a combined document under the Standard Instrument LEP template.

With respect to the proposed development, the proposal remains inconsistent with the aims, objectives and development standards contained within the draft instrument, they being identical to the provisions contained in the current applicable local environmental plan.

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

The following table provides a summary of the development application against the controls contained in the *Bankstown Development Control Plan 2015 – Part B1 (Residential Development)*

STANDARD	BDCP 2015 PART B1	
	REQUIRED	COMPLIANCE
Clause 4.1 Subdivision	The two dwellings forming a dual occupancy (attached) may be subdivided to a minimum lot size of 250m ² per dwelling.	Each allotment will have a site area of 256.05sqm Complies
Clause 4.4 Storey Limit	The storey limit for dual occupancies is 2 storeys.	2 storey development proposed Complies
Clause 4.5 Siting of structure	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	The proposal is considered to demonstrate compliance with this clause as it is compatible with the existing slope of the land.

STANDARD	BDCP 2015 PART B1	
	REQUIRED	COMPLIANCE
	not allow any development that involves elevated platforms on columns; or excessive or unnecessary terracing, rock excavation, retaining walls or reclamation.	Complies
Clause 4.6 Fill	Any reconstituted ground level on the allotment must not exceed a height of 600mm above the ground level (existing) of an adjoining property except where: (a) the secondary dwelling 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 secondary dwelling to a height no greater than 1 metre above the ground level (existing) of the allotment.	The existing natural ground levels have essentially been retained with this development with minimal cut and fill proposed. Complies
Clause 4.8 Setbacks	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.	5.5m to GF building wall 6.5m to FF building wall Complies
Clause 4.10 Setbacks	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 and rear boundaries of the allotment is 0.9 metre.	The side building walls are 7.2m above NGL, as such the 0.9m side setback is not applicable. NA
Clause 4.11 Setbacks	For the portion of the building wall that has a wall height greater than 7 metres, the minimum setback to the side boundary of the allotment is 1.5 metres.	0.9m setback proposed to both the eastern and western property boundaries. Fails to comply
Clause 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.	53sqm per unit. The rear deck areas cannot be included as they are elevated more than 300mm above the existing NGL and therefore are not considered open space in accordance with the definition contained within the introduction of the BDCP 2015. Fails to comply
Clause 4.15 Solar Access	At least one living area of each dwelling must receive a minimum 3	The development relies on solar access to be provided via side (east and west) facing

STANDARD	BDCP 2015 PART B1	
	REQUIRED	COMPLIANCE
	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.	windows. Due to the sites orientation (north at the front of the site) any future 2 storey development that would occupy the adjoining sites to the east and west would overshadow the proposed living area windows. Given this, the proposed solar access arrangement is not supported. Fails to comply
Clause 4.16 Solar Access	At least one living area of a dwelling on an adjoining allotment must receive a minimum 3 hours of sunlight between 8.00am and 4.00pm at the mid–winter solstice. Where this requirement cannot be met, the development must not result with additional overshadowing on the affected living areas of the dwelling.	Insufficient information has been submitted demonstrating compliance with the control. The submitted shadow diagrams do not contain the location of the adjoining living area windows. Fails to comply
Clause 4.17 Solar access	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.	Solar access to the POS of the development and the adjoining sites has been achieved. Complies
Clause 4.19 Visual Privacy	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 (c) ensure the window cannot open and has obscure glazing to a minimum height of 1.5 metres above floor level; or (d) use another form of screening to the satisfaction of Council.	Dwelling A laundry window directly adjoins a neighboring window. Dwelling B laundry and living room windows directly adjoin neighboring windows.

STANDARD	BDCP 2015 PART B1	
	REQUIRED	COMPLIANCE
		Fails to comply
Clause 4.20 Visual Privacy	<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>No overlooking of adjoining POS proposed</p> <p>Complies</p>
Clause 4.21 Visual Privacy	<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 satisfaction of Council such as partially recessing the balcony into the building.</p>	<p>The proposed floor plans indicate a sliding door onto the alfresco roof, while the rear elevations show rear facing balconies. It is considered that this is in fact a rear balcony with a width of 2.4m.</p> <p>Fails to comply</p>
Clause 4.24 Building Design	<p>The design of dual occupancies must ensure:</p> <p>(a) 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</p>	<p>The dual occupancy is considered to be a predominately symmetrical design, with neither of the units being afforded an individual identity.</p> <p>Further, it is considered that the garage and driveway dominate the front of the building as evidenced by the fact that no ground floor rooms present to the front yard and entryway. By accommodating the 2 driveways and the pathways to the front door there exists minimal</p>

STANDARD	BDCP 2015 PART B1	
	REQUIRED	COMPLIANCE
	<p>(b) 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</p> <p>(c) the front porch and one or more living area or bedroom windows to each dwelling face the street; and</p> <p>(d) the garage, driveway and front fence do not dominate the front of the building and front yard; and</p> <p>(e) the two dwellings on a corner allotment each face a different frontage.</p>	<p>opportunities for landscaping to be provided in the front setback. These issues arise, in the most part, due to the narrow width of the site.</p> <p>Fails to comply</p>
Clause 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>	<p>The proposed stacked car parking spaces are only setback 5.5m from the front boundary.</p> <p>Fails to comply</p>
Clause 4.33 Landscaping	<p>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.</p>	<p>The proposed removal of the street tree and the site trees was referred to Council's Tree Management Officers. The removal of the Camphor laurel tree (in the sites south eastern corner) was not supported.</p> <p>Fails to comply</p>

BDCP 2015 PART B1		
STANDARD	REQUIRED	COMPLIANCE
Clause 4.34 Landscaping	<p>Development must landscape the following areas on the allotment by way of trees and shrubs with preference given to native vegetation endemic to the City of Bankstown (refer to Appendix 4 and Appendix 5 for a list of suitable species):</p> <ul style="list-style-type: none"> (a) a minimum 45% of the area between the dual occupancy and the primary road frontage; and (b) a minimum 45% of the area between the dual occupancy and the secondary road frontage; and (c) plant at least one 75 litre tree between the dual occupancy and the primary road frontage (refer to Appendix 5 for a list of suitable trees in the City of Bankstown or Appendix 6 for allotments that adjoin the Hume Highway); and (d) for development in the foreshore protection area (refer to map in Appendix 1), plant native trees with a mature height greater than 12 metres adjacent to the waterbody. 	<p>The proposed development results in only 40% landscaped area forward of the front building line.</p> <p>Further, no 75L tree is proposed.</p>
Clauses 14.1 – 14.4 Front fences		<p>Fails to comply</p> <p>No details of the proposed front fence have been submitted for consideration.</p>

The above details the various non-compliances with the Bankstown Development Control Plan 2015. The non-compliances are largely caused due to the width of the allotment, being almost 1m less than the minimum required for a dual occupancy development and the proposed FSR of the development. Further, the extent of the non-compliances highlight that the proposed development is inconsistent with the prevailing and expected future character of the locality and would not result in a desired amenity outcome for the adjoining residents and the future occupants of the development.

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

The applicant has not proposed to enter into a planning agreement.

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

After undertaking a detailed assessment of the application, a letter was sent to the applicant on 22 December 2020 in which they were advised that, due to the extent of the non-compliances identified, Council request that the application be withdrawn. The applicant was provided 21 days to respond. The applicant was informed, pursuant to Clause 55(1) of the EP&A Regulation 2000, that amended plans would not be accepted.

On 18 January 2021 an email was sent to the applicant in which an additional 7 days was provided to withdraw the DA. Similar follow up emails were sent to the applicant on 27 and 29 January and 1 February 2021. At the time of preparing this report, Council is not in receipt of a response to any correspondence.

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

The proposed development was referred to Council's Development Engineers for comment, who raised the following matters:

- No on-site detention has been provided in accordance with Clause 10.1.2 of the Bankstown Development Engineering Standards.
- The proposed stormwater pit levels and the existing ground level along the side setbacks does not allow for the minimum pipe cover along the connecting pipes per table 7.1 of Australian Standard AS2500.3
- The proposed outlet/discharge pipe in Council's nature strip will not be supported as it is inconsistent with the Bankstown Development Engineering Standards.

The number of inconsistencies and lack of compliance with the relevant development standards, development controls and engineering standards is an additional indicator that the proposal will have an unsuitable level of impact. The impact to the amenity of the future occupants of the development and the adjoining sites is not considered to be acceptable.

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

The site is not considered acceptable for the proposed development, with the majority of the non-compliances being a direct result of the site not being suitable to accommodate a dual occupancy development, or a development of this size.

Submissions [section 4.15(1)(d)]

The application was advertised/notified for a period of fourteen (14) days in accordance with the Canterbury Bankstown Community Participation Plan. No submissions were received.

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

With regard to the relevant planning considerations, it is concluded that the proposed development would contravene the public interest. The public interest is best served by the consistent application of the requirements of the relevant environmental planning instruments and development controls, by the consent authority, in order to ensure that any adverse impacts associated with the development are suitably addressed. Approval of this development would undermine the integrity of the controls contained in this report in addition to providing for a poor development outcome.

CONCLUSION

The development application has been assessed in accordance with the provisions of Section 4.15(1) of the *Environmental Planning and Assessment Act 1979*, and the relevant planning controls.

The proposed development is not considered to be satisfactory in accordance with the applicable environmental planning instruments and development controls. It is recommended that the proposed development be refused in light of the justifications presented in this report.

RECOMMENDATION

It is recommended that the development application No DA-1044/2020 be refused, for the reasons contained in Attachment B.

REASONS FOR REFUSAL

1. Concurrence has not been granted for the proposed development from Transport for New South Wales relating to the proposed connection to a classified road, as required under section 138 of the Roads Act 1993. [Pursuant to *Division 4.8 of the Environmental Planning and Assessment Act, 1979*];
2. The proposed development fails to comply with State Environmental Planning Policy (Building Sustainability Index) 2004 as a valid BASIX certificate has not been provided. [Pursuant to *Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act, 1979*];
3. The proposed development fails to comply with Clause 101(2)(b) of State Environmental Planning Policy (Infrastructure) 2007 in relation to the effect of development on a classified road. [Pursuant to *Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act, 1979*];
4. The proposed development is inconsistent with the aims of the Bankstown Local Environmental Plan 2015. [Pursuant to *Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act, 1979*];
5. The proposed development is inconsistent with the objectives of the R2 Low density residential zone of the Bankstown Local Environmental Plan 2015. [Pursuant to *Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act, 1979*];
6. The proposed development fails to comply with Clause 4.1A of the Bankstown Local Environmental Plan 2015 which relates to minimum lot sizes and special provisions for dual occupancies. [Pursuant to *Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act, 1979*];
7. The proposed development fails to comply with Clause 4.3 of the Bankstown Local Environmental Plan 2015 in relation to maximum wall height of a dual occupancy. [Pursuant to *Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act, 1979*];
8. The proposed development fails to comply with Clause 4.4 of the Bankstown Local Environmental Plan 2015 which relates to floor space ratio. [Pursuant to *Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act, 1979*];
9. The proposed development fails to comply with Clause 4.6 of the Bankstown Local Environmental Plan 2015 which related to exceptions to development standards. [Pursuant to *Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act, 1979*];

10. The proposed development is inconsistent with the Draft Canterbury Bankstown Local Environmental Plan. [Pursuant to *Section 4.15(1)(a)(ii) of the Environmental Planning and Assessment Act, 1979*];
11. The proposed development fails to comply with Clause 4.11 of the Bankstown Development Control Plan 2015 – Part B1 which relates to setbacks of building walls. [Pursuant to *Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act, 1979*];
12. The proposed development fails to comply with Clause 4.14 of the Bankstown Development Control Plan 2015 – Part B1 which relates to Private open space. [Pursuant to *Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act, 1979*];
13. The proposed development fails to comply with Clause 4.15 of the Bankstown Development Control Plan 2015 – Part B1 which relates to solar access to the dual occupancy. [Pursuant to *Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act, 1979*];
14. The proposed development fails to demonstrate compliance with Clause 4.16 of the Bankstown Development Control Plan 2015 – Part B1 which relates to solar access to the adjoining properties. [Pursuant to *Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act, 1979*];
15. The proposed development fails to comply with Clause 4.19 of the Bankstown Development Control Plan 2015 – Part B1 which relates to visual privacy and overlooking adjoining windows. [Pursuant to *Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act, 1979*];
16. The proposed development fails to comply with Clause 4.20 of the Bankstown Development Control Plan 2015 – Part B1 which relates to visual privacy and overlooking adjoining private open space. [Pursuant to *Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act, 1979*];
17. The proposed development fails to comply with Clause 4.21 of the Bankstown Development Control Plan 2015 – Part B1 which relates to visual privacy and the design of first floor balconies. [Pursuant to *Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act, 1979*];
18. The proposed development fails to comply with Clause 4.24 of the Bankstown Development Control Plan 2015 – Part B1 which relates to building design. [Pursuant to *Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act, 1979*];

19. The proposed development fails to comply with Clause 4.33 of the Bankstown Development Control Plan 2015 – Part B1 which relates to the retainment of significant trees. [Pursuant to *Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act, 1979*];
20. The proposed development fails to comply with Clause 4.34 of the Bankstown Development Control Plan 2015 – Part B1 which relates to landscaping. [Pursuant to *Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act, 1979*];
21. Insufficient information has been submitted demonstrating compliance with Clauses 14.1, 14.2, 14.3 & 14.4 of the Bankstown Development Control Plan 2015 – Part B1 which relate to front fences. [Pursuant to *Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act, 1979*];
22. The proposal fails to demonstrate compliance with Councils Development Engineering Standards [Pursuant to *Section 4.15(1)(b) of the Environmental Planning and Assessment Act, 1979*];
23. The proposed development represents an unacceptable level of impact of the locality. [Pursuant to *Section 4.15(1)(b) Environmental Planning and Assessment Act, 1979*];
24. The site is considered unsuitable for the proposed development [Pursuant to *Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979*];
25. The development is not considered to be in the public interest [Pursuant to *Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979*].

NOTES:

- 1) Council's decision was made after consideration of the matters listed under Section 4.15 of the Environmental Planning and Assessment Act 1979, and matters listed in Council's various Codes and Policies.
- 2) If you are dissatisfied with this decision, you may apply for a review of determination pursuant to Section 8.2 of the Environmental Planning and Assessment Act, 1979 or appeal to the Land and Environment Court pursuant to Sections 8.7 and 8.10 of the Environmental Planning and Assessment Act, 1979. Any application for a review pursuant to Section 8.2 must be received, assessed and determined by Council within 6 months after the date of receipt of this Determination Notice. It is therefore advisable to lodge the application for review as soon as possible to ensure that assessment is complete within the statutory timeframes. Section 8.10 in the Environmental Planning and

Assessment Act 1979 extends this six month period to twelve months for determinations made during, or six months before, the Prescribed Period of 25 March 2020 and 25 March 2022. You should seek advice from your legal advisor on the time limits for the lodgement of any appeal.

-END-

Canterbury Bankstown Local Planning Panel - 01 March 2021

ITEM 2	35-41 Crinan Street, Hurlstone Park Construction of a new single storey community building with associated landscaping, car parking and loading/unloading areas
FILE	DA-454/2020 – Canterbury
ZONING	RE1 Public Recreation
DATE OF LODGEMENT	04-Jun-2020
APPLICANT	Sam Crawford Architects
OWNERS	The Minister For Lands
ESTIMATED VALUE	\$1,296,494.00
AUTHOR	Julie Horder (Associate Director) Planning Ingenuity

REPORT

This matter is reported to the Local Planning Panel in accordance with the Minister for Planning's referral criteria. As per Schedule 2, Part 1, Canterbury Bankstown Council has a conflict of interest as Hurlstone Memorial Reserve is Crown land and is managed and controlled by Canterbury Bankstown Council. On that basis the application has been assessed by an independent planner.

This DA proposes to construct a new multi-use community space on the site the former Hurlstone Park Bowling Club (demolished in 2018). The development includes accessible parking and a loading bay located on Marcia Street and associated landscaping and footpaths surrounding the building.

DA-454/2020 has been assessed against the *Canterbury Local Environmental Plan 2012*, and *Canterbury Development Control Plan 2012* and was found to satisfy the relevant controls.

The application was notified for a period of 21 days, from 8 July 2020 to 28 July 2020 and due to an error in the site description was re-notified for a further 21 days from 25 November 2020 to 15 December 2020. A total of nine submissions were received with two submissions raising concerns with the proposal in regards to traffic, parking and noise. The submissions are discussed in detail within the assessment report.

POLICY IMPACT

This matter has no direct policy implications.

FINANCIAL IMPACT

The matter has no direct financial implications.

RECOMMENDATION

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

ATTACHMENTS

- A. Assessment Report
- B. Conditions of Consent

DA-454/2020 ASSESSMENT REPORT

SITE & LOCALITY DESCRIPTION

The subject site is located at 35 – 41 Crinan Street, Hurlstone Park, formed of multiple lots and is an irregular shape. The site known as Hurlstone Memorial Reserve and is primarily zoned RE1 Public Recreation. Part of the site also fronts Marcia Street and is zoned R4 High Density Residential, this part of the site contained the former building which housed Hurlstone Bowling Club (demolished in 2018). Hurlstone Memorial Reserve is Crown land controlled by Canterbury Bankstown Council. A site location plan is included at Figure 1 and a zoning plan is included at Figure 2. .

The site is not identified as containing an item of environmental heritage but is located within the Duntroon Heritage Conservation Area.

The surrounding development generally consists of single and two storey dwelling housing of a traditional and historic nature. To the south east of the reserve, along Crinan Street the area is zoned B2 Local Centre and contains older style terraces with retail and commercial space at ground floor level.

Hurlstone Park Railway station is approximately 230m south east of the subject site.



Figure 1: Aerial of subject site (Source: SixMaps).

The site is legally described as Lots 3 – 5, 9 – 11 in DP 3137, Lots 1 – 2 in DP 1146888, Lot 7004 in DP 1128237 and Lot A in DP 403103. The site has frontages to Short Street to the north, Marcia Street to east and Crinan Street to the south.

The site contains a small children's playground, some mature trees (primarily located adjacent to Crinan Street) and a large flat turfed area (formally used as a bowling green). The site itself is relatively flat with some undulations to the south and east, away from the former bowling green. To the west and north the site is bounded by steep embankments and walls to take the surrounding topography into account, with Short Street (to the north) being raised approximately 4m above the subject site. Photos of the site are provided at Figures 3 – 12.

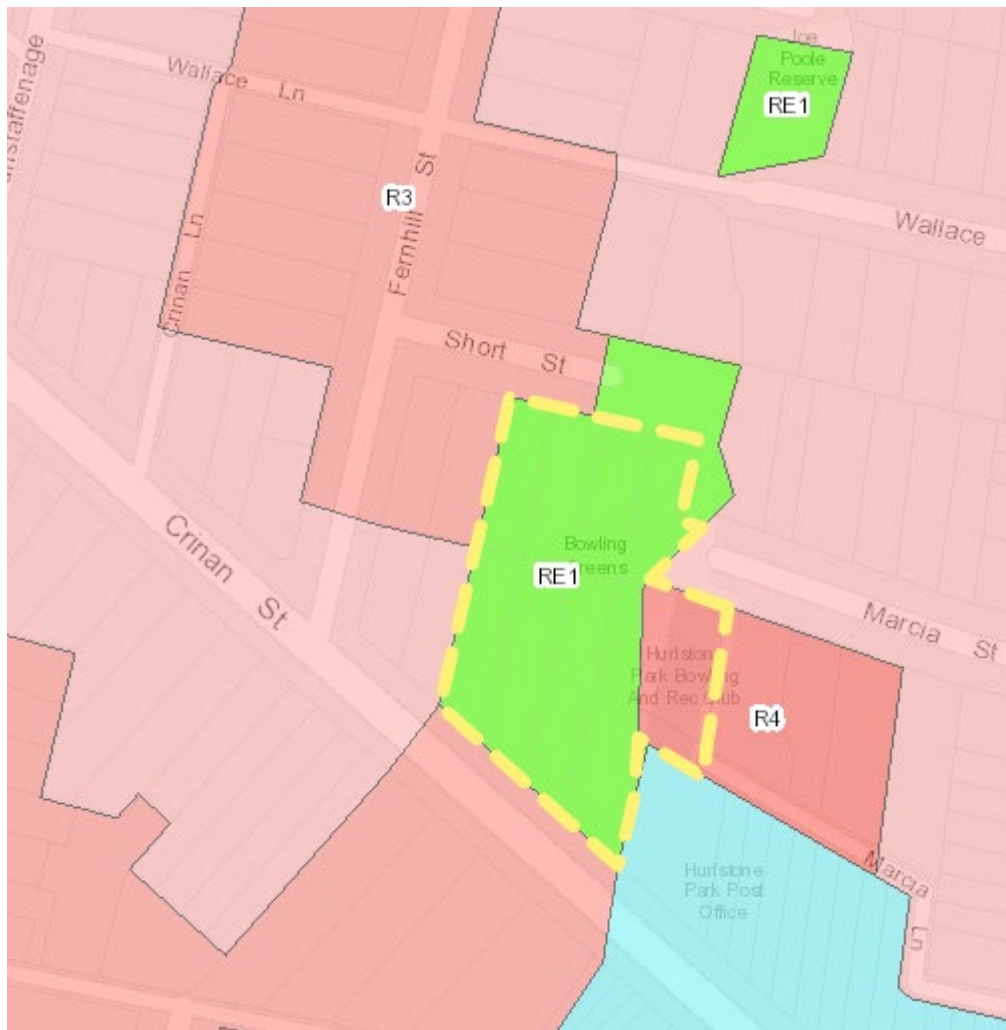


Figure 2: Zoning Map. RE1 – Public Recreation, R4 High Density Residential.



Figure 3: View of subject site from south west.



Figure 4. Overview of Hurlstone Memorial Reserve from raised point on Short Street (looking south west).



Figure 5. Proposed location of parking area fronting Marcia Street.



Figure 6. Proposed location of parking area fronting Marcia Street.



Figure 7. Existing children's playground within the reserve adjacent to Crinan Street.



Figure 8. Existing children's playground within the reserve adjacent to Crinan Street.



Figure 9. Footpath providing entrance to the reserve from Crinan Street



Figure 10. B2 zoned Local Centre to the east of the reserve.



Figure 11. Marcia Street as viewed from the reserve.



Figure 12. Short Street as it meets the reserve

PROPOSED DEVELOPMENT

The Development Application proposes construction of a new single storey community building with associated landscaping, car parking and loading/unloading area.

The development will be located at the rear (north eastern) part of the park on the site of the former Hurlstone Park Bowling Club. With the building and landscaping being on the former bowling green and the parking located on the site of the former club house.

A detailed breakdown of the proposal is as follows:

- Single storey community space to include;
 - o Community room (62m²)
 - o Storage (10.5m²)
 - o Internal Accessible W.C (6m²)
- Covered outdoor area (73.3m²);
- External Accessible W.C (7.5m²) which will be open for public use during daylight hours;
- Solar panels located on roof;
- Accessible parking space and loading bay located on Marcia Street;
- Footpath to link the building with Crinan, Short and Marcia Streets, with stair and disabled access ramp included;
- Landscaping adjacent to the building; and
- Raised building platform (allowing the edge to become a seating area for park users)

The building will be constructed utilising timber clad walls, timber framed openings and perforated metal mesh. Finished concrete will also be used throughout. The building has been designed to be viewed ‘in the round’ from all angles, with no servicing or utilities on public display. A photomontage of the proposal is provided at Figure 13 below.



Figure 13. Photomontage – view from Marcia Street

It is intended to allow community members (up to 25 persons) to use the space on a hire basis. Canterbury-Bankstown Council operates comparable venues for hire at other locations within the LGA.

The venue will be available to groups and individuals and it is anticipated that the users will be similar to other Council owned community spaces in the LGA. These have been hired by a range of community groups including religious, ethnic, hobby, sorting and disability groups.

The venue will be available to operate from 8am to 10pm Sunday to Thursday and 8am to 12am (midnight) on Friday and Saturday.

APPLICATION BACKGROUND

The development application was lodged on 12 June 2020.

A Request for Further Information letter was sent to the Applicant on 21 August 2020 advising of identified concerns with the proposal.

On 24 September 2020, a meeting was held with the Applicant and their representatives including the architect, and traffic consultant, to discuss the identified issues raised in the correspondence from Council.

Amended plans and documents were lodged with Council by the Applicant on 11 November 2020. On 14 December 2020 further information was requested from the Applicant in regards to traffic and parking. A revised traffic report and supplementary (peer reviewed) traffic report was submitted to Council on 27 January 2021. The assessment proceeded to be finalised based on these amended and documents.

SECTION 4.15 ASSESSMENT

Statutory Considerations

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

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

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

Crown Land Management Act, 2016

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

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

State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)

Clause 7(1) of State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55) specifies that a consent authority must not consent to the carrying out of any development on land unless:

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

A Geotechnical, Salinity, Contamination and Acid Sulfate Soil Investigation report prepared by GeoEnviro Consultancy Pty Ltd (Ref: JC20358A-r1 dated June 2020) was submitted with the application. The report found that:

- *The topsoil/fill and fill was assessed to not pose a significant health risk to workers during construction*
- *As the fill will be covered by the concrete slabs of proposed building and pavements of access roads/car parks, the risk of fill contamination resulting in adverse health to the public is considered low,*
- *The topsoil/fill and fill should be further assessed and monitored for PAH concentrations during construction by sampling and analysis and if PAH contamination is encountered, the contaminated fill should be appropriately remediated by excavation and disposal to a NSW EPA approved landfill*

In conclusion, it is considered that the subject site can be made suitable for the proposed use and appropriate conditions of consent have been incorporated into the consent. The provisions of SEPP No. 55 have therefore been satisfied.

Canterbury Local Environmental Plan (CLEP) 2012

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

Standard	Requirement	Proposal	Complies
Zoning	RE1 Public Recreation R4 High Density Residential	Construction new community facility, associated parking and landscaping.	Yes
Building height	No maximum building height provision	The proposed community building is located on RE1 public recreation land which is not subject to a height control. The R4 zoned land is subject to an 8m height limit.	N/A
Floor Space Ratio	No maximum FSR provision	N/A	N/A
Heritage Conservation	To conserve the environmental heritage of Canterbury	The site is not a heritage item. However, the site is within the Duntroon Heritage Conservation Area. A Heritage Impact Statement has been provided and reviewed by Council's Heritage Officer. The officer has raised no concerns with the proposed development.	Yes

Standard	Requirement	Proposal	Complies
Acid Sulfate Soil	The site is identified as Class 5 Acid Sulfate Soil	The development does not propose excavation and will not lower the water table by more than 1m. As such no additional information is required.	Yes
Flood Planning	The part of the site to be developed by this DA is not identified on the flood planning map and is not affected by overland flow.	N/A	Yes
Stormwater Management	Consent must not be granted unless: (a) Water permeable surfaces are maximized having regard to soil characteristics affecting on-site stormwater infiltration. (b) Includes on-site detention if practical as an alternative means of water supply. (c) Avoids significant impacts of run-off on adjoining land or the environment or minimises and mitigates impacts.	The application was referred to Council's Development Engineer who has not raised any objections with the proposed stormwater plans	Yes
Essential Services	Essential services must be available or adequate arrangements have been made to make them available, including: - the supply of water;	Sewer and potable water connections exist and are anticipated to have adequate capacity to serve the proposed development.	Yes

Standard	Requirement	Proposal	Complies
	<ul style="list-style-type: none"> - the supply of electricity; - the disposal and management of sewage; - stormwater drainage or on-site conservation; - suitable vehicular access. 		

The site is zoned RE1 Public Recreation and R4 High Density Residential under Canterbury LEP 2012. The proposed use is classified as a “Community Facility” which is defined as follows:

Community facility means a building or place—

- (a) owned or controlled by a public authority or non-profit community organisation, and
- (b) used for the physical, social, cultural or intellectual development or welfare of the community, but does not include an educational establishment, hospital, retail premises, place of public worship or residential accommodation.

Community Facilities are permitted with development consent within both the RE1 and R4 zone.

The objectives of the RE1 zone are as follows:

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

The proposed development satisfies the objectives of the RE1 zone by enabling the land to be used for continued public open space and recreational purposes, it is a compatible land use and enhances the natural environment with improved landscaping.

The objectives of the R4 zone are as follows

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

The proposal satisfies the objectives of the R4 zone by enabling other land uses that provide facilities or services to meet the day to day needs of residents.

The Development Application satisfies the matters raised in the relevant clauses of the *Canterbury Local Environmental Plan 2012*.

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

Planning Proposal (PP_2019_CBANK_005) for the Draft Canterbury Bankstown Consolidated Local Environmental Plan (Draft CBLEP) was on public exhibition from 9 March 2020 until 22 May 2020.

The Planning Proposal seeks to produce a single set of planning rules and combine and align the Bankstown LEP 2015 and Canterbury LEP 2012 into a consolidated Local Environmental Plan, as follows:

- Produce a single land use table consistent with the Local Strategic Planning Statement, Standard Instrument (Local Environmental Plans) Order 2006 and other State requirements.
- Resolve differences between Bankstown LEP 2015 and Canterbury LEP 2012.
- Comply with the Gateway Determination issued by the Department of Planning, Industry & Environment (dated 20 February 2020), namely the conditions to preclude any changes to residential land uses and development standards, and to preclude the rezoning of any land other than those included in current land use strategies.

Planning Proposal (PP_2019_CBANK_005) which has been on public exhibition and is a draft instrument is a matter for consideration under Section 4.15(1)(a)(ii) of the Environmental Planning and Assessment Act, 1979.

Council is seeking the addition of a Design Quality Clause within the Draft CBLEP. This draft clause formed part of the Planning Proposal (PP_2019_CBANK_005), and would apply to community facilities.

Draft Design Quality Clause

6.14 Design Quality

(1) The objective of this clause is to ensure that development achieves good urban design and supports quality places for people.

(2) This clause applies to the following development: residential flat buildings, multi dwelling housing, boarding houses, seniors living, mixed use development, shop top housing, commercial premises, industrial buildings, warehouse or distribution centres, centre-based child care facilities, schools, places of worship, registered clubs, community facilities, in relation to:

- *the erection of a new building, or*
- *in the Council's opinion, significant alterations or additions that are visible from the public domain.*

(3) *Before granting consent for development, the consent authority must have regard to the following matters, to the extent it considers them relevant to the proposed development:*

- (a) *whether the development positively contributes to the urban context and site conditions in terms of natural features, built form, streetscape, street wall height, building separation, setbacks, amenity, building bulk and modulation,*
- (b) *whether the development positively contributes to the quality and amenity of the public domain in terms of landscaping, passive surveillance, visual interest and the interface of public and private domain,*
- (c) *whether the development uses external materials that are good quality, durable and low-maintenance,*
- (d) *whether the development achieves a high standard of architectural detailing and colours that are appropriate to the building type and location,*
- (e) *whether the development achieves the principles of ecologically sustainable development,*
- (f) *whether the development achieves internal layouts that are functional, efficient and fit for purpose,*
- (g) *whether the development integrates a high quality landscape design with the built form,*
- (h) *how the development satisfactorily addresses the following matters:*
 - *impacts on heritage items, heritage conservation areas or historically significant buildings on the site or in the vicinity of the site,*
 - *environmental impacts such as solar access, visual and acoustic privacy, wind, reflectivity, urban heat and water sensitive urban design,*
 - *pedestrian, cycle, vehicular and service access and circulation requirements,*
 - *the integration of waste management infrastructure in the site layout and building design.*

The proposal would not be inconsistent with the envisaged design quality requirements and provisions of Draft CBLEP.

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

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

Part B1 – Transport and Parking

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

Standard	Requirement	Proposal	Complies
Recreation Facilities	A Traffic and Parking Assessment report must be submitted	A Traffic and Parking Assessment has been submitted which was peer reviewed and a	Yes

Standard	Requirement	Proposal	Complies
		<p>supplementary report prepared. The report considers that given the close proximity of on-street parking and the small scale of the community facility the proposed off-street parking (1 x accessible bay and 1 x loading bay) is acceptable.</p> <p>The development has been reviewed by Council's Traffic team, who raise no concerns with the application.</p>	

The application was assessed against the controls outlined within Part B1 of Canterbury DCP 2012 and is considered to satisfy applicable controls.

Part B2 - Landscaping

B2 – General Objectives:

- O1 To ensure attractive settings for development, streetscapes and public domain.*
- O2 To encourage retention and planting of large and medium size trees, and the healthy growth of trees in urban areas.*
- O3 To contribute to the quality and amenity of communal open space on rooftops, podiums and courtyards.*
- O4 To assist with the management of the water table and water quality.*
- O5 To ensure that the principles of Ecologically Sustainable Development (ESD) and the protection of biodiversity and ecological processes are incorporated into landscape design and maintenance.*

Standard	Requirement	Proposal	Complies
B2.3 Landscape Design			
B2.3.1 Existing Vegetation and Features	C1. New landscaping is to complement the existing street landscaping and improve the quality of the streetscape.	The proposed landscaping provides additional canopy tree planting and a range of native and exotic species which are appropriate to the site.	Yes
	C2. All development, including alterations and additions, is to minimise earthworks (cut and fill) in order to conserve site soil. Where excavation is necessary, the reuse of excavated soil on site is encouraged.	No significant cut or fill is required.	Yes

Standard	Requirement	Proposal	Complies
	C3. An erosion and sediment control plan is required to ensure that soil erosion (and potential sedimentation of waterways) is minimised and managed.	An erosion and sediment control plan will be required to be provided prior to issue of a construction certificate to ensure that soil erosion and potential sedimentation is minimised.	Yes – by condition
B2.3.2 Design and Location of Landscaping	C1. The design of proposed landscaping is to contribute to and take advantage of the site's characteristics.	The landscaping has been designed to take advantage of the Park's characteristics. Planting at the north west corner restricts access to the steeply sloping terrain and retaining at the Short Street boundary. The landscaping effectively uses the slope/retaining walls a backdrop and improves upon the simple turfed landscaping at present.	Yes
	C2. Integrate landscape design with the overall design of the development.	The landscaping integrates with, and improves the setting of, the proposed building and associated footpaths.	Yes
	C3. Setback buildings to create landscaped public plaza areas where required (Refer to Part D of the DCP – Business Centres).	The location of the building retains substantial space within the park and provides a landscaped public area.	Yes
	C4. Use landscaping to integrate the built form with the existing streetscape and surrounding area	The building is sited so that all corners of the park remain visible, views maintained past and through the building. Significant panoramic views across the park from Short Street are retained and the view vista from Marcia Street across to the western terraces are retained.	Yes
	C5. New landscaping is to complement the existing street landscaping and improve the quality of the streetscape.	As above.	Yes
	C6. Improve the amenity of private and communal open space with landscape design which:		

Standard	Requirement	Proposal	Complies
	(a) Provides appropriate shade from trees or structures;	A covered outdoor space is proposed.	Yes
	(b) Defines accessible and attractive routes through the communal open space and between buildings;	Accessible routes are provided.	Yes
	(c) Provides screens and buffers that contribute to privacy, casual surveillance, urban design and environmental protection, where relevant;	The proposed landscaping and building design enables casual surveillance of the park without introducing adverse overlooking to adjoining properties.	Yes
	(d) Incorporates public art; and	Public art is not proposed, the building and landscaping are considered appropriate.	Yes
	(e) Improves the energy efficiency and solar efficiency of buildings, and the microclimate of private open spaces and hard paved areas.	Solar panels are proposed at roof level. The proposed canopy and landscape also contribute to shading and the area's microclimate.	Yes
	C7. Locate plants appropriately in relation to their size including mature size.	Planting is appropriate located to ensure mature size can be reached.	Yes
	C8. Soften the visual and physical impact of hard paved areas and building mass with landscaping that is appropriate in scale.	The landscaping has been designed to integrate with the proposed building and footpaths.	Yes
	C9. Include suitably sized trees, shrubs and groundcovers to aid climate control by providing shade in summer and sunlight in winter.	A range of trees and shrubs of various sizes are proposed.	Yes
	C.10. Choose appropriate plant selection for planting in front of large windows and display areas so that visibility is maintained.	Planting is designed to ensure casual surveillance to the park is maintained.	Yes

Standard	Requirement	Proposal	Complies
	C.11. Consider the mature size and maintenance requirements of the species in making an appropriate planting selection – particularly so that entries and windows are not obscured.	The proposed landscaping and mature size of planting is considered acceptable for the site.	Yes
	C12. Integrate and screen utility areas with appropriate planting.	Utility areas are hidden within the built form.	N/A
	C13. Provide appropriate lighting, signs, outdoor furniture and weather protection.	LED lighting is proposed to be fitted to the underside of the canopy.	Yes
	C14. Integrate fencing into the landscape design and use materials and height that complements the height, texture and colour of plants.	None proposed.	N/A
	C15. Use recycled and biodegradable products in landscape design where possible such as recycled soils, mulches made from waste, and paving made from recycled materials.	Overall the project utilises a number of sustainable measures including solar panels, water storage tanks and sustainably sourced building materials. This is considered to be a holistic and well considered approach to sustainability	Yes

The application was assessed against the controls outlined within Part B2 of Canterbury DCP 2012 and is considered to satisfy the applicable controls.

Part B3 – Tree Preservation

Existing trees within the park will be retained and protected during construction. The proposed works are clear of any trees and it is not anticipated any trees are likely to be impacted by the development.

The application has been referred to Council's Tree Management Team, no concerns have been raised subject to conditions.

Part B4 – Accessible and Adaptable Design

B4.1 General Objectives:

- O1 To ensure that appropriate access is provided in new development in accordance with mandatory requirements and genuine consideration of the needs of people with a disability.*
- O2 To require that development includes the upgrade in access to existing buildings, communal areas, internal fit out and public open space areas, where possible.*
- O3 To ensure that an awareness of the requirements and responsibilities of the Disability Discrimination Act 1992 is demonstrated in the design, construction and operation of development.*

Standard	Requirement	Proposal	Complies
B4.2 General Controls			
Controls	C1. All development must comply with the following: a. All Australian Standards relevant to accessibility; b. The Building Code of Australia access requirements; and c. The Disability Discrimination Act 1992.	Council's Building Surveyor has reviewed the application and raised no concerns subject to conditions.	Yes
	C2. The provision of equitable access is to have minimal impact on the setting of heritage items and of contributory buildings within heritage conservation areas, and be reversible.	The accessible pathing and parking space has minimal impact on the surrounding area.	Yes
	C3. Submit a statement of consistency with the Disability Discrimination Act 1992 with the development application. A person qualified to comment on access and mobility issues, and accredited by the Association of Consultants in Access Australia (or an equivalent accreditation authority) must prepare and sign the statement. The statement must be	An Access Report is provided.	Yes

Standard	Requirement	Proposal	Complies
	signed by the person who prepared it, and must refer to the plans that were assessed.		
	C4. Accessible car parking requirements are set out in the BCA Part D3.5, and Australian Standard 2890.6 – Parking facilities Part 6 - Off street parking for people with disabilities.	Complies	Yes
	C5. Provide and maintain a continuous accessible path of travel as part of the internal fit out of a building. A continuous accessible path of travel is a barrier-free path of travel, for all users of a premises, that provides access to all public spaces and facilities (such as toilets, service counters, meeting rooms that would be available to a person who does not have a disability). (Refer to the BCA Part D3: Access for People with Disabilities and AS1428.1).	Level access is provided within the building	Yes
	C6. When designing layouts consider the following: (a) Avoid layouts where boxes, packaging materials and merchandise display stands may be placed in access ways and common space areas; (b) Avoid a fit out that results in merchandise being located out of the reach of a person in a wheelchair;	An open internal space is provided with easy access to the storage room and W.C provided.	Yes

Standard	Requirement	Proposal	Complies
	<p>(c) Avoid signage that is too small, at the wrong height, or does not provide adequate colour contrast to enable it to be read by a person with vision impairment; and</p> <p>(d) Avoid counters that are too high for ease of access by a person who uses a wheelchair.</p> <p>Note: Refer to Chapter B1 Transport and Parking for accessible parking rates required for specific land uses (Section B1.3.2).</p>		

The application was assessed against the controls outlined within Part B4 of Canterbury DCP 2012 and is considered to satisfy the applicable controls.

Council's Building Surveyor has reviewed the application and raised no concerns in relation to matters of BCA of Australian Standard compliance.

Part B5 – Stormwater and Flood Management

B5 – Stormwater and Flood Management General Objectives:

- O1 To ensure infrastructure design and construction is appropriate to each site.*
- O2 To ensure drainage systems are designed to collect and convey stormwater runoff from the site and into receiving systems with minimal nuisance, danger or damage to the site, adjoining properties or Council's property.*
- O3 To produce quality engineering works for all developments.*
- O4 To encourage the consideration of possible engineering constraints to the development at the first stage of the design of the development.*
- O5 To ensure public infrastructure managed by Council is not compromised by development.*

A detailed stormwater package has been provided and reviewed by Council's Development Engineer. No concerns have been raised subject to conditions of consent.

Part B6 - Energy and Water Conservation

Part B6 Energy and Water Conservation General Objectives:

- O1 To encourage a more sustainable urban environment where energy efficiency is incorporated into the design, construction and use of buildings.*
- O2 To reduce consumption of energy from non-renewable sources, and reduced greenhouse gas emissions.*

Standard	Requirement	Proposal	Complies
B6.3 Water and Energy Efficiency			
B6.3.1 Water Conservation	C1. Use 3 and 4 star rated devices in the bathroom and kitchen respectively.	Provided	Yes
	C2. Install water-saving devices, such as flow regulators.	Provided	Yes
6.3.2 Energy Conservation Hot water systems	C1 Installation of solar hot water systems boosted by gas is encouraged.	An instant gas hot water system is proposed.	Yes
	C2 Electric hot water systems that are not as efficient as gas or gas-solar heaters are discouraged. Heat exchange excepted. Hot water piping should be insulated.	N/A	N/A
	C3 For industrial development hot water systems must have a minimum energy rating of 4 stars and be located close to the main areas of use.	N/A – However, the hot water system has a 4-star energy rating.	Yes
	C4 For all other development, hot water systems must have a Greenhouse Rating of 3.5 or greater and should meet the needs of the development.	A minimum 4-star hot water system is provided.	Yes
Fittings and Appliances	C7 Use a range of low energy lighting such as L.E.D (of electronic ballast/compact fluorescent)	LED lighting is proposed.	Yes

Standard	Requirement	Proposal	Complies
	C8 Use lower energy lightings such as: (a) Compact fluorescent or tubular fluorescent lamps; (b) Electronic ballast instead of magnetic ballast in fluorescent lights; (c) Compact fluorescent or L.E.D lights instead of halogen. (d) Solar powered or low watt L.E.D lamps, metal halide or sodium discharge lamps for outdoor areas, such as car parks; and (e) Energy efficient starters	All proposed.	Yes
	C9 Use automatic control systems that turn lights on and off when needed.	Provided.	Yes
	C10 Use motion detectors for common areas, lighting doorways and entrances, outdoor security lighting and car parks.	Provided.	Yes

The application was assessed against the controls outlined within Part B6 of Canterbury DCP 2012 and is considered to satisfy the applicable controls.

B7 – Crime Prevention and Safety

B7- General Objectives:

- O1 To reduce the potential for crime through creating safer urban environments.*
- O2 To contribute to the safety and liveliness of the street by allowing for natural overlooking of the street.*
- O3 To raise community awareness and promote design as a genuine crime prevention strategy and identify the community's role in the crime prevention process.*

Standard	Requirement	Proposal	Complies
B7.2- All Types of Development			
B7.2.1 CPTED Principle: Surveillance	C1. Avoid blind corners in pathways, stairwells, hallways and car parks	No blind corners are created by the proposal.	Yes
	C2. Provide natural surveillance for communal and public areas	The development improves casual surveillance of the park.	Yes
	C3. Provide clearly visible entries	Entry to the building is clearly visible.	Yes
	C4. Design the fence to maximise natural surveillance from the street to the building, and from the building to the street, and minimise opportunities for intruders to hide	No fencing proposed.	N/A
	C5. Avoid landscaping that obstructs natural surveillance	The landscaping has been selected to ensure casual surveillance is not affected.	Yes
	C6. Ensure lighting does not produce glare or dark shadows.	Subtle LED lighting is proposed.	Yes
	C7. Entrances, exits, service areas, pathways, car parks are to be well-lit after dark when they are likely to be used.	Appropriate night time lighting is proposed to provide security but also minimise the impact on adjoining development.	Yes
	C8. Where permitted, provide appropriate mixed uses within buildings to increase opportunities for natural surveillance	The building will be a community facility and be used by multiple users, groups, functions and the like.	Yes
	C9. Security measures allow for natural observation and are sympathetic to the style of the building.	The development provides appropriate security measures.	Yes
B7.2.2 CPTED Principle: Access Control	C1. Ensure buildings, dwellings and other premises are clearly identified by street numbers	The building will be clearly identifiable within the park.	Yes
	C2. Provide clear entry points	Achieved.	Yes

Standard	Requirement	Proposal	Complies
	C3. Use vegetation as barriers to deter unauthorised access	Landscaping is provided to limit access to the retaining wall adjacent to the building. However, as the building is designed as a welcoming community facility the landscaping is designed to achieve this outcome.	Yes
	C4. Avoid large trees/shrubs and building works that could enable an intruder to access a dwelling, or a neighbouring dwelling.	Achieved.	Yes
	C5. Use security hardware and/or human measures only where required to reduce opportunities for unauthorised access,	Council will ensure secure access is maintained.	Yes
B7.2.3 CPTED Principle: Territorial Reinforcement	C1. Create a 'cared for' image	The building will be maintained by Council to high standards.	Yes
	C2. Use materials that reduce the opportunity for vandalism,	The proposed materials have been selected to ensure both high quality design and durability.	Yes
	C3. Clearly define spaces to express a sense of ownership and reduce illegitimate use/entry	Hurlstone Park Reserve is defined as 'Public Recreation' therefore the development has been designed as an open and welcoming development to improve public surveillance for the entire park.	Yes
	C4. Encourage design that promotes pride and a sense of place for community	The building is a high quality, sustainable and well-designed building which will improve the appearance of the park and provide a focal point for the local community.	Yes
B7.6 Additional Provisions for Open Space			
Controls	C1. Illuminate access points to open spaces and pathways.	Lighting is proposed under the outdoor canopy which is considered appropriate.	Yes
	C2. Locate brighter lights in highly used areas.	Bright lighting will be contained within the building.	Yes
	C3. Encourage activity and allow natural surveillance.	The development is designed to promote various forms of community activity.	Yes

Standard	Requirement	Proposal	Complies
	C4. Design and locate open space so it is clearly designated and situated at locations easily observed by people. Locate parks and playgrounds in front of buildings or facing streets rather than back lanes.	N/A	N/A
	C5. Provide seating, play equipment and BBQ areas to encourage use of open space.	The proposal provides additional seating areas and landscaped open space within the park.	Yes
	C6. Locate seating so that it is convenient and easily seen	Complies.	Yes
	C7. Locate facilities (such as toilets and telephones) close to areas of active use.	Complies	Yes
	C8. Design and locate access to facilities so that it is direct and free of obstruction	The proposal does not seek changes to the facilities around Parry Park therefore this control is not applicable.	N/A
	C9. Ensure that signage is clearly visible, easy to read and simple to understand.	No change to existing park signage.	Yes
	C10. Provide both directional and behavioural signage at entrances to parks.	Given the relatively small size of the park and the positioning of the building within it, wayfinding is not considered necessary.	N/A
	C11. Offer a choice of clearly defined pathways.	The proposed pathways are considered to be direct and appropriate.	Yes
	C12. Design and locate pathways so they are direct and follow pedestrian desire lines.	Complies	Yes

The application was assessed against the controls outlined within Part B7 of Canterbury DCP 2012 and is considered to satisfy the applicable controls.

B8 – Heritage

B8.1 General Objectives:

- O1 To conserve the environmental heritage of Canterbury.*
- O2 To ensure changes to places of heritage significance are in accordance with the conservation process and design principles.*
- O3 To ensure the significant fabric, materials and finishes, visual setting, landscape elements and fencing of places of heritage significance are conserved.*
- O4 To ensure that new fabric, materials and finishes, visual setting, landscape elements and fencing are complementary to places of heritage significance.*
- O5 To ensure that the location of garages and carports does not detract from heritage significance.*
- O6 Require that development on land in the vicinity of a place of heritage significance is designed in accordance with the conservation process.*

The development is not a heritage item, however is located within the Duntroon Street Heritage Conservation Area.

As such, a Heritage Impact Statement (HIS) has been submitted in support of the application. The HIS concludes that the proposal is a 'sympathetic effort to introduce a community space within an existing park without having an adverse impact on the Duntroon Street Heritage Conservation Area'. The report also states that there will be no heritage impact overall.

This HIS has been reviewed by Council's Heritage Officer who raises no concerns with the proposed development, subject to the provision of interpretation of the site history.

The application was assessed against the controls outlined within Part B8 of Canterbury DCP 2012 and is considered to satisfy the applicable controls.

B9 – Waste

A waste management plan was submitted with the application which outlined waste management controls in regard to waste management during and after construction.

The Council's Waste Services team have reviewed the application and raised no concerns subject to standard conditions of consent.

The waste management plan is therefore considered to be acceptable and satisfies the controls outlined within Part B9 of Canterbury DCP 2012.

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

There are no planning agreements applicable to the development application.

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

The proposal satisfactorily addresses the relevant provisions of the regulations.

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

The proposal is considered to be acceptable with regard to the likely environmental, social and economic impacts on the locality.

Topography and Scenic Impacts

The development will have minor topographic or scenic impacts. The building will be located on the flat area of turf formally used as a bowling green. As such, minimal excavation is required and the site has already been heavily altered to remove natural features.

External Appearance and Design

The proposed building is located in the north eastern corner of the reserve to ensure potential for flooding is removed (as flooding can occur south of the development site). It also permits views from Marcia Street, Short Street and Crinan Street of the park to be retained and enhanced with the introduction of a high-quality, welcoming community facility and landscaping. From the raised point on Short Street views of the reserve across the roof of the development will also remain.

The design features a covered area to the front of the building and provides a seating area for both hirers of the venue and the general public users of the park. A new public W.C is also provided and is incorporated into the design of the structure.

The internal space is accessed by large, glazed sliding doors facing south over the covered outdoor space and the park.

The building will be constructed with timber clad walls, timber framed openings and perforated metal mesh. Finished concrete will also be used throughout. The building has been designed to be viewed 'in the round' from all angles, with no servicing or utilities on public display. It has also used material colours that complement the surrounding Duntroon Street Conservation Area and utilised a contemporary interpretation of traditional features – such as the use of timber detailing and varying roof pitches to emphasis the use of tiled roof covering.

The proposed roof canopy contains a perforated metal mesh screen. Within which the clerestory windows and externally mounted under-canopy lighting will be seen through the mesh. This will allow a visually interesting pattern of lighting to subtly illuminate the park which will aid in safety and security whilst being muted by the perforated screen.

Landscaping

The proposed landscaping includes the use of planting beds containing range of native and exotic grasses and shrubs appropriate to the site. Additional canopy tree planting is proposed at the north east corner of the park, between the proposed building and No.11 Marcia Street.

The proposed paving materials include recycled bricks, steel edging and in-situ concrete.

The proposed landscaping is considered to be high quality and is an improvement in terms of visual amenity and biodiversity benefits upon the existing simple turf present within the reserve.

Solar Access

Shadow diagrams have been submitted which demonstrate that there are no adverse impacts on adjoining properties arising from the development. Between 8am and 4pm on midwinter the shadow falls onto Hurlstone Memorial Reserve itself or Marcia Street, with only the front setback at No.11 Marcia Street being overshadowed at 4pm (with no overshadowing from the proposed development for the rest of the day).

Aural and Visual Privacy

The proposed building is set within a public reserve and is bounded by high walls/embankments to the north and west which block any potential for overlooking (noting that only the raised point at Short Street is located immediately to the north of the proposed building).

The development is set back a minimum of 7m from the side boundary with No.11 Marcia Street. This boundary contains a minimum 1.8m high boundary fence and already immediately adjoins the public reserve, therefore a level of public overlooking at the boundary can be expected. The proposed building does not introduce any adverse overlooking to this boundary beyond the existing situation.

It is proposed to permit operation within the facility between the following times:

- Monday to Thursday: 8am-10pm
- Friday to Saturday: 8am-12am (midnight).

The internal space can accommodate up to 25 people any one time, however, the outdoor undercover space can also be hired. When hired together the combined space can accommodate bookings of up to 49 people. It should be noted that it is not anticipated that the facility will be in continuous use for this period of time, rather it will operate as a venue for multiple community groups and the like to use within that period of time for short term periods.

An Acoustic Report has been submitted to assess the potential impact of the development on the adjoining neighbours.

The report assesses the potential noise impact on properties on Short Street and Marcia Street. The report models the noise emission from 25 people in conversation, with 20% talking with raised voices, 30% talking normally and the remaining 50% listening or not talking.

The report makes a series of recommendations, including:

- Sound absorptive treatment to the undercover area
- A noise management plan be implemented to state:
 - o No amplified PA speakers permitted on the community hall site
 - o The undercover area is to be used from 7am to 6pm only. After 6pm users should be directed inside the hall
 - o All external glazed doors and windows are to be kept closed after 10pm
 - o Users shall be directed to exit quietly and quickly
- Mechanical Plant is proposed and should be assessed prior to the issue of a Construction Certificate.

It is considered that these recommendations can be implemented by way of suitable conditions of consent which will be imposed.

It should also be noted that music and noise levels are restricted to the times proposed as per the NSW legislation *Protection of the Environment (Noise Control) Regulation 2008*, and the adopted Council's Terms and Conditions for the Hire of Council's Community Halls, Centres and Meeting Rooms

Community Facility Operation

A Plan of Management (POM) has been provided which has been prepared to minimise impacts of the proposed development on neighbouring residents.

The POM has provided a list of the potential user groups based on hirers for similar community facilities within the Canterbury-Bankstown LGA. These include cultural associations, hobby groups, senior groups, Community Associations, Community Health and Wellbeing, youth groups, disability groups, theatre groups and Government organisations, the space is also available for hire by individual residents. These are all considered to be reasonable users and fall within the definition of 'Community facility' user pursuant to the LEP.

The POM makes clear that each booking includes time to allow users to clean up the premises prior to departure. As such, the time for active use ends 1 hour prior to the end of booking. An afterhours complaints number is provided to allow complaints against users to be lodged with Council.

The POM also requires that all waste must be removed at the end of the hire period and disposed of appropriately in the dedicated waste bins located on the site, or taken with the hirer and disposed of responsibly.

The POM is considered appropriate for the proposed use and scale of the development. A condition of consent will be imposed to ensure the POM is followed

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

The site is considered suitable to support the proposal.

Submissions [section 4.15(1)(d)]

The application was notified for a period of 21 days, from 8 July 2020 to 28 July 2020 and due to an error in the site description was re-notified for a further 21 days from 25 November 2020 to 15 December 2020. A total of nine (9) submissions were received with three (3) submissions in support, four (4) providing general commentary and two (2) submissions raising concerns with the proposal.

Submission: Insufficient time for the community directly impacted by the potential developments to witness information such as the local environmental plan, developmental control plan, or the purpose of the development.

Response: The proposal was notified for 2 x 21 day periods in accordance with Council's notification policy. This is considered sufficient time for the public to review and comment on the proposed development,

Submission: Proposal will increase traffic and make accessible street parking challenging for elderly people.

Response: The application was submitted with a traffic and parking assessment which was peer reviewed by a separate traffic consultant. The traffic and parking assessments were reviewed by Council's traffic engineer. The assessments found that as the site is currently used as a recreational area which has primary users from locality the current parking demand is considered to be low. The traffic activity associated with the proposal would be insufficient to indicate any notable impact on the road network within the modelling results, particularly in the context of daily variance in traffic activity across the network.

Submission: *Proposal will add noise pollution, especially throughout the development period.*

Response: The application was accompanied by an acoustic assessment which has been reviewed by Council's health officer. The acoustic assessment found that provided the recommendations of the report are implemented the level of noise emitted from the activities from the community facility will meet the acceptable noise limits during the early night at all residential receptors. A slight exceedance is expected during the day and evening however this is considered negligible given the predicted noise levels are no greater than the existing noise levels of the area surrounding the park. The recommendations of the acoustic report have been incorporated into the conditions of consent.

Submission: *The development would decrease the grass area and impact the community that use the grass space daily*

Response: The proposed community facility is located in the north east corner of the reserve with the remaining space to remain as open grass area with the existing playground and mature trees along the boundaries of the reserve all to remain in situ. The provision of public recreation area within the reserve has increased following demolition of the former bowls club and associated greens. The community facility will provide a space for local residents to hold small gatherings and functions.

Submission: *Please keep the existing terraces, repairing any damage, plus improving the soil and additional planting. The existing retaining walls have a lovely old fashioned character and it would be a shame to lose them*

Response: The existing western terrace gardens are to be retained. The upgrade of the walls will be subject to a separate proposal.

Internal Referrals:

Internal Referral	Comments Received
Traffic	<p>No objections raised to final scheme. Conditions of consent provided.</p> <p>Previous issues raised were addressed:</p> <ul style="list-style-type: none"> • Number of car spaces – <i>applicant provided parking study. Peer review by Applicant found on street parking was sufficient to accommodate facility.</i> • Traffic generation – <i>Applicant provided additional information showing traffic activity associated with the proposal would be insufficient to indicate any notable impact on the road network within the modelling results</i>

Internal Referral	Comments Received
	<ul style="list-style-type: none"> Loading Bay and size of vehicle – <i>Applicant provided additional information detailing that the loading bay refers to use by the primary customer who may be bring heavy or bulk items to the building. This is not intended as a service vehicle parking space, which is normally associated with the term 'Loading Bay'.</i> Bicycle parking – The Landscape Plans show two bike racks located adjacent to the loop path – <i>conditions of consent recommended to relocate the bike racks so that they are adjacent to the front entry of the building.</i> The plans should show that the sight distance triangle as per AS2890.1:2004 – Fig 3.3 for the Accessible Parking space - <i>conditions of consent recommended.</i>
Development Engineer	<p>No objections raised to final scheme. Conditions of consent provided.</p> <p>Previous concerns raised regarding the proposed parking spaces being located in a high risk flood area were addressed by the Applicant with additional information.</p>
Environmental Health	<p>No objections raised. Conditions of consent provided.</p> <p>Previous concerns regarding requirement for Preliminary Site Investigation (P.S.I.). Applicant provided additional information which clarified that their contamination assessment included drilling of 6 boreholes, subsurface soil sampling and chemical analysis for contaminants of concern. An additional geotechnical report was submitted (dated 18 November 2020). This investigation did not identify contamination above the acceptable criteria.</p>
Waste Services	No objections raised to final scheme. Conditions of consent provided.
Building Surveyor	No objections raised. Conditions of consent provided.
Tree Officer	No objections raised. Conditions of consent provided.

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

The public interest is served through the detailed assessment of this application under the Environmental Planning and Assessment Act 1979, Environmental Planning Instruments, Development Control Plans and policies. The proposal will provide additional community facilities within the park and improve the landscape setting. Based on the above assessment the development is consistent with the applicable objectives and planning controls. As such, approval of the proposal is in public interest.

CONCLUSION

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

The proposed development represents an appropriate built form for the site, provides a high quality community facility and satisfies the objectives of the relevant planning controls.

RECOMMENDATION

That Development Application DA-454/2020 be APPROVED pursuant to Section 4.16(1)(a) of the *Environmental Planning and Assessment Act, 1979* subject to the following conditions.

CONDITIONS OF CONSENT

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

Plan Name	Job No.	Sheet No.	Prepared by	Dated
Site Analysis Plan	19.39	101 A	Sam Crawford Architects	1/6/2020
Proposed Site Plan	19.39	102 A	Sam Crawford Architects	1/6/2020
Scope of Proposed Works	19.39	103 A	Sam Crawford Architects	1/6/2020
Proposed Roof Plan	19.39	110 A	Sam Crawford Architects	1/06/2020
Proposed Ground Floor Plan	19.39	111 A	Sam Crawford Architects	1/6/2020
Elevations	19.39	201 A	Sam Crawford Architects	1/6/2020
Elevations	19.39	202 A	Sam Crawford Architects	1/6/2020
Sections	19.39	301 A	Sam Crawford Architects	1/6/2020
Colours & Finishes	19.39	501 A	Sam Crawford Architects	1/6/2020
Landscape Plan – Site Masterplan	-	DA01	Gallagher Studio	20/05/2020
Stage 1 Landscape Works	-	DA02	Gallagher Studio	20/05/2020
Stage 1 Planting Plan	-	DA03	Gallagher Studio	20/05/2020
Proposed Drainage Stormwaterplan	-	CI-1101	Cardno Ltd Pty	27.05.2020
Sediment and Erosion Control Details	-	CI-2201	Cardno Ltd Pty	May 2020

Prior to the issue of a **Construction Certificate**, the following amendments shall be made:

- a. The Architectural Plans and Landscape Plans are to be amended to show the relocation of the bicycle parking racks to be adjacent to the front entry of the building.

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

- 3) The Certifying Authority must ensure that any certified plans forming part of the Construction Certificate are not inconsistent with this Development Consent and accompanying plans.

- 4) Prior to the issue of a Construction Certificate, the Applicant must submit to the Certifier plans showing the sight distance triangle as per AS2890.1:2004 – Fig 3.3 for the Accessible Parking space. The sight triangle should be kept clear of any obstacles.

If the existing utility box impacts on sightlines, the accessible parking space and loading dock are to be interchanged. In this option, the Applicant to demonstrate adequate sightlines for the Accessible parking users when the loading dock is being used.

- 5) Indented parking spaces to be signposted as 'Rear to Kerb' if unloading is feasible from rear.
- 6) A soil erosion and sediment control plan must be prepared by a suitably qualified professional, in accordance with the Demolition and Construction Guidelines and Canterbury DCP 2012 and submitted to the certifying authority for approval prior to the issue of a construction certificate.
- 7) The building must comply with the Category 1 fire safety provisions as are applicable to the building's proposed use.

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

- 8) Details shall be submitted according to Building Code of Australia Compliance Assessment Report dated 01/06/2020 issued by AE&D Pty Ltd.
- 9) Details shall be submitted to demonstrate compliance with the Noise Recommendations in the Environmental Noise Assessment prepared by Day Design dated 5 November 2020. Specifically the sound absorption treatment for the undercover area.
- 10) If air conditioning is proposed details are to be submitted prior to the issue of a Construction certificate.
- 11) The Council Approved building plans, including demolition plans, must be submitted to Sydney Water for assessment. This will determine if the proposed structure(s) would affect any Sydney Water infrastructure or if there are additional requirements. Building plan approvals can be submitted online via Sydney Water Tap in™.

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

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

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

- 12) A long service levy payment which is 0.35% of the total cost of the work is to be paid to the Building and Construction Industry Long Service Payments Corporation.
- 13) A Construction Certificate shall not be issued until written proof that all bonds, fees and/or contributions as required by this consent have been paid to the applicable authority.
- 14) Finished surface levels of all internal works and at the street boundary, including driveways, landscaping, footpath and drainage structures, must be as shown on the approved plans. The internal works shall include design changes as per the following:
 - a) New driveway crossing shall be constructed within the road reserve, up to property boundary in accordance with the approved Work Permit;
 - b) New pathway shall be aligned to accommodate a minimum of 0.5 m clearance from the privacy screen fronting the external toilet;
 - c) New pathway shall be designed up to a connection point with the existing footpath. The design levels shall match the existing levels at the connection point. A longitudinal slope of new footpath shall be in accordance with the requirement of Council's Development Engineering Standards and Council's standard drawings.

The levels at the street boundary must be consistent with the existing levels as shown on the Survey Plan, if not amended by Council with the issued Street Boundary Alignment Levels.

- 15) A Work Permit shall be applied for and obtained from Council for the following engineering works in front of the site, at the applicant's expense:
 - a) A heavy duty VFC of maximum width of 7.2 metres at the property boundary fronting the loading bay and accessible parking.
 - b) Drainage connection to Council's system within existing pit located at the northern side of Marcia Street.
 - c) Relocation of the existing kerb-inlet & pit, located at the start of pipeline DN 525 (along the southern side of Marcia St). The pit shall be constructed further upstream for a minimum of 1.0m from the new layback/wing.
 - d) The existing second kerb-inlet of the pipeline DN 525 (along the Southern side of Marcia St) shall be reconstructed to allow formation of the proposed layback. The inlet capacity shall be upgraded and a minimum of class D, bike safe, double gated drain to be installed.
 - e) Construction of a new street 525mm Ø RC stormwater pipeline. The pipeline shall connect the newly constructed (relocated) pit to the downstream existing second stormwater pit of DN 525 pipeline, along the southern side of Marcia Street.
 - f) Concrete footway paving along the site's entire frontage to Marcia Street.

- g) Concrete kerb & gutter to be reconstructed along the required work on Marcia Street.
- h) Repair of any damage to the public road including the footway, drainage structures, grass verge, bollards and signs occurring during development works.
- i) Reinstatement of the footway reserve and adjustment or relocation of existing public utility services to match the footway design levels as proposed on the approved Work Permit. Adjustment or relocation to any public utility services shall be carried out to the requirements of the public utility authority.

Note: As a site survey and design is required to be prepared by Council in order to determine the necessary information, payment for the Work Permit should be made at least twenty-one (21) days prior to the information being required and must be approved prior to the issue of the Construction Certificate.

- 16) The stormwater detailed drainage design of the proposed development shall be designed to comply with Council's Canterbury Development Control Plan 2012 Part B5 stormwater guideline requirements, the Council's Development Engineering Standards, conditions of this consent and relevant Australian Standards.

The Stormwater System Report (SSR) **MUST** be obtained from Council prior to commencing work on any detailed design of the proposed development.

A grated drain across the full width of the proposed parking area shall be provided at the property boundary (within the property) where internal areas drain towards the street, and the drain shall be connected to the existing drainage system in accordance with the requirements of Council's Development Engineering Standards.

The detailed design shall include relocation of the first kerb inlet & pit of DN 525, extension of pipeline DN 525, and adjustments to the second pit of pipeline along the southern side of Marcia Street, including upgrade to the kerb inlet (work related to the proposed construction of a new layback).

The proposed new street stormwater detailed design works within Marcia Street **MUST** be provided to Council's Works and Projects.

A final detailed stormwater drainage design shall be prepared by a qualified Professional Civil Engineer in accordance with the above requirements and shall generally be in accordance with the concept stormwater plan No. 80820211-CI-1101/rev 1, dated 27/05/2020 prepared by Cardno Pty Ltd.

The final detailed stormwater drainage design shall be certified by the design engineer and certification must include a statement that the final detailed design complies with Council's Canterbury DCP 2012 Part B5, Council's Development Engineering Standards, conditions of this consent and the relevant Australian Standards.

The final detailed design and certification shall be submitted to the Principal Certifier prior to the issue of any Construction Certificate.

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

Note, filling of the site needs specific approval from Council.

The detailed design of all works associated with the construction of the wall, including backfilling and drainage, must show that the work is to be located wholly within the allotment boundaries, including the parking spaces.

The retaining wall (including any structure under the proposed parking) must be designed so that it will not impede or obstruct the natural flow of overland stormwater. The Stormwater System Report (SSR) must be obtained from Council prior to commencing work on any detailed design of the proposed development.

Retaining walls exceeding 600mm in height shall be designed by a qualified professional Civil/Structural Engineer. Plans and details prepared and signed by the Engineer are to be submitted to the Principal Certifier prior to the issue of the Construction Certificate.

- 18) An all-weather pavement shall be designed to withstand the anticipated wheel loads for all areas subjected to vehicular movements. Internal pavements specification prepared and certified by all qualified professional Civil Engineer to comply with the relevant Australian Standards, shall be submitted to the Principal Certifier for approval prior to the issue of the Construction Certificate.
- 19) The proposed parking areas associated with the subject development including driveway (VFC) grades, sight distance requirements in relation to landscaping and/or fencing, parking bay grades and dimensions, shall be in accordance with the Australian Standard AS/NZS 2890 parking series.

The proposed parking and area for garbage bins (including any structure under the proposed parking) must be designed so that it will not impede or obstruct the natural flow of overland stormwater. The Stormwater System Report (SSR) must be obtained from Council prior to commencing work on any detailed design of the proposed development.

A grated drain across the full width of the proposed parking area shall be provided at the property boundary (within the property) where internal areas drain towards the street, and the drain shall be connected to the existing drainage system in accordance with the requirements of Council's Development Engineering Standards.

A minimum of three (3) longitudinal profiles of the proposed driveway (VFC) are required to be prepared by qualified professional Civil Engineer. The profiles shall start from the ridge point of Marcia Street, and shall include existing and proposed levels (of road, gutter, kerb any drainage infrastructure, footpath, grass verge) and must be provided to the end of parking bay. Required ground clearance in accordance with the

AS/NZS 2890.1 must be clearly indicated along the profiles. The profiles shall be drawn at a reduction ratio of 1 to 25 vertical and horizontal and shall be related to the datum used for the issue of the footway design levels and shall also show the road centre line levels, Council issued footway design levels and gutter levels.

The detailed design shall be certified by qualified professional Civil Engineer and the certification shall include a statement that the detailed design complies with the Australian Standard AS/NZS 2890 series and Council's standard drawings.

The final detailed design and certification shall be submitted to the Principal Certifier prior to the issue of any Construction Certificate.

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

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

This plan shall include details of the following:

- a) Proposed ingress and egress points for vehicles to and from the construction site;
- b) Proposed protection of pedestrians, adjacent to the constructions site;
- c) Proposed hoardings, scaffolding and/or fencing to secure the construction site;
- d) Proposed pedestrian management whilst vehicles are entering/exiting the construction site;
- e) Proposed measures to be implemented for the protection of all public roads and footway areas surrounding the construction site from building activities, crossings by heavy equipment, plant and materials delivery and static load from cranes, concrete pumps and the like;
- f) Proposed method of loading and unloading excavation machines, building material, construction materials and waste containers during the construction period;
- g) Proposed traffic control measures such as advanced warning signs, barricades, warning lights, after hours contact numbers etc, are required to be displayed and shall be in accordance with Council's and the NSW Roads and Traffic Authority's requirements and AS1742.3.
- h) Proposed method of support of any excavation, adjacent to adjoining buildings or the public road. The proposed method of support is to be certified by a Civil Engineer with National Professional Engineering Registration (NPER) in the construction of civil works.
- i) Proposed measures to be implemented in order to ensure that no soil/excavated material is transported on wheels or tracks of vehicles or plant and deposited on the public road.

- j) Proposed measures for protection of the environment including procedures to control environmental impacts of work e.g. sediment control, proper removal, disposal or recycling of waste materials, protection of vegetation and control/prevention of pollution i.e. water, air noise, land pollution.

The approved Site, Pedestrian and Traffic Management Plan is to be implemented prior to the commencement of any works on the construction site. The applicant will be required to pay for inspections by Council Officers in accordance with Council's adopted fees and charges.

In addition, an RMS Approval / Road Occupancy Licence will be required for works on Regional or State Roads or within 100m of a traffic facility including roundabouts and traffic signals.

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

A PRIVATE CERTIFIER CANNOT ISSUE THESE PERMITS

WORKS REQUIRING A 'WORKS PERMIT'

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

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

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

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

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

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

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

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

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

- 22) Sites located adjacent to Council's drainage easement and affected by flooding shall comply with the following:
- a) The Stormwater System Report (SSR) must be obtained from Council prior to commencing work on any detailed design of the proposed development.
 - b) The proposed structures shall be located clear of existing and proposed Council easements within the site. Amended plans to this effect shall be submitted to the Principal Certifier prior to the issue of any Construction Certificate. All approved construction details shall be consistent with this requirement. Proposed buildings shall be located clear of floodway through the site.

- c) Concrete pier and beam type footings shall be provided for all structures adjacent to Council's stormwater pipe/easement in accordance with the requirements contained in Council's Canterbury Development Control Plan 2012 Part B5. Plans and details prepared by a qualified practising Structural Engineer, with details suitable for construction in accordance with the above Policy shall be incorporated into the final detailed design for approval of the Construction Certificate. A copy of the approved final detailed design together with a report prepared by a registered surveyor showing location, size and depth of the stormwater system, shall be sent to Council for information.
- d) The proposed structures floor level shall be constructed above estimated 100-year ARI flood level, issued by Council, plus applicable freeboard. The proposed garbage bin area shall be protected from floodway and shall be placed at the highest end of the parking bays. All approved construction details shall be consistent with this requirement.
- e) Landscaping within Council's drainage easement shall be limited to grassed or paved surfaces only. Any fencing across Council's drainage easement and within the floodway shall incorporate provision for the passage of overland stormwater runoff to cater for the 1:100-year A.R.I. storm. All approved construction details shall be consistent with this requirement. A copy of the approved landscaping details shall be submitted to Council for information.
- f) An unobstructed overland floodway for excess stormwater runoff from Council's drainage system and upstream catchment shall be maintained throughout the site. The flow path and piped drainage system shall be designed to carry stormwater runoff from the 1:100-year A.R.I. design storms for the catchment concerned. Final details suitable for construction prepared by a qualified professional Civil Engineer shall be submitted to the Principal Certifier prior to the issue of any Construction Certificate. The final detailed design shall be in accordance with the Council's Canterbury Development Control Plan 2012 Part B5, Council's Development Engineering Standards and relevant Australian Standards. All approved construction details shall be consistent with this requirement. A copy of the approved details shall be submitted to Council for information.
- g) For concrete pavements built over drainage easements full depth construction joints shall be provided along the easement boundary, in accordance with the requirements contained in Council's Canterbury Development Control Plan 2012 Part B5. Details suitable for construction prepared by a qualified professional Civil Engineer shall be submitted to the Principal Certifier prior to the issue of the Construction Certificate. A copy of the approved details shall be submitted to Council for information.

Note: Council's standard floodway sign shall be erected on the site adjoining the floodway.

CONDITIONS TO BE SATISFIED PRIOR TO CONSTRUCTION WORKS COMMENCING

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

- 28) A compliance certificate must be must be obtained from Sydney Water under section 73 of the Sydney Water Act 1994. An assessment will determine the availability of water and sewer services, which may require extension, adjustment or connection to the mains.
- 29) Prior to the commencement of work, a fence must be erected around the area of the works, except where an existing 1.8m high boundary fence is in good condition and is capable of securing the area. Any new fencing shall be temporary (such as cyclone wire) and at least 1.8m high. All fencing is to be maintained for the duration of construction to ensure that the work area is secured.

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

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

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

CONDITIONS TO BE SATISFIED DURING CONSTRUCTION

- 31) The hours of site works shall be limited to between 7.00am and 5.00pm Monday to Saturday. No work shall be carried out on Sundays and public holidays, and weekends (Saturdays and Sundays) adjacent to public holidays.
- 32) The building work must be carried out in accordance with the requirements of the Building Code of Australia.
- 33) Site waste minimisation and management must be carried out in accordance with the approved Waste Management Plan during the demolition and construction stages of development.
- 34) A copy of the waste management plan must be kept on site at all times during the demolition and construction stages of development.

- 35) All Civil and Hydraulic engineering works on site must be carried out in accordance with Council's Canterbury Development Control Plan 2012 Part B5, Council's Development Engineering Standards and relevant Australian Standards. All Civil and Hydraulic engineering works associated with Council's assets and infrastructure must be carried out in accordance with Council's Work Permit requirements and to Council's satisfaction.
- 36) An identification report by a registered surveyor must be submitted to the principal certifying authority prior to the ground floor slab being poured to verify the buildings wall setbacks and floor level conform to the approved plans.
- 37) All excavations and backfilling must be executed safely and in accordance with the relevant Australian Standards.
- 38) If the soil conditions require it, retaining walls or other approved methods of preventing movement of the soil must be provided, and adequate provisions must be made for drainage. Separate approval may be required for retaining walls should they be required.
- 39) If an excavation extends below the level of the base of the footings of an adjoining building or a building on an adjoining allotment of land, the person causing the excavation to be made:
- a) if necessary, must underpin and support the building in an approved manner, and
 - b) must, at least 7 days before excavating below the level of the base of the footings of a building give notice of intention to do so to the owner of that building and furnish particulars of the excavation to the owner of the building being erected or demolished.
 - c) must take all precautions to protect all of the structures from damage.

The owner of any affected buildings is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on an adjoining allotment of land.

- 40) A suitably qualified Professional Civil or Structural Engineer shall be engaged by the developer to carry out inspections relating to construction of driveway and parking area. The work shall be carried out in accordance with the approved plans and specifications, and a certification from the Civil or Structural Engineer shall be provided upon completion
- 41) The stormwater drainage system shall be constructed in accordance with Council's Canterbury Development Control Plan 2012 Part B5, Council's Development Engineering Standards, conditions of this consent, relevant Australian Standards, and the engineering approved plans. Should the developer encounter any existing, live, underground stormwater drainage pipes, which carry flow from upstream properties, the developer must maintain the stormwater flow and re-route the stormwater pipes around the subject building or structures at the developer's expense.

- 42) Development located adjacent to Council's drainage pipe and easements shall comply with the following:
- a) Concrete Pier and beam type footings/foundations adjacent to Council's drainage easements shall be constructed in accordance with the approved details and Council's Development Engineering Standards. The appointed contractor shall arrange for an inspection to be carried out by Council to verify depth and location of piers in relation to the pipe and easement prior to pouring of concrete. A copy of the approved Structural plans detailing the pier locations and depths relative to the Council drainage pipe shall be provided to the Council prior to the inspection.
 - b) Any disturbance or damage caused to Council's drainage pipes within the site shall be repaired by Council at the contractor's expense. The appointed contractor must notify Council of such damage immediately after it occurs, and of any pre-existing damage prior to commencement of work within the site.
- 43) Any excavation works carried out on site should be closely monitored to ensure no signs of potential acid sulfate soil or actual acid sulfate soil are observed. Indicators may include grey to greenish blue clays, unusual gold-yellow mottling or 'rotten egg' odours. If any of these indicators are observed, excavation of the site must be stopped, and Council is to be notified immediately. A suitably qualified environmental consultant must be contracted to further assess the site.
- 44) In the instance works cause the generation of odours or uncovering of unexpected contaminants works are to immediately cease, Council is to be notified and a suitably qualified environmental consultant appointed to further assess the site. The exposed material/excavation is to be evaluated by the supervising environmental consultant and an appropriate response determined in consultation with the applicant, which is agreed to by Council.

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

- 45) Any soils to be excavated and disposed of from the site must be analysed and classified by a suitably qualified environmental consultant, in accordance with relevant NSW EPA guidelines including the 'Waste Classification Guidelines' (NSW EPA, 2014) prior to off-site disposal. Any waste material is to be transported to an appropriately licensed waste facility by an EPA licensed waste contractor in accordance with relevant NSW EPA guidelines.
- 46) Any fill imported onto the site must be virgin excavated natural material or excavated natural material, classified as such in accordance the 'Waste Classification Guidelines' (NSW EPA, 2014) or excavated natural material meeting the requirements of the Excavated Natural Material Exemption (NSW EPA, 2014).

- 47) If the Duty to Report contamination to the NSW EPA under Section 60 of the Contaminated Land Management Act 1997 is triggered, Council must be notified within seven (7) days of the notification to the NSW EPA
- 48) If any trees to be retained and protected are threatened by demolition, building or other site works through accidental omission or unforeseen circumstances, the approving authority is to be notified immediately in writing before such work is continued so that this issue can be resolved.

CONDITIONS TO BE SATISFIED PRIOR TO OCCUPATION

- 49) Prior to the issuing on an Occupation Certificate, a suitable qualified landscape architect is to certify that all landscape works have been installed as per the approved Landscape Plans, as amended.
- 50) The occupation or use of the extension must not be commenced unless any occupation certificate has been issued for the building.
- 51) A section 73 Compliance Certificate under the Sydney Water Act 1994 must be submitted to the principal certifying authority before an occupation certificate will be issued.
- 52) An Occupation Certificate shall not be issued until all conditions relating to demolition, construction and site works of this development consent are satisfied and Council has issued a Work Permit Compliance Certificate.
- 53) The development should include a formal, integrated interpretation area or device to present to visitors and users of the place an overview of its history and previous community uses.
- 54) The following planting must be completed prior to the issue of the relevant Occupation Certificate.

Tree Species	Location
5 x <i>Syncarpia glomulifera</i> (Turpentine tree)	Trees to be planted along the northern boundary at 10m centres, 1m off the boundary
6 x <i>Nyssa sylvatica</i> (Tupelo)	Trees to be planted along the eastern boundary at 6m centres, 1m off the boundary
8 x <i>Lagerstroemia indica x fauriei</i> 'Natchez' (Crepe myrtle)	4 each to be planted in a staggered group in Zone A east of the proposed building and in Zone C west of the proposed building.
1x <i>Ginkgo biloba</i> 'Princeton Sentry' (Ginkgo)	South-east of the building between the paths

- 55) The trees shall have a container size not less than 75 litres, shall comply with NATSPEC Specifying Trees: a guide to assessment of tree quality (2003) or Australian Standard AS 2303 – 2015 Tree stock for landscape use, and be planted and maintained in accordance with Councils street tree planting specifications Standard Drawing S-202.
- 56) Investigation to locate underground services shall be the responsibility of the contractor. Should such services be located and there is a reasonable belief that damage may occur to those services by the new plantings, the contractor is to:
- a) Carry out engineering works to protect those services from damage; or
 - b) Relocate the plantings to a more suitable location following written approval from Canterbury Bankstown Council; or
 - c) Substitute the approved tree species with an alternative species following written approval from Canterbury Bankstown Council.
- 57) The trees shall be planted by a qualified landscape contractor with experience in handling advanced sized tree stock, and in accordance with the tree delivery, planting preparation – general, planting, mulching and staking specifications included in Standard Drawing No. S-202.
- 58) The contractor shall inspect all trees at the time of collection / delivery. This may include destructive testing of random specimens. Trees that have been damaged in transit or that do not conform to NATSPEC Specifying Trees: a guide to assessment of tree quality and/or Australia Standard AS 2303:2015 Tree stock for landscape use are to be rejected, returned to the nursery and replaced by complying trees at no cost to council
- 59) The Contractor shall returf and restore all areas damaged during the works.
- 60) All spoil as result of the tree planting works shall be taken to Councils Waste facility at Panania (no cost to the Contractor).
- 61) The contractor shall contact Council to book an inspection by the Tree Management Officer of the completed tree planting once the works have been completed prior to the installation of issue of an occupation certificate. Inspections must be booked at least 5 working
- 62) A suitably qualified Professional Civil Engineer shall certify that the driveway, parking bay, and loading bay have been constructed in accordance with the approved plans and conditions of this consent. Such Certification shall be submitted prior to the issue of the Occupation Certificate or occupation of the site.
- 63) A registered surveyor shall prepare a Work As Executed (WAE) Plan, and a suitably qualified Hydraulic Engineer shall review the WAE plan and provide certification of the constructed stormwater system.

The Works as Executed plan shall be prepared on a copy of the approved stormwater plan issued for the Construction Certificate. The plan shall be signed and dated by surveyor and shall indicate in red any deviation from the approved stormwater plan. The WAE plan shall include all information relevant to WAE plan as specified in Council's Development Engineering Standards.

A copy of the Work As Executed Plan and Hydraulic Engineer's Certification shall be submitted to Council for information prior to the issue of the Occupation Certificate

- 64) A Copy of the Work Permit Compliance Certificate shall be submitted to the Principal Certifier prior to the issue of the Occupation Certificate
- 65) An identification report by a registered surveyor must be submitted to the principal certifying authority to verify the buildings wall and roof eaves setback, floor level and height conform to the approved plans.

CONDITIONS TO BE SATISFIED POST OCCUPATION

- 66) Operation of the community facility must be in accordance with the Hurlstone Memorial Reserve Community Space – Management Plan.
- 67) The Applicant must ensure that all external lighting is constructed and maintained in accordance with AS 4282- 2019 Control of the obtrusive effects of outdoor lighting.
- 68) The hours of operation shall be as specified below:
- Sunday to Thursday: 8am to 10pm;
 - Friday to Saturday: 8am to 12am;
 - Use of the covered outdoor area for public bookings will be limited to 8am to 9pm daily.
- 69) No amplified PA speakers are permitted on the community facility site.
- 70) All external glazed doors and windows are to be kept closed after 10pm.
- 71) Deliveries and waste collection including emptying glass bottles in bins is to be conducted during the daytime hours only (7 am to 6 pm Monday to Saturday and 8 am to 6 pm on Sundays and Public Holidays).
- 72) Ongoing management of waste during the operational stage must at all times comply with Hurlstone Memorial Reserve Community Space – Management Plan.
- 73) Management is responsible for ensuring the number of patrons in the premises does not exceed the approved capacity in the Hurlstone Memorial Reserve Community Space – Management Plan.

- 74) All new outdoor lighting (including any signage illumination) shall operate in accordance with AS 1158.3.1-2005 Pedestrian Area (Category P) Lighting and AS 4282: 1997 Control of the Obtrusive Effects of Outdoor Lighting.
- 75) Where possible all ground level surfaces are to be treated with anti-graffiti coating to minimise the potential of defacement. In addition, any graffiti evident on the exterior facades and visible from a public place is to be removed within 48 hours.
- 76) A full copy of all current development consents (including approved plans) for the operation of the premises, any Registers required and the approved Management Plan must be kept on the premises and made available for inspection.
- 77) The operation of the development must not adversely affect the amenity of the neighbourhood or interfere unreasonably with the comfort or repose of a person who is outside the premises by reason of the emission or discharge of noise, fumes, vapour, odour, steam, soot, ash, dust, waste water, waste products, grit, oil or other harmful products.
- 78) Any activity carried out in accordance with this approval must not give rise to offensive odour, offensive noise or pollution of air, land or water as defined in the Protection of the Environment Operations Act 1997 and Regulations.
- 79) Music and other amplified sound played on the premises must not give rise to offensive noise as defined under the provisions of the Protection of the Environment Operations Act 1997. The sound level output must not exceed five (5) dB(A) above the ambient background level at the boundary of the premises.

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.

- 80) The use of the premises and the operation of plant and equipment must not give rise to the transmission of a vibration nuisance or damage to other premises as defined in the 'Assessing Vibration: A Technical Guideline' (NSW Department of Environment and Conservation, 2006).
- 81) Following occupation of the building/premises, should it be found that the measures recommended in the acoustic assessment are not sufficient, or have been incorrectly installed or a noise issue (relating to the development) not previously identified arises (through complaint or otherwise), the owner/ occupier must, upon request by Council, employ the services of a qualified acoustic consultant who has not previously been involved with the development to undertake a post-occupation assessment of the development and complete an acoustic report with recommendations to rectify the situation. A copy of this acoustic assessment report must be submitted to Council for approval and from there noise attenuation works must be implemented. Submission of the acoustic report must be within 30 days from the date requested by Council.

- 82) No mobile food vending vehicles or temporary food premises are permitted to operate at the premises without prior development consent from Council
- 83) No handling (processing, storing, preparing, cooking, serving or displaying) of food is to be undertaken at the premises without the prior written consent of Canterbury Bankstown Council. The use of vending machines are permitted

-END-

Canterbury Bankstown Local Planning Panel - 01 March 2021

ITEM 3	3 Highcliff Road, Earlwood Remediation of portion of the property subject to historical contamination including re-profiling, capping and re-vegetation works.
FILE	DA-391/2020 - Canterbury
ZONING	E1 National Parks and Nature Reserves
DATE OF LODGEMENT	19 May 2020
APPLICANT	Transport For New South Wales
OWNERS	Roads & Maritime Services
ESTIMATED VALUE	\$1,185,105.00
AUTHOR	Planning

REPORT

This matter is reported to the Local Planning Panel as the subject site is Crown land and the proposed works are classified as Designated Development.

Development Application No. DA-391/2020 proposes to remediate a portion of the site including re-profiling, capping and re-vegetation works.

The application has been assessed against the relevant environmental planning legislation including State Environmental Planning Policy 55 – Contaminated Land (SEPP 55), State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP), State Environmental Planning Policy No 19 – Bushland in Urban Areas (SEPP 19), State Environmental Planning Policy No 33 – Hazardous and Offensive Development (SEPP 33), Canterbury Local Environmental Plan 2012 (CLEP 2012) and Canterbury Development Control Plan 2012 (CDCP 2012). The proposal complies with the relevant requirements.

The application was advertised for a period of 28 days. A total of 6 objections were received during this period. In summary, the objections raised concerns relating to:

- a) Preservation of heritage streetscape/landscape.
- b) Further details requested in the EIS.

- c) Insufficient consideration has been given to the importance of using planting material of local provenance.
- d) Proposed planting density.
- e) Preservation of heritage sites and elements.
- f) Construction Management.
- g) Visual impact and future landscaping plans.
- h) Impact of construction works including:
 - a. Traffic
 - b. Dust and pollution
 - c. Noise and vibration
 - d. Air pollution.

The above concerns have been addressed within the Assessment Report.

The proposal is considered to improve the site from an environmental and health perspective and will ensure the site is suitable for future public use as a green corridor. Therefore, approval of the application, subject to conditions that have been agreed to by TfNSW, is recommended.

POLICY IMPACT

This matter has no direct policy implications.

FINANCIAL IMPACT

This matter has no direct financial implications

RECOMMENDATION

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

ATTACHMENTS

- A. Assessment Report
- B. Conditions of Consent

DA-391/2020 ASSESSMENT REPORT

BACKGROUND OF ASSESSMENT

The subject application was submitted to Council on 4 June 2020. The application was advertised for a 28-day period (17 June-16 July 2020) and a total of 6 objections were received by Council during this period.

On 13 August 2020, a request for information was issued by Council seeking further information to address the following:

- Accessibility matters as per the requirements of the State Environmental Planning Policy (Coastal Management) 2018;
- Acid Sulfate Soils as per the requirements of Clause 6.1 of Canterbury Local Environmental Plan 2012;
- Landscaping requirements as per Part B2 of Canterbury Development Control Plan 2012;
- Comments received from Council's Heritage Advisor, Environmental Planner, Catchment Planner, Infrastructure Planner and Development Engineer.
- Matters raised in submissions.

Information to address the above was received on 6 October 2020.

On 30 October 2020, a further request for information was issued by Council seeking further information relating to heritage matters. The Heritage information included in the packaged received on 6 October 2020 noted that the archaeological and/or cultural potential of the landscape is uncertain, and the project has potential to disturb or harm Aboriginal objects, places or land with significant cultural values. Subsequently, a further Transport Procedure for Aboriginal Cultural Heritage Consultation and Investigation (PACHCI) Stage 2 assessment was requested to determine whether the project has the potential to disturb or harm any Aboriginal objects, places or land with significant cultural values and any mitigation measures to avoid adverse impacts to such if they are found on the site. This information was received on 25 November 2020.

The assessment below is based on the information received above.

SITE & LOCALITY DESCRIPTION

The subject site is known as 3 Highcliff Road, EARLWOOD NSW 2206 and is legally described as Lot 1 in DP 557246. The site is an irregular allotment that is zoned E1 – National Parks and Nature Reserves under Canterbury Local Environmental Plan 2012. The site has an area of 1.8 hectares.

The subject site is currently vacant and access is obtained through Jackson Place via an unsealed area used for parking. The site can be categorised into two topographic areas, namely the upper area and lower floodplain area. The site generally slopes from the north to the south, however this stages to a steep drop (about 45 degrees) at the edge of the upper fill platform and embankment which generally falls towards Wolli Creek.

The upper area is unrestricted to the public and primarily comprises open grassed areas and doesn't consist of any recreation facilities. The lower floodplain area is densely vegetated and subsequently is a habitat for birds and other wildlife. This area is generally inaccessible due to its densely vegetated nature.

The site is bound by Jackson Place to the north (with residential properties located beyond), Wolli Creek to the south and open space/parkland to the east and west known as Wolli Creek Regional Park (managed and maintained by the National Parks and Wildlife Services (NPWS)).

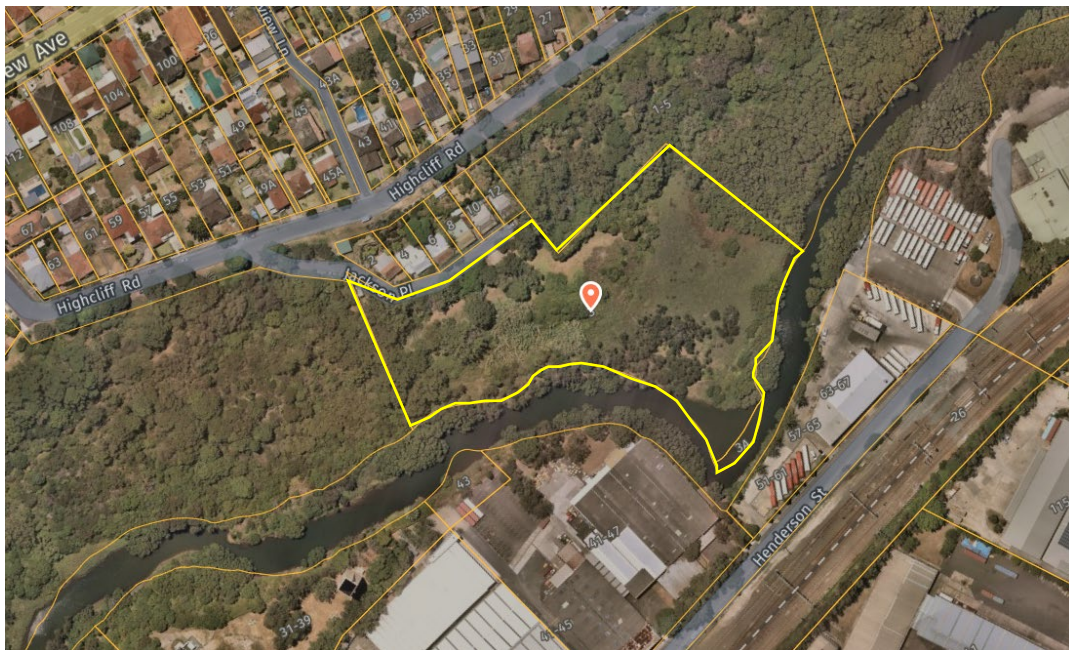


Figure 1: Aerial of subject site. **Source:** NearMaps 2020



Figure 2: View of Jackson Place from Highcliff Street



Figure 3: Partial view of site



Figure 4: Partial view of site



Figure 5: Existing car parking area within site



Figure 6: 2 Jackson Place



Figure 7: Jackson Place, view east



Figure 8: 6 Jackson Place, view east



Figure 9: 8 and 10 Jackson Place, view north

HISTORY OF SITE

It is understood that the subject site had been used as an illegal landfill by a previous landowner. Approximately 0.6 hectares of the site was covered with around 31,300 cubic metres of fill between 1912 and 1969. The fill dumped on the site comprised of soil, building rubble and other waste from city demolition sites as well as other domestic waste.

The subject site was compulsorily acquired by the former Roads and Traffic Authority (RTA), now known as Transport for New South Wales (TfNSW) in 1993 as part of the then proposed M5 East Freeway Corridor Expansion.

Contamination investigations undertaken have indicated that the upper area of the site contains elevated levels of heavy metals, including zinc, copper, cadmium, arsenic, asbestos in fibrous and bonded forms as well as organochlorine pesticides.

In May 2012, the NSW Environmental Protection Agency (EPA) declared the site to be significantly contaminated land under the Contaminated Land Management Act 1997 (CLM Act)). In light of this, the then RTA entered into a voluntary management proposed with the NSW EPA to remediate the site.

The site is no longer required by TfNSW for operational purposes and therefore the proposed decontamination works is required to make the site suitable for public use. The land will then be transferred to the National Parks and Wildlife Services (NPWS).

PROPOSED DEVELOPMENT

The Development Application proposes to remediate 0.65 hectares of the site (refer to **Figure 10** below). The proposal involves re-profiling the existing batter and remediation of the land using a capping method. The capping method includes placing low permeability geosynthetic clay liner and clean crushed sandstone on the top of the contaminated fill. Upon completion of capping works, the site would be revegetated to make it suitable for public use as a green corridor and would be managed through development of a Long-term Environmental Management Plan.

The proposal is detailed below:

1. Site establishment, including the following:
 - a. Installing temporary fencing around the construction boundary, signage and erosion and sediment controls.
 - b. Clearing most of the vegetation on the upper fill platform (excluding any mature trees and their structural root zones that are identified to be retained). It is anticipated that 11 trees will be retained. **Figure 11** below outlines their location within the site.
 - c. Installation of a site shed and ancillary site (including areas for temporary stockpiling) on the upper fill platform.
2. Re-profiling the existing batter to a flatter 2.3:1 (Horizontal: Vertical) batter. This will result in some surplus fill materials being placed at the top of the fill platform and possible removal from the site.

3. Capping of the site including:
 - a. Placing a low permeability geosynthetic clay liner (GCL) over contaminated fill material, which will act as a barrier to leaching and a marker layer. The design of the capping would consider the potential necessary site features including (but not limited to) utilities, irrigation and drainage features.
 - b. Importing and placing clean capping material over the GCL (nominally crushed sandstone).
 - c. Re-turfing and re-introduction of native vegetation where appropriate and in accordance with the landscape plan submitted as part of the proposal.
4. Demobilising equipment, the site shed, temporary fencing, signage and erosion and sediment controls.
5. Developing a Long-Term Environmental Management Plan (LTEMP).

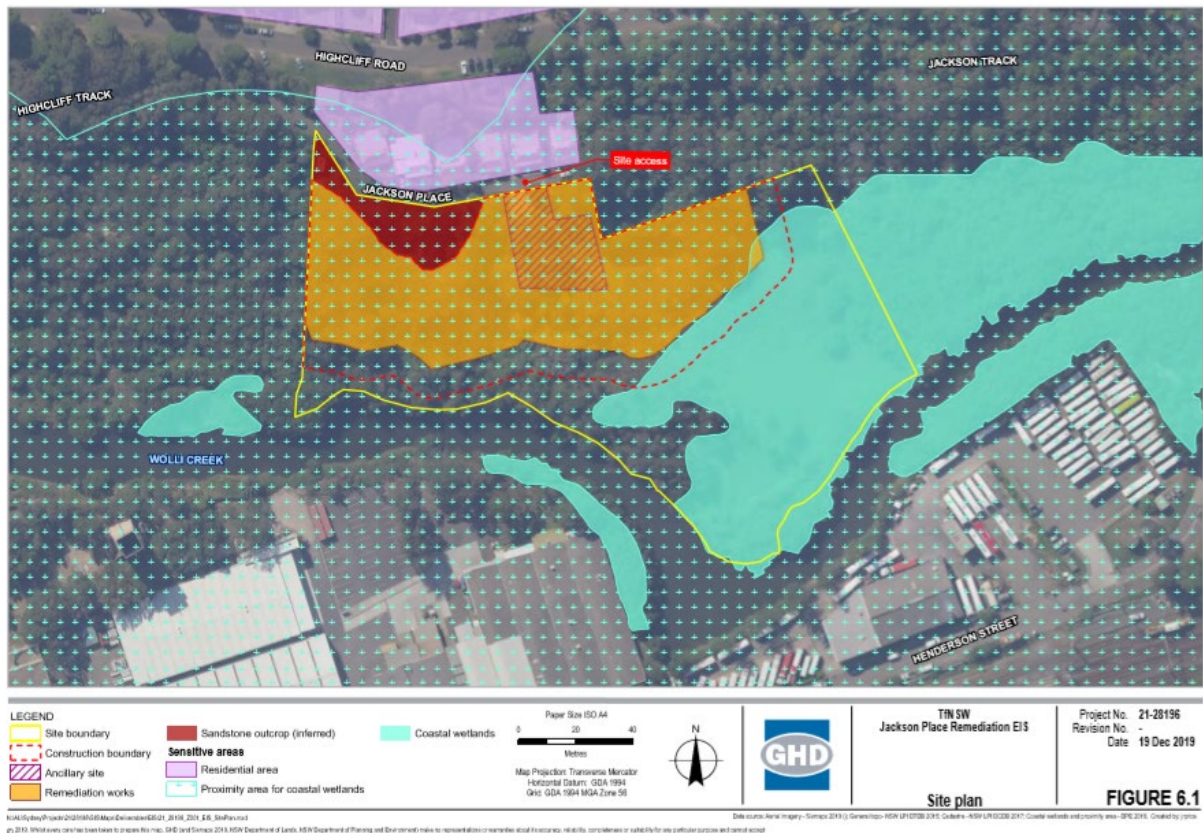


Figure 10: Location of Proposed Works. Source: GHD

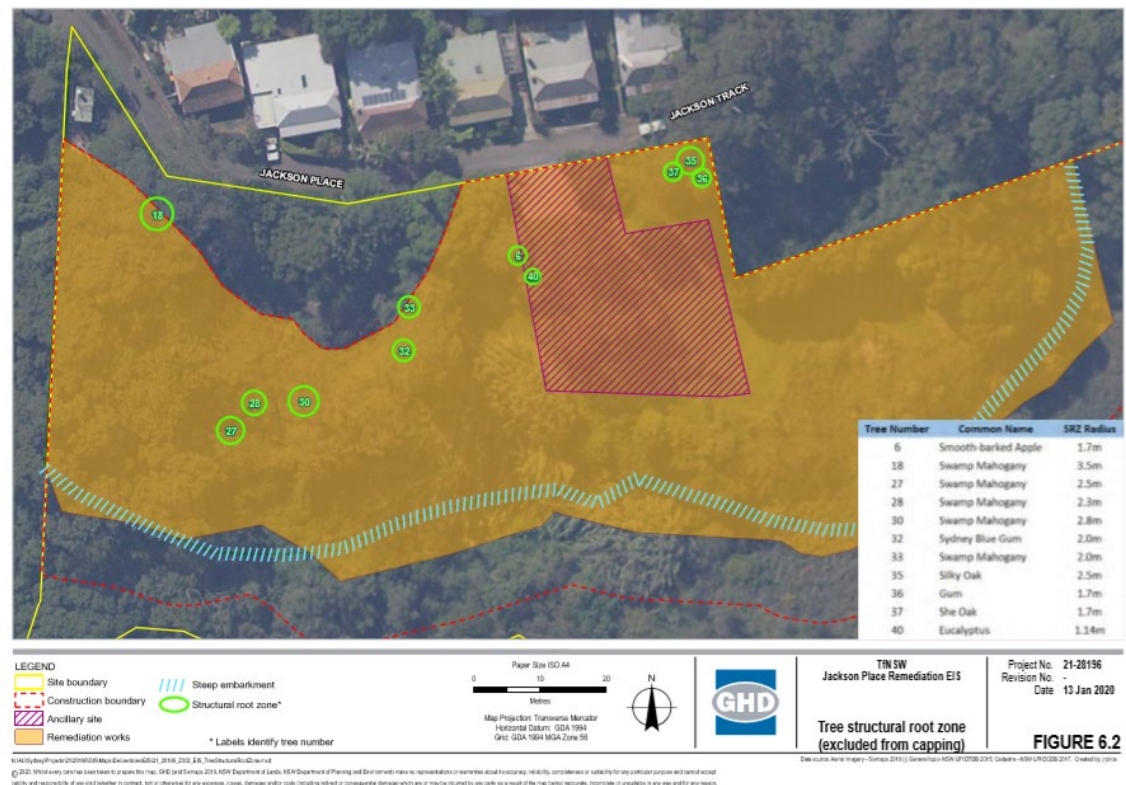


Figure 11: Location of Tree Structure Root Zone to be protected Source: GHD

Statutory Considerations

Biodiversity Conservation Act

The purpose of the Biodiversity Conservation Act 2016 (BC Act) is to maintain a healthy, productive and resilient environment for the greatest wellbeing of the community, now and into the future, consistent with the principles of ecologically sustainable development.

In accordance with Part 7.7 of the BC Act, a BDAR to accompany a DA if the proposed development is likely to significantly affect threatened species. As detailed later within this report, the proposal is likely to affect threatened species and therefore a BDAR has been submitted as part of this application. In accordance with Part 6 of the BC Act, biodiversity offset obligations have been determined using the Biodiversity Assessment Method (BAM) calculator. In summary, the proposal generates the requirement for 3 ecosystem credits associated with the 0.1ha of Plant Community Type (PCT) 1126 Saltmarsh in estuaries impacted as well as 1 species credit for the Southern Myotis species affected by the proposal.

Payment of the credits will be in accordance with the requirements outlined within Part 6 of the BC Act.

In addition to the above, the application was referred to Council's Environmental Planner who raised no objection subject to conditions of consent.

The proposal is considered to have satisfied the relevant requirements of the BC Act.

Environmental Planning and Assessment Act 1979

Designated Development

The proposal is classified as Designated Development pursuant to Schedule 3, Clause 15(c) of the Environmental Planning and Assessment Act 1979 given the proposal includes contaminated soil treatment works that “treat otherwise than by incineration and store more than 30,000 cubic metres of contaminated soil”.

In addition to the above, part of the site is mapped coastal wetlands under the State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP). The proposed works are also classified as Designated Development pursuant to Clause 10 of the CM SEPP given they incorporate the carrying out of “earthworks” and “any other development”.

Given the works are classified as Designated Development, the application is to be accompanied by an Environmental Impact Statement (EIS). The EIS was to be prepared in accordance with the Planning Secretary’s requirements. TfNSW consulted with the Secretary of Department of Planning, Industry and Environment (DPIE) to obtain the Secretary’s Environmental Assessment Requirements (SEARs). The DPIE issued SEARs on 28 June 2019. The EIS submitted and prepared by GHD Pty Ltd on behalf of TfNSW considers the SEARs provided.

Crown Development

The subject application has been made on behalf of the Crown and is therefore considered a Crown Development application pursuant to Part 4, Division 4.6 of the EP&A Act. As outlined within this report, the application is recommended for approval.

In accordance with Clause 4.33(1) of the EP&A Act, the recommended conditions of consent have been sent and approved by the Applicant (TfNSW).

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

- State Environmental Planning Policy 55 – Contaminated Land (SEPP 55).
- State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP).
- State Environmental Planning Policy No 19 – Bushland in Urban Areas (SEPP 19).
- State Environmental Planning Policy No 33 – Hazardous and Offensive Development (SEPP 33).
- Canterbury Local Environmental Plan 2012 (CLEP 2012).
- Canterbury Development Control Plan 2012 (CDCP 2012).
- Canterbury Development Contributions Plan 2013.

SECTION 4.15 ASSESSMENT

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

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

The application has been assessed against the following environmental planning instruments:

- **State Environmental Planning Policy 55 – Contaminated Land (SEPP 55)**

On 25 May 2012, the NSW Environment Protection Authority (EPA) declared the site to be significantly contaminated land under Section 11 of the Contaminated Land Management Act 1997.

In accordance with Clause 9 of SEPP 55, designated development (such as the proposed development) is classified as Category 1 remediation work. Pursuant to Clause 8(2) of SEPP 55, category 1 remediation work must not be carried out except with the consent of the consent authority.

Clause 17 of SEPP 55 requires that category 1 remediation work be carried out in accordance with a plan of remediation, as approved by the consent authority, prepared in accordance with the contaminated land planning guidelines.

The application has been accompanied by a Remediation Action Plan (RAP) (prepared by GHD Pty Ltd, dated May 2019) which has been prepared in accordance with the *Guidelines for Consultants Reporting on Contaminated Sites*.

As outlined earlier within this report, investigations carried out indicated that the site is contaminated with concentrations of primarily lead and organochlorine pesticides (OCP), but also polycyclic aromatic hydrocarbons (PAH) above NSW EPA endorsed investigation levels. Furthermore, asbestos (in both bonded cement and fibre forms) have also been detected on the site.

The RAP outlines several options to address the contamination issue at the site. The preferred option (which is the option chosen to be pursued by TfNSW) recommends capping the contaminated fill in-situ. This is considered to be the option with the least amount of environmental impact, and this will apply to the upper area only, excluding the sandstone outcrop area and lower floodplain area and structural root zones of any of the trees identified within **Figure 11** above.

Based on the capping method being adopted, the RAP recommends that the remediation and validation works be conducted in the following 6 stage step:

1. **Preliminaries and Approvals:** This stage involves obtaining the relevant development consent, orders and licenses for the proposed works, determining the remediation schedule, community consultation and preparation of a site survey.

2. **Site Establishment:** This stage involves providing all staff involved in the project all relevant plans, programs, licenses, certificates and other documents necessary for the commencement of work, delineation of work and clearing of any vegetation that will not be retained and disposal of it at an appropriately licensed facility.
3. **Re-profiling of Site:** This stage involves the excavation works, survey of remediation area and off-site disposal of waste. The area of fill material is estimated to cover approximately 6,500m². The volume of material to be excavated from the current batter to re-profile to a 1:2.3 slope will need to be confirmed based on detailed topographic survey after the removal of vegetation. In terms of off-site disposal of waste, one of the aims of the remediation works is to cap the contaminated materials on site and not dispose of off-site. However, should excess material require off-site disposal, such material may be initially stockpiled on site and be periodically removed or transferred disposed of off-site via appropriately licensed trucks to a licensed facility.
4. **Installation of Capping:** This stage includes placement of the capping layer on top of the contaminated fill. This will occur once the excavation (cut and fill works) have been completed. The final surface of the fill should comprise select waste/imported fill free of particles larger than 32mm in diameter. Cover material primarily consisting of crushed sandstone will then be installed over the capping layer. Revegetation of the project area will then occur. Revegetation of the area will comprise of native species and due consideration will be given to protecting the cap integrity.
5. **Demobilisation:** Following completion of remediation, the contractor will be responsible for removing all plant and equipment. Following this, the surface of the sandstone outcrop area will be inspected by a qualified occupational hygienist for fragments of asbestos. Should fragments be identified, it will be removed and disposed of appropriately.
6. **Reporting:** An appropriately qualified Environmental Consultant will produce a Validation Report (prepared in accordance with the relevant guidelines) once all the remediation works have been completed.

Considering the above and the other measures outlined within the RAP, the report concludes that the site will be suitable for use as open space/parks and therefore the requirements of SEPP 55 are met.

In addition to the above, the application was referred to Council's Environmental Health Officer who raised no objection, subject to conditions of consent.

- State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP)

The aim of the CM SEPP is to “*promote an integrated and coordinated approach to land use planning in the coastal zone in a manner consistent with the objects of the Coastal Management Act 2016*”.

The site is identified as being mapped ‘coastal wetlands’, ‘proximity area for coastal wetlands’, ‘coastal environmental area’ and ‘coastal use’ area, as outlined within **Figures 12-14** below.

In accordance with Clause 10 of CM SEPP, the proposal requires development consent given it consists of earthworks and environmental protection works. Furthermore, the proposed environmental protection works are declared to be designated development for the purposes of the Act.

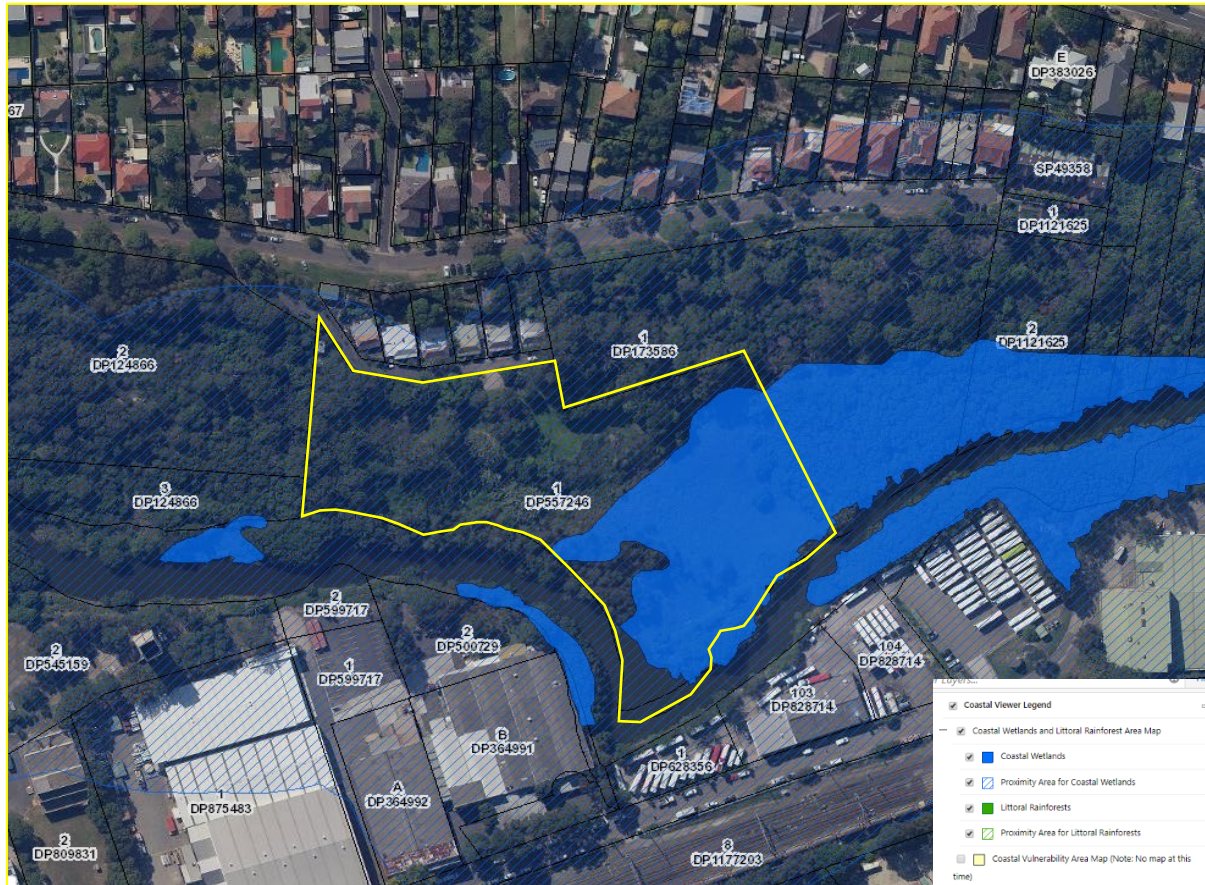


Figure 12: Coastal Wetland and Littoral Rainforest Area Map. **Source:** NSW Department of Planning and Environment

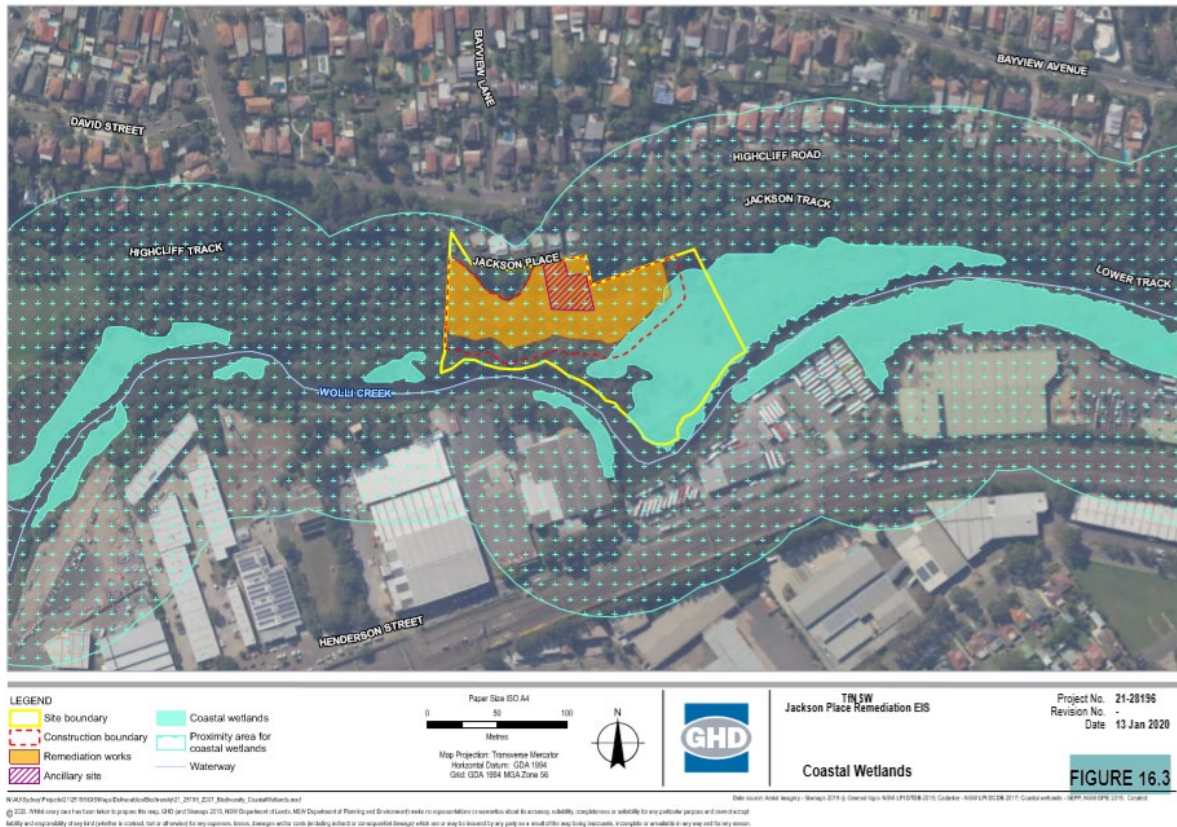


Figure 13: Location of Proposed Works to Coastal Wetlands Area Source: GHD

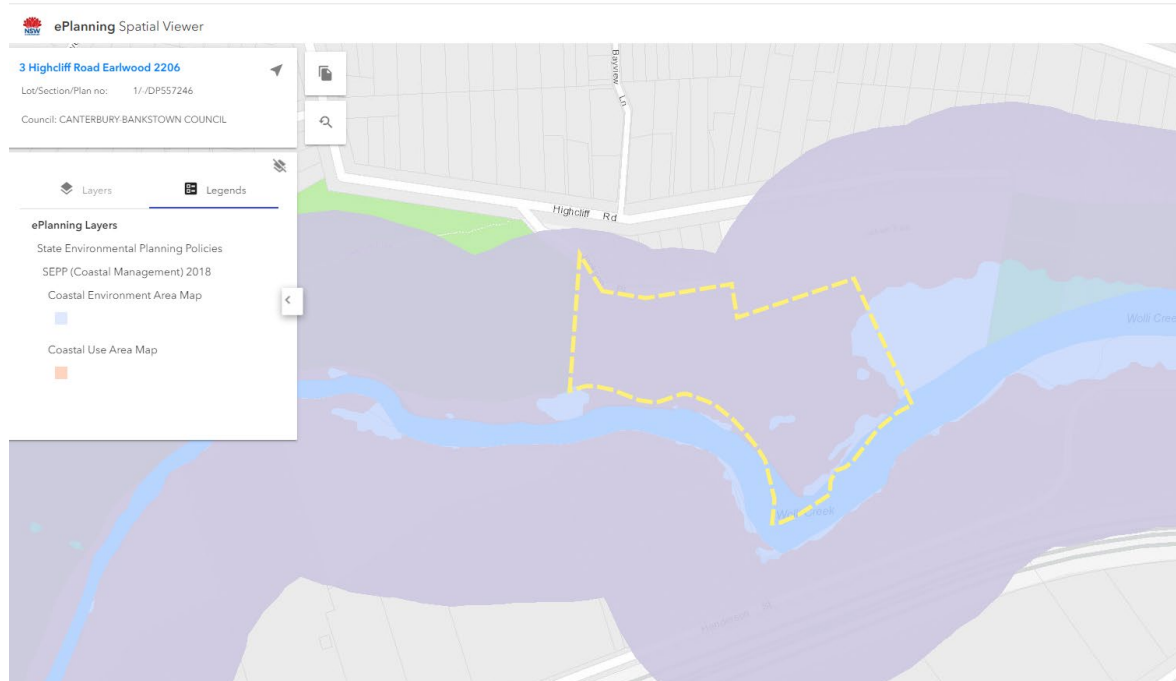


Figure 14: Coastal Environment Area and Coastal Use Map Source: ePlanning Spatial Viewer 2020

In light of the above, the following Clauses within CM SEPP are to be considered:

Clause 10(4) of CM SEPP states the following:

(4) A consent authority must not grant consent for development referred to in subclause (1) unless the consent authority is satisfied that sufficient measures have been, or will be, taken to protect, and where possible enhance, the biophysical, hydrological and ecological integrity of the coastal wetland or littoral rainforest.

Comment

A Biodiversity Development Assessment Report, RAP and Water Impact Assessment had been prepared and submitted to address the requirements in Clause 10(4) of CM SEPP. A detailed summary of the findings from these reports are discussed within Chapters 9, 14 and 16 of the EIS submitted.

Pursuant to Clause 10(4) of CM SEPP, Council is satisfied that sufficient measures have been, or will be, taken to protect, and where possible enhance, the biophysical, hydrological and ecological integrity of the coastal wetlands for the following reasons:

- As discussed earlier within this report, the RAP submitted concludes that the site will be suitable for the proposed use after remediation works. The recommended remediation process will be enforced via condition of consent.
- The reports considered potential impacts during construction and well as during operation of the site. The potential impacts found and considered include erosion and sedimentation, exposed fill, acid sulfate soils, water quality, water use and water balance.
- In order to ensure that the exposure of soils during remediations works will not impact the Wolli Creek catchment through surface water runoff, erosion and subsequent sediment transport, a water monitoring program will be carried out during works. The water monitoring program will essentially monitor turbidity at a minimum of three locations along the northern bank of Wolli Creek (an upstream, mid-stream and downstream locations. The up and downstream locations will be beyond the site boundaries). Three key trigger values will be adapted at these points. In summary, the trigger values will require additional inspections, laboratory analysis to test for chemicals of potential concern, further testing ad per the investigation levels identified in the RAP and if required, a further assessment from an appropriately qualified water quality specialists and the recommendations of such assessment be implemented as soon as practicable.
- Part 6.4, 6.5 and table 14.2 of the EIS submitted in addition to the recommendations of the RAP outline the environmental control measures to be implemented during remediation works as well as the long-term environmental management plan to be implemented for the on-gong operation of the site. Overall, it is proposed that a Construction Environmental Management Plan (CEMP) be prepared by the construction contractor prior to remediation works commencing. Such measures include but not limited to, stormwater management, surface water quality monitoring, soil and water management plan, noise control, traffic access and management, waste management and dust control. The preparation of this report forms part of the recommended conditions of consent.

- A BDAR prepared in accordance with the SEARs and relevant legislation was submitted as part of the proposal. The report identified the existing terrestrial flora and fauna including aquatic biodiversity that inhabit the site. In summary, it was determined that no threatened fish or flora species are likely to be affected by the proposal. In terms of threatened fauna species, it was determined that there is potential for a number of threatened species to occur on occasion at the site (full details provided in the BDAR) despite the subject area previously being cleared and contaminated fill being dumped over the years.
- The report outlines that a small area (0.09ha) of the Plant Community Type (PCT) 1126 Saltmarsh in estuaries will be impacted by the proposed remediation works. It's location in context to the remediation works is provided in **Figure 15** below. This PCT is commensurate with Coastal Saltmarsh in the NSW North Coast, Sydney Basin and South East Corner Bioregions, listed as an endangered ecological community under the Biodiversity Conservation Act 2016 (BC Act). Furthermore, this PCT is also commensurate with Subtropical and Temperate Coastal Saltmarsh, listed as a vulnerable ecological community under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act).

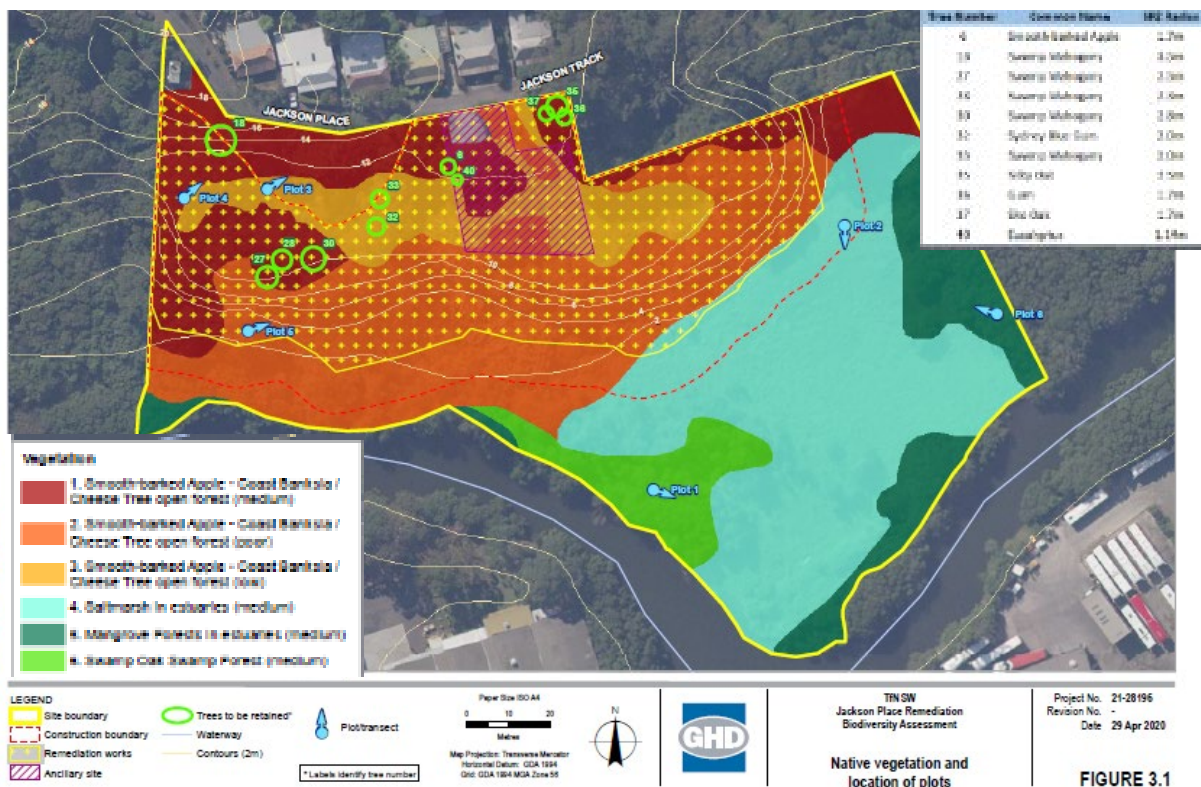


Figure 15: Location of Proposed Works to 1126 Saltmarsh in estuaries **Source:** GHD

- One threatened fauna species (Southern Myotis (*Myotis Macropus*)) has the potential to occur and is a confirmed candidate threatened species for the calculation of credits by the Threatened Biodiversity Data collection. Such species are listed as vulnerable species under the BC Act. Potential impacts on other threatened species that may occur on occasion will likely be negligible given the disturbed nature of the site and the fact that remnant trees will be retained on site to provide foraging habitat.
- There is also potential habitat for the Green and Golden Bell Frog (*Litoria Aurea*) present in the saltmarsh areas of the site. These species are listed as an endangered species under the BC Act and vulnerable species under the EPBC Act. There are no recent records of this species in the area and targets surveys in appropriate condition was undertaken on the site and it was not recorded on the site and likely to be extinct at this location given the substantial disruption of the Cooks River population in the last 20 years. As such, this species has been marked 'surveys – not present' in the BAM calculator.
- An assessment of significance was also prepared for the Grey-headed Flying-Fox (listed as a vulnerable species under the BC Act and EPBC Act) given the proximity to the Wolli Creek camp, however the findings of the assessment found that the proposal is unlikely to have a significant impact on this species.
- Chapter 8 of the BDAR (summarised in Chapter 16.5 of the EIS) outlines the recommended environmental management measures to be enforced to minimise biodiversity impacts. The recommendations of the EIS form part of the recommended conditions of consent.
- In accordance with Part 6 of the BC Act, biodiversity offset obligations have been determined using the BAM calculator. In summary, the proposal generates the requirement for 3 ecosystem credits associated with the 0.1ha of PCT 1126 Saltmarsh in estuaries impacted as well as 1 species credit for the Southern Myotis species affected by the proposal.
- Pursuant to the Fisheries Management Act 1994 (FM Act) saltmarsh is classified as 'marine vegetation' and therefore a permit is required from NSW DPI to harm marine vegetation. NSW DPI enforces a 'no net loss' habitat policy as a condition of permit/consent. On this basis, further monetary bond or payment may be required. As outlined in the BDAR, it is recommended that impacts on the saltmarsh are minimised as much as possible and TfNSW will liaise with DPI Fisheries to determine the requirements for any permits and offsetting.

Clause 11 of CM SEPP states the following:

- (1) *Development consent must not be granted to development on land identified as "proximity area for coastal wetlands" or "proximity area for littoral rainforest" on the Coastal Wetlands and Littoral Rainforests Area Map unless the consent authority is satisfied that the proposed development will not significantly impact on—*
- (a) the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or*
 - (b) the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.*

Comment

As identified within **Figure 12** above, the site is identified as “proximity area for coastal wetlands” and therefore the requirements of Clause 11 apply to the application.

For the reasons outlined to address Clause 10(4) above, Council is satisfied that the proposed development will not significantly impact on the matters outlined within Clause 11(1)(a) and(b) given the investigations undertaken, the outcome of the investigations combined with the recommended mitigation measures that will be enforced via condition of consent.

Clause 13 of CM SEPP states the following:

- (1) *Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following—*
 - (a) *the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
 - (b) *coastal environmental values and natural coastal processes,*
 - (c) *the water quality of the marine estate (within the meaning of the [Marine Estate Management Act 2014](#)), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*
 - (d) *marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
 - (e) *existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
 - (f) *Aboriginal cultural heritage, practices and places,*
 - (g) *the use of the surf zone.*
- (2) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that—*
 - (a) *the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or*
 - (b) *if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
 - (c) *if that impact cannot be minimised—the development will be managed to mitigate that impact.*

Comment

Majority of the matters to be considered in accordance with Clause 13 of CM SEPP have been addressed in the discussion associated with Clause 11 above. In relation to the additional matters outlined within Clause 13, the following comments are provided:

- Given the depth of the groundwater and aquifer, excavation works proposed to be undertaken on the upper platform of the site for reprofiling are unlikely to impact groundwater. Furthermore, given the slope of the site, the proposal is unlikely to alter the existing drainage flows or patterns towards Wolli Creek.

- Notwithstanding the above, through the implementation of the environmental measures outlined in Chapters 6.4 and 14.5 of the BDAR submitted, potential impacts on groundwater and surface water quality would be appropriately managed and are not expected to be significant.
- Existing public open space and access will be maintained and improved through the proposed works. Upon completion of capping works, the site would be revegetated to make it suitable for public use as a green corridor and would be managed through development of a Long-term Environmental Management Plan.
- In terms of accessibility, there is currently no formal access (including disabled access) within the subject area. The proposal does not seek to propose any formal access or paths to the foreshore. Therefore, proposal will not change or result in any additional adverse impacts on the existing access arrangements to and within the site for the public, including for persons with a disability.
- In terms of Aboriginal cultural heritage, practices and places, a preliminary Aboriginal Heritage Assessment was undertaken by TfNSW. The report found *that “no listed or registered Aboriginal sites are located within the site. Furthermore, due to the highly disturbed nature of the site, it is unlikely that previously unrecorded Aboriginal objects or site would be uncovered during construction. Therefore, the proposal is not anticipated to impact on Aboriginal cultural heritage”*. Furthermore, a Transport Procedure for Aboriginal Cultural Heritage Consultation and Investigation (PACHCI) Stage 2 Aboriginal Archaeological Survey Report was prepared to consider potential Aboriginal cultural heritage in more detail. The report concluded that *“background research and archaeological survey did not identify any Aboriginal objects, archaeological sites or potential archaeological deposits within the proposed remediation area. The study area was confirmed to have been severely disturbed by previous land use and the introduction of a significant quantity of contaminated landfill material. The natural landform has been heavily modified by historic land use and no archaeological potential remains across the study area”*. Council’s Heritage Advisor has reviewed the application and raises no objection, subject to conditions of consent.

In light of the above, Council is satisfied that the requirements outlined within Clause 13 of CM SEPP have been adequately considered and addressed.

Clause 13 of the CM SEPP states the following:

- (1) *Development consent must not be granted to development on land that is within the coastal use area unless the consent authority—*
- (a) *has considered whether the proposed development is likely to cause an adverse impact on the following—*
 - (i) *existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
 - (ii) *overshadowing, wind funnelling and the loss of views from public places to foreshores,*
 - (iii) *the visual amenity and scenic qualities of the coast, including coastal headlands,*
 - (iv) *Aboriginal cultural heritage, practices and places,*

- (v) *cultural and built environment heritage, and*
- (b) *is satisfied that—*
- (i) *the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or*
 - (ii) *if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
 - (iii) *if that impact cannot be minimised—the development will be managed to mitigate that impact, and*
- (c) *has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.*

Comment

Majority of the matters to be considered in accordance with Clause 14 of CM SEPP have been addressed in the discussion associated with Clauses 11 and 13 above. In relation to the additional matters outlined within Clause 14, the following comments are provided:

- As raised above, the proposal will not change or result in any additional adverse impacts on the existing access arrangements to and within the site for the public, including for persons with a disability.
- The proposal would result in temporary visual impacts during remediation works. The most sensitive visual receptors with views towards the site include residential receptors to the north of the site and recreations users of the parkland to the east as west of the site. These locations are represented as VR01, VR02 and VR03 in **Figure 16** below. The residential properties directly to the north of the site have been provided a sensitivity rating of moderate, whilst the other two indicative location have been given a sensitivity rating of low. Views towards the site from the south are mostly obstructed by dense vegetation and have limited views towards the site, therefore views from the south are not considered to be adversely impact from the proposal.
- Potential visual impacts resulting from construction works are associated with the placement of construction compound, equipment and materials as well as vegetation material. As outlined within Section 17.5 of the BDAR submitted, these potential impacts will be appropriately mitigated through maintaining the construction area in a clean and tidy condition at all times, with bins provided for waste on site as well as screening vegetation on the northern border of the upper fill platform (Jackson Place) would be maintained where possible. It will be the responsibility of the Construction Contractor to ensure these mitigation measures are enforced.

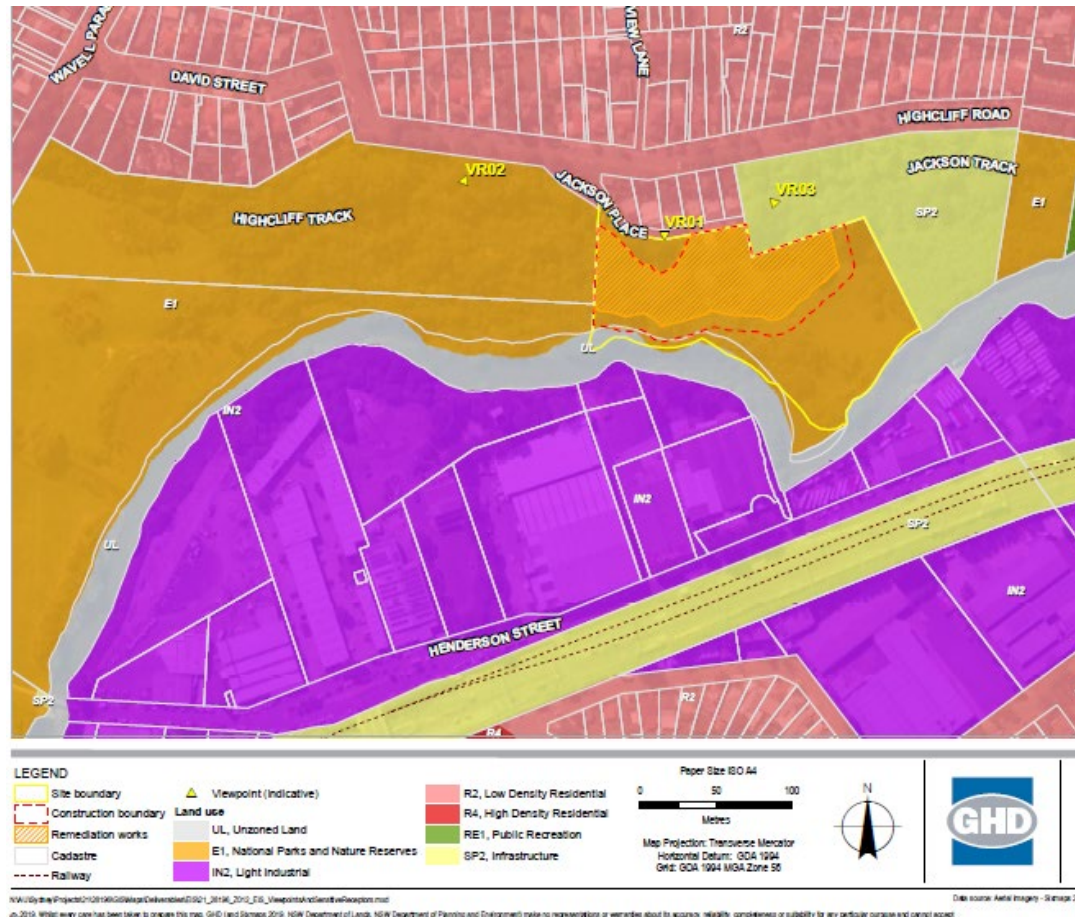


Figure 16: Indicative Viewpoints. Source: GHD

- In terms of cultural and built environment heritage, as outlined later within this report (as part of the assessment under Canterbury Local Environmental Plan 2012), the proposed works are located within the RMS s170 listed site – ‘Vacant land at Wollie Creek’ and the site is within proximity to heritage listed items. A Heritage Impact Assessment has been prepared for the site that recommends mitigation measures to minimize any potential adverse impact on these items. Furthermore, Council’s Heritage Advisor as reviewed the proposal and raises no objection to the proposal, subject to conditions of consent (including conditions to enforced the recommended mitigation measures).
- The proposal does not include the construction of any building or structure that will adversely impact the existing surrounding coastal and built environment.

In light of the above, the potential impacts on the matters outlined within Clause 14(1)(a) have been appropriately considered and should a potential impact on these elements be identified, appropriate mitigation measures have been determined to ensure any adverse impact can be minimised and mitigated.

The proposal satisfies the relevant requirements of the CM SEPP.

- State Environmental Planning Policy No 19 – Bushland in Urban Areas (SEPP 19)

The primary aim of SEPP 19 is to protect and preserve bushland within the urban areas, referred to in Schedule 1. Canterbury Bankstown Local Government Area is identified in Schedule 1 of SEPP 19 and therefore the policy applies to the site.

In accordance with Clause 6(1) of SEPP 19, development consent is required to disturb bushland zoned or reserved for public open space purposes.

Clause 6(4) of SEPP 19 states the following:

- (4) *A consent authority shall not consent to the carrying out of development referred to in subclause (1) unless:*
- (a) it has made an assessment of the need to protect and preserve the bushland having regard to the aims of this Policy,*
 - (b) it is satisfied that the disturbance of the bushland is essential for a purpose in the public interest and no reasonable alternative is available to the disturbance of that bushland, and*
 - (c) it is satisfied that the amount of bushland proposed to be disturbed is as little as possible and, where bushland is disturbed to allow construction work to be carried out, the bushland will be reinstated upon completion of that work as far as is possible.*

Comment:

The primary aim of the development application is to remediate the site to ensure it is appropriate for use by the public in the future. Therefore, most of the vegetation to be removed for the proposal comprises disturbed vegetation on fill material. As summarised against the relevant provisions of the CM SEPP, a detailed assessment of the site in terms of biodiversity has been undertaken. Appropriate environmental management measures will be in place throughout all stages of the design, pre-construction, construction and post construction phases to preserve and protect native vegetation and habitat, where possible.

Following completion of the proposed remediation works, the site will be restored for future use as a green corridor and handed over to NPWS. The restoration works will incorporate the planting of locally occurring species to reflect the landscape character of the area.

In light of the above, the proposed disturbance of the bushland is essential for a purpose in the public interest. As outlined within the BDAR, other remediation options were considered as part of the pre-design and the proposed option was the preferred option given it enabled the remediation of the site to occur for future use whilst minimising disturbance of soil.

On this basis, the proposal satisfies the requirements of Clause 6(4) of SEPP 19.

- State Environmental Planning Policy No 33 – Hazardous and Offensive Development (SEPP 33)

SEPP 33 requires a consent authority to consider whether applications for industry uses are classified as a 'potentially hazardous industry' or 'potentially offensive industry'. In the case where a development is considered either of these, detailed consideration of the potential risk of such uses on surrounding land uses, people and the environment are to be undertaken prior to granting consent.

The proposal is not considered to be a 'potentially hazardous industry' pursuant to the definition contained within SEPP 33. However, in accordance with the *State Environmental Planning Policy No. 33 – Hazardous and Offensive Development Application Guidelines: Applying SEPP 33* prepared by the NSW Department of Planning 2011, any project that requires a 'licence under any pollution control legislation' should be considered 'potentially offensive' within SEPP 33.

The proposal triggers the need for an Environment Protection Licence (EPL) pursuant to Schedule 1, Clause 15 of the Protection of the Environment Operations Act 1997 (POEO Act) as it involves the treatment of contaminated soil originating from the site and storage of more than 30,000m³ of contaminated soil.

On this basis, the application is to be considered against Clause 13 of SEPP 33 which states:

In determining an application to carry out development to which this Part applies, the consent authority must consider (in addition to any other matters specified in the Act or in an environmental planning instrument applying to the development)—

- (a) current circulars or guidelines published by the Department of Planning relating to hazardous or offensive development, and*
- (b) whether any public authority should be consulted concerning any environmental and land use safety requirements with which the development should comply, and*
- (c) in the case of development for the purpose of a potentially hazardous industry—a preliminary hazard analysis prepared by or on behalf of the applicant, and*
- (d) any feasible alternatives to the carrying out of the development and the reasons for choosing the development the subject of the application (including any feasible alternatives for the location of the development and the reasons for choosing the location the subject of the application), and*
- (e) any likely future use of the land surrounding the development.*

The proposal satisfies the matters outlined within Clause 13 of SEPP 33 for the following reasons:

- A RAP has been prepared for the site in accordance with the relevant legislation and guidelines. The recommendations of the RAP, which will be implemented via conditions of consent, have been summarised under SEPP 55 earlier within this report.
- The NSW Environment Protection Agency (EPA) will be consulted with as part of the licencing requirements pursuant to the Protection of Environmental Operations Act 1997 (POEO Act).
- Four options for the proposed remediation works were shortlisted for further consideration by TfNSW. The option that forms part of this application was the preferred option for the following reasons:
 - *It eliminates the need for large volumes of off-site disposal of soils.*
 - *It maintains site access.*
 - *It minimises disturbance of soil and subsequent generation of dust.*
 - *It reduces the potential for leaching and exposure to humans and the environment through capping.*

- *It is sustainable and cost effective because it does not require large volumes of earth to be excavated and areas of land to be filled.*
- *It best meets the objectives of the proposal.*
- The proposed remediation works will result in the land being suitable and safe for future public use. Once remediation works have been completed, the land will be used as a green corridor which is consistent and compatible with the existing adjoining land.

• Canterbury Local Environmental Plan 2012 (CLEP 2012)

The site is zoned E1 National Parks and Nature Reserves in accordance with CLEP 2012. The objectives of the E1 zone are as follows:

- *To enable the management and appropriate use of land that is reserved under the National Parks and Wildlife Act 1974 or that is acquired under Part 11 of that Act.*
- *To enable uses authorised under the National Parks and Wildlife Act 1974.*
- *To identify land that is to be reserved under the National Parks and Wildlife Act 1974 and to protect the environmental significance of that land.*

The proposed remediation works are not inconsistent with the objectives of the zone given they are required to make the land suitable for public use as a green corridor (to be managed by NPWS at a future date).

The proposed remediation works are prohibited in accordance with CLEP 2012. However pursuant to Clause 19 of SEPP 55, the proposed remediation works are permitted with consent as SEPP 55 prevails the CLEP 2012 in this instance.

An assessment of the application against the relevant controls outlined within CLEP 2012 is provided below:

Clause 5.10 - Heritage

The site is not mapped as comprising local or state heritage significance pursuant to CLEP 2012. However, the site is located within proximity to the six cottages located on the northern side of Jackson Place which are listed as local items (Items I100-I105) within CLEP 2012. Therefore, the potential impact of the proposal on the heritage significance of the nearby heritage items must be considered pursuant to Clause 5.10(5) of CLEP 2012.

A Heritage Impact Statement (HIS) prepared by Extent Heritage Advisors accompanies the application. In this respect, the HIS recognizes that the proposal could have the following indirect impacts:

- *Possible physical impact from work vibrations.*
- *Possible temporary changes to views due to vegetation removal.*

In response, the HIS recommends the following protective measures to mitigate the potential indirect impacts:

- *The undertaking of a dilapidation survey should be offered to owners of the properties prior to works.*

- *Vibration monitoring should be carried out throughout the project – limits should be established in accordance with best practice for domestic structures that were not built to current standards.*
- *Ensure sandstone terracing is not impacted by the works.*
- *A photographic archival record should be made of items prior to, and after works.*

In addition to the above, the proposed works are located within the RMS s170 listed site – ‘Vacant land at Wolli Creek’. This listing is based on specific sites (Franklin’s Cottage, Former Market Garden, Market Garden Sheds and Jackson Place terracing). As outlined within the HIS, *“these elements informed the listing although the listing identifies general archaeological potential only and does not provide details of specified sites within the listing curtilage”*.

Although these features do not meet the criteria for local significance, they are held in some regard by residents of Jackson Place. The HIS determines that the known sites included in the s117 listing have been highly compromised and therefore, an application under s139(1B) of the NSW Heritage Act 1977 is deemed appropriate *“on the basis that if any finds are encountered these would be in peripheral areas and not directly associated with the Franklin’s Cottage site or former market gardens”*.

Notwithstanding the above, the HIS identifies that the proposed works will not materially change the values for which the site is listed. The report notes that the Franklin’s Cottage site and Jackson Place terraces and former market garden may be subject to inadvertent/low grade impacts during the proposed works. It was determined that the shed site *“is likely to have been compromised in the past and the likelihood of the survival remains that have any research potential is extremely low”*. In terms of the remaining items located within the RMS s170 site, the following mitigation measures are recommended:

- Recommended protective measures for former market garden:
 - *Restrict heavy vehicle movements to within the construction boundary if possible. Where vehicle movements are required through the market garden or over the western bund then heavy-duty ground protection mats should be laid.*
 - *Sedimentation measures during vegetation clearance and capping should be to a level that sediment is prevented from discharging onto the former market garden site if possible.*
 - *The trenching and other site works carried out on the northern margin of the market garden in 2012 appear to have been undertaken without controls and included the redistribution of fill into the market garden zone. The construction boundary should be delineated in this area – as a rule-of-thumb, if there are reeds present then no fill have been dumped on the site. Further spreading of fill, or the introduction of new fill over the market garden and bunds should be avoided where possible.*
- Recommended protective measures for the Jackson Place revetment:
 - *Delineation of revetment by flagging / bollards or similar.*
 - *No placement of plant / plant attachments / materials / skip bins / tools on top of or around the revetment.*

- *Monitoring of the revetment throughout the term of the project. Monitoring can be implemented in the form of dated digital photographs taken weekly by the site manager and submitted to the environmental manager. This photographic material should be retained as proof of compliance with mitigation measures.*
- Recommended protective measures for the sandstone terracing on the southern side of Jackson Place:
 - *Delineation of terracing with flagging.*
 - *Restrict heavy vehicle movements to and from Jackson Place to the existing hard-stand. If movements are required outside the hard-stand then the use of heavy-duty ground protection mats should be employed where appropriate and where practicable.*
 - *Removal of contaminants and vegetation, where necessary, is acceptable within the Construction Boundary.*
 - *No mitigation measures are required over the site of the Former Market Garden Sheds.*
 - *No mitigation measures are required for Jackson's Quarry (west).*
 - *For all areas, the importance of these exclusion requirements should be communicated to all at pre-starts.*
 - *The site manager should ensure work crews are implementing delineation prior to commencement of works.*
 - *In the event that potential relics are uncovered during works the Unexpected Heritage Items Procedure (2015) should be implemented. The project archaeologist should be contacted in the first instance to determine if the found object is an unexpected find. If the object is subject to management through the existing RMS protocols the project manager would then be informed. If not, a file note would be prepared indicating that procedure had been followed.*

The recommendations of the HIS will be enforced via condition of consent, should the application be supported.

Further information was requested from the Applicant to address concerns raised in submissions regarding Aboriginal Heritage, primarily in relation to the rock overhang at the edge of the sandstone outcrop. An updated Transport Procedure for Aboriginal Cultural Heritage Consultation and Investigation (PACHCI) Stage 1 Aboriginal Heritage Assessment was completed to reflect the additional inspections and searches undertaken. The updated PACHCI concluded that the archaeological and/or cultural potential of the landscape is uncertain, and the project has potential to disturb or harm Aboriginal objects, places or land with significant cultural values.

Subsequently, a further PACHCI Stage 2 Archeological Survey Report was requested. This was prepared by Kelleher Nightingale Consulting Pty Ltd. The Stage 2 report concluded that no Aboriginal objects, archaeological sites or potential archaeological deposits are identified within the proposed remediation area. The study area (including the sandstone overhang) has been disturbed by previous land use and the introduction of substantial contaminated landfill

material and therefore no archaeological potential remains across the study area. In conclusion, no further archaeological investigation was recommended.

The application, including the above, was considered by Council's Heritage Advisor who raised no objection was raised, subject to conditions of consent.

In addition, Council's Infrastructure Specialist also provided conditions of consent to ensure the sandstone revetments, sandstone kerbing, sandstone flagging in front of the cottages along Jackson Place are not adversely impacted during construction.

Clause 6.1 – Acid Sulfate Soils

The site consists of Class 1, 2 and 5 Acid Sulfate Soils. Clause 6.1(2) outlines the works within each class that require development consent. Development consent must not be granted under Clause 6.1 for the carrying out of works unless an acid sulfate soils management plan has been prepared for the proposed works in accordance with the Acid Sulfate Soils Manual and has been provided to the consent authority.

Section 4.2 of the Water Impact Assessment submitted states that *"the proposed works would be undertaken almost entirely overlying emplaced material (rather than the natural material to which the high probability of occurrence applies), with only minimal interaction with in-situ soils at the toe of the capping works, and with this interaction limited to a small extent with approximately 500mm excavation depth. This is based on the intent of the capping design being to cover the emplaced material and terminate before overlaying the in-situ material. It is likely that during the historical emplacement of material that any soils required to be disturbed to complete the capping would have already been disturbed and oxidised"*.

In light of the above, the Water Impact Assessment concludes that the proposed works are not anticipated to incur significant risk to interaction with acid sulfate soils. However, the Water Impact Assessment concludes that an acid sulfate soil management plan (prepared in accordance with the Acid Sulfate Soils Manual) is required given the probability of occurrence of acid sulfate soils in the vicinity of the work-site. The Water Impact Assessment recommended this be developed prior to construction.

Notwithstanding this, a preliminary Acid Sulfates Soils Management Plan prepared by GHD dated October 2020 was submitted as per Council's request. The Plan concludes that Acid sulfate soils are not expected to be encountered given the class and depth of excavation in the preliminary design described in the RAP. Notwithstanding this, the Plan recommends that excavated soils suspected of being Acid Sulfate Soils based on visual classification and the result of field screening (by trained Contractor) should be managed, treated, reported and disposed of appropriately. The recommendations of the Acid Sulfates Soil Management Plan are considered acceptable and are recommended to be enforced via condition of consent.

Clause 6.2 – Earthworks

The proposed earthworks require development consent. Clause 6.2(3) requires the consent authority to consider the following prior to granting consent for earthworks:

- (3) *Before granting development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters—*
- (a) *the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,*
 - (b) *the effect of the development on the likely future use or redevelopment of the land,*
 - (c) *the quality of the fill or the soil to be excavated, or both,*
 - (d) *the effect of the development on the existing and likely amenity of adjoining properties,*
 - (e) *the source of any fill material and the destination of any excavated material,*
 - (f) *the likelihood of disturbing relics,*
 - (g) *the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,*
 - (h) *any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

- The proposed works will be undertaken in accordance with an erosion and sediment control plan as well as a soil and water management plan to ensure any distribution on drainage patterns and soil stability will be minimised.
- The proposal will improve the site from an environmental and health perspective and will ensure the site is suitable for future public use as a green corridor.
- The proposal primarily involves capping the contaminated fill on the site. Should any surplus soil be resultant from the excavation works, it will be disposed of appropriately at a licensed facility. The proposed works will be undertaken in accordance with the recommendations of the RAP submitted.
- As outlined within the body of this report, appropriate measures will be enforced to ensure any potential adverse amenity impacts on adjoining properties are minimised or managed appropriately.
- The likelihood of disturbing relics of heritage or aboriginal significance is discussed earlier within this report. Appropriate measures will be enforced to ensure known relics are protected as well as procedures are in place in the event that any additional relics are found during the proposed works.
- The proximity to and potential adverse impacts on the biodiversity of the site has been considered in accordance with the relevant requirements of the CM SEPP earlier within this report.
- As outlined throughout this report, appropriate mitigation measures have been applied, where required, to ensure any potential adverse impacts resulting from the development are minimised or mitigated.

In addition to the above, Council's Development Engineer, Environmental Health Officer and Environmental Planner have reviewed the application and raise no objection, subject to conditions of consent.

Clause 6.3 – Flood Planning

The site is identified as being located within a Flood Planning Area pursuant to Clause 6.3 of CLEP 2012.

Clause 6.3(3) of CLEP 2012 states the following:

- (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—*
- (a) is compatible with the flood hazard of the land, and*
 - (b) is not likely to significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and*
 - (c) incorporates appropriate measures to manage risk to life from flood, and*
 - (d) is not likely to significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and*
 - (e) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.*

Chapter 11 of the EIS considers the potential flood hazards associated with the site. In summary, in the event of a 1 in 100-year flood, construction works would be suspended. The proposed works will not result in an increase in flood storage and it will not result in any adverse impact on the existing flood behaviours of the site or adjoining properties. Therefore, no significant impacts in terms of flooding will result from the proposal. Council's Development Engineer has reviewed this documentation and raises no objection, subject to conditions of consent. On this basis, the requirements of Clause 6.3(3) have been satisfied.

An assessment of the Development Application revealed that the proposal complies with the matters raised in each of the above clauses of *Canterbury Local Environmental Plan 2012*.

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

There are no draft environmental planning instruments that impact the proposal.

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

A summary of the development application against the relevant controls contained in *Canterbury Development Control Plan 2012* (CDCP 2012) is provided below:

Part B1 – Transport and Parking

The proposal does not intensify the existing use of the site nor does it seek to change the existing informal parking and turning area.

Part B2 – Landscaping

Majority of the landscaping controls contained within Part B2 apply to landscaping works associated with the construction of new builds, alterations to existing developments and changes of use, unlike the works associated within this proposal. On this basis, majority of the controls outlined within Part B2 do not apply to the development. An assessment of the application against the applicable controls is provided below.

A preliminary landscape plan has been prepared by a qualified landscape architect at GHD Woodhead and was submitted as part of the application.

The proposed landscaped design satisfies the relevant controls outlined within Part B2 for the following reasons:

- The proposed landscaping will consist of local provenance species and will be consistent and complement the landscaped area that adjoins the site.
- The landscaping works will not require any significant cut and fill works.
- An erosion and sediment control plan will be required prior to construction via condition of consent as requested by Council's Development Engineer.
- The application seeks consent for the removal as well as retention of a number of trees contained on the site. Where possible, hollow-bearing trees will be retained. Council's Tree Management Officer and Environmental Officer have reviewed the application and raise no objection, subject to conditions of consent.
- Substantial revegetation works incorporate planting of groundcover and grasses, midstorey and tall shrubs as well as deep rooted planting consisting of canopy-overstorey, mid storey and understorey plantings. The location and density of these plantings are outlined on the preliminary landscape plan.
- Once the remediation and initial revegetation works are completed, the land will be transferred onto NPWS to undertake the remainder of revegetation works as well as ongoing maintenance of the area.
- A BDAR has been submitted which outlines the recommended environmental management measures to be enforced to minimise biodiversity impacts. Furthermore, biodiversity offset obligations have been determined using the BAM calculator.

Part B3 – Tree Preservation

As outlined above, the application involves the removal of vegetation. The application has been reviewed by Council's Tree Management Officer and Environmental Officer who raise no objection to the removal and retention of the nominated trees, subject to conditions of consent.

Part B5 – Stormwater and Flood Management

The application has been reviewed by Council's Development Engineer who raised no objection, subject to conditions of consent.

Part B9 – Waste Management

Waste generated by the proposal will primarily be associated with the "construction" phase of the development including removal of vegetation and earthworks as well as some waste generated from construction staff. The waste management procedures outlined within Section 10 of the EIS has considered the requirements outlined within the SEARs including the relevant legislation.

The potential impacts and associated mitigation measures outlined within Section 10 of the EIS have been reviewed by Council's Resource Recovery Team who raise no concern, subject to conditions of consent.

The proposal is not expected to result in waste impacts during operation.

As demonstrated above, the proposed achieves a high level of compliance with the relevant controls outlines within CDCP 2012.

- **Canterbury Development Contributions Plan 2013.**

The proposal does not generate contributions. This understanding has been confirmed with Council's internal legal department.

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

There are no planning agreements applicable to the proposal.

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

As outlined earlier within this report, the application triggers additional considerations required in accordance with the *Environmental Planning and Assessment Regulations 2000*, *Contaminated Land Management Act 1997*, *Protection of Environment Operations Act 1997* and *Protection of the Environment Operations (Waste) Regulation 2014*. For the reasons outlined within this report, the proposed development is consistent with the relevant requirements outlined within these additional regulations.

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

A number of likely impacts associated with the proposal have been discussed within the body of this report. However, additional likely impacts are discussed below:

Air Quality

An Air Quality Impact Assessment report was prepared and submitted as part of the application. The report considered the existing contaminants at the site (as outlined within the RAP) which may be a source of emissions during the construction phase of development.

The results of the assessment found that *"for construction activities within 20m of the proposal site boundary which may occur in Stages 2-4 (site establishment, re-profiling of site and installation of capping layer) adjacent to the six sensitive receptors (six residential properties) on Jackson Place, predicted particulate and contaminant concentrations significantly exceeds the relevant criteria. This is based on worse case assumptions outlined in the assessment"*. It is noted that the worst-case assumptions are in relation to poor meteorological conditions when construction activities are adjacent to the residential receptors. For these works, the following mitigation measures are recommended:

- *Where practicable, do not undertake any dust generating activities within 20m of the northern site boundary near the dwellings on Jackson Place.*
- *Private additional dust control in the form of watering any dust generating material or source.*
- *Do no undertake works when wind conditions promote dust dispersion towards receptors (I,e southerly winds), with worst case wind speeds for predicted high concentrations at receptors being generally less than 2 m/s and visible dust is observed to be leaving the site boundary towards receptors.*

In terms of construction works that occur greater than 20m from the proposal boundary, no exceedances of the air quality criteria are predicted with the following general dust mitigation measures being implemented:

- *Keeping excavation surfaces moist.*
- *Covering of all stockpiles of contaminated soil remaining more than 24 hours.*
- *Additional water sprays applied by water cart.*
- *Sheeting (or similar) laid over and secured to cover localized exposed areas.*
- *Changing protocols (i.e. avoid work on windy days).*

Once the site is remediated, it is not anticipated to be a source of emissions to air.

The mitigation measures outlined within the air quality report are recommended to be enforced via condition of consent. Furthermore, Council's Environmental Health Officer reviewed the proposal and raised no objection, subject to conditions of consent.

Noise and Vibration

A Noise and Vibration Impact Assessment has been prepared and submitted as part of the proposal.

In terms of Noise impacts, the assessment found noise exceedances during construction works could be found up to 500m from the subject site, however the residential receivers along Jackson Place within 50m of the operational equipment would experience the worst-case noise impacts. The predicted exceedances at these residents are around 30 decibels during site establishment works and 38 decibels during vegetation removal. The primary contributor to the noise exceedances during the vegetation removal stage would be the operation of a chainsaw or wood chipper. These exceedances would be experienced for limited times during the 2-4-week period that vegetation removal works are expected to occur. Furthermore, the worst-case impacts would be dependent on the location of construction works within the site. All works are intended to be undertaken during standard construction hours, during the day. An Out of Hours Work Application would be required for scheduled works outside of normal standard construction hours, should this be required. No additional noise impacts associated with construction traffic noise is expected.

In terms of vibration, potential impacts will solely occur during the construction phase of the development. The report identifies that the following residential structures (including heritage buildings) could be impacted in terms of vibrations resulting vibratory rollers greater than 18 tonnes.

- 5 structures from 2-12 Jackson Place Earlwood (structural and human comfort impacts).
- 22 structures from 23-53 Highcliff Road, Earlwood (human comfort impacts)

In addition to the residential structure, the sandstone terracing and revetment are also located within the safe working buffer distances for vibratory rollers greater than 4 tonnes. Conditions of consent have been recommended by Council's Heritage Advisor and Infrastructure Specialist to ensure such elements are not impacted by the proposal.

After construction is complete, the proposal is not expected to generate any further additional vehicular traffic when compared to the existing situation. The works solely include reinstating the existing informal parking area and therefore no additional parking provisions will be created by the proposal. On this basis, changes to operational noise from the existing situation is considered negligible.

In terms of mitigation measures to minimise the potential impacts above, the report notes that the mitigation measures are unlikely to reduce noise levels below the construction noise management levels. Section 6 of the Noise Impact Assessment outlines the proposed mitigation measures in detail.

In summary, in relation to construction noise, the report provides standard mitigation measures (including but not limited to, community consultation, site inductions, behavioural practices, verification, CEMP, building condition surveys and source control measures) as well as additional mitigation measures. Additional mitigation measures shall be investigated if residual impacts are anticipated following implementation of standard mitigation measure. Such additional mitigation measures include, but not limited to, notification, specific notification, phone calls, individual briefings, respite offers and periods, alternative accommodation and verification.

In terms of construction vibration, the report recommends that a dilapidation survey and vibration monitoring is recommended for any structure located within the safe working structural damage buffer if a vibratory roller greater than 4 tonnes is used. This monitoring involves the following:

- *Site tests to confirm the structure damage criteria, based on a review of measured frequency content of heritage structures.*
- *The site tests would be used to establish site-specific minimum working distances. Potential vibration impacts would be reassessed based on the site-specific working distances.*
- *If residual impacts are expected following this reassessment, then continuous vibration monitoring would be implemented. This would include installation of visual alarm to warn the equipment operator when the structure damage vibration criteria (considering the frequency content) is exceeded.*

A condition report will be prepared for all other heritage elements.

The abovementioned recommendations will be enforced via condition of consent. Furthermore, Council's Environmental Health Officer, Heritage Advisor and Infrastructure Specialist have reviewed the application and raises no objection, subject to conditions of consent.

Traffic and Transport

A Traffic Impact Assessment Report was prepared and submitted as part of the application. The report determined that the proposed remediation works will generate 10 light vehicles and 12 heavy vehicles movements per day, during the construction phase (approximately 4 months) associated with the delivery of material, delivery and removal of equipment and machinery, removal of waste and movement of construction personnel. The results of the assessment found that the additional traffic generation would not significantly impact on surrounding road networks and associated intersection performance.

The restricted site access was considered as part of the report and it was determined through incorporation of appropriately mitigation measures, movements of vehicles entering and exiting the site via Jackson Place could be undertaken in a safe manner. A condition of consent is recommended to ensure any damage to infrastructure and adjoining properties is rectified at the cost of the Applicant. Furthermore, the existing parking area within the site will be reinstated at the conclusion of the works.

Although construction traffic volumes are expected to be low, given the narrow width of Jackson Place, vehicles travelling along Jackson Place would need to give way and priority to oncoming traffic first.

A Preliminary Construction Traffic Management Plan (PCTMP) was prepared and incorporated into the Traffic Impact Access Report to facilitate the safety of workers and road used within the vicinity of the construction site. A detailed Construction Traffic Management Plan will be developed prior commencement of works. In summary, the PCTMP recommends to mitigate any potential traffic and transport impacts including, but not limited to, the following:

- Heavy vehicles are to travel to and from the site via the dedicated route and such movements should be avoided during peak road network period (where possible).
- It is anticipated that vehicle size will be limited to an 8.8m medium rigid vehicle or smaller (subject to contractor review).
- Deliveries should be staggered as to avoid queuing of vehicles outside the site.
- Parking for workers could be provided within a currently vacant section of land however it is recommended that workers are made aware of alternate transport options.
- A traffic management plan be prepared.
- Site access be restricted to authorized personnel only during construction works.
- Clear visibility at the site egress along the road network and the pedestrian pathway is to be maintained.
- Convex mirrors are placed strategically along Jackson Place to assist in visibility between approaching vehicles.
- The existing informal parking area within the site be utilized solely for construction vehicles during construction works.

Following the completion of works, additional vehicular traffic is not expected to be generated compared to the existing traffic situation.

In light of the above, the proposal is not expected to result in any significant adverse traffic impacts through the implementation of a Construction Traffic Management Plan. Furthermore, Council's Traffic Team and Infrastructure Specialist have reviewed the application and raise no concern, subject to conditions of consent.

Socio-Economic

The EIS submitted incorporated an assessment of the likely social impacts of the proposal to address the social requirements of the SEARs. The assessment included a policy review, social study utilising ABS 2015 Census Data and an assessment of the existing socio-economic environment and potential impacts. Based on community and stakeholder engagement undertaken as part of the proposed development, it was found that the community generally support the capping of the site however raised concern regarding the timing and duration of the proposed works, impacts on native vegetation and fauna, local heritage, landscape character and amenity.

As outlined within this report, appropriate mitigation measures will be enforced to minimise any potential impact on amenity, heritage, character and flora and fauna. In terms of timing and duration, the EIS outlines an estimated timeframe to undertake the works to inform residents. Furthermore, as outlined within the CEMP, construction works will be limited to during daytime hours and surrounding residents will be notified of any changes (i.e. traffic changes) throughout the process that may impact them for a short period.

SEARs

A summary of the SEARs issued on 26 June 2019 is provided in the table below.

Secretary's Requirement	Comment	Addressed
General Requirement		
The Environmental Impact Statement (EIS) must meet the minimum form and content requirements in clauses 6 and 7 of Schedule 2 of the Environmental Planning and Assessment Regulation 2000.	The EIS submitted has adequately addressed the requirements in clauses 6 and 7 of Schedule 2 of the Environmental Planning and Assessment	Yes
Key Issues		
The EIS must include an assessment of all potential impacts of the proposed development on the existing environment (including cumulative impacts if necessary) and develop appropriate measures to avoid, minimise, mitigate and/or manage these potential impacts. As part of the EIS assessment, the following matters must also be addressed:		
<ul style="list-style-type: none"> • Community and stakeholder engagement including: <ul style="list-style-type: none"> - a detailed community and stakeholder participation strategy which identifies who in the community has been consulted and a justification for their selection, other 	<p>Community and Stakeholder Engagement was undertaken pre-DA-lodgement as well during the DA assessment phase.</p> <p>Appendix L of the EIS comprises the consultation outcomes report for the project. The</p>	Yes

<p>stakeholders consulted and the form(s) of the consultation, including a justification for this approach;</p> <ul style="list-style-type: none"> - a report on the results of the implementation of the strategy including issues raised by the community and surrounding occupiers and landowners that may be impacted by the proposal; - details of how issues raised during community and stakeholder consultation have been addressed and whether they have resulted in changes to the proposal; - details of the proposed approach to future community and stakeholder engagement based on the results of the consultation. 	<p>report outlines who was consulted, the concerns raised, how such concerns were addressed and future consultation.</p> <p>The DA was publicly exhibited for 28 days of which 6 submissions were received. The matters raised are discussed later within this report. TfNSW was provided the opportunity to address the submissions raised and did within the additional information received 6 October 2020 and 25 November 2020.</p>	
<ul style="list-style-type: none"> • Strategic context – including: <ul style="list-style-type: none"> - a detailed justification for the proposal and suitability of the site for the development; - a demonstration that the proposal is consistent with all relevant planning strategies, environmental planning instruments, development control plans (DCPs), or justification for any inconsistencies; - a list of any approvals that must be obtained under any other Act or law before the development may lawfully be carried out; and - a description of any additional licence(s) or approval(s) required to carry out the proposed development. 	<p>The strategic context requirements are outlined within Chapters 3 and 4 of the EIS submitted and summarised where required within this report.</p> <p>An assessment of the application against the relevant planning legislation has been undertaken within the body of this report. As demonstrated, the proposal achieves a high level of compliance with the relevant controls.</p>	Yes
<ul style="list-style-type: none"> • Contamination – including: <ul style="list-style-type: none"> - a detailed assessment of the extent and nature of 	<p>The contamination requirements have been considered within Chapter 9 of</p>	Yes

<p>any contamination of the soil, groundwater and marine sediments;</p> <ul style="list-style-type: none"> - conceptual site model detailing the potential risks to human health and the environmental receptors in the vicinity of the site; - the preparation of a Remedial Action Plan (RAP) for the site; - a Part B Site Audit Statement and Report, prepared by an accredited NSW EPA Site Auditor, which details the site can be made suitable for a particular land use if remediated in accordance with the approved RAP; and - the site remediation and validation work should be undertaken in accordance with the requirements and procedures of: <ul style="list-style-type: none"> o Contaminated Land Management Act 1997; o Contaminated Land Management Regulation 2013; and o SEPP 55 – Remediation of Land. 	<p>the EIS as well as under SEPP 55 of this report.</p> <p>Council's Environmental Health Officer has reviewed the application and raises no objection, subject to conditions of consent.</p>	
<ul style="list-style-type: none"> • Remediation action plan – including: <ul style="list-style-type: none"> - details of the nature and extent of the contaminated material; - comprehensive program of the works proposed, including estimation of the surface area to be disturbed and excavation of contaminated material proposed to be undertaken; - details of the proposed measures to manage any disturbance of contaminated material; - justification for the proposed remediation approach; 	<p>The contamination requirements have been considered within Appendix C of the EIS as well as under SEPP 55 and SEPP 33 of this report.</p> <p>Council's Environmental Health Officer has reviewed the application and raises no objection, subject to conditions of consent.</p>	<p>Yes</p>

<ul style="list-style-type: none"> - details of the proposed remediation process, including equipment to be used and measures to dispose of contaminated material; - justification of the remediation criteria and process for the cleaning/verification of all equipment leaving the site (including workers clothing); - a detailed site validation plan; and - details of the consistency of the Remediation Action Plan with the relevant NSW Government legislation, environmental planning instruments, guidelines and standards. 		
<ul style="list-style-type: none"> • Waste management – including: <ul style="list-style-type: none"> - details of waste handling including, transport, identification, receipt, stockpiling and quality control; and - the measures that would be implemented to ensure that the proposed development is consistent with the aims, objectives and guidelines in the NSW Waste Avoidance and Resource Recovery Strategy 2014-21. 	<p>Waste Management is detailed within Chapter 10 of the EIS and summarised where required within this report.</p> <p>Council's Resource Recovery Officer and Infrastructure Specialists have reviewed the application and raise no objection, subject to conditions.</p>	Yes
<ul style="list-style-type: none"> • Hazards and risk – including: <ul style="list-style-type: none"> - an assessment of the risk of bushfire, including addressing the requirements of Planning for Bush Fire Protection 2006 (RFS). Any proposed Asset Protection Zones must not adversely affect environmental objectives (e.g. buffers); - any geotechnical limitations that may occur 	<p>The requirements for hazards and risk are addressed within Chapter 11 of the EIS and summarised where required within this report.</p> <p>Council's Environmental Planner and Development Engineer have reviewed the application and raise no objection, subject to conditions of consent.</p>	Yes

<p>on the site and if necessary, appropriate design considerations to address this; and</p> <ul style="list-style-type: none"> - an assessment of flood risk on the site. The assessment should determine: the flood hazard in the area; address the impact of flooding on the proposed development, and the development's impact (including filling) on flood behaviour of the site and adjacent lands; and address adequate egress and safety in a flood event. 		
<ul style="list-style-type: none"> • Air quality – including: <ul style="list-style-type: none"> - a description of all potential sources of air and odour emissions; - an air quality impact assessment in accordance with relevant Environment Protection Authority guidelines; and - a description and appraisal of air quality impact mitigation and monitoring measures. 	<p>The requirements for air quality are addressed within Chapter 12 of the EIS and summarised where required within this report.</p> <p>Council's Environmental Health Officer has reviewed the documentation and raises no objection, subject to conditions of consent.</p>	Yes
<ul style="list-style-type: none"> • Noise and vibration – including: <ul style="list-style-type: none"> - a description of all potential noise and vibration sources during construction and operation, including road traffic noise; - a noise and vibration assessment in accordance with the relevant Environment Protection Authority guidelines; and - a description and appraisal of noise and vibration mitigation and monitoring measures. 	<p>Noise and Vibration requirements are addressed within Chapter 13 of the EIS and summarised where required within this report.</p> <p>The information submitted has also been considered by Council's Environmental Health Officer and Infrastructure Specialist who raise no objection, subject to conditions of consent.</p>	Yes

<p>• Soil and water – including:</p> <ul style="list-style-type: none"> - a description of local soils, topography, drainage and landscapes; - details of water usage for the proposal including existing and proposed water licencing requirements in accordance with the Water Act 1912 and/or the Water Management Act 2000; - an assessment of potential impacts on floodplain and stormwater management and any impact to flooding in the catchment; - details of sediment and erosion controls; - a detailed site water balance; - an assessment in accordance with ASSMAC Guidelines for the presence and extent of acid sulfate soils (ASS) and potential acid sulfate soils (PASS) on the site and, where relevant, appropriate mitigation measures; - an assessment of potential impacts on the quality and quantity of surface and groundwater resources; - details of the proposed stormwater and wastewater management systems (including sewage), water monitoring program and other measures to mitigate surface and groundwater impacts; - characterisation of the nature and extent of any contamination on the site and surrounding area; and 	<p>The soil and water requirements are addressed within Chapters 11 and 14 of the EIS and summarised where required within this report.</p> <p>Council's Development Engineer has reviewed the information and raises no objection, subject to conditions of consent.</p>	<p>Yes</p>
---	---	------------

- a description and appraisal of impact mitigation and monitoring measure		
<ul style="list-style-type: none"> • Traffic and transport – including: <ul style="list-style-type: none"> - details of road transport routes and access to the site; - road traffic predictions for the development during construction and operation; and - an assessment of impacts to the safety and function of the road network and the details of any road upgrades required for the development. 	<p>The traffic and transport requirements are addressed within Chapter 15 of the EIS and where required within this report.</p> <p>Council's Traffic Team and Infrastructure Specialist have reviewed the information and raise no objection, subject to conditions of consent.</p>	Yes
<ul style="list-style-type: none"> • Biodiversity – including: <ul style="list-style-type: none"> - accurate predictions of any vegetation clearing on site or for any road upgrades; - an assessment of the proposal in accordance with the Biodiversity Assessment Method (BAM) including the potential impacts on any threatened species, populations, endangered ecological communities or their habitats and groundwater dependent ecosystems; - details of weed management during construction and operation in accordance with existing State, regional or local weed management plans or strategies; and - a detailed description of the measures to avoid, minimise, mitigate and offset biodiversity impacts. 	<p>The biodiversity requirements are outlined within Chapter 16 of the EIS and where relevant in this report.</p> <p>Further information was requested from the Applicant to address biodiversity offsets, conservation of the sandstone crevice as habitat for threatened species, and weed management based on comments received from Council's Environmental Planner.</p> <p>The response from TfSW received 6 October 2020 addressed the additional concerns and no further concern was raised by Council's Environmental Planner.</p>	Yes
<ul style="list-style-type: none"> • Visual – including an impact assessment at private 	The visual requirements are outlined within Chapter 17 of	Yes

receptors and public vantage points.	the EIS and as required within this report.	
<ul style="list-style-type: none"> • Heritage – including Aboriginal and non-Aboriginal cultural heritage. 	<p>The heritage requirements are outlined within Chapter 18 of the EIS and within the additional information received from TfNSW on 6 October 2020 and 25 November 2020 as well as required within this report.</p> <p>Council's Heritage Advisor and Infrastructure Specialist raised no objection to the application, subject to conditions of consent.</p>	Yes
Environmental Planning Instruments and other policies		
<p>The EIS must assess the proposal against the relevant environmental planning instruments, including but not limited to:</p> <ul style="list-style-type: none"> - State Environmental Planning Policy No 55– Remediation of Land - State Environmental Planning Policy (Coastal Management) 2018 - State Environmental Planning Policy No 19– Bushland in Urban Areas - State Environmental Planning Policy No 33– Hazardous and Offensive Development - State Environmental Planning Policy No 44– Koala Habitat Protection - Canterbury Local Environmental Plan 2012 - relevant development control plans and section 94 plans. 	<p>The EIS has addressed the relevant environmental planning instruments.</p> <p>Regarding the State Environmental Planning Policy No 44–Koala Habitat Protection and the new State Environmental Planning Policy (Koala Habitat Protection) 2019 these instruments do not apply to land within the Canterbury-Bankstown local government area. Therefore, a detailed assessment against such legislation has not been undertaken.</p> <p>Notwithstanding this, the BDAR report did consider whether habitat on site was suitable for use by the Koala, and based on the lack of nearby records of a highly visible and easily identifiable species, as well as a lack of connectivity with areas of known habitat, the species was considered unlikely to occur within the proposal area.</p> <p>The above is considered appropriate.</p>	Yes

Referrals

Referral	Comments Received
Development Engineer	No objection – subject to conditions
Resource Recovery	No objection – subject to conditions
Traffic	No objection – subject to conditions
Environmental Health	No objection – subject to conditions
Environment Planner	Comments considered and either conditioned or justified as part of this report.
Tree Management	No objection – subject to conditions
Heritage	No objection – subject to conditions
Catchment Management Planner	No objection

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

The proposal is permissible with development consent. The proposal seeks to remediate now redundant TfNSW land to make the site suitable for public use as a green corridor. The application has been assessed under Section 4.15 of the Act, and as demonstrated throughout the body of this report, the proposal complies with the relevant controls. Subsequently, the site is suitable for the proposal.

Submissions [section 4.15(1)(d)]

The application was advertised/notified for a period of 28 days. A total of 6 objections were received during this period. The matters raised are discussed in detail below. Where required, further information was requested from the Applicant to address certain concerns raised in the objections, as well as matters raised by Council as a result of the preliminary assessment. The information submitted by TfNSW in response to the matters raised (including the relevant matters raised in submissions received) were either resolved or could be dealt with via condition of consent. On this basis and given the proposal did not substantially alter during the assessment of the application, further renotification was not required. This process consistent with the notification requirements outlined within with Canterbury Bankstown Community Participation Plan.

Submission: Concerned that some non-native trees along the street will be removed. The two Jacarandas, Camelia, Pencil Pine and large Strelitzia should be kept to preserve the existing streetscape.

Response: The above trees are proposed to be retained if possible with the exception of the Jacaranda (tree 10) and Pencil Pine (tree 7). These trees are located within the capping area. Removal is required to achieve remediation objectives as well as practicability constraints near the site entrance. Council's tree management team has reviewed the application and raises no objection to this, subject to conditions of consent.

- Submission: The tree removal audit for the plans was undertaken many years ago and is no longer relevant. A new audit of the trees is to be undertaken to determine whether the 11 native trees to be removed is still required or whether this number can be reduced.
- Response: This matter was raised with the Applicant and an addendum tree assessment was prepared by GHD dated 1 October 2020. The addendum assessment concluded that no additional trees within the remediation works area are proposed for retention. However, the addendum report confirms it should be possible to retain the majority of existing trees and other vegetation located on the sandstone outcrop along the north-western boundary of the proposal (outside of the remediation works area) to provide a visual screen for residents along Jackson Place.
- Submission: Concern that the level of vibration created by the works will impact nearby residences. Should any issues arise, residents should be assured that they will be addressed appropriately, and responsibility is taken by the Applicant.
- Response: A dilapidation report will be prepared prior to the commencement of works that details the existing condition of the affected adjoining properties. A condition of consent is recommended to ensure that should any damage be caused to affected residents by the proposed works, the cost to rectify the damage will be borne by the Applicant.
- Submission: The community engagement involved informing local residents and therefore the EIS has not benefitted from the knowledge and expertise built up by Wolli Creek Preservation Society members and its associated over 40 years.
- Response: It is understood community engagement involved emailing, meeting, door knocking and calling affected residents prior to the preparation of the EIS to gain feedback and insight into the project. This is detailed in the Consultations Outcomes Report attached at Appendix L of the EIS.
- Submission: The EIS involves the incorrect naming of the Sydney Red Gum as *Eucalyptus Costata* instead of *Angophora Costata*.
- Response: This was a typographical error. Appendix I of the Biodiversity Assessment Report provides a list of flora recorded. The Sydney Red Gum was correctly identified as *Angophora Costata* in this document.
- Submission: The evaluation of the saltmarsh contained within the site is inconsistent with earlier studies for the site. The 2006 evaluation gives the saltmarsh a much greater importance than it is accorded by the EIS.
- Response: Further information was requested from the Applicant to address this concern. Given the length of time that has passed since the 2006 evaluation (14 years), it is possible that the saltmarsh has experienced a change in its diversity since then. The sampling method used to identify the species currently present at the site was in accordance with the Biodiversity Assessment Method (BAM) requirements for a 20m x 20m plot. All the species within the plot were identified.

- Submission: The EIS does not explicitly address climate change, but an increased frequency of higher intensity rain events would seem to have implications for the ongoing maintenance of the capping proposed.
- Response: The flood study relied upon in the Water Impact Assessment does consider impacts to the 100-year flood levels as a result of sea level rise or increase in rainfall intensities. The proposal has considered this data.
- Submission: There are many instances in the EIS where protective or conservation activities are to be undertaken 'where possible', 'where appropriate', 'where practicable'. The EIS gives no indication of who is to make the judgement about what is possible, appropriate or practicable and that leaves open the prospect of decisions being made on the spot by sub-sub-contractors with aims quite different to those espoused by the EIS.
- Response: The Construction Environmental Management Plan (CEMP) that incorporated all the mitigation measures identified in the EIS would be developed by the Contractor and reviewed and approved by the Environment and Sustainability branch of TfNSW, who will make the judgement as to what is possible, appropriate or practicable to ensure the aims of the EIS are met, prior to works commencing.
- Submission: Concerns that insufficient consideration has been given to the importance of using planting material of local provenance. Found that a planting density for groundcovers of four per sqm is generally insufficient and have been planting at a rate of six per sqm to gain an appropriate rapid coverage of the ground.
- Response: The proposed preliminary landscape plan has been prepared in consultation with the community prior to the lodgement of the DA. The mounding proposed is suitable for the types of vegetation proposed. The final Landscape Plan will be developed by National Parks and Wildlife Services (NPWS).
- Submission: There is no obvious financial provision for maintenance of the plantings in the EIS.
- Response: NPWS would be required to continue to implement the Long-Term Environmental Management Plan (LTEMP) as part of the handover of the proposal area following completion of the remediation works.
- Submission: The rock overhang at the edge of the rock outcrop noted warrants further investigation for Aboriginal significance, given other local sites.
- Response: This was raised with the Applicant. An updated Transport Procedure for Aboriginal Cultural Heritage Consultation and Investigation (PACHCI) Stage 1 Aboriginal Heritage Assessment was completed to reflect the additional inspections and searches undertaken. The updated PACHCI concluded that the archaeological and/or cultural potential of the landscape is uncertain, and the project has potential to disturb or harm Aboriginal objects, places or land with significant cultural values. Subsequently, a further PACHCI Stage 2 assessment was requested. The Stage 2 assessment confirmed that the site (including the rock outcrop) does not comprise any Aboriginal significance. Council's Heritage

Advisor reviewed the proposal and raised no objection, subject to conditions. Such conditions include stopping works immediately and informing the NSW Heritage Council should any archaeological remains or Aboriginal objects be unexpectedly discovered.

Submission: An hours of work condition should also be applied to protect the amenity of the nearest residential properties located in the Bayside LGA on Turrella Street.

Response: Council's Environmental Health Officer has recommended a condition of consent be included to restrict hours of work to 7am-6pm Monday to Friday and 8am-1pm on Saturday with no work permitted on Sundays or Public Holidays.

Submission: Will a site manager be appointed for liaison with residents, with the responsibility to follow up any problems that may occur and report back to residents on any action needed? Will the site manager or nominated representative be on site at all times?

Response: Yes, the Contractor will nominate a Site Manager. The appointed site manager's details will be provided to residents as well as be included on a site that will be erected at the construction gate.

Submission: When does Transport NSW hope to commence the remediation works and what is the planned completion date? What notice will residents be given of commencement date?

Response: Commencement of works depend on timing of determination of the development application. It is anticipated that works will commence in the second quarter of 2021 and will take approximately 4 months to complete. All affected residents would be notified a minimum of two weeks in advance of the Contractor taking possession of the proposal area. TfNSW will also continue to inform local residents on the progress of the project.

Submission: Is it possible to avoid clearing of the remediation site during the bird nesting season?

Response: Although this is not a specific matter for consideration required by Council pursuant to Part 4.15 of the Environmental Planning and Assessment Act 1979, the EIS submitted did consider this. The works are anticipated to commence in the second quarter of 2021 (pending Council approval) and will take approximately 4 months to undertake. Therefore, the proposed works will likely be undertaken prior to spring which is the nesting season for most birds. Notwithstanding this, the field surveys undertaken for the biodiversity assessment found no trees suitable for nesting in the proposal area.

Submission: Is it the intention to carry out the final landscaping as part of the construction works? Is this possible? Is there a time line for the landscaping? Will there be further consultation re landscaping?

- Response:** The proposal includes the revegetation required to provide slope stability and erosion management following the remediation works. The remainder of the landscaping works will be undertaken following hand over of the proposal area to NPWS. Council can not comment on whether there will be further consultation regarding landscaping as this will be a matter dealt with by TfNSW and NPWS.
- Submission:** Will management measures listed in the EIS for dust and air quality be mandatory? How are situations that may arise to be dealt with outside normal working hours? How will residents be informed of any special provisions needed to mitigate dust and air pollution?
- Response:** The management measures outlined in the EIS for air quality will form part of the conditions of consent. The Contractor details will be provided to affected residents as well as included on a site sign to enable members of the public to contact. As outlined within the Consultation Outcomes Report held at Appendix L of the EIS, the Applicant will be in contact with affected residents throughout the duration of construction works to keep them informed.
- Submission:** What safeguards will be put in place to ensure that the contractor undertakes work in accordance with the Construction Heritage Management Plan. It is requested that residents will be consulted about the Plan prior to works commencing.
- Response:** The Construction Heritage Management Plan forms part of the consent to ensure works are undertaken in accordance with the recommendations outlined within it. All affected residents will be notified a minimum of two weeks in advance of the Contractor taking possession of the proposal area.
- Submission:** Who will be selecting the surveyor to undertake the dilapidation surveys of the heritage listed properties. Will the reports be paid by the Applicant, rather than the residents. Will residents be provided a full copy of the report prior to works commencing and allow to correct them if necessary? What is the process in the event of damage caused by vibration and direct impact?
- Response:** Council is not involved in selecting the contractor to undertake the dilapidation report. This matter will be dealt with by the Applicant after the determination of the subject development application. TfNSW has advised that the residents would not be required to pay for such reports and a copy of the report that relates to their property will be provided free of charge. The timing of providing the reports to the residents and ability to correct them, if necessary, will be a civil agreement between the Applicant and affected residents as Council is not involved in this process. Section 6 of the Noise and Vibration Impact Assessment identified the standard and additional mitigation measures that would be adopted for vibration impacts. In the event that damage is caused, this will be a matter dealt with between the Applicant and the affected resident. Council is not directly involved in this process. However, a condition of consent will be imposed to ensure that any cost to rectify any damage caused by the works is borne by the Applicant, not the resident.

- Submission: It is requested that continuous vibration monitoring is implemented whenever work is undertaken within the safe working buffer distance of the Jackson Place cottages.
- Response: The management measures to minimise any noise and vibration impacts (including the need for continuous vibration monitoring) will be dependent on the equipment and construction methods adopted by the Contractor. Once equipment is confirmed, site tests would be undertaken to review the measured frequency content and to determine the structural damage criteria for heritage structures and elements. Potential vibration impacts would then be reassessed based on this. If residual impacts are expected following reassessment, then continuous vibration monitoring would be implemented with a visual alarm installed to warn the equipment operator when the structural damage vibration criteria (considering the frequency content) is exceeded. The outcomes of the proposal area specific criteria and monitoring requirements would be included in the Construction Noise & Vibration Management Plan and would reviewed by the TfNSW noise & vibration specialists prior to approval.
- Submission: Request that all of the measures listed in Table 5-2 'Management of Impacts' pp 27-28 of the EIS be mandatory.
- Response: The environmental management measures listed in the EIS will form part of the conditions of consent to ensure minimal impact results from the proposed works.
- Submission: Request for continuous air monitoring throughout the entire period of excavation works and when any waste materials are being moved or remain on site.
- Response: Procedures for air monitoring for asbestos (including frequency) during the works will be documented in the Asbestos Management Plan. This would include boundary air monitoring for asbestos fibers during excavation works into contaminated fill materials and any other activities which could potentially generate airborne fibers. The Asbestos Management Plan and Construction Environmental Management Plan will be prepared by the Contractor and reviewed and approved by the Environment and Sustainability branch of TfNSW prior to works commencing.
- Submission: Request that the non-native trees and plans associated with the Franklin cottage site are not cleared.
- Response: The addendum arboricultural assessment prepared concludes that it should be possible to retain the majority of the existing trees and other vegetation located on the sandstone outcrop along the north-western boundary of the site which is located outside of the proposed remediation area. The report does however recommend that vegetation either side of the existing site entrance may require removal/trimming to enable safe site access during construction. In the event that this is to occur, some non-native/unprotected specified may require removal. Any removal should be supervised by an AQF

Level 5 Project Arborist to ensure native trees and shrubs are protected where possible. The recommendations of the arboricultural assessment will form part of the conditions of consent.

Submission: Request that the final landscape plan has an increased number of mounds and potentially deeper mounds to enable the growth of larger trees.

Response: As discussed above, the proposed preliminary landscape plan has been prepared in consultation with the community in 2012. The mounding proposed is suitable for the types of vegetation proposed.

Submission: Urge that the works are timed to exclude high summer.

Response: This is not a matter for consideration by Council as part of the assessment of the development application pursuant to Part 4.15 of the Environmental Planning and Assessment Act 1979.

Submission: Request to move the site amenities and office as far as possible from the road to reduce impact on neighbouring properties.

Response: The site office and amenities will be located within the 'ancillary site' as illustrated within Figure 6.1 of the EIS. This location is appropriate given accessibility. Noise from the site office is not expected to be significant.

Submission: Request for clarity of how residents can contact the site manager during works.

Response: The appointed site manager's details will be provided to residents as well as be included on a site that will be erected at the construction gate.

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

The proposal would not contravene the public interest. The proposal will remediate the site to make it suitable from an environmental and health perspective for future use as a green corridor. The matters raised in public submissions have been satisfactorily addressed.

CONCLUSION

The Development Application has been assessed in accordance with the provisions of Section 4.15 of the *Environmental Planning and Assessment Act 1979*, *State Environmental Planning Policy 55 – Contaminated Land (SEPP 55)*, *State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP)*, *State Environmental Planning Policy No 19 – Bushland in Urban Areas (SEPP 19)*, *State Environmental Planning Policy No 33 – Hazardous and Offensive Development (SEPP 33)*, *Canterbury Local Environmental Plan 2012* and *Canterbury Development Control Plan 2012* and satisfies the relevant requirements. The proposal is considered to improve the site from an environmental and health perspective and will ensure the site is suitable for future public use as a green corridor. Therefore, approval of the application, subject to conditions that have been agreed to by TfNSW, is recommended.

RECOMMENDATION

It is recommended that the application be approved subject to the conditions set out in Attachment B.

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-391/2020, submitted by Transport for New South Wales (TfNSW), accompanied by the following plans and reports (including all the mitigation measures and recommendations stated within such reports) as listed in the table below, except where otherwise altered by the specific amendments listed hereunder and/or except where amended by the conditions contained in this approval.

Drawing No.	Report/Drawing Name	Revision	Dated	Prepared by
-	Remedial Action Plan	-	May 2019	GHD Pty Ltd
L001	General Arrangement Plan	B	24.03.2020	GHD Woodhead
L002	General Arrangement Plan	B	24.03.2020	GHD Woodhead
-	Water Impact Assessment	-	March 2020	GHD Pty Ltd
-	Air Quality Impact Assessment	-	February 2020	GHD Pty Ltd
-	Noise and Vibration Impact Assessment	-	March 2020	GHD Pty Ltd
-	Traffic Impact Assessment	-	April 2020	GHD Pty Ltd
-	Biodiversity Development Assessment Report	-	May 2020	Transport for NSW
-	Statement of Heritage Impact	8	05.03.2020	Extent Heritage Pty Ltd
-	Consultation Outcomes Report	3	23.01.2020	RPS Group
-	Site Audit Report	-	19.02.2020	JBS&G Australia Pty Ltd
-	Addendum Tree Assessment	-	01.10.2020	GHD Pty Ltd
-	Preliminary Acid Sulfate Soil Management Plan	-	October 2020	GHD Pty Ltd
-	Aboriginal Archaeological Survey Report – Stage 2 PACHCI	2	November 2020	Kelleher Nightingale Consulting Pty Ltd
	Environmental Impact Statement – Volume 1	-	May 2020	GHD Pty Ltd
	Environmental Impact Statement – Submission Report		October 2020	GHD Pty Ltd

- 3) The payment of credits outlined within the Biodiversity Development Assessment Report submitted are to be satisfied in accordance with Part 6 of the Biodiversity Conservation Act 2016.

CONDITIONS TO BE SATISFIED PRIOR TO COMMENCEMENT OF WORKS

- 4) The applicant must prepare a dilapidation report/photographic survey prepared by an appropriately qualified consultant for the adjoining properties at 2, 4, 6, 8, 10 and 12 Jacksons Place, Earlwood detailing the physical condition of the properties, both internally and externally, including items such as walls, ceilings, roof, structural members and other similar items, shall be submitted to the Principal Certifying Authority prior to the commencement of works. The dilapidation report/photographic survey is to also consider elements such as the sandstone footpath and kerbing that have historical significance and measures.
- 5) Evidence that TFNSW has applied to make payment to the Biodiversity Conservation Fund to satisfy the requirement to retire biodiversity credits in accordance with section 6.30 of the BC Act must be provided to the Principal Certifying Authority (PCA).
- 6) A Construction Environmental Management Plan (CEMP) prepared by the construction contractor prior to remediation works commencing. Such measures include but not limited to, stormwater management, surface water quality monitoring, soil and water management plan, noise control, traffic access and management, waste management and dust control.
- 7) A Work Permit shall be applied for and obtained from Council for the following engineering works in front of the site, at the applicant's expense:
 - a) Construction of any temporary layback or driveway crossing
 - b) Repair of any damage to the infrastructure within road reserve including the footway, occurring during development works
 - c) Reinstatement of the footway reserve and adjustment or relocation of existing public utility services to match the footway design levels as proposed on the approved Work Permit. Adjustment or relocation to any public utility services shall be carried out to the requirements of the public utility authority

Note: As a site survey and design is required to be prepared by Council in order to determine the necessary information, payment for the Work Permit should be made at least twenty-one (21) days prior to the information being required and must be approved prior to the commencement of works.

- 8) Stormwater drainage, including subsoil and overland flow from the development site and during the remediation work must be managed in accordance with—the requirements of the Council's Development Engineering Standards; the Australian Runoff Quality "A guide to Water Sensitive Urban Design" Engineers Australia 2006, the requirements of Section 120 of the POEO Act, and the applicable Environment Protection Licence prior to discharge downstream. Any sediment-laden water generated from the site must be managed in accordance with an Erosion and Sediment Control Plan prepared and implemented in accordance with 'Managing Urban Stormwater: Soils and Construction' (Landcom 2004).

A final detailed stormwater drainage design, required to be implemented during the remediation work, shall be prepared by a qualified Professional Civil Engineer, and the design engineer shall certify that the final detailed design is in accordance with the above requirements and the recommendations of the flood risk assessment (Jackson Place Remediation – Environmental Impact Statement).

The permanent drainage system design shall comply with the approved final detailed design, prepared in accordance with the above requirements. The design for the permanent drainage system shall be prepared by a qualified Professional Civil Engineer and shall be certified that complies with the conditions of this consent and the relevant regulations for the protection of the environment.

- 9) If a batter is to exceed 1 vertical to 3 horizontal, a geotechnical report identifying that the design slope can achieve a long term Factor of Safety (FoS) of 1.3 or greater under Rapid Draw Down conditions is to be provided as part of detailed design plans, and approved by the Principal Certifying Authority (PCA). All works associated with the construction of the batter, including backfilling and drainage, is to be located wholly within the allotment boundaries.
- 10) Cut and fill levels exceeding 500mm in depth, must be constructed under the supervision of NATA registered Geotechnical Testing Consultant and in accordance with the latest edition of AS2870. A NATA registered Geotechnical Testing Consultant must be engaged, by the developer, to provide Compaction testing and certification of compaction results for submission to Principal Certifying Authority (PCA) for acceptance. The proposed cut and fill levels should be designed to avoid any soil be transported away or to the site.
- 11) 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 existing levels as shown on the Survey Plan, if not amended by Council for the issued Street Boundary Alignment Levels
- 12) Prior to the commencement of work for this development, the applicant must obtain approval from Council's Traffic Department for a Site, Pedestrian and Traffic Management Plan (SPTMP). This Plan must address the measures that will be implemented for pedestrian safety and traffic management as specified below.

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

This plan shall include details of the following:

- a) Proposed ingress and egress points for vehicles to and from the construction site;
- b) Proposed protection of pedestrians, adjacent to the constructions site;

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

The developer shall provide Council with a dilapidation report (of assets in vicinity to the site) in respect to the proposed transport route to and from the site. The report must be completed and submitted to Council prior to the commencement of the development works. Otherwise the developer may be held responsible for damage to a road that may have occurred prior to the development works commencing.

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

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

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

A PRIVATE CERTIFIER CANNOT ISSUE THESE PERMITS

WORKS REQUIRING A 'WORKS PERMIT'

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

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

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

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

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

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

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

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

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

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

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

- 14) Erosion Sediment Control Measures shall be designed and implemented in accordance with Canterbury Development Control Plan 2012, and the latest edition of "Managing Urban Stormwater (Soils and Construction)" commonly known as "The Blue Book" by Landcom.

All measures shall be installed prior to the commencement of site surface disturbance and, where necessary, modified as the project continues. The function and integrity of the measures shall be cleaned after each storm event and maintained at all times. Sediment and Erosion Control Plans and details for the whole construction site, prepared in accordance with the above requirements, must be lodged with the PCA for approval prior to the commencement of works.

- 15) The developer is responsible for the full cost of rectification of any damage to public infrastructure and assets resulting from the development's building and site works.
- 16) All bulk, earthworks and/or delivery of construction related materials and plant, associated with the development must be transported in suitably covered and designed vehicles for the intended purpose and on suitable roads intended for the transportation of heavy loads.
- 17) All Civil and Hydraulic engineering works on site must be carried out in accordance with Council's Development Engineering Standards. All Civil and Hydraulic engineering works associated with Council's assets and infrastructure must be carried out in accordance with Council's Work Permit requirements and to Council's satisfaction.
- 18) All excavations and backfilling must be executed safely and in accordance with the relevant Australian Standards.
- 19) If soil conditions require it, retaining walls or other Principal Certifying Authority (PCA) approved methods of preventing movement of the soil must be provided, and adequate provisions must be made for drainage. Separate approval may be required for retaining walls should they be required.
- 20) Access to the site across the adjoining Council Reserve/Property is not permitted. There shall be no stock piling of materials, storage of equipment or work carried out on the adjoining Council Reserve/Property.

- 21) The stormwater drainage system shall be constructed in accordance with Council's Development Engineering Standards and the final plan certified by the design engineer and approved by the Principal Certifying Authority (PCA). Should the developer encounter any existing, live, underground stormwater drainage pipes, which carry flow from upstream properties, the developer must maintain the stormwater flow and shall contact Council prior re-route the stormwater pipes around the subject structures at the developer's expense.
- 22) The acid sulfate soil management plan is to be updated prior to the commencement of works. The updated acid sulfate soil management plan is to be prepared in accordance with the Acid Sulfate Soils Manual (Acid Sulfate Soils Management Advisory Committee, 1998) and other relevant guidelines, and approved by the Principal Certifying Authority (PCA). A copy of the final Acid Sulfate Soil Management Plan is to be provided to Council for its records.

All works must be carried out under the supervision of a suitably qualified environmental consultant.

- 23) A Complaints and Incidents Register ('Register') shall be established, maintained and kept up-to-date. The Register shall include the following information about every complaint or incident* received:
- (a) Date and time of complaint or incident;
 - (b) Name and contact details of person registering the complaint or incident;
 - (c) Nature of the complaint or incident;
 - (d) Action taken (by whom and when) in response to complaint or incident; and
 - (e) Outcome and/or further action required.

A copy of the Register shall be provided to Council or Police upon request.

**Incident includes:*

- (a) Any complaint by any person about the operation of the premises; or
 - (b) Any event that may cause alarm or concern to residents or persons passing or in the vicinity of the Premises as a result of the conduct or act of any person identifiable as an occupant of the premises at that time.
- 24) Signage to be installed at all entrances/exits that includes a contact name and number for the registering of all complaints or incidents.
- 25) The existing road in Jackson Place, in the vicinity of the residential properties, includes elements that have historical significance, as identified within the Statement of Heritage Impact (Rev. 8). Measures shall be taken to protect these elements from damage due to the development. These measures shall be in accordance with Section 8 of the Statement of Heritage Impact (Rev. 8) and incorporated into the CEMP and sub-plans, where relevant, including the construction traffic management plan. The construction management plan must be submitted to Council's Traffic Department for approval.

- 26) That the trees that are to be retained must be clearly marked using paint or coloured tape wrapped around their trunks to identify them prior to the start of clearing works.
- 27) That the soil within the Structural Root Zone (SRZ) of each tree is protected from compaction by machinery using geotextile, mulch and wooden rumble boards as per AS4970
- 28) Council warning sign for Soil and Water Management must be displayed on the most prominent point of the site, visible to both the street and site works. The sign must be displayed throughout the construction period.
- 29) Prior to the commencement of work, the applicant must provide a temporary on-site toilet if access to existing toilets on site is not adequate.
- 30) A sign shall be displayed on the site indicating the name of the person responsible for the site and a telephone number of which that person can be contacted during and outside normal working hours or when the site is unattended.
- 31) A sign must be erected in a prominent position on any site on which demolition work is being carried out:
 - a) showing the name of the principal contractor (if any) for any demolition work and a telephone number on which that person may be contacted outside working hours, and
 - b) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the demolition work is being carried out, but must be removed when the work has been completed.
- 32) The proposed works must be undertaken, subject to strict compliance with the following: -
 - a) The developer is to notify adjoining residents seven (7) working days prior to commencement of works. Such notification is to be clearly written on A4 size paper giving the date works will commence and be placed in the letterbox of every premises (including every residential flat or unit, if any) either side, immediately at the rear of, and directly opposite the subject site.
 - b) Written notice is to be given to the Principal Certifying Authority (PCA) for inspection prior to commencement of works. Such written notice is to include the date when works will commence and details of the name, address, business hours and contact telephone number and licence number of the relevant contractor(s). The following building inspections shall be undertaken by the PCA
 - i. A *precommencement* inspection shall be carried out by the PCA when all the site works required as part of this consent are installed on the site and prior to commencement of works.

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

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

- c) Prior to commencement of works, the applicant must erect a 2.4m high temporary fence or hoarding between the work site and any public place. Access to the site shall be restricted to Authorised Persons Only and the site shall be secured against unauthorised entry when the building work is not in progress or the site is otherwise unoccupied. Where demolition is to occur within 3m of a public place a Work Permit application for the construction of a Class A or Class B hoarding shall be submitted to Council for approval.
- d) The relevant plans documenting proposed works must be submitted to the appropriate Sydney Water Office to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements. If the development complies with Sydney Water's requirements, the demolition plans will be stamped indicating that no further requirements are necessary.
- e) Where materials containing asbestos cement are to be removed, works are to be carried out by licensed contractors who have current Workcover Accreditation in asbestos removal.
- f) Hazardous or intractable wastes arising from the remediation process shall be removed and disposed of in accordance with the requirements of WorkCover NSW and the NSW EPA 'Environmental Guidelines: Assessment, Classification and Management of Liquid and Non-Liquid Wastes 2004'.
- g) Remediation procedures shall maximise the reuse and recycling of demolished materials in order to reduce the environmental impacts of waste disposal.
- h) During works, the public footway and public road shall be clear at all times and shall not be obstructed by any excavated material or vehicles. The public road and footway shall be swept (NOT hosed) clean of any material, including clay, soil and sand. (NOTE: If required, Council will clean the public road/footway at the applicant's expense). On the spot fines may be levied by Council against the demolisher and or owner for failure to comply with this condition.
- i) All vehicles leaving the site with excavated materials shall have their loads covered and vehicles shall not track soil and other material onto the public roads and footways and the footway shall be suitably protected against damage when plant and vehicles access the site. All loading of vehicles with excavated materials shall occur on site.
- j) The burning of any excavated material on site is not permitted and offenders will be prosecuted.
- k) Care shall be taken during works to ensure that existing services on the site (ie. sewer, electricity, gas, phone) are not damaged. Any damage caused to existing services shall be repaired by the relevant authority at the applicant's expense.

- l) Suitable erosion and sediment control measures shall be erected prior to the commencement of works and shall be maintained at all times.

CONDITIONS TO BE SATISFIED DURING WORKS

- 33) Any soils to be excavated and disposed of from the site must be analysed and classified by a suitably qualified environmental consultant, in accordance with relevant NSW EPA guidelines including the 'Waste Classification Guidelines' (NSW EPA, 2014) prior to off-site disposal.

Any waste material is to be transported to an appropriately licensed waste facility by an EPA licensed waste contractor in accordance with relevant NSW EPA guidelines.

- 34) Any fill imported onto the site must be verified as suitable for use on the development site to the satisfaction of an NSW EPA Accredited Site Auditor.
- 35) If the Duty to Report contamination to the NSW EPA under Section 60 of the *Contaminated Land Management Act 1997* is triggered, Council must be notified within 3 days of the notification to the NSW EPA.
- 36) In the instance works cause the generation of unexpected odours or uncovering of unexpected contaminants works are to immediately cease, Council is to be notified and a suitably qualified environmental consultant appointed to further assess the site. The exposed material/excavation is to be evaluated by the environmental consultant and an appropriate response determined in consultation with the applicant, which is agreed to by Council.

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

- 37) Any lighting of the premises must be installed in accordance with the principals of AS 4282-1997, 'Control of the obtrusive effects of outdoor lighting', 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 unless required for the safe operation of plant and machinery within the approved working hours. The intensity, colour or hours of illumination of the lights must be varied at Council's discretion if Council considers there to be adverse effects on the amenity of the area.
- 38) All works to be undertaken within the following working hours:
- Monday to Friday: 7.00am to 6.00pm;
 - Saturday: 8.00am to 1.00pm;
 - Public Holiday or Sunday: No works permitted.

- 39) Should any relics be unexpectedly discovered on the site during excavation, all excavation or disturbance to the area is to stop immediately and the Heritage Council of NSW should be informed in accordance with the Heritage Act 1977.
- 40) Should any Aboriginal objects be unexpectedly discovered then all excavation or disturbance of the area is to stop immediately and NSW Government Office of Environment and Heritage is to be informed in accordance with the National Parks and Wildlife Act 1974.
- 41) Should any archaeological remains or Aboriginal objects be discovered, a copy of recording of the finds and the final archaeological summary report is to be submitted to Council and the Principal Certifying Authority.
- 42) Subtropical and Coastal Saltmarsh must be conserved during development. The area of Subtropical and Coastal Saltmarsh to be impacted is not to exceed the area specified in the Biodiversity Development Assessment Report (BDAR) credit calculations (0.08 ha).
- 43) All excavations and backfilling must be executed safely and in accordance with the relevant Australian Standards.
- 44) 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 his/her 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.

The owner of any affected buildings is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on an adjoining allotment of land.

- 45) If soil conditions require it, retaining walls or other approved methods of preventing movement of the soil must be provided, and adequate provisions must be made for drainage. Separate approval may be required for retaining walls should they be required.

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

CONDITIONS TO BE SATISFIED AT COMPLETION OF WORKS

- 47) On completion of the excavation and building works and prior to the completion of works, a certificate from an appropriately qualified engineer stating to the effect that no damage has resulted to adjoining properties, referred to in condition 4 of this consent, is to be submitted to the Principal Certifying Authority. If damage is identified which is considered to require rectification, the damage shall be rectified or a satisfactory agreement for rectification of the damage is to be made to the affected person/s as soon as practical and prior to the occupation of the site. All costs associated with achieving compliance with this condition shall be borne by the applicant.
- 48) All precautions must be taken to prevent any damage likely to be sustained to adjoining properties. Adjoining owner property rights must be observed at all times. Where damage occurs to adjoining property, all necessary repairs or suitable agreement for such repairs are to be undertaken by the applicant in consultation with, and with the consent of, the affected property owner prior to the occupation of the site.
- 49) At the completion of works, the site is to be remediated in accordance with:
- (a) The approved Remedial Action Plan, prepared by GHD Pty Ltd, titled Remedial Action Plan, dated 29/05/2019, reference 21/26181, revision Rev 2;
 - (b) *State Environmental Planning Policy No. 55 - Remediation of Land*;
 - (c) The guidelines in force under the *Contamination Land Management Act 1997*; and
 - (d) The conditions within the Site Audit Statement prepared by the NSW EPA Accredited Site Auditor, Andrew Lau, titled Site Audit Statement, dated 19/02/2020, site audit statement no 0503-1806.

The applicant must engage an appropriately qualified and experienced environmental consultant to supervise all aspects of site remediation and validation.

Any variations to the approved Remediation Action Plan must be submitted to and approved in writing by the Accredited Site Auditor and the PCA prior to the continuing of such work.

- 50) At the completion of works, the proponent must submit a detailed validation report to the principal certifying authority.

The validation report must be prepared in accordance with:

- (a) 'State Environmental Planning Guideline (SEPP) 55 – Remediation of Land' (Department of Urban Affairs and Planning and NSW EPA, 1998);
- (b) Relevant EPA Guidelines, noting in particular the 'Guidelines for Consultants Reporting of Contaminated Sites' (NSW Office of Environment and Heritage, 2011); and
- (c) National Environmental Protection (Assessment of Site Contamination) Measure 1999 (as amended 2013).

The validation report must be prepared and approved by an appropriately qualified environmental consultant.

- 51) The validation report must verify that the land is suitable for the proposed use(s), and that the remediation and validation of the site has been undertaken in accordance with the Remedial Action Plan, prepared by GHD Pty Ltd, titled Remedial Action Plan, dated 29/05/2019, reference 21/26181, revision Rev 2.

A copy of the Final Validation Report will be submitted to Council for information.

- 52) An ongoing environmental management plan must be submitted to the principal certifying authority. The ongoing environmental management plan must be prepared in accordance with:
- (a) NSW Contaminated Land Planning Guidelines;
 - (b) Relevant EPA endorsed guidelines; and
 - (c) *National Environmental Protection (Assessment of Site Contamination) Measure 1999* (as amended 2013).

The ongoing environmental management plan must be prepared by a suitably qualified environmental consultant and endorsed by the Site Auditor.

The ongoing environmental management plan must describe the nature and location of the contamination and prescribe how the contaminants will be managed/monitored and the responsible parties for this management/monitoring in the long-term.

The ongoing environmental management plan must specifically outline the construction details, and the requirements of management and monitoring of the containment cell to ensure it is maintained appropriately, its integrity remains intact, and to avoid migration of contamination. The ongoing environmental management plan must also include a contingency plan in the event that the systems fail.

- 53) Subtropical and Coastal Saltmarsh must be conserved post development. The area of Subtropical and Coastal Saltmarsh to be impacted is not to exceed the area specified in the Biodiversity Development Assessment Report (BDAR) credit calculations (0.08 ha).

- 54) The stability of the soil/sediment in the project footprint is to be assessed by an environmental consultant following the revegetation works conducted by Transport for New South Wales (TfNSW). Project handover to National Parks and Wildlife Services (NPWS) must not take place until the environmental consultant is satisfied that the soil/sediment onsite is stable and that no erosion or sedimentation issues are likely to occur.

-END-